Agenda Order

Tab 1	**CS/SB 532** by **BI, Brodeur**; (Similar to CS/CS/H 00311) Securities

Tab 2	**CS/SB 676** by **RI, Bradley**; (Similar to CS/H 01099) Food Delivery Platforms

Tab 3	**SB 804** by **Hutson**; (Identical to H 00907) Gaming Permits

597826	A	S		RCS	AEG, Hutson	Delete L.84 - 469:	02/13 02:45 PM
872214	AA	S		RCS	AEG, Hutson	Delete L.343 - 346:	02/13 02:45 PM
837390	AA	S		RCS	AEG, Hutson	Delete L.518:	02/13 02:45 PM

Tab 4	**CS/SB 846** by **BI, DiCeglie**; (Similar to CS/H 00215) Risk Retention Groups

Tab 5	**SB 1046** by **Martin**; (Compare to CS/H 00189) Gaming Activities

~~319184~~	D	S		WD	AEG, Martin	Delete everything after	02/09 03:36 PM
703598	D	S	L	RCS	AEG, Martin	Delete everything after	02/13 02:44 PM

Tab 6	**SB 1084** by **Collins**; (Identical to H 01071) Department of Agriculture and Consumer Services

549006	D	S		RCS	AEG, Collins	Delete everything after	02/13 03:11 PM
509132	AA	S		RCS	AEG, Collins	Delete L.5 - 60:	02/13 03:11 PM
~~396656~~	AA	S		WD	AEG, Berman	Delete L.15 - 26.	02/09 03:35 PM

Tab 7	**SB 1210** by **Martin**; (Identical to H 00957) Estero Bay Aquatic Preserve

Tab 8	**SB 1386** by **Calatayud**; (Similar to CS/CS/H 01557) Department of Environmental Protection

306560	D	S		RCS	AEG, Calatayud	Delete everything after	02/13 03:48 PM

Tab 9	**SB 1436** by **Burton**; (Similar to H 01347) Consumer Finance Loans

402814	A	S		RCS	AEG, Burton	btw L.233 - 234:	02/13 03:30 PM

Tab 10	**CS/SB 1622** by **BI, Trumbull**; (Similar to CS/H 01611) Insurance

Tab 11	**CS/SB 1692** by **EN, Brodeur (CO-INTRODUCERS) Stewart**; (Similar to H 01665) Preventing Contaminants of Emerging Concern from Discharging Into Wastewater Facilities and Waters of the State

Tab 12	**SB 1786** by **DiCeglie**; (Similar to H 01559) Professional Licensure and Certification

Tab 13	**SB 7040** by **EN (CO-INTRODUCERS) Harrell**; (Identical to H 07053) Ratification of the Department of Environmental Protection's Rules Relating to Stormwater

947242	A	S		RS	AEG, Mayfield	btw L.118 - 119:	02/13 03:25 PM
~~101048~~	AA	S		WD	AEG, Mayfield	After L.26:	02/13 02:49 PM
~~484510~~	SA	S		WD	AEG, Mayfield	btw L.118 - 119:	02/13 02:49 PM
~~258950~~	SA	S	L	WD	AEG, Mayfield	btw L.118 - 119:	02/13 02:49 PM
945698	SA	S	L	RCS	AEG, Mayfield	btw L.118 - 119:	02/13 03:25 PM
175060	A	S	L	RCS	AEG, Mayfield	btw L.109 - 110:	02/13 03:25 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS COMMITTEE ON AGRICULTURE, ENVIRONMENT, AND GENERAL GOVERNMENT
Senator Brodeur, Chair
Senator Berman, Vice Chair

MEETING DATE: Thursday, February 8, 2024
TIME: 2:00—3:30 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Building

MEMBERS: Senator Brodeur, Chair; Senator Berman, Vice Chair; Senators Boyd, Garcia, Grall, Mayfield, Osgood, Polsky, Rodriguez, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 532** Banking and Insurance / Brodeur (Similar CS/CS/H 311)	Securities; Revising the list of securities that are exempt from registration requirements under certain provisions; revising provisions relating to a certain registration exemption for certain securities transactions; updating the federal laws or regulations with which the offer or sale of securities must be in compliance; requiring that offers and sales of securities be in accordance with certain federal laws and rules; providing that registration exemptions under certain provisions are not available to issuers for certain transactions under specified circumstances; specifying criteria for determining integration of offerings for the purpose of registration or qualifying for a registration exemption; specifying the purpose of the Securities Guaranty Fund, etc. BI 01/16/2024 Fav/CS AEG 02/08/2024 Favorable FP	Favorable Yeas 9 Nays 0
2	**CS/SB 676** Regulated Industries / Bradley (Similar CS/H 1099)	Food Delivery Platforms; Prohibiting food delivery platforms from taking or arranging for the delivery or pickup of orders from a food service establishment without the food service establishment's consent; requiring food delivery platforms to provide food service establishments with a method of contacting and responding to consumers by a specified date; providing circumstances under which a food delivery platform must remove a food service establishment's listing on its platform; preempting regulation of food delivery platforms to the state, etc. RI 01/22/2024 Fav/CS AEG 02/08/2024 Favorable FP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**SB 804** Hutson (Identical H 907, Compare H 909, S 778)	Gaming Permits; Providing penalties for persons who falsely swear on an application for, or a renewal of, a license submitted to the Florida Gaming Control Commission; requiring applicants for licenses and licensees to notify the commission of certain contact information and of any change in such contact information and providing penalties for failure to comply; revising the timeframe during which a permitholder is required to annually file an application for an operating license for a pari-mutuel facility during the next state fiscal year; removing a specified tax credit for greyhound permitholders, etc. RI 01/16/2024 Favorable AEG 02/08/2024 Fav/CS RC	Fav/CS Yeas 9 Nays 0
4	**CS/SB 846** Banking and Insurance / DiCeglie (Similar CS/H 215)	Risk Retention Groups; Revising the definition of the term “motor vehicle liability policy” to include policies of liability insurance issued by certain risk retention groups, etc. BI 01/16/2024 Fav/CS AEG 02/08/2024 Favorable FP	Favorable Yeas 9 Nays 0
5	**SB 1046** Martin (Compare CS/H 189)	Gaming Activities; Exempting the Florida Gaming Control Commission from ch. 255, F.S.; authorizing the commission to acquire land, property interests, buildings, or other improvements for the purpose of securing and storing seized contraband; prohibiting persons from disseminating any advertisement for illegal gambling or gaming; creating a rebuttable presumption that an individual knows that the place he or she is renting is being used for a gambling or gaming house when there is one or more slot machines, etc. RI 01/16/2024 Favorable AEG 02/08/2024 Fav/CS FP	Fav/CS Yeas 6 Nays 3

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**SB 1084** Collins (Identical H 1071, Compare H 119, H 435, S 188, S 586)	Department of Agriculture and Consumer Services; Preempting the regulation of electric vehicle charging stations to the state; prohibiting local governmental entities from enacting or enforcing such regulations; providing that a pest control operator's certificate, a special identification card, and certain limited certifications for pesticide applicators, respectively, expire a specified length of time after issuance; authorizing the department to take disciplinary action against a person who swears to or affirms a false statement on certain applications, cheats on a required examination, or violates certain procedures under certain circumstances; authorizing Class "G" licensees to qualify for multiple calibers of firearms in one requalification class under certain circumstances; prohibiting the manufacture, sale, holding or offering for sale, or distribution of cultivated meat in this state, etc. AG 01/16/2024 Favorable AEG 02/08/2024 Fav/CS FP	Fav/CS Yeas 6 Nays 3
7	**SB 1210** Martin (Identical H 957)	Estero Bay Aquatic Preserve; Revising the boundaries of the Estero Bay Aquatic Preserve, etc. EN 01/17/2024 Favorable AEG 02/08/2024 Favorable RC	Favorable Yeas 9 Nays 0
8	**SB 1386** Calatayud (Similar CS/H 1557)	Department of Environmental Protection; Revising the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; defining the term "Florida Flood Hub"; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily loads, etc. EN 01/17/2024 Favorable AEG 02/08/2024 Temporarily Postponed FP	Temporarily Postponed

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**SB 1436** Burton (Similar H 1347)	Consumer Finance Loans; Defining the term "branch"; prohibiting a person from operating a branch of a business making consumer finance loans before obtaining a license from the Office of Financial Regulation; specifying application fees for branch licenses; requiring licensees offering an assistance program to borrowers after a federally declared disaster to send a specified notice to the office within a certain timeframe; requiring certain licensees to suspend specified actions for a certain timeframe after a federally declared disaster, etc. BI 01/22/2024 Favorable AEG 02/08/2024 Temporarily Postponed FP	Temporarily Postponed
10	**CS/SB 1622** Banking and Insurance / Trumbull (Similar CS/H 1611, Compare H 1015)	Insurance; Revising the entities for which the Office of Insurance Regulation is required to conduct market conduct examinations; requiring insurers and insurer groups to file a specified supplemental report on a monthly basis; authorizing the Financial Services Commission to adopt rules related to notice of nonrenewal of residential property insurance policies; revising the requirements for public housing authority self-insurance funds; prohibiting insurers from canceling or nonrenewing certain insurance policies under certain circumstances, etc. BI 01/29/2024 Fav/CS AEG 02/08/2024 Favorable FP	Favorable Yeas 9 Nays 0
11	**CS/SB 1692** Environment and Natural Resources / Brodeur (Similar H 1665)	Preventing Contaminants of Emerging Concern from Discharging Into Wastewater Facilities and Waters of the State; Establishing the PFAS and 1,4-dioxane pretreatment initiative within the Department of Environmental Protection for a specified purpose; requiring the department to coordinate with wastewater facilities in implementing the pretreatment of contaminants of emerging concern; requiring that industrial users identified as probable sources of the specified contaminants be issued permits, orders, or similar measures to enforce specified pretreatment standards by a specified date; providing interim discharge limits for industrial users beginning on a specified date, etc. EN 01/23/2024 Fav/CS AEG 02/08/2024 Favorable FP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	**SB 1786** DiCeglie (Similar H 1559)	Professional Licensure and Certification; Authorizing the practice of a profession as a substitute for certain professional or occupational degrees for certain foreign-trained professionals; revising education and work experience requirements for taking the surveyor and mapper licensure examination, etc. CM 01/30/2024 Favorable AEG 02/08/2024 Favorable RC	Favorable Yeas 9 Nays 0
13	**SB 7040** Environment and Natural Resources (Identical H 7053)	Ratification of the Department of Environmental Protection's Rules Relating to Stormwater; Ratifying a specified rule relating to environmental resource permitting for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; ratifying rule 62-330.010, Florida Administrative Code, with specified changes; requiring that specified future amendments to such rule be submitted in bill form to and approved by the Legislature, etc. AEG 02/08/2024 Fav/CS RC	Fav/CS Yeas 9 Nays 0
	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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 532
INTRODUCER:	Banking and Insurance Committee and Senator Brodeur
SUBJECT:	Securities
DATE:	February 7, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Sanders	Betta	AEG	**Favorable**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 532 substantially revises ch. 517, F.S., the "Securities and Investor Protection Act" (Act). The Office of Financial Regulation (OFR) is responsible for administering the provisions of this chapter. The bill is based on the recommendations contained in the report issued by the Chapter 517 Task Force of the Business Law Section of The Florida Bar in coordination with the OFR.[1] The impetus for the task force is to increase the ability of small and developing Florida businesses to raise capital, while at the same time assuring and improving investor protections and enforcement measures to guard against abuse.[2] Since ch. 517, F.S., has not been substantially updated in many years, the bill also incorporates many small business financing provisions consistent with recently adopted federal rules or legislation adopted in other states. The bill includes the following changes:

Investor Protections

- Revises eligibility and recovery provisions relating to the Securities Guaranty Fund (Fund), which was created to provide relief to victims of securities violations under ch. 517, F.S., who are entitled to monetary damages or restitution but cannot recover the full amount of such damages or restitution from the wrongdoer;

[1] Report of the Chapter 517 Task Force of the Business Law Section of The Florida Bar, Recommendations and Analysis of Proposed Amendments to the Florida Securities and Investor Protection Act (Nov. 2023). The report is on file with the Florida Senate Committee on Banking and Insurance staff.

[2] *Id.*

  - The bill removes a requirement that an investor who has received a final judgement that is unsatisfied must make searches and inquires to ascertain the assets of the judgment debtor, which may result in delays. Further, the bill removes a two-year waiting period for payment;
    - The bill increases the amount an eligible person may recover from the Fund from $10,000 to $15,000, adds an exception allowing recovery of up to $25,000 if the person is a specified vulnerable or older adult, and increasing the aggregate limit on claims from $100,000 to $250,000;
- Eliminates a registration exemption for short-term notes of $25,000 or more, which have a maturity date of nine months or less. This type of offering is often the subject of abusive efforts by persons trying to evade registration requirements through the issuance of short-term notes to non-accredited investors. There is no comparable provision in the Uniform Securities Act and currently such notes cannot be sold under federal exemptions that preempt state registration;
- Excludes certain industrial revenue bonds and commercial development bonds issued by the United States or a state or local government from a registration exemption unless the bonds are guaranteed by a publicly traded entity. This exclusion is based on the increased risk to investors under such bonds, which depend upon revenue streams for their funding; and
- Requires a person who has six or more clients, rather than 15 or more clients, to register with the OFR as an investment adviser.

Access to Capital Formation and Investment Options

- Revises the regulatory provisions relating to the intrastate crowdfunding exemption. These changes include increasing the maximum offering limit from one million to five million dollars, which is consistent with the federal crowdfunding rules and reducing the technical and regulatory requirements for issuers;
- Creates the "Florida Invest Local Exemption," a micro-offering exemption that allows an issuer to offer up to $500,000 in securities to residents of Florida in reliance upon the exemption. An issuer may not accept more than $10,000 from any single purchaser, unless the purchaser is an accredited investor or other specified group, for which there are no sale limits. The issuer may engage in general advertising and general solicitation of the offering;
- Revises the limited offering exemption to require a disclosure regarding a purchaser's right of void the transaction within three days from the date of purchase, and to allow additional eligible purchasers that would be excluded for purposes of the 35 purchaser limit, consistent with the Securities and Exchange Commission rules; and
- Creates an exemption for a nonissuer transaction with a federal covered adviser managing investments in excess of $100 million, which is consistent with the provisions of the Uniform Securities Act.

Modernization of Chapter 517, F.S.

- Adopts provisions consistent with federal rules that allow issuers to have greater access to potential investors through "demo-day" presentations and the pre-offering "testing the waters" solicitations and communications, which allows an issuer to determine whether there is any interest in a contemplated offering of exempt securities prior to incurring the expense of preparing and conducting an offering;

- Eliminates the requirement that issuers of simplified securities offerings that use the Small Company Offering Registration (SCOR) must submit annual financial reports for five years;
- Adopts provisions consistent with the integration of offering federal rule that provides offers and sales of securities will not be integrated if, based on the particular facts and circumstances, the issuer can establish each offering either complies with the registration requirements of the Securities Act of 1933, or that an exemption from registration is available for the particular offering;
- Adopts an exemption for accredited investors, which is consistent with the North American Securities Administrators Association accredited investor exemption model. The provision exempts offers and sales from registration if the offers and sales are made only to persons in Florida who are, or the issuer reasonably believes are, accredited investors. This exemption is an important option for small businesses attempting to raise capital; and
- Clarifies, consolidates, and reorganizes provisions within ch. 517, F.S., and adopts provisions consistent with the Uniform Securities Act.

State Enforcement Authority

- Authorizes the Attorney General to double the amount of fines from $10,000 to $20,000 in civil and administrative actions for securities violations targeting senior citizens, age 65 or older, and vulnerable adults;
- Increases the maximum civil and administrative penalties that can be assessed in an action by the Attorney General pursuant to s. 517.191, F.S., from $10,000 to $20,000;
- Establishes joint and several liability for any control person who is found to have violated any provision of the Act;
- Provides a person who knowingly and recklessly provides substantial assistance to another person in violation of a provision of the Act is deemed to violate the provision to the same extent as the person to whom such assistance was provided;
- Allows the OFR to issue and serve upon a person a cease and desist order if the OFR has reason to believe the person violates any provision of the Act, as well as an emergency cease and desist order under certain circumstances; and
- Grants the OFR the authority to impose and collect an administrative fine against any person found to have violated any provision of the Act, which must also be deposited into the Anti-Fraud Trust Fund.

The bill has an indeterminate impact on state revenues and expenditures. *See* Section V. Fiscal Impact Statement below.

II. Present Situation:

Federal Regulation of Securities

Securities Act of 1933

Following the stock market crash of 1929, the Securities Act of 1933[3] (Act of 1933) was enacted to regulate the offers and sales of securities. The Act of 1933 requires every offer and sale of securities be registered with the Securities and Exchange Commission (SEC), unless an

[3] Public Law 73-22, as amended through P.L. 117-268, enacted December 23, 2022.

exemption from registration is available. The Act of 1933 requires issuers to disclose financial and other significant information regarding securities offered for public sale and prohibits deceit, misrepresentations, and other kinds of fraud in the sale of securities. The Act of 1933 requires issuers to disclose information deemed relevant to investors as part of the mandatory SEC registration of the securities that those companies offer for sale to the public.[4]

Registered securities offerings, often called public offerings, are available to all types of investors and have more rigorous disclosure requirements. Initial public offerings (IPOs) provide an initial pathway for companies to raise unlimited capital from the general public through a registered offering. After its IPO, the company will be a public company with ongoing public reporting requirements.[5]

By contrast, securities offerings that are exempt from SEC registration are referred to as private offerings and are mainly available to more sophisticated investors. The SEC exempts certain small offerings from registration requirements to foster capital formation by lowering the cost of offering securities to the public. Examples of exempt offerings[6] include:

- Rule 506(b) Private Placement Offerings allow companies to raise unlimited capital from investors with whom the company has a relationship and who meet certain wealth thresholds or have certain professional credentials;[7]
- Rule 506(c) of Regulation D. General Solicitation Offerings allow companies to raise unlimited capital by broadly soliciting investors who meet certain wealth thresholds or have certain professional credentials;[8]
- Rule 504 of Regulation D, Limited Offerings allow companies to raise up to $10 million in a 12-month period, in many cases from investors with whom the company has a relationship;[9]
- Regulation Crowdfunding offerings allow eligible companies to raise up to five million dollars in investment capital in a 12-month period from investors via an online portal;[10]
- Intrastate offerings[11] allow companies to raise capital within a single state according to state law. Many states limit the offering to between one million and five million dollars in a 12-month period; and[12]
- Regulation A offerings allow eligible companies to raise up to $20 million in a 12-month period in a Tier I offering and up to $75 million through a similar, but less extensive registered offering.[13]

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[4] *Id.*
[5] U.S. Securities and Exchange Commission (SEC), *What does it mean to be a public company?* https://www.sec.gov/education/capitalraising/building-blocks/what-does-it-mean-be-a-public-company (last visited Jan. 28, 2024).
[6] SEC, *The Laws That Govern the Securities Industry*, https://www.sec.gov/about/about-securities-laws (last visited Jan. 28, 2024). Security offerings of municipal, state, and the federal government are exempt from registration.
[7] 17 C.F.R. s. 230.506(b).
[8] 17 C.F.R. s. 230.506(c).
[9] 17 C.F.R. s. 230.504.
[10] 17 C.F.R. s. 227.100. Florida's intrastate crowdfunding law, s. 517.0611, F.S., has not been updated since it was created to reflect to reflect the increase in the maximum offering from one million to five million dollars pursuant to federal rules.
[11] Section (3)(a)(11) of the Securities Act of 1933, 17 C.F.R. s. 230.147 and 17 C.F.R. s. 230.147A
[12] SEC, 17 CFR Parts 227, 229, 230, 239, 249, 270 and 274; RIN-3235-AM27, Final rule: Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, https://www.sec.gov/files/rules/final/2020/33-10884.pdf (last visited Jan. 28, 2024).
[13] 17 C.F.R. s. 230.251.

Securities and Exchange Act of 1934

The Securities and Exchange Act of 1934 created the SEC as an independent agency to enforce federal securities laws.[14] The SEC oversees federal securities laws[15] broadly aimed at protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation.[16] The SEC has broad regulatory authority over significant parts of the securities industry, including stock exchanges, mutual funds, investment advisers, brokerage firms, as well as securities self-regulatory organizations (SROs), such as the Financial Industry Regulatory Authority, Inc. (FINRA).[17]

Federal Crowdfunding Regulations

The Jumpstart Our Business Startups Act (the "JOBS Act"),[18] establishes a regulatory structure for startups and small businesses to raise capital through exempt crowdfunded securities offerings using a funding portal.[19] Title III of the JOBS Act created a new registration exemption from federal securities law to permit the issuance, offer, and sale of up to one million dollars of crowdfunding securities per year initially, subject to specified requirements for issuers and intermediaries, and is not limited to accredited investors. However, national or interstate equity crowdfunding under Title III was not permitted until the SEC implemented Title III by final rule, which was not completed until November 16, 2015.[20] In response to the delay, a number of states, including Florida, enacted intrastate crowdfunding exemptions, which combine some elements of Title III of JOBS with s. 3(a)(11) of the Securities Act of 1933.

The final rule, Regulation Crowdfunding,[21] implements the interstate crowdfunding provisions of the JOBS Act. The regulations permit individuals to invest in securities-based crowdfunding transactions subject to certain thresholds, limits the amount of money an issuer can raise under the crowdfunding exemption at five million dollars, requires issuers to disclose certain information about their offers, and creates a regulatory framework for the intermediaries that facilitate the crowdfunding transactions. Transactions must be conducted through an intermediary registered as either a broker-dealer or a "funding portal."[22] The rules require intermediaries to:

- Provide investors with educational materials;
- Take measures to reduce the risk of fraud;
- Make available information about the issuer and the offering;
- Provide communication channels to permit discussions about offerings on the platform; and

[14] Public Law 73-291, as amended through P.L. 117-328, enacted December 29, 2022.
[15] Section 15, Securities and Exchange Act of 1934.
[16] Securities and Exchange Commission, *Mission*, https://www.sec.gov/about/mission (last visited Jan. 28, 2024).
[17] National securities exchanges (e.g., the New York Stock Exchange) and clearing and settlement systems may register as SROs with the SEC or CFTC, making them subject to SEC or CFTC oversight. *See* https://www.sec.gov/rules/sro for a list of self-regulatory organizations (SROs) registered with the SEC (last visited Jan. 28, 2024).
[18] Pub. L. 112-106, *126 Stat.* 306 (2012).
[19] Title III of the JOBS Act ("Title III") added new Securities Act Section 4(a)(6), which provides an exemption from the registration requirements of Securities Act Section 5. 15 U.S.C. 77e.
[20] 80 FR 71387.
[21] 17 CFR Part 200.
[22] 17 CFR Part 227.

- Facilitate the offer and sale of crowdfunded securities.[23]

In addition, Regulation Crowdfunding limits the amount a non-accredited, individual investor is allowed to invest in Regulation Crowdfunding offerings over the course of a 12-month period contingent upon the investor's net worth and annual income.[24] There are no investment limitation for accredited investors.[25]

Florida Regulation of Securities

The federal securities acts expressly allow for concurrent state regulation under blue sky laws,[26] which are designed to protect investors against fraudulent sales practices and activities. Most state laws typically require companies making offerings of securities to register their offerings before they can be sold in a particular state, unless a specific state exemption is available. The laws also license brokerage firms, their brokers, and investment adviser representatives.[27]

The Financial Services Commission (commission) is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.[28] The commission members serve as agency head for purposes of rulemaking.[29] The Office of Financial Regulation (OFR) and the Office of Insurance Regulation (OIR) are units under the commission, and each office is headed by a commissioner appointed by the commission.[30]

The scope of the OFR's jurisdiction includes the regulation and registration of the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals associated with these firms in accordance with the ch. 517, F.S.[31] The Division of Securities (division) within the OFR is responsible for administering the Securities and Investor Protection Act (SaIP Act). The SaIP Act prohibits dealers, associated persons, and issuers from offering or selling securities in this state unless registered with the OFR or specifically exempted.[32] Additionally, all securities in Florida must be registered with the OFR unless they meet one of the exemptions in ss. 517.051 or 517.061, F.S., or are federally covered (i.e., under the exclusive jurisdiction of the SEC). As of December 30, 2023, the division had total registrants in the following categories:

- Dealers: 2,393

[23] *Id.*
[24] See 17 C.F.R. s. 227.100(a)(2).
[25] Accredited investors may, under SEC rules, participate in investment opportunities that are generally not available to non-accredited investors, including certain investments in private companies and offerings by certain hedge funds, private equity funds, and venture capital funds. Further, the rules allow investors with reliable alternative indicators of financial sophistication to participate in such investment opportunities, while maintaining the safeguards necessary for investor protection. The definition of the term, "accredited investor," is found at 17 C.F.R. s. 230.501.
[26] The term "blue sky" derives from the characterization of baseless and broad speculative investment schemes, which such laws targeted. Cornell Law School, Blue Sky Laws https://www.law.cornell.edu/wex/blue_sky_law#:~:text=In%20the%20early%201900s%2C%20decades,schemes%20which%20such%20laws%20targeted (last visited Jan. 28, 2024).
[27] SEC, *Blue Sky Laws*, http://www.sec.gov/answers/bluesky.htm (last visited Jan. 28, 2024).
[28] Section 20.121(3), F.S.
[29] Section 20.121(3)(a), F.S.
[30] Section 20.121(3)(a)2., F.S.
[31] Pursuant to s. 20.121(3), F.S. The jurisdiction of the OFR also includes state-chartered financial institutions and finance companies.
[32] Section 517.12, F.S.

- Investment Advisers: 8,363
- Branches: 11,701; and
- Associated Persons: 378,876[33]

Intrastate Crowdfunding

As noted earlier, in response to the delay in the adoption of federal rules implementing the JOBS Act, a number of states, including Florida, enacted intrastate crowdfunding exemption, which exempts issuers from federal registration if the issuer, purchaser, and securities offering are all contained within the same state, and meet other requirements.

During the 2015 Session, the Florida Legislature enacted an intrastate crowdfunding exemption.[34] The issuer, intermediary, investor, and transaction must comply with the federal intrastate exemption requirements. The law[35] exempts an issuer and the securities offering of up to one million dollars for a 12-month period, requires registration for the intermediary; and mirrors the federal investment limitations for investors at the time. The law requires issuer notice-filings and intermediary registrations with the OFR, initial and periodic disclosures to investors, an escrow agreement for investor funds, a right of rescission, and financial reporting to investors and to the OFR.

Chapter 517 Task Force of The Florida Bar Business Law Section (Task Force)

In 2022, the Executive Council of the Business Law Section of The Florida Bar created a Task Force to consider amendments to Chapter 517, F.S. In late 2023, the Task Force released its report in coordination with the OFR, which included recommendations and analysis of proposed changes.[36] The impetus for the reform is to improve the ability of small and developing businesses in Florida to raise capital, while at the same time both assuring and improving investor protection and enforcement measures to guard against abuse. Florida's securities statute has not been materially amended for many years. As a result, a number of measures taken both federally and by many states regarding small business financing have not been incorporated into Florida law.[37] Substantive, as well as technical and clarifying changes were recommended by the Task Force.

Uniform Law Commission (ULC)

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws), established in 1892, provides states with non-partisan

[33] Email from Ash Mason, Legislative Affairs Director, Office of Financial Regulation, to Michelle Sanders, Legislative Analyst, Senate Appropriations Committee on Agriculture, Environment and General Government (Jan. 30, 2024) (on file with Senate Appropriations Committee on Agriculture, Environment and General Government). Note: The number of securities registrations were updated from the September 30, 2023 information provided in OFR's bill analysis. OFR noted the renewal period ending December 31 is lower due to an influx of applications at the beginning of the calendar year as firms do not want to pay an application and renewal fee in the same month at the end of the year.
[34] Ch. 2015, Laws of Fla.
[35] Section 517.0611, F.S.
[36] Report of the Chapter 517 Task Force of the Business Law Section of The Florida Bar, Recommendations and Analysis of Proposed Amendments to the Florida Securities and Investor Protection Act (Nov. 2023). On file with Florida Senate Committee on Banking and Insurance Staff.
[37] *Id.*

uniform model acts. In 2002, the ULC updated the Uniform Securities Act, which provides basic investor protection from securities fraud, complementing the federal Securities and Exchange Act, and only applies to securities not regulated by the SEC.[38]

III. Effect of Proposed Changes:

Section 1 amends s. 517.021, F.S., to create the following definitions:

- "Angel investor group" means a group of accredited investors who hold regular meetings and have defined processes and procedures for making investment decisions, individually or among the membership of the group, and who are not associated persons, affiliates, or agents of a dealer or investment adviser.
- "Business entity" means any corporation, partnership, limited partnership, limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, which may or may not be fictitiously named, doing business in this state.

The definition of "boiler room," is revised to reflect technological innovations in communications. The definition of the term, "boiler room" is amended to mean an enterprise in which two or more persons in a common scheme or enterprise solicit potential investors through telephone calls, e-mail, text messages, social media, chat rooms, or other electronic means.

The section also revises the definition of investment adviser for purposes of registration requirements. An investment advisor, is exempt from registration requirements if the person, during the preceding 12 months, has fewer than six clients instead of no more than 15 clients who are residents of this state. The term, "client," has the same meaning as provided in 17 C.F.R. s. 275.222-2. According to the Chapter 517 Task Force of the Business Law Section of the Florida Bar (Task Force) report, Florida is one of three states (including California and North Carolina) that have a 15 or less client exemption. Five states (Georgia, New Jersey, New York, Pennsylvania and Tennessee) have a no more than six client exemption, and all other states require registration if an adviser has a place of business in their state regardless of how many clients the adviser has.

An exemption from the investment advisor registration is also provided for specified governmental entities and others, which is consistent with an exemption provided in section 202(b) of the Investment Advisers Act of 1940. Registration requirements do not apply to the U.S. government, state governments and their political subdivisions, and their agencies or instrumentalities, including their officers, agents, or employees acting in their official capacities.

Exempt Securities

Section 2 amends s. 517.051, F.S., which provides exemptions based on the nature of the securities. The exemption relating to United States, state and local government securities, is revised to exclude certain industrial revenue bonds and commercial development bonds. This change is made based on the increased risk to investors holding such bonds, which are reliant upon revenue streams for their support, unless the bonds are guaranteed by a publicly traded entity described in s. 18(b)(1) of the Securities Act of 1933.

[38] Uniform Securities Act, 2002-Uniform-Securities-Act.pdf (nasaa.org) (last visited Jan. 28, 2024).

The exemption related to a security issued by a depository institution, current subsection (3), is revised to incorporate provisions found in s. 201(3)(B) of the Uniform Securities Act to provide greater clarity and specificity. The section limits the list of financial institutions to the following:

- An international bank of which the United States is a member;
- A bank organized under the laws of the United States;
- A member bank of the Federal Reserve System; or
- A depository institution when a substantial portion of the business consists or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

The current registration exemption provided in s. 517.051(8), F.S., for notes of at least $25,000 that have a maturity period not exceeding nine months and are sold to non-accredited investors is eliminated. According to the Task Force, this exemption has been the subject of abusive efforts by persons attempting to evade registration requirements. There is no analogy to this exemption in the Uniform Securities Act.

Section 517.051, F.S., is amended to provide an exemption for all not-for-profit cooperatives. Currently, ss. 517.051(7) and 517.061, F.S., provide a registration exemption for agricultural and residential cooperatives, respectively. The residential cooperative exemption is currently a transaction exemption and is moved to new s. 517.051(8), F.S. Subsection (9) is created to provide a registration exemption for all other forms of not-for-profit cooperatives, which is consistent with the Uniform Securities Act. This provision exempts a member's or owner's interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a not-for-profit membership entity operated either as a cooperative under the cooperative laws of a state or in accordance with the cooperative provisions of subchapter T of chapter 1 of subtitle A of the United States Internal Revenue Code, as amended, but not a member's or owner's interest, retention certificate, or like security sold or transferred to a person other than:

- A bona fide member of the not-for-profit membership entity; or
- A person who becomes a bona fide member of the not-for-profit membership entity at the time of or in connection with the sale or transfer.

Technical, clarifying changes are made to the section.

Exempt Securities Transactions

Sections 3 amends s. 517.061, F.S., to reorganize and amend the section by grouping similar types of transactions together. Except as otherwise provided in subsection (11), the exemptions from the registration requirements of s. 517.07, F.S., are self-executing and do not require any filing with the Office of Financial Regulation (OFR). However, such transactions are subject to the anti-fraud provisions of s. 517.301, F.S.

Section 517.061(1), F.S., relating to judicial approval of a securities transaction, is amended in paragraph (a) to expand the exemption to include sales effected through assignments for the benefit of creditors. New paragraph (b) exempts a transaction involving a security issued in

exchange, except in a case under Title 11 of the United States Code, for one or more bona fide outstanding securities, or property interests, or partly in such exchange and partly for cash, if the terms and conditions are approved by certain governmental entities after a hearing upon the fairness of such terms and conditions. The Task Force adopted the language of the federal analog, s. 3(a)(10) of the Securities Act of 1933.

The current exemption provided in subsection (3), relating to a stock dividend or equivalent equity distribution, is amended to prohibit the giving of value by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend in the event that each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock. The subsection is modeled after the Uniform Securities Act.

The bill expands the current exemption in subsection (4), related to a transaction involving the distribution of securities among an issuer's own security holders, to include persons that at the date of the transaction are holders of options and all types of warrants. The provision is modeled after the Uniform Securities Act.

Subsection (8) expands the current exemption relating to employer-sponsored stock option plans to include any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, and requires that the employee benefit plan be contained in a record established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees.

Subsection (9) revises a current exemption, relating to the offer or sale of securities to a financial institution, to eliminate the limitation that the offers or sales of securities may not be for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading ch. 517, F.S. A general provision addresses this issue in s. 517.0613, F.S. The subsection eliminates the requirement the Financial Services Commission (commission) define "institutional investor." The term, "qualified institutional buyers," is defined in s. 517.021, F.S.

The limited offering exemption in subsection (10)(a) is amended to remove the provision prohibiting the payment of a commission or compensation for the sale of the securities in certain circumstances under the exemption relating to the offer or sale, by or on behalf of an issuer, of its own securities, where there are no more than 35 purchasers since the statute already precludes compensation to nondealers. The three-day voidable provision has been revised to limit it to three days from the date of purchase. Newly created exemptions proposed in ss. 517.0611, F.S., and 517.0612, F.S., will allow general advertising and solicitation, subject to enforcement provisions for material misstatements or omissions. The section adds certain additional purchasers to the list of excluded purchasers for purposes of the 35 purchaser limit. The added provisions have been taken from the analogous U.S. Securities and Exchange Commission (SEC) Rule 501 exclusions for counting purchasers.

The limited offering exemption is the current statute's primary registration exemption for capital-raising purposes. It was modeled after the SEC Rule 505 exemption which no longer exists. The exemption is principally used by issuers that limit their offers and sales to Florida residents. It has no monetary limitation on the issuer or any investor but is limited to no more than 35 non-

accredited investors. A principal problem with this exemption has been the prohibition against any general advertising or solicitation, which substantially impairs the ability of smaller, developing companies to attract investors.

Subsection (11) substantially codifies the North American Securities Administrators Association[39] (NASAA) model accredited investor exemption. Sales of securities may only be made to persons who are, or the issuer reasonably believes are, accredited investors. The exemption is not available to an issuer that:

- Has an undefined business operation;
- Lacks a business plan;
- Lacks a stated investment goal for the funds being raised; or
- Plans to engage in a merger or acquisition with an unspecified business entity.

The model provides that a general announcement of the proposed offering, made by any means, may include only specified information. The issuer must file with the OFR a notice of transaction, a consent to service of process, and a copy of the general announcement within 15 days after the first sale in this state. The FSC may adopt by rule procedures for filing documents by electronic means. Dissemination of the general announcement of the proposed offering to persons who are not accredited investors does not disqualify the issuer from claiming the exemption under this rule.

Subsection (15) creates an exemption for non-issuer transactions with a federal covered adviser managing investments in excess of $100 million acting in the exercise of discretionary authority in a signed record for the accounts of others. This exemption is modeled after the Uniform Securities Act.

Subsection (16) is amended to allow the FSC to recognize by rule clearinghouses able to clear option transactions for purposes of this subsection. The subsection is also amended to require that the underlying security is purchased or sold on a recognized security exchange registered under the Securities Exchange Act of 1934 and to eliminate the possibility that the underlying security instead be quoted on the National Association of Securities Dealers Automated Quotation System.

The exemption for nonissuer transactions of securities outstanding at least 90 days in subsection (18) is revised to change the conditions for eligibility. Current law requires all conditions for this exemption must be satisfied. The section is revised to retain the mandatory conditions of (a)-(c), along with either one of (d) and (e).

[39] The North American Securities Administrators (NASAA) is a nonprofit association of securities regulators in the United States, Canada, and Mexico. *Welcome to NASAA,* https://www.nasaa.org/about/ (last visited Jan. 28, 2024). NASAA, *Model Accredited Investor Exemption*, Adopted Apr. 27, 1997, *available at* https://www.nasaa.org/wp-content/uploads/2011/07/24-Model_Accredited_Investor_Exemption.pdf (last visited Jan. 28, 2024). In 1997, NASAA members voted to approve "Model Accredited Investor Exemption" (the AI Exemption). The AI exemption exempts the offer or sale of a security by an issuer from the security registration process in a transaction meeting certain requirements including that the sale of securities is limited to accredited investors and the issuer must not be subject to disqualification. The majority of states have adopted the AI exemption.

Subsection (20) creates an exemption for buying and selling of securities of foreign companies through foreign brokers. Non-issuer transactions in an outstanding security by or through a dealer registered or exempt from registration are exempt if:

- The issuer is a reporting issuer in Canada or in a foreign jurisdiction designated by Commission rule and the issuer has been subject to continuous reporting requirements for not less than 180 days before the transaction; and
- The security is listed on The Toronto Stock Exchange, Inc. or on a foreign jurisdiction's securities exchange that has been designated by FSC rule, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing.

The OFR may revoke any designation of a securities exchange if the OFR finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

Florida Limited Offering Exemption

Section 4 amends s. 517.0611, F.S., the "Intrastate Crowdfunding Exemption." The section is substantially amended and renamed the "Florida Limited Offering Exemption" in subsection (1).

Subsection (2) is amended to provide the registration requirements of s. 517.07, F.S., do not apply to transactions conducted in accordance with this section; however, such transactions are subject to the anti-fraud provisions of s. 517.301, F.S. Currently, the section specifies an offer or sale of a security conducted in accordance with this section is an exempt transaction under s. 517.061, F.S., and the exemption may not be used in conjunction with any other exemption under ss. 517.051 or 517.061, F.S.

Subsection (3) requires the offer or sale of securities under this section be conducted in accordance with the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), 17 CFR s. 230.147 or 17 CFR 230.147A, which is being added. In 2016, the SEC adopted Rule 147A, a new intrastate offering exemption, which is substantially identical to Rule 147 except Rule 147A:

- Allows offers to be accessible to out-of-state residents, so long as sales are only made to in-state residents;
- Permits a company to be incorporated or organized out-of-state, so long as the company has its "principal place of business" in-state and satisfies at least one "doing business" requirement that demonstrates the in-state nature of the company's business; and
- Allows issuers to engage in general solicitation and general advertising of their offerings, using any form of mass media, including unrestricted, publicly-available Internet websites, so long as sales of securities so offered are made only to residents of the state or territory in which the issuer has its principal place of business.

Subsection (4) revises issuer requirements in the following manner:

- The issuer must be a for-profit business entity that maintains its principal place of business and derives its revenues primarily from operation in this state. Under current law, the entity is required to be formed under the laws of the state, be registered with the Secretary of State, maintain its principal place of business in the state, and derive its revenues primarily from operations in the state;

- An issuer must conduct transactions for an offering of $2.5 million or more through a dealer or intermediary registered with the OFR. For an offering of less than $2.5 million, the issuer may, use such a dealer or intermediary. Under current law, an issuer must use a registered dealer or intermediary regardless of the amount of the offering;
- The issuer may not be subject to a disqualification established by the FSC or the OFR or a disqualification described in s. 517.1611, F.S., or newly created s. 517.0616, F.S. Each director, officer, manager, managing member, or general partner, or person occupying a similar status or performing a similar function, or person holding more than 20 percent of the equity interest of the issuer, is subject to this requirement. Section 517.0616, F.S., references disqualifications under 17 C.F.R. s. 230.506(d); and
- The issuer must deposit all funds received from investors in an account in a federally insured financial institution authorized to do business in this state. Further, an issuer must maintain all such funds in the account until the target offering amount is reached or the offering amount has not been reached within the period specified. Currently, an issuer must execute an escrow agreement with a federally insured financial institution authorized to do business in the state for the deposit of investor funds, and ensure that all offering proceeds are provided to the issuer only when the aggregate capital raised from all investors is equal to or greater than the target offering amount.

Subsection (5) requires an issuer to file a notice of the offering with the OFR together with a $200 nonrefundable filing fee. The disclosures required to be included in the notice form are revised in the following manner:

- Eliminates the attestation requirement. Currently, the notice must contain an attestation under oath that the issuer, its predecessors, affiliated issuers, directors, officers, and control persons, or any other person occupying a similar status or performing a similar function, are not currently and have not been within the past 10 years the subject of regulatory or criminal actions involving fraud or deceit; and
- Must state the target offering amount as well as the date, not to exceed 365 days, by which the target amount must be reached in order to avoid termination of the offering.

Subsection (6) requires an issuer to amend the notice form within 10 business days instead of 30 days after any material information becomes inaccurate.

Subsection (7) authorizes an issuer to engage in general advertising and general solicitation of the offer to prospective investors. Any oral or written statements in advertising or solicitation of the offer are subject to enforcement under ch. 517, F.S. Any general advertising or other general announcement must state that the offering is limited and open only to residents of this state.

Subsection (8) is amended to require an issuer to provide a disclosure statement to the dealer or intermediary, as applicable: to the OFR at the time that the notice is filed and to each prospective investor at least three days before the investor's commitment to purchase or payment of any consideration. The disclosure statement must contain material information about the issuer and the offering. The bill provides the following changes:

- The statement must also include the email address of the issuer. Currently, the name, legal status, physical address, and website address of the issuer are required;

- The disclosure of the names of the managers, managing members, and general partners are added. Currently, the names of the directors, officers, and any person occupying a similar status or performing a similar function, and the name of each person holding more than 20 percent of the issuer's equity interests are required to be disclosed;
- The regular updates of the issuer regarding the progress in meeting the target offering amount is eliminated;
- The methodology for determining the price is eliminated and the requirement that prior to the sale, the investor must receive in writing the final price and all required disclosures and have an opportunity to rescind the commitment to purchase the securities;
- A description of the ownership and capital structure of the issuer is revised to eliminate the disclosure of the name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer; how the securities being offered are being valued, and examples of methods of how such securities may be valued by the issuer in the future; and the risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate action, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties;
- The bill adds a statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitations on resale contained in SEC Rule 147 or Rule 147A;
- The bill adds a disclosure regarding any issuer plans to offer additional securities in the future;
- The bill adds a disclosure about the risks to purchasers of the securities relating to the minority ownership in the issuer; and
- A description of the financial condition of the issuer.
    - The bill provides for offering amounts of $500,000 or less, the inclusion of financial statements of the issuer are optional. Under current law, certified financial statements and the most recent tax return filed by the issuer are no longer required. Further, for offerings that within the preceding 12-month period, have target offering amounts of $100,000 or less, the description must include the most recent income tax return filed by the issuer, if any, and a financial statement that must be certified by the principal executive officer of the issuer as true and complete in all material respects.
    - The bill provides for offering amounts of more than $500,000 but not more than $2.5 million, the description must include financial statements reviewed by a certified public accountant. Currently, for offerings within the preceding 12-month period, have target offering amounts of $100,001 - $500,000, the description must include financial statements prepared in accordance with generally accepted accounting principles and reviewed by a certified public accountant who is independent of the issuer, using professional standards and procedures for such review or standards and procedures established by the office, by rule, for such purpose.
    - The bill provides for offerings of more than $2.5 million, the description must include audited financial statements. Under current law, for offerings within the preceding 12-month period, have target offering amounts of more than $500,000, the description must include audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant who is independent of the issuer, and other requirements as the FSC may establish by rule.

The bill provides the following additional statement must appear on the front page of the disclosure statement:

> Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense under Chapter 517, Florida Statutes.

The foregoing statement is added to the following statement which must be provided under current law. Both the previous and the following statement must appear in boldface, conspicuous type on the front page of the disclosure statement:

> These securities are offered under, and will be sold in reliance upon, an exemption from the registration requirements of federal and Florida securities laws. Consequently, neither the Federal Government nor the State of Florida has reviewed the accuracy or completeness of any offering materials. In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved. These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as specifically authorized by applicable federal and state securities laws. Investing in these securities involves a speculative risk, and investors should be able to bear the loss of their entire investment.

Subsection (9) is amended to increase the cap for an offering from one to five million dollars. Offers or sales to a person owning 20 percent or more of the equity of any class or classes of securities or to an officer, director, partner, manager, managing member, general partner or trustee, or a person occupying a similar status, do not count toward this limitation.

Subsection (10) is revised to provide that sales of securities to non-accredited investors in a 12-month period may not exceed $10,000. Currently, this calculation is based on the income and net worth of a non-accredited investor.

Current subsection (11) is eliminated, which requires the issuer to file with the OFR and provide to investors free of charge an annual report of the results of operations and financial statements of the issuer within 45 days after the end of its fiscal year, until no securities under this offering are outstanding. The annual reports must meet specified requirements.

The new subsection (11), authorizes the OFR to summarily suspend a notice filing if the payment for the filing is dishonored by the financial institution upon which the funds are drawn or if the issuer made a material false statement in the issuer's notice-filing. A material false statement made in the issuer's notice-filing results in a final order by the OFR revoking the notice-filing, issuing a fine and permanent bar to the issuer and all owners, officers, directors, and control persons, or any person occupying a similar status or performing a similar function of the issuer. The subsection provides technical conforming changes.

Subsection (12), relating to the duties of an intermediary, is revised, to provide if the issuer employs the services of an intermediary, the intermediary must take measures, as established by FSC rule, to reduce the risk of fraud with respect to the offering. Under current law, the intermediary must, with respect to transactions, verify the issuer is in compliance with the requirements of this section and, if necessary, deny an issuer access to its platform if the intermediary believes it is unable to adequately assess the risk of fraud of the issuer or its potential offering.

The subsection revises the provision relating to the information an intermediary must obtain from investors to document residency or status as an accredited investor. The bill requires an intermediary to obtain from each prospective investor a zip code or residence address, a copy of a driver license, and any other proof of residency in order for the issuer or intermediary to reasonably believe that the potential investor is a resident of this state. The FSC may adopt rules authorizing additional forms of identification and prescribing the process for verifying any identification presented by the prospective investor. The intermediary must obtain information sufficient for the issuer or intermediary to reasonably believe that a particular prospective investor is an accredited investor.

The subsection eliminates the requirement that an intermediary must obtain an affidavit from each investor regarding their income. Currently, an intermediary must obtain an affidavit from each investor stating that the investment being made by the investor is consistent with the income requirements. The bill provides conforming changes to eliminate requirements relating to escrow funds and escrow agreements.

The subsection eliminates the following duties of an intermediary:
- Require each investor to certify in writing that the investor understands the risks of investing, the terms of the offering, and the limitations on resale;
- Require each investor to answer questions demonstrating an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers, and an understanding of the risk of illiquidity;
- Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; the anti-money laundering requirements applicable to registered brokers; and privacy requirements; and
- Solicit purchases, sales, or offers to buy securities offered or displayed on its website.

Subsection (14) provides if the issuer does not employ a dealer or an intermediary for an offering created pursuant to this section, the issuer may not:
- Compensate employees, agents, or other persons for the solicitation of, or based on the sale of, securities offered or displayed on its website;
- Hold, manage, possess, or otherwise handle investor funds or securities;
- Compensate promoters, finders, or lead generators for providing personal identifying information of any potential investor; or
- Engage in any other activities set forth by commission rule.

Subsection (15) provides any sale made pursuant to the exemption created under this section is voidable by the purchaser within three days after the first tender of consideration is made by such

purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure statement that is provided to the purchaser or purchaser's representative or by certified mail or overnight delivery service with proof of delivery to the mailing address set forth in the disclosure statement. Under current law, an investor may cancel a commitment to invest within three business days before the offering deadline, as stated in the disclosure statement, and issue refunds to all investors if the target offering amount is not reached by the offering deadline.

Florida Invest Local Exemption

Section 5 creates s. 517.0612, F.S., the "Florida Invest Local Exemption," a micro-offering exemption. The section provides the registration provisions of s. 517.07, F.S., do not apply to a securities transaction conducted in accordance with this section. However, such transactions are subject to the anti-fraud provisions of s. 517.301, F.S. The bill:

- Requires the offer or sale of securities under this section must meet the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, Securities and Exchange Commission Rule 147, or Securities and Exchange Commission Rule 147A;
- Requires the issuer to be a for-profit business entity registered with the Department of State with its principal place of business in this state. The issuer cannot be, either before or as a result of the offering:
  - An investment company as defined in the Investment Company Act of 1940, as amended;
  - Subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended;
  - An organization with an undefined business operation, a company that lacks a business plan, a company that lacks a stated investment goal for the funds being raised, or a company that plans to engage in a merger or acquisition with an unspecified business entity, or
  - Subject to a disqualification pursuant to s. 517.0616, F.S.;
- Provides the sum of all cash and other consideration received for all sales of the security in reliance upon this exemption may not exceed $500,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption;
- Provides the issuer may not accept more than $10,000 from any single purchaser unless:
  - The issuer reasonably believes the purchaser is an accredited investor;
  - The purchaser is an officer, director, partner, or trustee of an individual occupying a similar status or performing similar functions of the issuer; or the purchaser is an owner of 10 percent or more of the issuer's outstanding equity.
    - Any relative, spouse, child or family relative who has the same primary residence of the purchaser shall collectively be treated as a single purchaser; or
    - Any business entity of which the purchaser and any person related to the purchaser collectively owns more than 50 percent of the equity interest must be treated collectively as a single purchaser.
- Authorizes an issuer to engage in general advertising and general solicitation of the offering. Any general advertising or other general announcement must state that the offer is limited and open only to residents of the state. Written or oral statements made in the advertising or solicitation of the offer are subject to the enforcement provisions of this chapter;

- Requires a purchaser to receive, at least three business days prior to any binding commitment to purchase or consideration paid, a disclosure document which sets forth material information of the issuer, including but not limited to the following:
  - Issuer's name, form of entity and contact information.
  - The name and contact information of each director, officer or other manager of the issuer.
  - A description of the issuer's business.
  - A description of the security being offered and the total amount of the offering.
  - The intended use of proceeds from the sale of the securities.
  - The target amount of the offering.
  - A statement that if the target amount is not obtained in cash or the value of other tangible consideration received within a date that is no more than 180 days after the commencement of the offering, the offering will be terminated, and any funds or other consideration received from purchasers shall be promptly returned.
  - A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in 17 C.F.R. s. 230.147 or 17 C.F.R. s. 230.147A.
  - The names and addresses of all persons who will be involved in the offer and sale of securities on behalf of the issuer.
  - The depository institution into which investor funds will be deposited.
  - A statement in boldface type that reads: "Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense;"
- Requires all funds received from investors must be deposited into a depository institution authorized to do business in Florida. The issuer may not withdraw any amount of the offering proceeds unless and until the target amount has been received;
- Requires the issuer to file a notice of the offering with the OFR, in writing or in electronic form, in a format prescribed by FSC rule, no less than five business days before the offering commences, along with the disclosure document. The issuer must, within three business days, file an amended notice if there are any material changes to the information previously submitted;
- Provides an individual, entity, or entity employee who acts as an agent for the issuer in the offer or sale of securities under this exemption and is not registered as a dealer or intermediary under this chapter may not:
  - Receive compensation based upon the solicitation of purchases, sales, or offers to purchase the securities, or
  - Take custody of investor funds or securities; and
- Provides any sale, made pursuant to this exemption, is voidable by the purchaser, within three days after the first tender of consideration is made by such purchaser to the issuer, by notifying the issuer that the purchaser expressly voids the purchase by sending an email to the issuer's email address set forth in the disclosure document provided to purchasers or purchaser's representatives or by certified mail or overnight delivery service with proof of delivery to the mailing address set forth in such disclosure document.

Section 6 creates s. 517.0613, F.S., relating to the failure to comply with a securities registration exemption. This provision is similar to SEC Rule 500 in Regulation D. The section clarifies that

an issuer who fails to comply with any exemption from securities registration is not precluded from claiming the availability of any other applicable state or federal exemption.

Further, the section provides that ss. 517.061, 517.0611, and 517.0612, F.S., are not available to an issuer for any transaction or chain of transactions that, although in technical compliance with the applicable provisions, is part of a plan or scheme to evade the registration provision of s. 517.07, F.S., and registration under s. 517.07, F.S., is required in connection with such transaction.

Section 7 creates s. 517.0614, F.S., a stand-alone integration provision, which is consistent with 17 CFR s. 230.152, the SEC's integration rule, and is applicable to all issuer capital raising exemptions.

SEC Rule 152 significantly reduces the threat to companies, especially smaller ones that have continuing and sporadic needs for capital, that multiple offerings will be integrated as one, with the result that otherwise distinct valid exempt offerings will be deemed in violation of the registration provisions.

SEC Rule 152 provides a framework for determining whether multiple securities transactions should be considered part of the same offering and contains four non-exclusive safe harbors from integration. Offerings may not be integrated if, based on particular facts and circumstances, the issuer can establish either that each offering complies with the registration requirements of ch. 517, F.S., or that an exemption from registration is available for the particular offering, provided that any transaction or series of transactions that, although in technical compliance with ch. 517, F.S., is part of a plan or scheme to evade the registration requirements of ch. 517, F.S., will not have the effect of avoiding integration.

For an exempt offering prohibiting general solicitation, the issuer must have a reasonable belief, based on the facts and circumstances, with respect to each purchaser in the exempt offering, that the issuer or any person acting on the issuer's behalf:

- Did not solicit such purchaser through the use of general solicitation; or
- Established a substantive relationship with such purchaser before the commencement of the exempt offering, provided that a purchaser previously solicited by general solicitation is not deemed to have been solicited through the use of general solicitation in the current offering if, during the 45 calendar days following such previous general solicitation:
    - No offer or sale of the same or similar class of securities has been made by or on behalf of the issuer, including to such purchaser; and
    - The issuer or any person acting on the issuer's behalf has not solicited such purchaser through the use of general solicitation for any other security

Communication and Solicitation of Potential Investors

Section 8 creates s. 517.0615, F.S., relating to solicitation of interest, to authorize an issuer to solicit potential investors under limited circumstances consistent with federal rules.

Subsection (1) adopts provisions consistent with the federal "Demo Day Presentations" rule.[40] The subsection provides pre-offering communications made by an issuer in connection with a demo day presentation are not deemed to constitute general solicitation if the communications are made in connection with such an event or presentation being sponsored by a college, university, or other institution of higher education, a state or local government or instrumentality of a state or local government, a nonprofit organization, or an angel investor group, incubator, or accelerator; provided that advertising for the event does not reference any specific offering of securities by the issuer; and the sponsor of the meeting or seminar does not:

- Make investment recommendations or provide investment advice to attendees of the event;
- Engage in any investment negotiations between the issuer and investors attending the event;
- Charge attendees of the event any fees, other than reasonable administrative fees;
- Receive any compensation for making introductions between event attendees and issuers, or for investment negotiations between the parties; or
- Receive any compensation with respect to the event that would require registration or notice filing under the securities laws. The sponsorship of or participation in the seminar or meeting does not by itself require registration or notice-filing under ch. 517, F.S.

Information regarding an offering of securities by the issuer which is communicated or distributed by or on behalf of the issuer in connection with a seminar or meeting is limited to a notification that the issuer is in the process of offering or planning to offer securities, the type and amount of securities being offered, the intended use of the proceeds of the offering, and the unsubscribed amount in an offering. If the event allows attendees to participate virtually, rather than in person, online participation in the seminar or meeting is limited to certain specified participants.

Subsection (2) adopts provisions consistent with SEC Rule 241,[41] which allows "testing the waters" by an issuer in advance of making any offering. An issuer or their representative may communicate orally or in writing to determine whether there is any interest in a contemplated offering of securities exempt from federal registration requirements. The rule provides an exemption only with respect to the generic solicitation of interest. This will allow issuers to gauge the feasibility and market interest in a securities offering prior to incurring the time and expense of a preparing and conducting an offering. The solicitation or acceptance of money or other consideration or commitment from any person is prohibited.

SEC Rule 241 further requires the testing-the-waters materials to provide specified disclosures notifying potential investors about the limitations of the generic solicitation. The issuer's communications must state the following:

- No money or other consideration is being solicited, and if sent in response, will not be accepted;
- No offer to buy the securities can be accepted and no part of the purchase price can be received until the issuer determines the exemption under which the offering is intended to be

[40] 17 C.F.R. s. 230.148. *See* also, SEC, *General Solicitation, Demo Day Event*, https://www.sec.gov/education/capitalraising/building-blocks/general-solicitation (last visited Jan. 28, 2024). The SEC's recent rule changes clarify how companies, under certain requirements, can pitch to potential investors at qualifying "Demo Day Presentation" events without being considered a general solicitation.
[41] 17 CFR s. 230.241.

conducted and, where applicable, the filing, disclosure, or qualification requirements of such exemption are met; and
- A person's indication of interest involves no obligation or commitment of any kind.

Any written communication may include a means for a person to indicate interest in a potential offering and an issuer may require such indication to include the person's name, address, telephone number, or email address in any response form included in the written communication.[42] A communication in accordance with the "testing the waters" provision is not subject to s. 501.059, F.S., regarding telephone solicitations.

Section 9 creates s. 517.0616, F.S., relating to issuer disqualifications, to provide a registration exemption under s. 517.061(9), (10), and (11), s. 517.0611, or 517.0612, F.S., is not available to an issuer that would be disqualified under 17 C.F.R. s. 230.506(d) at the time the issuer makes an offer for the sale of a security. "Bad actor" disqualifying events include, but are not limited to:
- Specified relevant criminal convictions, certain court injunctions and restraining orders, and final orders of certain state and federal regulators;
- Certain SEC (Securities and Exchange Commission) disciplinary orders;
- Certain SEC cease-and-desist orders; and
- Suspension or expulsion from membership in a self-regulatory organization (SRO), such as FINRA, or from association with an SRO member.

Section 10 revises s. 517.081, F.S., relating to securities registration requirements. To provide greater clarity, the provisions relating to the rulemaking authority of the FSC are consolidated and revised within the section. The section eliminates the five-year annual financial reporting requirements for Small Company Offering Registration (SCOR) and the prohibition against a person using the SCOR registration method for the resale of securities, which will allow non-control persons to resell securities through a Florida-based registration process.

Under current law, the FSC must adopt a form for a simplified offering circular to register securities that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed five million dollars. The simplified offering circular is synonymous with a SCOR under the Securities Act of 1933.[43] To qualify for use of the simplified offering circular, the issuer must:
- File an annual financial report with OFR that contains a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year (and if the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited); and
- File annual financial reports with OFR for each of the first five years following the effective date of the registration.

[42] The SEC, *Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, A Small Entity Compliance Guide* (Mar. 10, 2021), https://www.sec.gov/corpfin/facilitating-capital-formation-secg (last visited Jan. 28, 2024).
[43] SCOR was designed for use by companies seeking to raise capital through a public offering of securities exempt from registration with the SEC under the Securities Act of 1933 pursuant to Rule 504 of Regulation D, Rule 147, or 147A.

Section 11 amends s. 517.101, F.S., relating to consent to service, to expand the type of persons who are eligible to sign the written consent on behalf of a business entity to include directors, managers, managing members, general partners, trustees, or officers of the issuer.

The bill also expands the persons who can authorize the signer to execute the written consent to include the issuer's general partners and managing members. Under current law, an issuer is required, upon any initial application for registration under the act or upon request of the OFR, to file with such application the irrevocable written consent to service. The written consent must be authenticated by the seal of said issuer (if it has a seal), and by the acknowledged signature of a member of the co-partnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, and such consent to service must be duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association (and such resolutions must be filed as a certified copy with the written consent to service).

Securities Guaranty Fund (Sections 12 and 13)

Section 12 amends s. 517.131, F.S., relating to the Securities Guaranty Fund (Fund), to revise eligibility requirements and provide technical changes. In subsection (1), the definition of the term, "final judgment," is amended to also include an arbitration award confirmed by a court of competent jurisdiction. The subsection is also amended to eliminate the requirement that the wrongdoer be a dealer, investment adviser, or associated person registered under ch. 517, F.S.

Subsection (2) is amended to specify the purpose of the Fund is to provide monetary relief to victims of securities violations under this chapter who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer.

Subsection (3) is amended to require that a person meet the following conditions to be eligible for payment from the Fund, if the person:

- Holds an unsatisfied final judgment in which a wrongdoer was found to have violated ss. 517.07, F.S., or 517.301, F.S.;
- Has applied any amounts recovered from the judgment debtor or from any other source to the damages awarded by the court or arbitrator; and
- Is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation giving rise to the claim; or is a receiver appointed pursuant to s. 517.191(2), F.S., by a court of competent jurisdiction for a wrongdoer order to pay restitution under s. 517.191(3), F.S. as a result of a violation of ss. 517.07, F.S., or 517.301, F.S., which has requested payment from the Fund on behalf of an eligible for payment.

This section is amended to eliminate the current requirement that the act for which recovery is sought occurred on or after January 1, 1979, and to eliminate the ability of the OFR to waive certain requirements under this section. The section provides that changes in the bill relating to the Fund apply to acts for which recovery is sought occurred on or after October 1, 2024. Further, the requirement that a person make all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being

sold or applied in satisfaction of the judgment is eliminated. Under current law, for a person to be eligible to receive payment from the Fund, the following requirements must be met:

- The act for which recovery is sought occurred on or after January 1, 1979;
- The person has received final judgement from a court that a violation of ss. 517.07 or 517.301, F.S., occurred for which monetary damages are awarded;
- The person has made all reasonable searches and inquiries to ascertain whether the violator possesses assets that can be sold in satisfaction of the damages awarded, and in such search has discovered no or insufficient assets; and
- The person has applied any amounts recovered from the violator, or from any other source, to the damages awarded by the court.

Subsection (4) is created to prohibit a person from being eligible for payment from the Fund if the person has:

- Participated or assisted in a violation of ch. 517, F.S.;
- Attempted to commit or committed a violation of ch. 517, F.S.; or
- Profited from a violation of ch. 517, F.S.

Subsection (5) provides an eligible person, or a receiver on behalf of an eligible person, seeking payment from the Fund must submit a written application within one year after the date of the final judgement, the date on which a restitution order has been ripe for execution, or the date of any appellate decision, and at a minimum, must contain certain specified information. The application must contain such information as the OFR may require, including, but not limited to:

- The full name, address, and contact information of the eligible person and, if applicable, the receiver;
- The person ordered to pay restitution;
- If the eligible person is a business entity, the eligible person's form and place of organization and a copy of the business entity's articles of incorporation, its articles of organization with amendments, trust agreement, or its partnership agreement;
- A copy of the final judgment;
- A copy of any restitution ordered pursuant to s. 517.191(3), F.S.;
- An affidavit stating either one of the following:
  - The eligible person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment and, by the eligible person's search, that the eligible person has not discovered any property or assets.
  - The eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment remains unsatisfied;
- An affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's order of restitution;
- The eligible person's residence or domicile at the time of the violation of ss. 517.07, F.S., or 517.301, F.S., which resulted in the eligible person's monetary damages;
- The amount of any unsatisfied portion of the eligible person's final judgment; and
- Whether an appeal or motion to vacate an arbitration award has been filed.

Subsection (6) provides if the OFR finds that a person is eligible and if the person has complied with the provisions of this section, the OFR must approves a person for payment from the Fund within 90 days after the OFR's receipt of a complete application. Each eligible person or receiver must be given written notice, personally or by mail, that the OFR intends to approve or deny, or has approved or denied, the application for payment from the Fund.

The current provision in s. 517.141(9), F.S., which requires an eligible person or receiver to assign all right, title, and interest in the final judgment or order of restitution, to the extent of such payment to the OFR upon receipt of the notice indicating the OFR's intent to approve an application for payment from the Fund and before any disbursement, is transferred to s. 517.131, F.S.

Subsection (7) provides upon receipt of the OFR's decision to approve an application for payment from the Fund, and prior to any disbursement, the eligible person or receiver is required to assign all right, title, and interest in the final judgment or order of restitution equal to the amount of such payment to the OFR, on a form prescribed by commission rule.

Subsection (8) provides the OFR will deem an application for payment from the Fund abandoned if the eligible person or receiver, or any person acting on behalf of the eligible person or receiver, fails to timely complete the application as prescribed by FSC rule. The time period to complete an application is tolled during the pendency of an appeal or motion to vacate an arbitration award.

Section 13 amends s. 517.141, F.S., relating to payments from the Fund. The following terms are defined:

- "Claimant" means a person determined eligible for payment under s. 517.131 that is approved by the office for payment from the Fund;
- "Specified adult" has the same meaning as in s. 517.34(1), F.S.; and
- "Final judgment" has the same meaning as in s. 517.131(1), F.S.

The bill also provides a claimant is entitled to disbursement from the Fund in the amount equal to lesser of:

- The unsatisfied portion of the claimant's final judgment or final order or restitution, but only to the extent that the final judgment or final order of restitution reflects actual or compensatory damages, excluding post-judgment interest, costs and attorneys fees; or
- The sum of $15,000; or
- If the claimant is a specified adult or if a specified adult is a beneficial owner or beneficiary of the claimant, the sum of $25,000.

Current language allows for the unsatisfied portion of a judgment or $10,000, whichever is less. The aggregate limit on claims is increased from $100,000 to $250,000.

The bill provides if at any time the balance of the Fund is insufficient to satisfy a valid claim or portion thereof approved by the OFR, the OFR must satisfy the unpaid claim or portion of the valid claim as soon as a sufficient amount of money has been deposited into or transferred to the Fund. If more than one unsatisfied claim is outstanding, the claims must be paid in the sequence

in which claims were approved by final order of the OFR, as long as such final order is not subject to appeal or other pending proceeding.

All payments made from the Fund must be made by the Chief Financial Officer (CFO) upon authorization by the OFR. The OFR must submit authorization within 30 days after the approval of an eligible person for payment from the Fund.

The two-year payment waiting period prior to payment is eliminated. Technical conforming changes are made to the section to include final orders of restitution in addition to final judgments.

The section provides if a claimant knowingly and willfully files or causes to be filed an application under s. 517.131, F.S., or documents in support of the application, any of which contain false, incomplete, or misleading information in any material aspect, the claimant forfeits all payments from the Fund and that such act violates s. 517.301(1)(c), F.S.

The Department of Financial Services (DFS), instead of the OFR, is authorized to institute legal proceedings to enforce compliance with s. 517.131, F.S., and to recover moneys owed to the Fund, and to recover interest, costs, and attorney's fees in any action brought pursuant to this section in which the DFS prevails.

OFR Enforcement Authority

Section 14 amends s. 517.191, F.S., relating to enforcement by the OFR and the Attorney General.

The amount of a civil penalty against a natural person found to have violated any provision of this chapter, other than s. 517.301, F.S., is increased from $10,000 to $20,000. Further, the civil penalty must be the greater of the specified amount or the amount of any pecuniary loss to the investor or pecuniary gain to a business entity. Further, the section is amended to allow for a civil fine of twice the amount that would otherwise be imposed if a specified adult, i.e., a natural person 65 years of age or older, or a vulnerable adult, is a victim of a violation of this chapter.[44] The OFR is authorized to recover any costs and attorney fees related to the OFR's investigation or enforcement of ch. 517, F.S., in an action for injunctive relief or the OFR's enforcement of any restraining order or injunction. Any costs and attorney fees collected must be deposited in the Anti-Fraud Trust Fund.

The section authorizes the OFR to apply to the court for an order directing the defendant to make restitution of those sums shown by the OFR to have been obtained in violation of the Act. the OFR may also petition the court to impose a civil penalty against the defendant in an amount not to exceed:

[44] The act defines "specified adult" as a natural person 65 years of age or older, or a natural person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. See s. 517.34(1)(b), and s. 415.102(28), F.S.

- $20,000 for a natural person or $25,000 for a business entity, or the gross amount of pecuniary loss to investors or pecuniary gain to a natural person or business entity for each such violation, other than a violation of s. 517.301, F.S.; or
- Plus the greater of $50,000 for a natural person or $250,000 for a business entity, or the gross amount of any pecuniary loss to investors or pecuniary gain to a natural person or business entity for each violation of s. 517.301, F.S.; or
- Twice the amount of the civil penalty that would otherwise be imposed, if the victim is a specified adult.

The OFR may recover costs and attorney fees related to any investigation or enforcement. Any moneys recovered by the OFR must be deposited into the Fund.

The OFR is authorized to hold any control person who controls any person found to have violated ch. 517, F.S., or of any rule adopted thereunder, jointly and severally liable with, and to the same extent as, such controlled person in any action brought under this section unless the control person acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action. This provision is found in the federal securities statutes and is also found in the Uniform Securities Act and laws in other states. The provision provides a defense for control persons who are able to show that they were not responsible for the controlled person's act that resulted in a securities law violation.

Further, the OFR is authorized to hold a person who knowingly or recklessly provides substantial assistance to another person in violation of ch. 517, F.S., or of any rule adopted thereunder, liable to the same extent as the person to whom such assistance is provided.

The bill grants the OFR authority to issue and serve a cease and desist order if the OFR has reason to believe the person violates or has violated or is about to violate this chapter, any commission or OFR rule or order, or any written agreement entered into with the OFR.

In addition, under the bill, the OFR may issue an emergency cease and desist order if the OFR finds any violations of ch. 517, F.S., or any rule, order or written agreement by the OFR or commission presents an immediate danger to the public. Such emergency cease and desist may be issued by an immediate final order. The cease and desist order must recite with particularity the facts underlying such findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent named in the order and remains effective for 90 days after issuance.

If the OFR begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57, F.S.

The bill allows the OFR to permanently, or for a specific period of time, bar any person found to have violated ch. 517, F.S.

The section provides the act does not limit the authority of the OFR to bring an administrative action against any person that is the subject of a civil action brought pursuant to the act or limit the authority of the OFR to engage in investigations or enforcement actions with the Attorney

General. However, a person may not be subject to both a civil penalty described above and an administrative fine under subsection (3) as a result of the same facts. An enforcement action must be brought within six years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than eight years after the date such violation occurred.

Furthermore, the bill does not limit any statutory right of the state to punish a person for violation of a law. When not in conflict with the Constitution or law of the United States, Florida courts have the same jurisdiction over civil suits instituted in connection with the sale or offer of sale of securities under any laws of the United States as the courts of Florida may have with regard to similar cases instituted under Florida laws.

Private Remedies Available in Case of Unlawful Sale

Section 15 amends s. 517.211, F.S., relating to private remedies available in case of unlawful sale. Subsection (3) allows a purchaser to hold any control person who controls any person found to have violated ss. 517.07 or 517.12(1), (3), (4), (8), (10), (12), (15), or (17), F.S., jointly and severally liable with, and to the same extent as, such controlled person in any action brought in action for rescission unless the control person acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

Subsection (4) clarifies that interest accrues from the date the security is purchased.

Subsection (8) is created to incorporate the applicable portions of current ss. 517.241(2), and 517.241(3) F.S., as new subsection (8) and (9), respectively, and without substantive change. Technical, conforming changes are also make to the section.

Section 16 repeals s. 517.221, F.S., relating to cease and desist orders, and transfers these provisions into s. 517.191, F.S. relating to enforcement authority of the OFR.

Section 17 repeals s. 517.241, F.S., relating to remedies, and its applicable provisions are transferred to ss. 517.191, F.S., and 517.211, F.S., respectively.

Anti-Fraud Provisions (Sections 18-20)

Sections 517.301, 517.311, and 517.312, F.S., contain the provisions creating liabilities under ch. 517, F.S., for material misrepresentation or omissions.

Section 18 amends s. 517.301, F.S., relating to fraudulent transactions; falsification or concealment of facts. The section provides the following changes:

- Subsection (1)(a) is amended to include transactions exempted under ss. 517.0611 and 517.0612, F.S., directly or indirectly;
- Subsection (1)(a)3.(b) is amended to clarify an offer to sell securities can be published, given publicity, or circulated through the use of any means;
- Subsection (2)(b) is amended to include electronic mail, text messages, social media, or other electronic means to the list of tangible personal property;

- Subsection (3) is created to incorporate current s. 517.311(1), F.S. The section is amended to include transactions exempted under ss. 517.051, 517.061, 517.0611 and 517.0612, F.S., and to replace the term "company" with "business entity" for consistency;
- Subsection (4) is created to incorporate current s. 517.311(2), F.S. The section is amended to include persons within the purview of ss. 517.051, 519.061, 517.0611, 517.0612, and 517.081, F.S. and to remove gender specific pronouns;
- Subsection (5) is created to incorporate current s. 517.311(3), F.S.;
- Subsection (6) is created to incorporate current s. 517.311(4), F.S; and
- Subsection (7) is created to incorporate current s. 517.312(1), F.S.

Section 19 repeals s. 517.311, F.S., relating to false representations, deceptive words, and enforcement; and transfers provisions to s. 517.191, F.S., relating to enforcement.

Sections 20 repeals s. 517.312, F.S., relating to securities, investments, boiler rooms; prohibited practices; and remedies. Provisions are transferred to s. 517.301, F.S., relating to fraudulent transactions and falsification or concealment of facts.

Technical, Conforming Changes

Section 21. Amends s. 517.072, F.S., to revise cross references.

Section 22 amends s. 517.12, F.S., to revise cross references.

Section 23 amends s. 517.1201, F.S., to revise cross reference.

Section 24 amends s. 517.1202, F.S., to revise cross reference.

Section 25 amends s. 517.302, F.S., to revise cross reference.

Effective Date

Section 26 provides an effective date of 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The implementation of the pre-offering "test the waters" provision may reduce costs of conducting an exempt offering by providing businesses the flexibility to determine the optimal avenue for raising capital before spending thousands of dollars on legal and administrative fees.

In the event an enforcement action is required, the bill increases the civil penalty imposable upon a natural person from $10,000 to $20,000. The bill also provides twice the amount of the civil penalty may be imposed in the event a specified adult, as defined in s. 517.34(1), F.S., is a victim of a violation of this chapter. The Office of Financial Regulation (OFR) may recover any costs and attorney fees related to its investigation or enforcement.

Applicants may experience out of pocket expenses for any fingerprint or state or federal background check required under the bill. The cost for a state and national criminal history record check is $37.25 per name. In addition, the Florida Department of Law Enforcement (FDLE) reports Livescan Services may assess additional processing fees,[45] which may require an applicant to pay additional fees.[46]

C. Government Sector Impact:

The bill has an indeterminate cost to state revenues and expenditures.

The bill requires issuers conducting an offering under the accredited investor exemption to file a notice of transaction, a consent to service of process, and a copy of the general announcement with the OFR. Further, the bill requires issuers conducting an offering under the Florida Invest Local Exemption to file a notice of the offering and a copy of the disclosure document with the OFR.

[45] The Florida Department of Law Enforcement, *Senate Bill Analysis 532* (Jan. 22, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).
[46] *Id.*

The OFR will need to review these documents. The bill does not provide an appropriation for additional staff to conduct such reviews. However, the OFR has indicated the need for additional staff to address the review of these documents is not currently anticipated.[47]

In the event an enforcement action is required, the bill increases the civil penalty imposable upon a natural person from $10,000 to $20,000. The bill also provides twice the amount of the civil penalty may be imposed in the event a specified adult, as defined in s. 517.34(1), F.S., is a victim of a violation of this chapter. The OFR may recover any costs and attorney fees related to its investigation or enforcement. Any moneys recovered by the OFR must be deposited into the Anti-Fraud Trust Fund.

The bill may have a positive impact to the FDLE's Operating Trust Fund as the cost for a state and national criminal history record check is $37.25 per name submitted. The Federal Bureau of Investigation (FBI) receives $13.25 and, pursuant to s. 943.053(3)(e), F.S., the FDLE retains $24.[48]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Chapter 435, F.S., establishes two levels of background screenings that employees must undergo as a condition of employment. Level 1 is the more basic screening and involves an in-state name-based background check, employment history check, statewide criminal correspondence check through the Florida Department of Law Enforcement (FDLE), a sex offender registry check, local criminal records check, and a domestic violence check.[49] Level 2 screenings are more thorough because they apply to positions of responsibility or trust, often with more vulnerable people, such as children, the elderly, or the disabled. Level 2 screenings require a security background investigation that includes fingerprint-based searches for statewide criminal history records through FDLE, a national criminal history records check through the Federal Bureau of Investigation (FBI), and a domestic violence check. It may also include local criminal records checks. A Level 2 screening disqualifies a person from employment if the person has a conviction or unresolved arrest for any one of more than 50 criminal offenses.[50]

If it is the intent of the bill to require applicants to undergo finger-print based, state and national criminal history record checks (Level 2), during the application process, the FDLE recommends stating so specifically within each applicable section of the bill. To facilitate state and national criminal history record checks, the following language should be included to ensure compliance with federal law and the United States Department of Justice (DOJ)-established criteria for the

[47] Email from Ash Mason, Legislative Affairs Director, Office of Financial Regulation, to Michelle Sanders, Legislative Analyst, Senate Appropriations Committee on Agriculture, Environment and General Government (Jan. 30, 2024) (on file with Senate Appropriations Committee on Agriculture, Environment and General Government).
[48] The Florida Department of Law Enforcement, *Senate Bill Analysis 532* (Jan. 22, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).
[49] Section 435.03, F.S.
[50] Section 435.04, F.S.

submission of fingerprints to the FBI's Criminal Justice Information Services (CJIS) Division for a national criminal history background check.[51]

> An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, 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.
>
> Fees for state and federal fingerprint processing shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).[52]

If the intent of the bill is to continue to require applicants to undergo Level 2 background checks, the FDLE recommends certain language be updated within the bill, in accordance with guidance from the FBI's Criminal Justice Information Law Unit (CJILU), as continued access to national criminal history record information is reliant upon the FBI's approval of the legislative changes.

In order to properly facilitate Level 2 background checks, the FDLE suggest amending chs. 517 and 626, F.S., where applicable, to include the following recommended fingerprint submission language:

> An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall initially submit the fingerprints to the Department of Law Enforcement for state processing, and thereafter the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.[53]

The following fee language, if and where applicable, should also be added at the end of the above recommended paragraph:

> Fees for state and federal fingerprint processing shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).

The FDLE suggests clarifying the population meant within the following categories, as specifically as possible to ensure compliance with the criteria set forth in Public Law 92-544:

- "Any persons directly or indirectly controlling the applicant [or registrant]" should be redefined or removed;

[51]The Florida Department of Law Enforcement, *Senate Bill Analysis 532* (Jan. 22, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).
[52] *Id.*
[53] *Id.*

- The phrase "includes, unless otherwise specified, a person" should be further defined or removed; and
- Terms, which may be interpreted as overly broad and undefined by the FBI to include: "agent"; "principal"; "partner"; "any officer"; "officer"; "direct owners"; "indirect owners; director"; "manager"; "managing member"; "branch manager"; "similar"; "directly or indirectly"; "including but not limited to"; and "otherwise". These terms should be defined, as applicable, throughout Chapter 517 and Chapter 626, F.S., relating to license or appointment types which require Level 2 background checks.[54]

The FDLE, following guidance from the FBI's CJILU, recommends the following terms within the definition of "intermediary", as defined in s. 517.021(13), F.S., need to be defined: "corporation", "trust", "partnership", "association", and "other legal entity".[55]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 517.021, 517.051, 517.061, 517.0611, 517.0612, 517.081, 517.101, 517.131, 517.141, 517.191, 517.211, 517.301, 517.072, 517.12, 517.1201, 517.1202, and 517.302.

This bill creates the following sections of the Florida Statutes: 517.0613, 517.0614, 517.0615, and 517.0616.

This bill repeals the following sections of the Florida Statutes: 517.221, 517.241, 517.311, and 517.312.

IX. Additional Information:

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

CS by Banking and Insurance Committee on January 16, 2024:
The CS provides the following changes:

- Makes the revisions to the Securities Guaranty Fund prospective to October 1, 2024.
- Clarifies the exemption for transactions conducted through alternative trading systems.
- Provides technical, conforming changes.

B. Amendments:

None.

[54] *Id.*
[55] *Id.*

By the Committee on Banking and Insurance; and Senator Brodeur

597-02149-24 2024532c1

A bill to be entitled

An act relating to securities; amending s. 517.021, F.S.; revising definitions; defining the terms "angel investor group" and "business entity"; amending s. 517.051, F.S.; revising the list of securities that are exempt from registration requirements under certain provisions; amending s. 517.061, F.S.; revising the list of transactions that are exempt from registration requirements under certain provisions; amending s. 517.0611, F.S.; revising a short title; revising provisions relating to a certain registration exemption for certain securities transactions; updating the federal laws or regulations with which the offer or sale of securities must be in compliance; revising requirements for issuers relating to the registration exemption; revising requirements for the notice of offering that must be filed by the issuer under certain circumstances; specifying the timeframe within which issuers may amend such notice after any material information contained in the notice becomes inaccurate; authorizing the issuer to engage in general advertising and general solicitation under certain circumstances; specifying requirements for such advertising and solicitation; requiring the issuer to provide a disclosure statement to certain entities and persons within a specified timeframe; revising requirements for such statement; deleting requirements for the escrow agreement; conforming provisions to changes made by the act; revising the

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amount that may be received for sales of certain securities; providing a limit on securities that may be sold by an issuer to an investor; deleting the requirement that an issuer file and provide a certain annual report; conforming cross-references; revising the duties of intermediaries under certain circumstances; providing obligations of issuers under certain circumstances; providing that certain sales are voidable within a specified timeframe; providing requirements for purchasers' notices to issuers to void purchases; deleting provisions relating to funds received from investors; creating s. 517.0612, F.S.; providing a short title; providing applicability; requiring that offers and sales of securities be in accordance with certain federal laws and rules; specifying certain requirements for issuers relating to the registration exemption; specifying a limitation on the amount of cash and other consideration that may be received from sales of certain securities made within a specified timeframe; prohibiting an issuer from accepting more than a specified amount from a single purchaser under certain circumstances; authorizing the issuer to engage in general advertising and general solicitation of the offering under certain circumstances; specifying that a certain prohibition is enforceable under ch. 517, F.S.; requiring that the purchaser receive a disclosure statement within a specified timeframe; specifying the requirements for such statement; requiring certain

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

funds to be deposited into certain bank and depository institutions; prohibiting the issuer from withdrawing any amount of the offering proceeds until the target offering amount has been received; requiring the issuer to file a notice of the offering in a certain format within a specified timeframe; requiring the issuer to file an amended notice within a specified timeframe under certain circumstances; prohibiting agents of issuers from engaging in certain acts under certain circumstances; providing that sales made under the exemption are voidable within a specified timeframe; providing requirements for purchasers' notices to issuers to void purchases; creating s. 517.0613, F.S.; providing construction; providing that registration exemptions under certain provisions are not available to issuers for certain transactions under specified circumstances; providing registration requirements; creating s. 517.0614, F.S.; specifying criteria for determining integration of offerings for the purpose of registration or qualifying for a registration exemption; specifying certain requirements for the integration of offerings for an exempt offering for which general solicitation is prohibited; specifying certain requirements for the integration of offerings for two or more exempt offerings that allow general solicitation; specifying the circumstances under which integration analysis is not required; creating s. 517.0615, F.S.; specifying that certain communications are not deemed to

constitute general solicitation or general advertising under specified circumstances; creating s. 517.0616, F.S.; providing that registration exemptions under certain provisions are not available to certain issuers under a specified circumstance; amending s. 517.081, F.S.; revising the duties and authority of the Financial Services Commission; authorizing the commission to establish certain criteria relating to the issuance of certain securities, trusts, and investments; authorizing the commission to prescribe certain forms and establish procedures for depositing fees and filing documents and requirements and standards relating to prospectuses, advertisements, and other sales literature; revising the list of issuers that are ineligible to submit simplified offering circulars; deleting provisions that require issuers to provide certain documents to the Office of Financial Regulation under certain circumstances; revising the requirements that must be met before the office must record the registration of a security; amending s. 517.101, F.S.; revising requirements for written consent to service in certain suits, proceedings, and actions; amending s. 517.131, F.S.; defining the term "final judgment"; specifying the purpose of the Securities Guaranty Fund; making technical changes; revising eligibility for payment from the fund; requiring eligible persons or receivers seeking payment from the fund to file a certain application with the office on a certain form;

authorizing the commission to adopt rules regarding electronic filing of such application; specifying the timeframe within which certain eligible persons or receivers must file such application; providing requirements for such applications; requiring the office to approve applications for payment under certain circumstances and to provide applicants with certain notices within a specified timeframe; requiring eligible persons or receivers to assign to the office all rights, titles, and interests in final judgments and orders of restitution equal to a specified amount under certain circumstances; requiring the office to deem an application for payment abandoned under certain circumstances; requiring that the time period to complete applications be tolled under certain circumstances; deleting provisions relating to specified notices to the office and to rulemaking authority; amending s. 517.141, F.S.; defining terms; revising the Securities Guaranty Fund disbursement amounts to which eligible persons are entitled; revising provisions regarding payment of aggregate claims; providing for the satisfaction of claims in the event of an insufficient balance in the fund; requiring payments and disbursements from the Securities Guaranty Fund to be made by the Chief Financial Officer or his or her authorized designee, upon authorization by the office; requiring such authorization to be submitted within a certain timeframe; deleting provisions regarding

requirements for payment of claims; conforming provisions to changes made by the act; specifying the circumstances under which a claimant must reimburse the fund for payments received from the fund; providing penalties; authorizing the Department of Financial Services, rather than the office, to institute legal proceedings for certain compliance enforcement and to recover certain interests, costs, and fees; amending s. 517.191, F.S.; deleting an obsolete term; revising the civil penalty amounts for certain violations; authorizing the office to recover certain costs and attorney fees; requiring that moneys recovered be deposited in a specified trust fund; specifying the liability of control persons; providing an exception; specifying circumstances under which certain persons are deemed to have violated ch. 517, F.S.; authorizing the office to issue and serve cease and desist orders and emergency cease and desist orders under certain circumstances; authorizing the office to impose and collect administrative fines for certain violations; specifying the disposition of such fines; authorizing the office to bar applications or notifications for licenses and registrations under certain circumstances; conforming cross-references; providing construction; specifying jurisdiction of the courts relating to the sale or offer of certain securities; making technical changes; amending s. 517.211, F.S.; providing for joint and several liability of control persons in certain circumstances

for the purposes of specified actions; specifying the date on which certain interest begins accruing in an action for rescission; providing construction; specifying that certain civil remedies extend to purchasers or sellers of securities; making technical changes; repealing s. 517.221, F.S., relating to cease and desist orders; repealing s. 517.241, F.S., relating to remedies; amending s. 517.301, F.S.; revising the circumstances under which certain activities are considered unlawful and violations of law; conforming provisions to changes made by the act; revising the definition of the term "investment"; specifying that certain misrepresentations by persons issuing or selling securities are unlawful; specifying that certain misrepresentations by persons registered or required to be registered under certain provisions or subject to certain requirements are unlawful; specifying that obtaining money or property in connection with the offer or sale of an investment is unlawful under certain conditions; providing construction; requiring disclaimers for certain statements; making technical changes; repealing s. 517.311, F.S., relating to false representations, deceptive words, and enforcement; repealing s. 517.312, F.S., relating to securities, investments, and boiler rooms, prohibited practices, and remedies; amending ss. 517.072 and 517.12, F.S.; conforming cross-references and making technical changes; amending ss. 517.1201 and 517.1202, F.S.; conforming

cross-references; amending s. 517.302, F.S.; conforming a provision to changes made by the act and making a technical change; providing an effective date.

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

Section 1. Present subsections (3), (4), and (5) and subsections (6) through (25) of section 517.021, Florida Statutes, are redesignated as subsections (4), (5), and (6) and subsections (8) through (27), respectively, new subsections (3) and (7) are added to that section, and subsection (1) and present subsections (4), (8), (9), and (14) of that section are amended, to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(1) "Accredited investor" shall be defined by rule of the commission in accordance with Securities and Exchange Commission Rule 501, 17 C.F.R. s. 230.501, as amended.

(3) "Angel investor group" means a group of accredited investors who hold regular meetings and have defined processes and procedures for making investment decisions, individually or among the membership of the group, and who are not associated persons, affiliates, or agents of a dealer or investment adviser.

(5) ~~(4)~~ "Boiler room" means an enterprise in which two or more persons in a common scheme or enterprise solicit potential investors through telephone calls, e-mail, text messages, social

media, chat rooms, or other electronic means ~~engage in telephone communications with members of the public using two or more telephones at one location, or at more than one location in a common scheme or enterprise~~.

(7) "Business entity" means any corporation, partnership, limited partnership, limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, which may or may not be fictitiously named, doing business in this state.

(10)(a) ~~(8)~~ "Dealer" includes, unless otherwise specified, a person, other than an associated person of a dealer, that engages, for all or part of the person's time, directly or indirectly, as agent or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(b) The term "dealer" does not include any of the following:

1. ~~(a)~~ A licensed practicing attorney who renders or performs any such services in connection with the regular practice of the attorney's profession.

2. ~~(b)~~ A bank authorized to do business in this state, except nonbank subsidiaries of a bank.

3. ~~(c)~~ A trust company having trust powers that it is authorized to exercise in this state, which renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers.

4. ~~(d)~~ A wholesaler selling exclusively to dealers.

5. ~~(e)~~ A person buying and selling for the person's own account exclusively through a registered dealer or stock

exchange.

6. ~~(f)~~ An issuer.

7. ~~(g)~~ A natural person representing an issuer in the purchase, sale, or distribution of the issuer's own securities if such person:

a. ~~1.~~ Is an officer, a director, a limited liability company manager or managing member, or a bona fide employee of the issuer;

b. ~~2.~~ Has not participated in the distribution or sale of securities for any issuer for which such person was, within the preceding 12 months, an officer, a director, a limited liability company manager or managing member, or a bona fide employee;

c. ~~3.~~ Primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities; and

d. ~~4.~~ Does not receive a commission, compensation, or other consideration for the completed sale of the issuer's securities apart from the compensation received for regular duties to the issuer.

(11) ~~(9)~~ "Federal covered adviser" means a person that is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940, as amended. The term does not include any person that is excluded from the definition of investment adviser under subparagraphs (16)(b)1.-7. and 9 ~~(14)(b)1.-8~~.

(16)(a) ~~(14)(a)~~ "Investment adviser" means a person, other than an associated person of an investment adviser or a federal covered adviser, that receives compensation, directly or

indirectly, and engages for all or part of the person's time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities.

(b) The term does not include any of the following:

1. A dealer or an associated person of a dealer whose performance of services in paragraph (a) is solely incidental to the conduct of the dealer's or associated person's business as a dealer and who does not receive special compensation for those services.

2. A licensed practicing attorney or certified public accountant whose performance of such services is solely incidental to the practice of the attorney's or accountant's profession.

3. A bank authorized to do business in this state.

4. A bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state.

5. A trust company having trust powers, as defined in s. 658.12, which it is authorized to exercise in this state, which trust company renders or performs investment advisory services in a fiduciary capacity incidental to the exercise of its trust powers.

6. A person that renders investment advice exclusively to insurance or investment companies.

7. A person that, during the preceding 12 months, has fewer than six clients who are residents of this state. As used in this subparagraph, the term "client" has the same meaning as

provided in Securities and Exchange Commission Rule 275.222-2, 17 C.F.R. s. 275.222-2, as amended ~~does not hold itself out to the general public as an investment adviser and has no more than 15 clients within 12 consecutive months in this state~~.

8. ~~A person whose transactions in this state are limited to those transactions described in s. 222(d) of the Investment Advisers Act of 1940, as amended. Those clients listed in subparagraph 6. may not be included when determining the number of clients of an investment adviser for purposes of s. 222(d) of the Investment Advisers Act of 1940, as amended.~~

~~9.~~ A federal covered adviser.

9. The United States, a state, or any political subdivision of a state, or any agency, authority, or instrumentality of any such entity; a business entity that is wholly owned directly or indirectly by such a governmental entity; or any officer, agent, or employee of any such governmental or business entity who is acting within the scope of his or her official duties.

Section 2. Present subsections (9) and (10) of section 517.051, Florida Statutes, are redesignated as subsections (10) and (11), respectively, and amended, a new subsection (9) is added to that section, and subsections (1), (3), (4), and (8) of that section are amended, to read:

517.051 Exempt securities.—The exemptions provided herein from the registration requirements of s. 517.07 are self-executing and do not require any filing with the office prior to claiming such exemption. Any person who claims entitlement to any of these exemptions bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the

following securities:

(1) A security issued or guaranteed by the United States or any territory or insular possession of the United States, by the District of Columbia, or by any state of the United States or by any political subdivision or agency or other instrumentality thereof.~~; provided that~~

(a) Except as provided in paragraph (b), a ~~no~~ person may not ~~shall~~ directly or indirectly offer or sell securities, other than general obligation bonds, described under this subsection if the issuer or guarantor is in default or has been in default any time after December 31, 1975, as to principal or interest:

1.~~(a)~~ With respect to an obligation issued by the issuer or successor of the issuer; or

2.~~(b)~~ With respect to an obligation guaranteed by the guarantor or successor of the guarantor,

except by an offering circular containing a full and fair disclosure as prescribed by rule of the commission.

(b) Paragraph (a) does not apply to a security that is an industrial or commercial development bond unless payments are made or unconditionally guaranteed by a person whose securities are exempt from registration under s. 18(b)(1) of the Securities Act of 1933, as amended.

(3) A security issued by and which represents or will represent an interest in or a direct obligation of or be guaranteed by any of the following:

(a) An international bank of which the United States is a member.

(b) A bank organized under the laws of the United States.

(c) A member bank of the Federal Reserve System.

(d) A depository institution, when a substantial portion of its business consists of or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund ~~or guaranteed by:~~

~~(a) A national bank, a federally chartered savings and loan association, or a federally chartered savings bank, or the initial subscription for equity securities in such national bank, federally chartered savings and loan association, or federally chartered savings bank;~~

~~(b) Any federal land bank, joint-stock land bank, or national farm loan association under the provisions of the Federal Farm Loan Act of July 17, 1916;~~

~~(c) An international bank of which the United States is a member; or~~

~~(d) A corporation created and acting as an instrumentality of the government of the United States~~.

(4) A security issued or guaranteed, as to principal, interest, or dividend, by a business entity ~~corporation~~ owning or operating a railroad, another common carrier, or any other public service utility; provided that such business entity ~~corporation~~ is subject to regulation or supervision whether as to its rates and charges or as to the issue of its own securities by a public commission, board, or officer of the government of the United States, of any state, territory, or insular possession of the United States, of any municipality located therein, of the District of Columbia, or of the Dominion

of Canada or of any province thereof; also equipment securities based on chattel mortgages, leases, or agreements for conditional sale of cars, motive power, or other rolling stock mortgaged, leased, or sold to or furnished for the use of or upon such railroad or other public service utility corporation or where the ownership or title of such equipment is pledged or retained in accordance with ~~the provisions of~~ the laws of the United States or of any state or of the Dominion of Canada to secure the payment of such equipment securities; and also bonds, notes, or other evidences of indebtedness issued by a holding corporation and secured by collateral consisting of any securities hereinabove described; provided, further, that the collateral securities equal in fair value at least 125 percent of the par value of the bonds, notes, or other evidences of indebtedness so secured.

(8) Shares or other equity interests of a business entity which represent ownership or entitle the holders of such shares or other equity interests to possession and occupancy of specific apartment units in property owned by such business entity and organized and operated on a cooperative basis, solely for residential purposes ~~A note, draft, bill of exchange, or banker's acceptance having a unit amount of $25,000 or more which arises out of a current transaction, or the proceeds of which have been or are to be used for current transactions, and which has a maturity period at the time of issuance not exceeding 9 months exclusive of days of grace, or any renewal thereof which has a maturity period likewise limited. This subsection applies only to prime quality negotiable commercial paper of a type not ordinarily purchased by the general public;~~

~~that is, paper issued to facilitate well-recognized types of current operational business requirements and of a type eligible for discounting by Federal Reserve banks~~.

(9) A member's or owner's interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a not-for-profit membership entity operated either as a cooperative under the cooperative laws of a state or in accordance with the cooperative provisions of subchapter T of chapter 1 of subtitle A of the United States Internal Revenue Code, as amended, but not a member's or owner's interest, retention certificate, or like security sold or transferred to a person other than:

(a) A bona fide member of the not-for-profit membership entity; or

(b) A person who becomes a bona fide member of the not-for-profit membership entity at the time of or in connection with the sale or transfer.

(10) ~~(9)~~ A security issued by a business entity ~~corporation~~ organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, no part of the net earnings of which ~~corporation~~ inures to the benefit of any private stockholder or individual, or any security of a fund that is excluded from the definition of an investment company under s. 3(c)(10)(B) of the Investment Company Act of 1940, as amended; provided that a ~~no~~ person may not ~~shall~~ directly or indirectly offer or sell securities under this subsection except by an offering circular containing full and fair disclosure, as prescribed by the rules of the commission, of all material information, including, but

not limited to, a description of the securities offered and terms of the offering, a description of the nature of the issuer's business, a statement of the purpose of the offering and the intended application by the issuer of the proceeds thereof, and financial statements of the issuer prepared in conformance with United States generally accepted accounting principles. Section 6(c) of the Philanthropy Protection Act of 1995, Pub. L. No. 104-62, does ~~shall~~ not preempt any provision of this chapter.

(11)~~(10)~~ Any insurance or endowment policy or annuity contract or optional annuity contract or self-insurance agreement issued by a business entity ~~corporation~~, insurance company, reciprocal insurer, or risk retention group subject to the supervision of the insurance regulator or bank regulator, or any agency or officer performing like functions, of any state or territory of the United States or the District of Columbia.

Section 3. Section 517.061, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 517.061, F.S., for present text.)

517.061 Exempt transactions.—Except as otherwise provided in subsection (11), the exemptions provided herein from the registration requirements of s. 517.07 are self-executing and do not require any filing with the office before being claimed. Any person who claims entitlement to an exemption under this section bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the following transactions; however, such transactions are subject to s. 517.301:

(1)(a) Any judicial sale or any sale by an executor, an administrator, a guardian, or a conservator; any sale by a receiver or trustee in insolvency or bankruptcy; any sale by an assignee as defined in s. 727.103 with respect to an assignment as defined in that section; or any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests.

(b) Except for a security exchanged in a case brought under Title 11 of the United States Code, a security that is issued in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of such issuance and exchange are approved:

1. By a court, an official or agency of the United States, a banking or insurance commission of a state or territory of the United States, or another governmental authority expressly authorized by law to grant such approval.

2. After a hearing upon the fairness of such terms and conditions and at which all persons to whom issuance of securities in such exchange is proposed have the right to appear.

(2) The issuance of notes or bonds in connection with the acquisition of real property or renewals thereof, if such notes or bonds are issued to the sellers of, and are secured by all or part of, the real property so acquired.

(3) A transaction involving a stock dividend or equivalent equity distribution, regardless of whether the business entity distributing the dividend or equivalent equity distribution is

the issuer, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend in the event that each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock.

(4) A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration is not paid or given, directly or indirectly, for soliciting a security holder in this state.

(5) The issuance of securities to such equity security holders or creditors of a business entity in the process of a reorganization of such business entity, made in good faith and not for the purpose of evading this chapter, either in exchange for the securities of such equity security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such equity security holders or creditors.

(6) A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or the issuer's parent or subsidiary, and the other person, or the person's parent or subsidiary, are parties.

(7) The offer or sale of securities, solely in connection with the transfer of ownership of an eligible privately held company, through a merger and acquisition broker in accordance

with s. 517.12(21).

(8) The offer or sale of securities under a bona fide employee stock purchase, savings, option, profit-sharing, pension, or similar employee benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees. This includes offers or sales of such securities to all of the following persons:

(a) Directors, managers, managing members, general partners, officers, consultants, and advisors.

(b) If the issuer is a business trust, trustees and former trustees.

(c) Family members who acquire such securities from persons described in this section through gifts or domestic relations orders.

(d) Former employees, directors, managers, managing members, general partners, officers, consultants, and advisors, if those individuals were employed by or providing services to the issuer when the securities were offered.

(e) Insurance agents who are exclusive insurance agents of the issuer, or of the issuer's parents or subsidiaries, or who derive more than 50 percent of their annual income from such persons.

(9) The offer or sale of securities to a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of

1940, 15 U.S.C. s. 80a-3, as amended, pension or profit-sharing trust, or qualified institutional buyer, whether any of such entities is acting in its individual or fiduciary capacity.

(10)(a) The offer or sale, by or on behalf of an issuer, of its own securities if the offer or sale is part of an offering made in accordance with all of the following conditions:

1. There are no more than 35 purchasers, or the issuer reasonably believes that there are no more than 35 purchasers, of the securities of the issuer in this state during an offering made in reliance upon this subsection or, if such offering continues for a period in excess of 12 months, in any consecutive 12-month period.

2. Neither the issuer nor any person acting on behalf of the issuer offers or sells securities pursuant to this subsection by means of any form of general solicitation or general advertising in this state.

3. Before the sale, each purchaser or the purchaser's representative, if any, is provided with, or given reasonable access to, full and fair disclosure of all material information, which must include written notification of a purchaser's right to void the sale under subparagraph 4.

4. Any sale made pursuant to this subsection is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure document provided to the purchaser or purchaser's representative or by hand delivery, courier service, or other

method by which written proof of delivery to the issuer of the purchaser's election to rescind the purchase is evidenced.

(b) The following purchasers are excluded from the calculation of the number of purchasers under subparagraph (a)1.:

1. Any spouse or child of the purchaser or any related family member who has the same principal residence as such purchaser.

2. A trust or estate in which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any business entity specified in subparagraph 3. collectively have more than 50 percent of the beneficial interest, excluding any contingent interest.

3. A business entity in which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any trust or estate specified in subparagraph 2. collectively are beneficial owners of more than 50 percent of the equity securities or equity interest.

4. An accredited investor.

A business entity must be counted as one purchaser. However, if the business entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor, each beneficial owner of equity securities or equity interests in the business entity must be counted as a separate purchaser. A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 must be counted as one purchaser if the trustee makes all investment decisions for the plan.

(11) Offers or sales of securities by an issuer in a transaction that meets all of the following conditions:

(a) The offers or sales of securities are made only to persons who are, or who the issuer reasonably believes are, accredited investors.

(b) The issuer is not a business entity that has an undefined business operation, lacks a business plan, lacks a stated investment goal for the funds being raised, or plans to engage in a merger or acquisition with an unspecified business entity.

(c) The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months after sale is presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under this chapter or pursuant to an exemption available under this chapter, the Securities Act of 1933, as amended, or the rules and regulations adopted thereunder.

(d)1. A general announcement of the proposed offering, made by any means, includes only the following information:

a. The name, address, and telephone number of the issuer of the securities.

b. The name, a brief description, and price, if known, of any security to be issued.

c. A brief description of the business.

d. The type, number, and aggregate amount of securities being offered.

e. The name, address, and telephone number of the person to contact for additional information.

f. A statement that:

(I) Sales will be made only to accredited investors;

(II) Money or other consideration is not being solicited and will not be accepted by way of this general announcement; and

(III) The securities have not been registered with or approved by any state securities agency or the Securities and Exchange Commission and are being offered and sold pursuant to an exemption from registration.

2. The issuer, in connection with an offer, may provide information in addition to the information provided in the general announcement as specified in subparagraph 1. if such information is delivered:

a. Through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

b. After the issuer reasonably believes that the prospective purchaser is an accredited investor.

(e) The issuer does not use telephone solicitation unless, before placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

(f) The issuer files with the office a notice of transaction, a consent to service of process, and a copy of the general announcement within 15 days after the first sale is made in this state. The commission may adopt by rule procedures for filing documents by electronic means.

(g) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors

does not disqualify the issuer from claiming the exemption under this subsection.

(12) The isolated sale or offer for sale of securities when made by or on behalf of a bona fide owner, not the issuer or underwriter, of the securities, who disposes of such securities for the owner's own account, and such sale is not made directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading this chapter. For purposes of this subsection, isolated offers or sales include, but are not limited to, an isolated offer or sale made by or on behalf of a bona fide owner, rather than the issuer or underwriter, of the securities if:

(a) The offer or sale of securities is in a transaction satisfying all of the conditions specified in paragraphs (10)(a) and (b); or

(b) The offer or sale of securities is in a transaction exempt under s. 4(a)(1) of the Securities Act of 1933, as amended, or under Securities and Exchange Commission rules or regulations.

(13) By or for the account of a pledgeholder, a secured party as defined in s. 679.1021(1)(ttt), or a mortgagee selling or offering for sale or delivery in the ordinary course of business and not for the purposes of avoiding the provisions of this chapter, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

(14) An unsolicited purchase or sale of securities on order of, and as the agent for, another solely and exclusively by a dealer registered pursuant to s. 517.12; provided that this

exemption applies solely and exclusively to such registered dealers and does not authorize or permit the purchase or sale of securities at the direction of, and as agent for, another by any person other than a dealer so registered; and provided further that such purchase or sale may not be directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading this chapter.

(15) A nonissuer transaction with a federal covered adviser with investments under management in excess of $100 million acting in the exercise of discretionary authority in a signed record for the account of others.

(16) The sale by or through a registered dealer of any securities option if, at the time of the sale of the option:

(a) The performance of the terms of the option is guaranteed by any dealer registered under the Securities Exchange Act of 1934, as amended, which guaranty and dealer are in compliance with such requirements or rules as may be approved or adopted by the commission; or

(b)1. Such options transactions are cleared by the Options Clearing Corporation or any other clearinghouse recognized by commission rule;

2. The option is not sold by or for the benefit of the issuer of the underlying security; and

3. The underlying security may be purchased or sold on a recognized securities exchange registered under the Securities Exchange Act of 1934, as amended.

(17)(a) The offer or sale of securities, as agent or principal, by a dealer registered pursuant to s. 517.12, when

such securities are offered or sold at a price reasonably related to the current market price of such securities, provided that such securities are:

1. Securities of an issuer for which reports are required to be filed by s. 13 or s. 15(d) of the Securities Exchange Act of 1934, as amended;

2. Securities of a company registered under the Investment Company Act of 1940, as amended;

3. Securities of an insurance company, as that term is defined in s. 2(a)(17) of the Investment Company Act of 1940, as amended; or

4. Securities, other than any security that is a federal covered security and is not subject to any registration or filing requirements under this chapter, that have been listed or approved for listing upon notice of issuance by a securities exchange registered under the Securities Exchange Act of 1934, as amended; and all securities senior to any securities so listed or approved for listing upon notice of issuance, or represented by subscription rights which have been so listed or approved for listing upon notice of issuance, or evidences of indebtedness guaranteed by an issuer with a class of securities listed or approved for listing upon notice of issuance by such securities exchange, such securities to be exempt only so long as such listings or approvals remain in effect. The exemption provided in this subparagraph does not apply when the securities are suspended from listing approval for listing or trading.

(b) The exemption provided in this subsection does not apply if the sale is made for the direct or indirect benefit of an issuer or a control person of such issuer or if such

securities constitute the whole or part of an unsold allotment to, or subscription or participation by, a dealer as an underwriter of such securities.

(c) The exemption provided in this subsection is not available for any securities that have been denied registration pursuant to s. 517.111. Additionally, the office may deny this exemption with reference to any particular security, other than a federal covered security, by order published in such manner as the office finds proper.

(18) Any nonissuer transaction by a registered dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, as amended, in a security of a class that has been outstanding in the hands of the public for at least 90 days; provided that, at the time of the transaction, the following conditions in paragraphs (a), (b), and (c) and either paragraph (d) or (e) are met:

(a) The issuer of the security is actually engaged in business and is not in the organizational stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

(b) The security is sold at a price reasonably related to the current market price of the security.

(c) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the dealer as an underwriter of the security.

(d) The security is listed in a nationally recognized securities manual designated by rule of the commission or a

document filed with and publicly viewable through the Securities and Exchange Commission electronic data gathering and retrieval system and contains:

1. A description of the business and operations of the issuer;

2. The names of the issuer's officers and directors, if any, or, in the case of an issuer not domiciled in the United States, the corporate equivalents of such persons in the issuer's country of domicile;

3. An audited balance sheet of the issuer as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; and

4. An audited income statement for each of the issuer's immediately preceding 2 fiscal years, or for the period of existence of the issuer, if in existence for less than 2 years or, in the case of a reorganization or merger in which the parties to the reorganization or merger had such audited income statement, a pro forma income statement.

(e)1. The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, as amended;

2. The class of security is quoted, offered, purchased, or sold through an alternative trading system registered under Securities and Exchange Commission Regulation ATS, 17 C.F.R. s. 242.301, as amended, and the issuer of the security has made current information publicly available in accordance with Securities and Exchange Commission Rule 15c2-11, 17 C.F.R. s.

240.15c2-11, as amended;

3. The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940, as amended;

4. The issuer of the security has been engaged in continuous business, including predecessors, for at least 3 years; or

5. The issuer of the security has total assets of at least $2 million based on an audited balance sheet as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet.

(19) The offer or sale of any security effected by or through a person in compliance with s. 517.12(16).

(20) A nonissuer transaction in an outstanding security by or through a dealer registered or exempt from registration under this chapter, if all of the following are true:

(a) The issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by commission rule, and the issuer has been subject to continuous reporting requirements in such foreign jurisdiction for not less than 180 days before the transaction.

(b) The security is listed on the securities exchange designated by this subsection or by commission rule, is a security of the same issuer which is of senior or substantially equal rank to the listed security, or is a warrant or right to purchase or subscribe to any such security.

For purposes of this subsection, Canada, together with its

provinces and territories, is designated as a foreign jurisdiction, and The Toronto Stock Exchange, Inc., is designated as a securities exchange. If, after an administrative hearing in compliance with ss. 120.569 and 120.57, the office finds that revocation is necessary or appropriate in furtherance of the public interest and for the protection of investors, it may revoke the designation of a securities exchange under this subsection.

(21) Other transactions exempted by commission rule upon a finding by the office that the application of s. 517.07 to a particular transaction is not necessary or appropriate in furtherance of the public interest and for the protection of investors due to the small dollar amount of the securities involved or the limited character of the offering. In conjunction with its adoption by rule of such exemptions, the commission may exempt persons selling or offering for sale securities in such a transaction from the registration requirements of s. 517.12. A rule adopted by the commission under this subsection may not have the effect of narrowing or limiting any exemption specified in this section.

Section 4. Section 517.0611, Florida Statutes, is amended to read:

517.0611 The Florida Limited Offering Exemption ~~Intrastate crowdfunding~~.—

(1) This section may be cited as ~~the~~ "The Florida Limited Offering ~~Intrastate Crowdfunding~~ Exemption."

(2) The registration provisions of s. 517.07 do not apply to a securities transaction conducted in accordance with this section; however, such transaction is subject to s. 517.301

~~Notwithstanding any other provision of this chapter, an offer or sale of a security by an issuer is an exempt transaction under s. 517.061 if the offer or sale is conducted in accordance with this section. The exemption provided in this section may not be used in conjunction with any other exemption under s. 517.051 or s. 517.061~~.

(3) The offer or sale of securities under this section must be conducted in accordance with the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), as amended, ~~and United States~~ Securities and Exchange Commission Rule 147, 17 C.F.R. s. 230.147, as amended, or Securities and Exchange Commission Rule 147A, 17. C.F.R. s. 230.147A, as amended ~~adopted pursuant to the Securities Act of 1933~~.

(4) An issuer ~~must~~:

(a) Must be a for-profit business entity that maintains ~~formed under the laws of the state, be registered with the Secretary of State, maintain~~ its principal place of business ~~in the state,~~ and derives ~~derive~~ its revenues primarily from operations in this ~~the~~ state.

(b) Must conduct transactions for an ~~the~~ offering of $2.5 million or more through a dealer registered with the office or an intermediary registered under s. 517.12 ~~s. 517.12(19)~~. For an offering of less than $2.5 million, the issuer may, but is not required to, use such a dealer or intermediary.

(c) May not be, ~~either~~ before or as a result of the offering, an investment company as defined in s. 3 of the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, as amended, or subject to the reporting requirements of s. 13 or s. 15(d) of

the Securities Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d), as amended.

(d) May not be a business entity that has ~~company with~~ an undefined business operation, ~~a company that~~ lacks a business plan, ~~a company that~~ lacks a stated investment goal for the funds being raised, or ~~a company that~~ plans to engage in a merger or acquisition with an unspecified business entity.

(e) May not be subject to a disqualification established by the commission ~~or office~~ or a disqualification described in s. 517.0616 or s. 517.1611 ~~or United States Securities and Exchange Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933~~. Each director, officer, manager, managing member, or general partner, or person occupying a similar status or performing a similar function, or person holding more than 20 percent of the equity interest ~~shares~~ of the issuer, is subject to this paragraph ~~requirement~~.

(f) Must deposit all funds received from investors in an account in ~~Execute an escrow agreement with~~ a federally insured financial institution authorized to do business in this ~~the~~ state, and maintain all such funds in the account until the target offering amount has been reached or the offering has been terminated or has expired. If the target offering amount has not been reached within the period specified by the issuer in the disclosure statement provided to investors, or if the offering is terminated or expires, the issuer must refund invested funds to all investors within 10 business days after such occurrence ~~for the deposit of investor funds, and ensure that all offering proceeds are provided to the issuer only when the aggregate capital raised from all investors is equal to or greater than~~

~~the target offering amount~~.

(g) Must use all funds in accordance with the use of proceeds as disclosed to prospective investors ~~Allow investors to cancel a commitment to invest within 3 business days before the offering deadline, as stated in the disclosure statement, and issue refunds to all investors if the target offering amount is not reached by the offering deadline~~.

(5) The issuer must file a notice of the offering with the office, in writing or in electronic form, in a format prescribed by commission rule, together with a nonrefundable filing fee of $200. The filing fee must ~~shall~~ be deposited into the Regulatory Trust Fund of the office. The commission may adopt rules establishing procedures for the deposit of fees and the filing of documents by electronic means if the procedures provide the office with the information and data required by this section. A notice is effective upon receipt, by the office, of the completed form, filing fee, and an irrevocable written consent to service of civil process, similar to that provided for in s. 517.101. The notice may be terminated by filing with the office a notice of termination. The notice and offering expire 12 months after filing the notice with the office and are not eligible for renewal. The notice must:

(a) Be filed with the office at least 10 days before the issuer commences an offering of securities or the offering is displayed on a website of an intermediary in reliance upon the exemption provided by this section.

(b) Indicate that the issuer is conducting an offering in reliance upon the exemption provided by this section.

(c) Contain the name and contact information, including an

e-mail address, of the issuer.

(d) Identify any predecessors, owners, officers, directors, general partners, managers, managing members, ~~and control persons~~ or any person occupying a similar status or performing a similar function of the issuer, including that person's title, ~~his or her~~ status as a partner, trustee, or sole proprietor or a similar role, and ~~his or her~~ ownership percentage.

(e) Identify the federally insured financial institution into~~, authorized to do business in the state, in~~ which investor funds will be deposited~~, in accordance with the escrow agreement~~.

(f) ~~Require an attestation under oath that the issuer, its predecessors, affiliated issuers, directors, officers, and control persons, or any other person occupying a similar status or performing a similar function, are not currently and have not been within the past 10 years the subject of regulatory or criminal actions involving fraud or deceit.~~

~~(g) Include documentation verifying that the issuer is organized under the laws of the state and authorized to do business in the state.~~

~~(h)~~ If applicable, include the intermediary's website address where the issuer's securities will be offered.

(g)~~(i)~~ State ~~Include~~ the target offering amount and the date, not to exceed 365 days, by which the target amount must be reached in order to avoid termination of the offering.

(6) The issuer must amend the notice form within 10 business ~~30~~ days after any material information contained in the notice becomes inaccurate ~~for any reason~~. The commission may require, by rule, an issuer who has filed a notice under this

section to file amendments with the office.

(7) The issuer may engage in general advertising and general solicitation of the offering to prospective investors. Any oral or written statements in advertising or solicitation of the offering which contain a material misstatement, or which fail to disclose material information, are subject to enforcement under this chapter. Any general advertising or other general announcement must state that the offering is limited and open only to residents of this state.

(8) The issuer must provide a disclosure statement to ~~investors and the dealer or intermediary, along with a copy to the office at the time that the notice is filed, and make available to potential investors through~~ the dealer or intermediary, as applicable; to the office at the time that the notice is filed; and to each prospective investor at least 3 days before the investor's commitment to purchase or payment of any consideration. The~~, a~~ disclosure statement must contain ~~containing~~ material information about the issuer and the offering, including all of the following:

(a) The name, legal status, physical address, e-mail address, and website address of the issuer.

(b) The names of the directors, officers, managers, managing members, and general partners and any person occupying a similar status or performing a similar function, and the name and ownership percentage of each person holding more than 20 percent of the issuer's equity interests ~~shares of the issuer~~.

(c) A description of the current business ~~of the issuer~~ and ~~the~~ anticipated business plan of the issuer.

(d) A description of the stated purpose and intended use of

the proceeds of the offering.

(e) The target offering amount and~~,~~ the deadline to reach the target offering amount~~, and regular updates regarding the progress of the issuer in meeting the target offering amount~~.

(f) The price to the public of the securities ~~or the method for determining the price. However, before the sale, each investor must receive in writing the final price and all required disclosures and have an opportunity to rescind the commitment to purchase the securities~~.

(g) A description of the ownership and capital structure of the issuer, including:

1. Terms of the securities being offered and each class of security of the issuer, including how those terms may be modified, and a summary of the differences between such securities, including how the rights of the securities being offered may be materially limited, diluted, or qualified by rights of any other class of security of the issuer.

2. A description of how the exercise of the rights held by the principal equity holders ~~shareholders~~ of the issuer could negatively impact the purchasers of the securities being offered.

~~3. The name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer.~~

~~4. How the securities being offered are being valued, and examples of methods of how such securities may be valued by the issuer in the future, including during subsequent corporate actions.~~

~~5. The risks to purchasers of the securities relating to~~

~~minority ownership in the issuer, the risks associated with corporate action, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties.~~

(h) A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in Securities and Exchange Commission Rule 147 or Rule 147A.

(i) Any issuer plans, formal or informal, to offer additional securities in the future.

(j) The risks to purchasers of the securities relating to minority ownership in the issuer.

(k)~~(h)~~ A description of the financial condition of the issuer.

1. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of $500,000 ~~$100,000~~ or less, the financial statements of the issuer may be, but are not required to be, included ~~description must include the most recent income tax return filed by the issuer, if any, and a financial statement that must be certified by the principal executive officer of the issuer as true and complete in all material respects~~.

2. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of more than $500,000 ~~$100,000~~, but not more than $2.5 million ~~$500,000~~, the description must include financial statements prepared in accordance with generally accepted accounting principles and reviewed by a

certified public accountant, as defined in s. 473.302, who is independent of the issuer, using professional standards and procedures ~~for such review~~ or standards and procedures established by commission ~~the office, by~~ rule~~,~~ for such purpose.

3. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of more than $2.5 million ~~$500,000~~, the description must include audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant, as defined in s. 473.302, who is independent of the issuer, and other requirements as the commission may establish by rule.

(l)~~(i)~~ The following statement in boldface, conspicuous type on the front page of the disclosure statement:

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense.

These securities are offered under, and will be sold in reliance upon, an exemption from the registration requirements of federal and Florida securities laws. ~~Consequently,~~ Neither the Federal Government nor the State of Florida has reviewed the accuracy or completeness of any offering materials. In making an investment decision, investors must rely on their own examination of the issuer and the terms of the

offering, including the merits and risks involved. These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as specifically authorized by applicable federal and state securities laws. Investing in these securities involves a speculative risk, and investors should be able to bear the loss of their entire investment.

~~(8) The issuer shall provide to the office a copy of the escrow agreement with a financial institution authorized to conduct business in this state. All investor funds must be deposited in the escrow account. The escrow agreement must require that all offering proceeds be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan, and that all investors will receive a full return of their investment commitment if that target offering amount is not raised by the date stated in the disclosure statement.~~

(9) The sum of all cash and other consideration received for sales of a security under this section may not exceed $5 ~~$1~~ million, less the aggregate amount received for all sales of securities by the issuer within the 12 months preceding the first offer or sale made in reliance upon this exemption. Offers or sales to a person owning 20 percent or more of the outstanding equity interests ~~shares~~ of any class or classes of securities or to an officer, director, manager, managing member, general partner, or trustee, or a person occupying a similar

status, do not count toward this limitation.

(10) Unless the investor is an accredited investor, or the issuer reasonably believes that the investor is an accredited investor ~~as defined by Rule 501 of Regulation D, adopted pursuant to the Securities Act of 1933~~, the aggregate amount of securities sold by an issuer to an investor ~~in transactions exempt from registration requirements under this subsection~~ in a 12-month period may not exceed $10,000~~:~~

~~(a) The greater of $2,000 or 5 percent of the annual income or net worth of such investor, if the annual income or the net worth of the investor is less than $100,000.~~

~~(b) Ten percent of the annual income or net worth of such investor, not to exceed a maximum aggregate amount sold of $100,000, if either the annual income or net worth of the investor is equal to or exceeds $100,000~~.

~~(11) The issuer shall file with the office and provide to investors free of charge an annual report of the results of operations and financial statements of the issuer within 45 days after the end of its fiscal year, until no securities under this offering are outstanding. The annual reports must meet the following requirements:~~

~~(a) Include an analysis by management of the issuer of the business operations and the financial condition of the issuer, and disclose the compensation received by each director, executive officer, and person having an ownership interest of 20 percent or more of the issuer, including cash compensation earned since the previous report and on an annual basis, and any bonuses, stock options, other rights to receive securities of the issuer, or any affiliate of the issuer, or other~~

~~compensation received.~~

~~(b) Disclose any material change to information contained in the disclosure statements which was not disclosed in a previous report.~~

(11)~~(12)(a)~~ A notice-filing under this section must ~~shall~~ be summarily suspended by the office if:

(a) The payment for the filing is dishonored by the financial institution upon which the funds are drawn. For purposes of s. 120.60(6), failure to pay the required notice filing fee constitutes an immediate and serious danger to the public health, safety, and welfare. The office shall enter a final order revoking a notice-filing in which the payment for the filing is dishonored by the financial institution upon which the funds are drawn; or~~.~~

(b) ~~A notice-filing under this section shall be summarily suspended by the office if~~ The issuer made a material false statement in the issuer's notice-filing. The summary suspension remains ~~shall remain~~ in effect until a final order is entered by the office. For purposes of s. 120.60(6), a material false statement made in the issuer's notice-filing constitutes an immediate and serious danger to the public health, safety, and welfare. If an issuer made a material false statement in the issuer's notice-filing, the office must ~~shall~~ enter a final order revoking the notice-filing, issue a fine as prescribed by s. 517.191(9) ~~s. 517.221(3)~~, and issue permanent bars under s. 517.191(10) ~~s. 517.221(4)~~ to the issuer and all owners, officers, directors, general partners, and control persons, or any person occupying a similar status or performing a similar function of the issuer, including title; status as a partner,

trustee, sole proprietor, or similar role; and ownership percentage.

(12) ~~(13)~~ If the issuer employs the services of an intermediary, the ~~An~~ intermediary must:

(a) Take measures, as established by commission rule, to reduce the risk of fraud with respect to the ~~transactions, including verifying that the issuer is in compliance with the requirements of this section and, if necessary, denying an issuer access to its platform if the intermediary believes it is unable to adequately assess the risk of fraud of the issuer or its potential~~ offering.

(b) Provide ~~basic~~ information on its website regarding the high risk of investment in and limitation on the resale of exempt securities and the potential for loss of an entire investment. The ~~basic~~ information must include, but need not be limited to, all of the following:

1. A description of the financial institution into which investor funds will be deposited ~~escrow agreement that the issuer has executed~~ and the conditions for the use ~~release~~ of such funds by ~~to~~ the issuer ~~in accordance with the agreement and subsection (4)~~.

2. A description of whether financial information provided by the issuer has been audited by an independent certified public accountant, as defined in s. 473.302.

(c) Obtain from each prospective investor a zip code or residence address, a copy of a driver license, and any other proof of residency in order for the issuer or intermediary to reasonably believe that the potential investor is a resident of this state. The commission may adopt rules authorizing

additional forms of identification and prescribing the process for verifying any identification presented by the prospective investor.

(d) Obtain information sufficient for the issuer or intermediary to reasonably believe that a particular prospective investor is an accredited investor

~~(c) Obtain a zip code or residence address from each potential investor who seeks to view information regarding specific investment opportunities, in order to confirm that the potential investor is a resident of the state.~~

~~(d) Obtain and verify a valid Florida driver license number or Florida identification card number from each investor before purchase of a security to confirm that the investor is a resident of the state. The commission may adopt rules authorizing additional forms of identification and prescribing the process for verifying any identification presented by the investor.~~

~~(e) Obtain an affidavit from each investor stating that the investment being made by the investor is consistent with the income requirements of subsection (10).~~

~~(f) Direct the release of investor funds in escrow in accordance with subsection (4).~~

~~(g) Direct investors to transmit funds directly to the financial institution designated in the escrow agreement to hold the funds for the benefit of the investor~~.

(e) ~~(h)~~ Provide a monthly update for each offering, after the first full month after the date of the offering. The update must be accessible on the intermediary's website and must display the date and amount of each sale of securities, and each

cancellation of commitment to invest, in the previous calendar month.

~~(i) Require each investor to certify in writing, including as part of such certification his or her signature and his or her initials next to each paragraph of the certification, as follows:~~

~~I understand and acknowledge that:~~

~~I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment.~~

~~This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and no regulatory authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.~~

~~The securities I am acquiring in this offering are illiquid and are subject to possible dilution. There is no ready market for the sale of the securities. It may be difficult or impossible for me to sell or otherwise dispose of the securities, and I may be required to hold the securities indefinitely.~~

~~I may be subject to tax on my share of the taxable income and losses of the issuer, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the issuer.~~

~~By entering into this transaction with the issuer, I am affirmatively representing myself as being a Florida resident at the time this contract is formed, and if this representation is subsequently shown to be false, the contract is void.~~

~~If I resell any of the securities I am acquiring in this offering to a person that is not a Florida resident within 9 months after the closing of the offering, my contract with the issuer for the purchase of these securities is void.~~

~~(j) Require each investor to answer questions demonstrating an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers, and an understanding of the risk of illiquidity.~~

(f) ~~(k)~~ Take reasonable steps to protect personal information collected from investors, as required by s. 501.171.

(g) ~~(l)~~ Prohibit its directors, ~~and~~ officers, managers, managing members, general partners, employees, and agents from having any financial interest in the issuer using its services.

~~(m) Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; comply with the anti-money laundering requirements of 31 C.F.R. chapter X applicable to registered brokers; and comply with the privacy requirements of 17 C.F.R. part 248 relating to brokers.~~

(13) ~~(14)~~ An intermediary not registered as a dealer under s. 517.12(5) may not:

(a) Offer investment advice or recommendations. A refusal by an intermediary to post an offering that it deems not credible or that represents a potential for fraud may not be construed as an offer of investment advice or recommendation.

(b) Solicit purchases, sales, or offers to buy securities offered or displayed on its website.

(c) Compensate employees, agents, or other persons for the solicitation of, or based on the sale of, securities offered or

displayed on its website.

(d) Hold, manage, possess, or otherwise handle investor funds or securities.

(e) Compensate promoters, finders, or lead generators for providing the intermediary with the personal identifying information of any prospective ~~potential~~ investor.

(f) Engage in any other activities set forth by commission rule.

(14) If the issuer does not employ a dealer or an intermediary for an offering pursuant to the exemption created under this section, the issuer must fulfill each of the obligations specified in paragraphs (12)(c)-(f).

(15) Any sale made pursuant to the exemption created under this section is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure statement that is provided to the purchaser or purchaser's representative or by certified mail or overnight delivery service with proof of delivery to the mailing address set forth in the disclosure statement ~~All funds received from investors must be directed to the financial institution designated in the escrow agreement to hold the funds and must be used in accordance with representations made to investors by the intermediary. If an investor cancels a commitment to invest, the intermediary must direct the financial institution designated to hold the funds to promptly refund the funds of the investor~~.

Section 5. Section 517.0612, Florida Statutes, is created

to read:

517.0612 Florida Invest Local Exemption.—

(1) This section may be cited as the "Florida Invest Local Exemption."

(2) The registration provisions of s. 517.07 do not apply to a securities transaction conducted in accordance with this section; however, such transaction is subject to s. 517.301.

(3) The offer or sale of securities under this section must meet the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, Securities and Exchange Commission Rule 147, or Securities and Exchange Commission Rule 147A, as amended.

(4) The issuer must be a for-profit business entity registered with the Department of State which has its principal place of business in this state. The issuer may not be, before or as a result of the offering:

(a) An investment company as defined in the Investment Company Act of 1940, as amended;

(b) Subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended;

(c) A business entity that has an undefined business operation, lacks a business plan, lacks a stated investment goal for the funds being raised, or plans to engage in a merger or acquisition with an unspecified business entity; or

(d) Subject to a disqualification as provided in s. 517.0616.

(5) The sum of all cash and other consideration received from all sales of the securities in reliance upon the exemption under this section may not exceed $500,000, less the aggregate

amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption.

(6)(a) The issuer may not accept more than $10,000 from any single purchaser unless any of the following apply:

1. The issuer reasonably believes that the purchaser is an accredited investor.

2. The purchaser is an officer, director, partner, or trustee, or an individual occupying a similar status or performing similar functions, of the issuer.

3. The purchaser is an owner of 10 percent or more of the issuer's outstanding equity.

(b) For purposes of this subsection, the following persons must be treated collectively as a single purchaser:

1. Any spouse or child of the purchaser or any related family member who has the same primary residence as the purchaser.

2. Any business entity of which the purchaser and any person related to the purchaser as provided in subparagraph 1. collectively own more than 50 percent of the equity interest.

(7) The issuer may engage in general advertising and general solicitation of the offering. Any general advertising or other general announcement must state that the offer is limited and open only to residents of this state. Any oral or written statements in advertising or solicitation of the offer which contain a material misstatement, or which fail to disclose material information, are subject to enforcement under this chapter.

(8) A purchaser must receive, at least 3 business days

before any binding commitment to purchase or consideration paid, a disclosure statement that provides material information regarding the issuer, including, but not limited to, all of the following information:

(a) The issuer's name, type of entity, and contact information.

(b) The name and contact information of each director, officer, or other manager of the issuer.

(c) A description of the issuer's business.

(d) A description of the security being offered.

(e) The total amount of the offering.

(f) The intended use of proceeds from the sale of the securities.

(g) The target offering amount.

(h) A statement that if the target offering amount is not obtained in cash or in the value of other tangible consideration received on a date that is no more than 180 days after the commencement of the offering, the offering will be terminated, and any funds or other consideration received from purchasers must be promptly returned.

(i) A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in Securities and Exchange Commission Rule 147 or Rule 147A.

(j) The names and addresses of all persons who will be involved in the offer and sale of securities on behalf of the issuer.

(k) The name of the bank or other depository institution into which investor funds will be deposited.

(l) The following statement in boldface, conspicuous type:

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined that this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense.

(9) All funds received from investors must be deposited into a bank or depository institution authorized to do business in this state. The issuer may not withdraw any amount of the offering proceeds unless the target offering amount has been received.

(10) The issuer must file a notice of the offering with the office, in writing or in electronic form, in a format prescribed by commission rule, no less than 5 business days before the offering commences, along with the disclosure statement described in subsection (8). If there are any material changes to the information previously submitted, the issuer, within 3 business days after such material change, must file an amended notice.

(11) An individual, entity, or entity employee who acts as an agent for the issuer in the offer or sale of securities and is not registered as a dealer under this chapter may not do either of the following:

(a) Receive compensation based upon the solicitation of purchases, sales, or offers to purchase the securities.

(b) Take custody of investor funds or securities.

(12) Any sale made pursuant to the exemption created under

this section is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure statement that is provided to a purchaser or the purchaser's representative or by hand delivery, courier service, or other method by which written proof of delivery to the issuer of the purchaser's election to rescind the purchase is evidenced.

Section 6. Section 517.0613, Florida Statutes, is created to read:

517.0613 Failure to comply with a securities registration exemption.—

(1) Failure to meet the requirements for any exemption from securities registration does not preclude the issuer from claiming the availability of any other applicable state or federal exemption.

(2) The exemptions created under ss. 517.061, 517.0611, and 517.0612 are not available to an issuer for any transaction or series of transactions that, although in technical compliance with the applicable provisions, is part of a plan or scheme to evade the registration provisions of s. 517.07, and registration under s. 517.07 is required in connection with such transactions.

Section 7. Section 517.0614, Florida Statutes, is created to read:

517.0614 Integration of offerings.—

(1) If the safe harbors in subsection (2) do not apply, in

determining whether two or more offerings are to be treated as one for the purpose of registration or qualifying for an exemption from registration under this chapter, offers and sales may not be integrated if, based on the particular facts and circumstances, the issuer can establish either that each offering complies with the registration requirements of this chapter, or that an exemption from registration is available for the particular offering, provided that any transaction or series of transactions that, although in technical compliance with this chapter, is part of a plan or scheme to evade the registration requirements of this chapter will not have the effect of avoiding integration. In making this determination:

(a) For an exempt offering prohibiting general solicitation, the issuer must have a reasonable belief, based on the facts and circumstances, with respect to each purchaser in the exempt offering prohibiting general solicitation, that the issuer or any person acting on the issuer's behalf:

1. Did not solicit such purchaser through the use of general solicitation; or

2. Established a substantive relationship with such purchaser before the commencement of the exempt offering prohibiting general solicitation, provided that a purchaser previously solicited through the use of general solicitation is not deemed to have been solicited through the use of general solicitation in the current offering if, during the 45 calendar days following such previous general solicitation:

a. No offer or sale of the same or similar class of securities has been made by or on behalf of the issuer, including to such purchaser; and

b. The issuer or any person acting on the issuer's behalf has not solicited such purchaser through the use of general solicitation for any other security.

(b) For two or more concurrent exempt offerings permitting general solicitation, in addition to satisfying the requirements of the particular exemption relied on, general solicitation offering materials for one offering that includes information about the material terms of a concurrent offering under another exemption may constitute an offer of securities in such other offering, and therefore the offer must comply with all the requirements for, and restrictions on, offers under the exemption being relied on for such other offering, including any legend requirements and communications restrictions.

(2) The integration analysis required by subsection (1) is not required if any of the following nonexclusive safe harbors apply:

(a) An offering commenced more than 30 calendar days before the commencement of any other offering, or more than 30 calendar days after the termination or completion of any other offering, may not be integrated with such other offering, provided that for an exempt offering for which general solicitation is not permitted which follows by 30 calendar days or more an offering that allows general solicitation, paragraph (1)(a) applies.

(b) Offers and sales made in compliance with any of the following provisions are not subject to integration with other offerings:

1. Section 517.051 or s. 517.061, except s. 517.061(9), (10), or (11).

2. Section 517.0611 or s. 517.0612.

Section 8. Section 517.0615, Florida Statutes, is created to read:

517.0615 Solicitations of interest.—

(1) A communication may not be deemed to constitute general solicitation or general advertising if the communication is made in connection with a seminar or meeting in which more than one issuer participates and which is sponsored by a college, a university, or another institution of higher education; a state or local government or an instrumentality thereof; a nonprofit chamber of commerce or other nonprofit organization; or an angel investor group, incubator, or accelerator, if all of the following apply:

(a) Advertising for the seminar or meeting does not reference a specific offering of securities by the issuer.

(b) The sponsor of the seminar or meeting does not do any of the following:

1. Make investment recommendations or provide investment advice to attendees of the seminar or meeting.

2. Engage in any investment negotiations between the issuer and investors attending the seminar or meeting.

3. Charge attendees of the seminar or meeting any fees, other than reasonable administrative fees.

4. Receive any compensation for making introductions between seminar or meeting attendees and issuers or for investment negotiations between such parties.

5. Receive any compensation with respect to the seminar or meeting, which compensation would require registration or notice-filing under this chapter, the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., as amended, or the Investment

Advisers Act of 1940, 15 U.S.C. s. 80b-1 et seq., as amended. The sponsorship or participation in the seminar or meeting does not by itself require registration or notice-filing under this chapter.

(c) The type of information regarding an offering of securities by the issuer which is communicated or distributed by or on behalf of the issuer in connection with the seminar or meeting is limited to a notification that the issuer is in the process of offering or planning to offer securities, the type and amount of securities being offered, the intended use of proceeds of the offering, and the unsubscribed amount in an offering.

(d) If the event allows attendees to participate virtually, rather than in person, online participation in the event is limited to:

1. Individuals that are members of, or otherwise associated with, the sponsor organization;

2. Individuals that the sponsor reasonably believes are accredited investors; or

3. Individuals that have been invited to the event by the sponsor based on industry or investment-related experience reasonably selected by the sponsor in good faith and disclosed in the public communications about the event.

(2) Before any offers or sales are made in connection with an offering, communications by an issuer or any person authorized to act on behalf of the issuer are not deemed to constitute general solicitation or general advertising if the communication is solely for the purpose of determining whether there is any interest in a contemplated securities offering.

Requirements imposed under this chapter on written or oral statements made in the course of such communication may be enforced as provided in this chapter. The solicitation or acceptance of money or other consideration or of any commitment, binding or otherwise, from any person is prohibited.

(a) The communication must state all of the following:

1. Money or other consideration is not being solicited and, if sent in response, will not be accepted.

2. Any offer to buy the securities will not be accepted, and no part of the purchase price will be accepted.

3. A person's indication of interest does not involve obligation or commitment of any kind.

(b) Any written communication under this subsection may include a means by which a person may indicate to the issuer that the person is interested in a potential offering. The issuer may require the name, address, telephone number, or e-mail address in any response form included in the written communication under this paragraph.

(c) A communication in accordance with this subsection is not subject to s. 501.059, regarding telephone solicitations.

Section 9. Section 517.0616, Florida Statutes, is created to read:

517.0616 Disqualification.—A registration exemption under s. 517.061(9), (10), and (11), s. 517.0611, or s. 517.0612 is not available to an issuer that would be disqualified under Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d), as amended, at the time the issuer makes an offer for the sale of a security.

Section 10. Present subsections (4) through (8) of section

517.081, Florida Statutes, are redesignated as subsections (6) through (10), respectively, new subsections (4) and (5) are added to that section, and subsection (2), paragraph (g) of subsection (3), and present subsection (7) of that section are amended, to read:

517.081 Registration procedure.—

(2) The office shall receive and act upon applications for the registration of ~~to have~~ securities ~~registered, and the commission may prescribe forms on which it may require such applications to be submitted~~. Applications must ~~shall~~ be duly signed by the applicant, sworn to by any person having knowledge of the facts, and filed with the office. ~~The commission may establish, by rule, procedures for depositing fees and filing documents by electronic means provided such procedures provide the office with the information and data required by this section.~~ An application may be made either by the issuer of the securities for which registration is applied or by any registered dealer desiring to sell such securities ~~the same~~ within the state.

(3) The office may require the applicant to submit to the office the following information concerning the issuer and such other relevant information as the office may in its judgment deem necessary to enable it to ascertain whether such securities shall be registered pursuant to the provisions of this section:

(g)~~1.~~ A specimen copy of the securities certificate, if applicable, and a copy of any circular, prospectus, advertisement, or other description of such securities.

~~2. The commission shall adopt a form for a simplified offering circular to register, under this section, securities~~

~~that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended. The following issuers shall not be eligible to submit a simplified offering circular adopted pursuant to this subparagraph:~~

~~a. An issuer seeking to register securities for resale by persons other than the issuer.~~

~~b. An issuer that is subject to any of the disqualifications described in 17 C.F.R. s. 230.262, adopted pursuant to the Securities Act of 1933, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this subparagraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or equity owner who owns at least 10 percent of the ownership interests of the issuer, promoter, or selling agent of the securities to be offered or any officer, director, partner, or manager or managing member of such selling agent.~~

~~c. An issuer that is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified company or companies.~~

~~d. An issuer of offerings in which the specific business or properties cannot be described.~~

~~e. Any issuer the office determines is ineligible because the form does not provide full and fair disclosure of material information for the type of offering to be registered by the~~

~~issuer.~~

~~f. Any issuer that has failed to provide the office the reports required for a previous offering registered pursuant to this subparagraph.~~

~~As a condition precedent to qualifying for use of the simplified offering circular, an issuer shall agree to provide the office with an annual financial report containing a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year, prepared in accordance with United States generally accepted accounting principles and accompanied by an independent accountant's report. If the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited. Annual financial reports must be filed with the office within 90 days after the close of the issuer's fiscal year for each of the first 5 years following the effective date of the registration.~~

(4) The commission may, by rule:

(a) Establish criteria relating to the issuance of equity securities, debt securities, insurance company securities, real estate investment trusts, oil and gas investments, and other investments. In establishing these criteria, the commission may consider the rules and regulations of the Securities and Exchange Commission and statements of policy by the North American Securities Administrators Association, Inc., relating to the registration of securities offerings. The criteria must include all of the following:

1. The promoter's equity investment ratio.

2. The financial condition of the issuer.

3. The voting rights of shareholders.

4. The grant of options or warrants to underwriters and others.

5. Loans and other transactions with affiliates of the issuer.

6. The use, escrow, or refund of proceeds of the offering.

(b) Prescribe forms requiring applications for the registration of securities to be submitted to the office, including a simplified offering circular to register, under this section, securities that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended.

(c) Establish procedures for depositing fees and filing documents by electronic means, provided that such procedures provide the office with the information and data required by this section.

(d) Establish requirements and standards for the filing, content, and circulation of a preliminary, final, or amended prospectus, advertisements, and other sales literature. In establishing such requirements and standards, the commission shall consider the rules and regulations of the Securities and Exchange Commission relating to requirements for preliminary, final, or amended or supplemented prospectuses and the rules of the Financial Industry Regulatory Authority relating to advertisements and sales literature.

(5) All of the following issuers are not eligible to submit a simplified offering circular:

(a) An issuer that is subject to any of the

disqualifications described in Securities and Exchange Commission Rule 262, 17 C.F.R. s. 230.262, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this paragraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or a person owning at least 10 percent of the ownership interests of the issuer; a promoter or selling agent of the securities to be offered; or any officer, director, partner, or manager or managing member of such selling agent.

(b) An issuer that is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified business entity or entities.

(c) An issuer of offerings in which the specific business or properties cannot be described.

(d) An issuer that the office determines is ineligible because the simplified circular does not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.

(9)(a) ~~(7)~~ The office shall record the registration of a security in the register of securities if, upon examination of an ~~any~~ application, it finds that all of the following requirements are met: ~~the office~~

1. The application is complete.

2. The fee imposed in subsection (8) has been paid.

3. The sale of the security would not be fraudulent and would not work or tend to work a fraud upon the purchaser.

4. The terms of the sale of such securities would be fair,

just, and equitable.

5. The enterprise or business of the issuer is not based upon unsound business principles.

(b) Upon registration, the security may be sold by the issuer or any registered dealer, subject, however, to the further order of the office ~~shall find that the sale of the security referred to therein would not be fraudulent and would not work or tend to work a fraud upon the purchaser, that the terms of the sale of such securities would be fair, just, and equitable, and that the enterprise or business of the issuer is not based upon unsound business principles, it shall record the registration of such security in the register of securities; and thereupon such security so registered may be sold by any registered dealer, subject, however, to the further order of the office. In order to determine if an offering is fair, just, and equitable, the commission may by rule establish requirements and standards for the filing, content, and circulation of any preliminary, final, or amended prospectus and other sales literature and may by rule establish merit qualification criteria relating to the issuance of equity securities, debt securities, insurance company securities, real estate investment trusts, and other traditional and nontraditional investments, including, but not limited to, oil and gas investments. The criteria may include such elements as the promoter's equity investment ratio, the financial condition of the issuer, the voting rights of shareholders, the grant of options or warrants to underwriters and others, loans and other affiliated transaction, the use or refund of proceeds of the offering, and such other relevant criteria as the office in its judgment may~~

~~deem necessary to such determination~~.

Section 11. Subsection (2) of section 517.101, Florida Statutes, is amended to read:

517.101 Consent to service.—

(2) Any such action must ~~shall~~ be brought either in the county of the plaintiff's residence or in the county in which the office has its official headquarters. The written consent must ~~shall~~ be authenticated by the seal of the ~~said~~ issuer, if it has a seal, and by the acknowledged signature of a director, manager, managing member, general partner, trustee, or officer of the issuer ~~member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association,~~ and must ~~shall in such case~~ be accompanied by a duly certified copy of the resolution of the issuer's board of directors, trustees, managers, managing members, or general partners ~~or managers of the corporation or association,~~ authorizing the signer to execute the consent ~~officers to execute the same~~. In case any process or pleadings mentioned in this chapter are served upon the office, service must ~~it shall~~ be by duplicate copies, one of which must ~~shall~~ be filed in the office and the other ~~another~~ immediately forwarded by the office by registered mail to the principal office of the issuer against which the ~~said~~ process or pleadings are directed.

Section 12. Section 517.131, Florida Statutes, is amended to read:

517.131 Securities Guaranty Fund.—

(1) As used in this section, the term "final judgment" includes an arbitration award confirmed by a court of competent jurisdiction.

(2)(a) The Chief Financial Officer shall establish a Securities Guaranty Fund to provide monetary relief to victims of securities violations under this chapter who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer. An amount not exceeding 20 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) for dealers and investment advisers or s. 517.1201 for federal covered advisers and an amount not exceeding 10 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) for associated persons must ~~shall~~ be part of the regular registration license fee and must ~~shall~~ be transferred to or deposited in the Securities Guaranty Fund.

(b) If the balance in the Securities Guaranty Fund at any time exceeds $1.5 million, transfer of assessment fees to the ~~this~~ fund must ~~shall~~ be discontinued at the end of that registration ~~license~~ year, and transfer of such assessment fees may ~~shall~~ not resume ~~be resumed~~ unless the fund balance is reduced below $1 million by disbursement made in accordance with s. 517.141.

~~(2) The Securities Guaranty Fund shall be disbursed as provided in s. 517.141 to a person who is adjudged by a court of competent jurisdiction to have suffered monetary damages as a result of any of the following acts committed by a dealer, investment adviser, or associated person who was licensed under this chapter at the time the act was committed:~~

~~(a) A violation of s. 517.07.~~

~~(b) A violation of s. 517.301.~~

(3) A ~~Any~~ person is eligible for payment ~~to seek recovery~~ from the Securities Guaranty Fund if the person:

(a)1. Holds an unsatisfied final judgment in which a wrongdoer was found to have violated s. 517.07 or s. 517.301;

2. Has applied any amount recovered from the judgment debtor or any other source to the damages awarded by the court or arbitrator;

3. Is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation of s. 517.07 or s. 517.301; and

4. Is seeking recovery for an act that occurred on or after October 1, 2024; or

(b) Is a receiver appointed pursuant to s. 517.191(2) by a court of competent jurisdiction for a wrongdoer ordered to pay restitution under s. 517.191(3) as a result of a violation of s. 517.07 or s. 517.301 which has requested payment from the Securities Guaranty Fund on behalf of a person eligible for payment under paragraph (a)

~~(a) Such person has received final judgment in a court of competent jurisdiction in any action wherein the cause of action was based on a violation of those sections referred to in subsection (2).~~

~~(b) Such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and by her or his search the person has discovered no property or assets; or she~~

~~or he has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment, but the amount thereby realized was insufficient to satisfy the judgment. To verify compliance with such condition, the office may require such person to have a writ of execution be issued upon such judgment, may require a showing that no personal or real property of the judgment debtor liable to be levied upon in complete satisfaction of the judgment can be found, or may require an affidavit from the claimant setting forth the reasonable searches and inquiries undertaken and the result of those searches and inquiries.~~

~~(c) Such person has applied any amounts recovered from the judgment debtor, or from any other source, to the damages awarded by the court.~~

~~(d) The act for which recovery is sought occurred on or after January 1, 1979.~~

~~(c) The office waives compliance with the requirements of paragraph (a) or paragraph (b). The office may waive such compliance if the dealer, investment adviser, or associated person which is the subject of the claim filed with the office is the subject of any proceeding in which a receiver has been appointed by a court of competent jurisdiction. If the office waives such compliance, the office may, upon petition by the debtor or the court-appointed trustee, examiner, or receiver, distribute funds from the Securities Guaranty Fund up to the amount allowed under s. 517.141. Any waiver granted pursuant to this section shall be considered a judgment for purposes of complying with the requirements of this section and of s. 517.141~~.

(4) A person who has done any of the following is not eligible for payment from the Securities Guaranty Fund:

(a) Participated or assisted in a violation of this chapter.

(b) Attempted to commit or committed a violation of this chapter.

(c) Profited from a violation of this chapter.

(5) An eligible person, or a receiver on behalf of the eligible person, seeking payment from the Securities Guaranty Fund must file with the office a written application on a form that the commission may prescribe by rule. The commission may adopt by rule procedures for filing documents by electronic means, provided that such procedures provide the office with the information and data required by this section. The application must be filed with the office within 1 year after the date of the final judgment, the date on which a restitution order has been ripe for execution, or the date of any appellate decision thereon, and, at minimum, must contain all of the following information:

(a) The eligible person's and, if applicable, the receiver's full name, address, and contact information.

(b) The person ordered to pay restitution.

(c) If the eligible person is a business entity, the eligible person's type and place of organization and, as applicable, a copy, as amended, of its articles of incorporation, articles of organization, trust agreement, or partnership agreement.

(d) Any final judgment and a copy thereof.

(e) Any restitution order pursuant to s. 517.191(3), and a

copy thereof.

(f) An affidavit from the eligible person stating either one of the following:

1. That the eligible person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment and, by the eligible person's search, that the eligible person has not discovered any property or assets.

2. That the eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment remains unsatisfied.

(g) If the application is filed by the receiver, an affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's order of restitution.

(h) The eligible person's residence or domicile at the time of the violation of s. 517.07 or s. 517.301 which resulted in the eligible person's monetary damages.

(i) The amount of any unsatisfied portion of the eligible person's final judgment.

(j) Whether an appeal or motion to vacate an arbitration award has been filed.

(6) If the office finds that a person is eligible for payment from the Securities Guaranty Fund and if the person has

complied with this section and the rules adopted under this section, the office must approve payment to such person from the fund. Within 90 days after the office's receipt of a complete application, each eligible person or receiver must be given written notice, personally or by mail, that the office intends to approve or deny, or has approved or denied, the application for payment from the Securities Guaranty Fund.

(7) Upon receipt by the eligible person or receiver of notice of the office's decision that the eligible person's or receiver's application for payment from the Securities Guaranty Fund is approved, and before any disbursement, the eligible person shall assign to the office on a form prescribed by commission rule all right, title, and interest in the final judgment or order of restitution equal to the amount of such payment.

(8) The office shall deem an application for payment from the Securities Guaranty Fund abandoned if the eligible person or receiver, or any person acting on behalf of the eligible person or receiver, fails to timely complete the application as prescribed by commission rule. The time period to complete an application must be tolled during the pendency of an appeal or motion to vacate an arbitration award.

~~(4) Any person who files an action that may result in the disbursement of funds from the Securities Guaranty Fund pursuant to the provisions of s. 517.141 shall give written notice by certified mail to the office as soon as practicable after such action has been filed. The failure to give such notice shall not bar a payment from the Securities Guaranty Fund if all of the conditions specified in subsection (3) are satisfied.~~

~~(5) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 specifying the procedures for complying with subsections (2), (3), and (4), including rules for the form of submission and guidelines for the sufficiency and content of submissions of notices and claims.~~

Section 13. Section 517.141, Florida Statutes, is amended to read:

517.141 Payment from the fund.—

(1) As used in this section, the term:

(a) "Claimant" means a person determined eligible for payment under s. 517.131 that is approved by the office for payment from the Securities Guaranty Fund.

(b) "Final judgment" includes an arbitration award confirmed by a court of competent jurisdiction.

(c) "Specified adult" has the same meaning as in s. 517.34(1).

(2) A claimant is entitled to disbursement from the Securities Guaranty Fund in the amount equal to the lesser of:

(a) The unsatisfied portion of the claimant's final judgment or final order of restitution, but only to the extent that the final judgment or final order of restitution reflects actual or compensatory damages, excluding postjudgment interest, costs, and attorney fees; or

(b)1. The sum of $15,000; or

2. If the claimant is a specified adult or if a specified adult is a beneficial owner or beneficiary of the claimant, the sum of $25,000 ~~Any person who meets all of the conditions prescribed in s. 517.131 may apply to the office for payment to be made to such person from the Securities Guaranty Fund in the~~

~~amount equal to the unsatisfied portion of such person's judgment or $10,000, whichever is less, but only to the extent and amount reflected in the judgment as being actual or compensatory damages, excluding postjudgment interest, costs, and attorney's fees~~.

(3)~~(2)~~ Regardless of the number of claims or claimants involved, payments for claims are ~~shall be~~ limited in the aggregate to $250,000 ~~$100,000~~ against any one ~~dealer, investment adviser, or associated~~ person. If the total claim filed by a receiver on behalf of multiple claimants exceeds ~~claims exceed~~ the aggregate limit of $250,000 ~~$100,000~~, the office must ~~shall~~ prorate the payment to each claimant based upon the ratio that each claimant's individual ~~the person's~~ claim bears to the total claim ~~claims~~ filed.

(4) If at any time the balance in the Securities Guaranty Fund is insufficient to satisfy a valid claim or portion of a valid claim approved by the office, the office must satisfy the unpaid claim or portion of the valid claim as soon as a sufficient amount of money has been deposited into or transferred to the Securities Guaranty Fund. If more than one unsatisfied claim is outstanding, the claims must be paid in the sequence in which the claims were approved by final order of the office, which final order is not subject to an appeal or other pending proceeding.

(5) All payments and disbursements made from the Securities Guaranty Fund must be made by the Chief Financial Officer, or his or her designee, upon authorization by the office. The office shall submit such authorization within 30 days after the approval of an eligible person for payment from the Securities

Guaranty Fund

~~(3) No payment shall be made on any claim against any one dealer, investment adviser, or associated person before the expiration of 2 years from the date any claimant is found by the office to be eligible for recovery pursuant to this section. If during this 2-year period more than one claim is filed against the same dealer, investment adviser, or associated person, or if the office receives notice pursuant to s. 517.131(4) that an action against the same dealer, investment adviser, or associated person is pending, all such claims and notices of pending claims received during this period against the same dealer, investment adviser, or associated person may be handled by the office as provided in this section. Two years after the first claimant against that same dealer, investment adviser, or associated person applies for payment pursuant to this section:~~

~~(a) The office shall determine those persons eligible for payment or for potential payment in the event of a pending action. All such persons may be entitled to receive their pro rata shares of the fund as provided in this section.~~

~~(b) Those persons who meet all the conditions prescribed in s. 517.131 and who have applied for payment pursuant to this section will be entitled to receive their pro rata shares of the total disbursement.~~

~~(c) Those persons who have filed notice with the office of a pending claim pursuant to s. 517.131(4) but who are not yet eligible for payment from the fund will be entitled to receive their pro rata shares of the total disbursement once they have complied with subsection (1). However, in the event that the amounts they are eligible to receive pursuant to subsection (1)~~

~~are less than their pro rata shares as determined under this section, any excess shall be distributed pro rata to those persons entitled to disbursement under this subsection whose pro rata shares of the total disbursement were less than the amounts of their claims~~.

(6)~~(4)~~ Individual claims filed by persons owning the same joint account, or claims arising ~~stemming~~ from any other type of account ~~maintained by a particular licensee~~ on which more than one name appears, must ~~shall~~ be treated as the claims of one eligible claimant with respect to payment from the Securities Guaranty Fund. If a claimant who has obtained a final judgment or final order of restitution that ~~which~~ qualifies for disbursement under s. 517.131 has maintained more than one account with the ~~dealer, investment adviser, or associated~~ person who is the subject of the claims, for purposes of disbursement of the Securities Guaranty Fund, all such accounts, whether joint or individual, must ~~shall~~ be considered as one account and ~~shall~~ entitle such claimant to only one distribution from the fund ~~not to exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1)~~. To the extent that a claimant obtains more than one final judgment or final order of restitution against a person ~~dealer, investment adviser, or one or more associated persons~~ arising out of the same transactions, occurrences, or conduct or out of such ~~the dealer's, investment adviser's, or associated~~ person's handling of the claimant's account, the final ~~such~~ judgments or final orders of restitution must ~~shall~~ be consolidated for purposes of this section and ~~shall~~ entitle the claimant to only one disbursement from the fund ~~not to~~

~~exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1).~~

(7)~~(5)~~ If the final judgment or final order of restitution that gave rise to the claim is overturned in any appeal or in any collateral proceeding, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund all amounts paid from the fund to the claimant on the claim. If the claimant satisfies the final judgment or final order of restitution ~~specified in s. 517.131(3)(a)~~, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund all amounts paid from the fund to the claimant on the claim. Such reimbursement must ~~shall~~ be paid to the Department of Financial Services ~~office~~ within 60 days after the final resolution of the appellate or collateral proceedings or the satisfaction of the final judgment or order of restitution, with the 60-day period commencing on the date the final order or decision is entered in such proceedings.

(8)~~(6)~~ If a claimant receives payments in excess of that which is permitted under this chapter, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund such excess within 60 days after the claimant receives such excess payment or after the payment is determined to be in excess of that permitted by law, whichever is later.

(9) A claimant who knowingly and willfully files or causes to be filed an application under s. 517.131 or documents supporting the application, any of which contain false, incomplete, or misleading information in any material aspect, forfeits all payments from the Securities Guaranty Fund and commits a violation of s. 517.301(1)(c).

(10)~~(7)~~ The Department of Financial Services ~~office~~ may

institute legal proceedings to enforce compliance with this section and with s. 517.131 to recover moneys owed to the Securities Guaranty Fund, and is ~~shall be~~ entitled to recover interest, costs, and attorney ~~attorney's~~ fees in any action brought pursuant to this section in which the department ~~office~~ prevails.

~~(8) If at any time the money in the Securities Guaranty Fund is insufficient to satisfy any valid claim or portion of a valid claim approved by the office, the office shall satisfy such unpaid claim or portion of such valid claim as soon as a sufficient amount of money has been deposited in or transferred to the fund. When there is more than one unsatisfied claim outstanding, such claims shall be paid in the order in which the claims were approved by final order of the office, which order is not subject to an appeal or other pending proceeding.~~

~~(9) Upon receipt by the claimant of the payment from the Securities Guaranty Fund, the claimant shall assign any additional right, title, and interest in the judgment, to the extent of such payment, to the office. If the provisions of s. 517.131(3)(c) apply, the claimant must assign to the office any right, title, and interest in the debt to the extent of any payment by the office from the Securities Guaranty Fund.~~

~~(10) All payments and disbursements made from the Securities Guaranty Fund shall be made by the Chief Financial Officer upon authorization signed by the director of the office, or such agent as she or he may designate.~~

Section 14. Section 517.191, Florida Statutes, is amended to read:

517.191 Enforcement by the Office of Financial Regulation

~~Injunction to restrain violations; civil penalties~~; enforcement by Attorney General.—

(1) When it appears to the office, either upon complaint or otherwise, that a person has engaged or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the office may investigate; and whenever it shall believe from evidence satisfactory to it that any such person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the office may, in addition to any other remedies, bring action in the name and on behalf of the state against such person and any other person concerned in or in any way participating in or about to participate in such practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter to enjoin such person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter. In any such court proceedings, the office may apply for, and on due showing be entitled to have issued, the court's subpoena requiring forthwith the appearance of any defendant and her or his employees, associated persons, or agents and the production of documents, books, and records that may appear necessary for the hearing of such petition, to testify or give evidence concerning the acts or conduct or things complained of in such application for injunction. In such action, the ~~equity~~ courts shall have jurisdiction of the subject matter, and a judgment may be entered awarding such injunction as may be proper.

(2) In addition to all other means provided by law for the

enforcement of any temporary restraining order, temporary injunction, or permanent injunction issued in any such court proceedings, the court shall have the power and jurisdiction, upon application of the office, to impound and to appoint a receiver or administrator for the property, assets, and business of the defendant, including, but not limited to, the books, records, documents, and papers appertaining thereto. Such receiver or administrator, when appointed and qualified, shall have all powers and duties as to custody, collection, administration, winding up, and liquidation of such ~~said~~ property and business as may ~~shall from time to time~~ be conferred upon her or him by the court. In any such action, the court may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of such ~~the said~~ property, assets, and business or, in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing such ~~the said~~ receiver or administrator.

(3) In addition to, or in lieu of, any other remedies provided by this chapter, the office may apply to the court hearing the ~~this~~ matter for an order directing the defendant to make restitution of those sums shown by the office to have been obtained in violation of ~~any of the provisions of~~ this chapter. The office has standing to request such restitution on behalf of victims in cases brought by the office under this chapter, regardless of the appointment of an administrator or receiver under subsection (2) or an injunction under subsection (1). Further, such restitution must ~~shall~~, at the option of the

court, be payable to the administrator or receiver appointed pursuant to this section or directly to the persons whose assets were obtained in violation of this chapter.

(4) In addition to any other remedies provided by this chapter, the office may apply to the court hearing the matter for, and the court has ~~shall have~~ jurisdiction to impose, a civil penalty against any person found to have violated ~~any provision of~~ this chapter, any rule or order adopted by the commission or the office, or any written agreement entered into with the office in an amount not to exceed any of the following:

(a) The greater of $20,000 ~~$10,000~~ for a natural person or $25,000 for a business entity ~~any other person~~, or the gross amount of any pecuniary loss to investors or pecuniary gain to a natural person or business entity ~~such defendant~~ for each such violation, other than a violation of s. 517.301, plus the greater of $50,000 for a natural person or $250,000 for a business entity ~~any other person~~, or the gross amount of any pecuniary loss to investors or pecuniary gain to a natural person or business entity ~~such defendant~~ for each violation of s. 517.301.

(b) Twice the amount of the civil penalty that would otherwise be imposed under this subsection if a specified adult, as defined in s. 517.34(1), is the victim of a violation of this chapter.

All civil penalties collected pursuant to this subsection must ~~shall~~ be deposited into the Anti-Fraud Trust Fund. The office may recover any costs and attorney fees related to its investigation or enforcement of this section. Notwithstanding

any other law, such moneys recovered by the office must be deposited into the Anti-Fraud Trust Fund.

(5) For purposes of any action brought by the office under this section, a control person who controls any person found to have violated this chapter or any rule adopted thereunder is jointly and severally liable with, and to the same extent as, the controlled person in any action brought by the office under this section unless the control person can establish by a preponderance of the evidence that he or she acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

(6) For purposes of any action brought by the office under this section, a person who knowingly or recklessly provides substantial assistance to another person in violation of this chapter or any rule adopted thereunder is deemed to violate this chapter or the rule to the same extent as the person to whom such assistance is provided.

(7) The office may issue and serve upon a person a cease and desist order if the office has reason to believe that the person violates, has violated, or is about to violate this chapter, any commission or office rule or order, or any written agreement entered into with the office.

(8) If the office finds that any conduct described in subsection (7) presents an immediate danger to the public, requiring an immediate final order, the office may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent named in the order and remains effective

for 90 days after issuance. If the office begins nonemergency cease and desist proceedings under subsection (7), the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

(9) The office may impose and collect an administrative fine against any person found to have violated any provision of this chapter, any rule or order adopted by the commission or office, or any written agreement entered into with the office in an amount not to exceed the penalties provided in subsection (4). All fines collected under this subsection must be deposited into the Anti-Fraud Trust Fund.

(10) The office may bar, permanently or for a specific period of time, any person found to have violated this chapter, any rule or order adopted by the commission or office, or any written agreement entered into with the office from submitting an application or notification for a license or registration with the office.

(11) In addition to all other means provided by law for enforcing ~~any of the provisions of~~ this chapter, when the Attorney General, upon complaint or otherwise, has reason to believe that a person has engaged or is engaged in any act or practice constituting a violation of s. 517.275 or~~,~~ s. 517.301, ~~s. 517.311, or s. 517.312,~~ or any rule or order issued under such sections, the Attorney General may investigate and bring an action to enforce these provisions as provided in ss. 517.171, 517.201, and 517.2015 after receiving written approval from the office. Such an action may be brought against such person and any other person in any way participating in such act or practice or engaging in such act or practice or doing any act in

furtherance of such act or practice, to obtain injunctive relief, restitution, civil penalties, and any remedies provided for in this section. The Attorney General may recover any costs and attorney fees related to the Attorney General's investigation or enforcement of this section. Notwithstanding any other provision of law, moneys recovered by the Attorney General for costs, attorney fees, and civil penalties for a violation of s. 517.275 or~~,~~ s. 517.301, ~~s. 517.311, or s. 517.312,~~ or any rule or order issued pursuant to such sections, must ~~shall~~ be deposited in the Legal Affairs Revolving Trust Fund. The Legal Affairs Revolving Trust Fund may be used to investigate and enforce this section.

(12)~~(6)~~ This section does not limit the authority of the office to bring an administrative action against any person that is the subject of a civil action brought pursuant to this section or limit the authority of the office to engage in investigations or enforcement actions with the Attorney General. However, a person may not be subject to both a civil penalty under subsection (4) and an administrative fine under subsection (9) ~~s. 517.221(3)~~ as the result of the same facts.

(13)~~(7)~~ Notwithstanding s. 95.11(4)(f), an enforcement action brought under this section based on a violation of ~~any provision of~~ this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

(14) This chapter does not limit any statutory right of the state to punish a person for a violation of a law.

(15) When not in conflict with the Constitution or laws of the United States, the courts of this state have the same jurisdiction over civil suits instituted in connection with the sale or offer of sale of securities under any laws of the United States as the courts of this state may have with regard to similar cases instituted under the laws of this state.

Section 15. Section 517.211, Florida Statutes, is amended to read:

517.211 Private remedies available in cases of unlawful sale.—

(1) Every sale made in violation of either s. 517.07 or s. 517.12(1), (3), (4), (8), (10), (12), (15), or (17) may be rescinded at the election of the purchaser; however, ~~except~~ a sale made in violation of the provisions of s. 517.1202(3) relating to a renewal of a branch office notification or ~~shall not be subject to this section, and a sale made~~ in violation of the provisions of s. 517.12(12) relating to filing a change of address amendment is ~~shall~~ not ~~be~~ subject to this section. Each person making the sale and every director, officer, partner, or agent of or for the seller, if the director, officer, partner, or agent has personally participated or aided in making the sale, is jointly and severally liable to the purchaser in an action for rescission, if the purchaser still owns the security, or for damages, if the purchaser has sold the security. No purchaser otherwise entitled will have the benefit of this subsection who has refused or failed, within 30 days after ~~of~~ receipt, to accept an offer made in writing by the seller, if the purchaser has not sold the security, to take back the security in question and to refund the full amount paid by the

purchaser or, if the purchaser has sold the security, to pay the purchaser an amount equal to the difference between the amount paid for the security and the amount received by the purchaser on the sale of the security, together, in either case, with interest on the full amount paid for the security by the purchaser at the legal rate, pursuant to s. 55.03, for the period from the date of payment by the purchaser to the date of repayment, less the amount of any income received by the purchaser on the security.

(2) Any person purchasing or selling a security in violation of s. 517.301, and every director, officer, partner, or agent of or for the purchaser or seller, if the director, officer, partner, or agent has personally participated or aided in making the sale or purchase, is jointly and severally liable to the person selling the security to or purchasing the security from such person in an action for rescission, if the plaintiff still owns the security, or for damages, if the plaintiff has sold the security.

(3) For purposes of any action brought under this section, a control person who controls any person found to have violated any provision specified in subsection (1) is jointly and severally liable with, and to the same extent as, such controlled person in any action brought under this section unless the control person can establish by a preponderance of the evidence that he or she acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

(4) In an action for rescission:

(a) A purchaser may recover the consideration paid for the

security or investment, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security or investment upon tender of the security or investment.

(b) A seller may recover the security upon tender of the consideration paid for the security, plus interest at the legal rate from the date of purchase, less the amount of any income received by the defendant on the security.

(5) ~~(4)~~ In an action for damages brought by a purchaser of a security or investment, the plaintiff must ~~shall~~ recover an amount equal to the difference between:

(a) The consideration paid for the security or investment, plus interest thereon at the legal rate from the date of purchase; and

(b) The value of the security or investment at the time it was disposed of by the plaintiff, plus the amount of any income received on the security or investment by the plaintiff.

(6) ~~(5)~~ In an action for damages brought by a seller of a security, the plaintiff shall recover an amount equal to the difference between:

(a) The value of the security at the time of the complaint, plus the amount of any income received by the defendant on the security; and

(b) The consideration received for the security, plus interest at the legal rate from the date of sale.

(7) ~~(6)~~ In any action brought under this section, including an appeal, the court shall award reasonable attorney ~~attorneys'~~ fees to the prevailing party unless the court finds that the award of such fees would be unjust.

(8) This chapter does not limit any statutory or common-law right of a person to bring an action in a court for an act involved in the sale of securities or investments.

(9) The same civil remedies provided by the laws of the United States for the purchasers or sellers of securities in interstate commerce also extend to purchasers or sellers of securities under this chapter.

Section 16. Section 517.221, Florida Statutes, is repealed.

Section 17. Section 517.241, Florida Statutes, is repealed.

Section 18. Section 517.301, Florida Statutes, is amended to read:

517.301 Fraudulent transactions; falsification or concealment of facts.—

(1) It is unlawful and a violation of ~~the provisions of~~ this chapter for a person:

(a) In connection with the rendering of any investment advice or in connection with the offer, sale, or purchase of any investment or security, including any security exempted under ~~the provisions of~~ s. 517.051 and including any security sold in a transaction exempted under ~~the provisions of~~ s. 517.061, s. 517.0611, or s. 517.0612, directly or indirectly:

1. To employ any device, scheme, or artifice to defraud;

2. To obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

3. To engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit

upon a person.

(b) By use of any means, to publish, give publicity to, or circulate any notice, circular, advertisement, newspaper, article, letter, investment service, communication, or broadcast that, although ~~which, though~~ not purporting to offer a security for sale, describes such security for a consideration received or to be received directly or indirectly from an issuer, underwriter, or dealer, or from an agent or employee of an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount of the consideration.

(c) In any matter within the jurisdiction of the office, to knowingly and willfully falsify, conceal, or cover up, by any trick, scheme, or device, a material fact, make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry.

(2) For purposes of ~~ss. 517.311 and 517.312 and~~ this section, the term "investment" means any commitment of money or property principally induced by a representation that an economic benefit may be derived from such commitment, except that the term does not include a commitment of money or property for:

(a) The purchase of a business opportunity, business enterprise, or real property through a person licensed under chapter 475 or registered under former chapter 498; or

(b) The purchase of tangible personal property through a person not engaged in telephone solicitation, electronic mail, text messages, social media, or other electronic means where

~~said property is offered and sold in accordance with the following conditions:~~

~~1.~~ there are no specific representations or guarantees made by the offeror or seller as to the economic benefit to be derived from the purchase.~~;~~

~~2. The tangible property is delivered to the purchaser within 30 days after sale, except that such 30-day period may be extended by the office if market conditions so warrant; and~~

~~3. The seller has offered the purchaser a full refund policy in writing, exercisable by the purchaser within 10 days of the date of delivery of such tangible personal property, except that the amount of such refund may not exceed the bid price in effect at the time the property is returned to the seller. If the applicable sellers' market is closed at the time the property is returned to the seller for a refund, the amount of such refund shall be based on the bid price for such property at the next opening of such market.~~

(3) It is unlawful for a person in issuing or selling a security within this state, including a security exempted under s. 517.051 and including a transaction exempted under s. 517.061, s. 517.0611, or s. 517.0612, to misrepresent that such security or business entity has been guaranteed, sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

(4) It is unlawful for a person registered or required to be registered, or subject to the notice requirements, under this chapter, including such persons and issuers who are subject to s. 517.051, s. 517.061, s. 517.0611, s. 517.0612, or s. 517.081,

to misrepresent that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been approved, by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

(5) It is unlawful and a violation of this chapter for a person in connection with the offer or sale of an investment to obtain money or property by means of:

(a) A misrepresentation that the investment offered or sold is guaranteed, sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States; or

(b) A misrepresentation that such person is sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been approved, by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

(6)(a) Subsection (3) or subsection (4) may not be construed to prohibit a statement that a person or security is registered or has made a notice filing under this chapter if such statement is required by this chapter or rules promulgated thereunder and is true in fact and if the effect of such statement is not a misrepresentation.

(b) A statement that a person is registered made in connection with the offer or sale of a security under this chapter must include the following disclaimer: "Registration does not imply that such person has been sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United

States."

1. If the statement of registration is made in writing, the disclaimer must immediately follow such statement and must be in the same size and style of print as the statement of registration.

2. If the statement of registration is made orally, the disclaimer must be made or broadcast with the same force and effect as the statement of registration.

(7) It is unlawful and a violation of this chapter for a person to directly or indirectly manage, supervise, control, or own, either alone or in association with others, a boiler room in this state which sells or offers for sale a security or investment in violation of subsection (1), subsection (3), subsection (4), subsection (5), or subsection (6).

Section 19. Section 517.311, Florida Statutes, is repealed.

Section 20. Section 517.312, Florida Statutes, is repealed.

Section 21. Subsections (1), (2), and (3) of section 517.072, Florida Statutes, are amended to read:

517.072 Viatical settlement investments.—

(1) The exemptions provided for by s. 517.051(6) and (11) ~~ss. 517.051(6), (8), and (10)~~ do not apply to a viatical settlement investment.

(2) The offering of a viatical settlement investment is not an exempt transaction under s. 517.061(10), (12), (13), and (18) ~~s. 517.061(2), (3), (8), (11), and (18)~~, regardless of whether the offering otherwise complies with the conditions of that section, unless such offering is to a qualified institutional buyer.

(3) The registration provisions of ss. 517.07 and 517.12 do

not apply to any of the following transactions in viatical settlement investments; however, such transactions in viatical settlement investments are subject to s. 517.301 ~~the provisions of ss. 517.301, 517.311, and 517.312~~:

(a) The transfer or assignment of an interest in a previously viaticated policy from a natural person who transfers or assigns no more than one such interest in a single calendar year.

(b) The provision of stop-loss coverage to a viatical settlement provider, financing entity, or related provider trust, as those terms are defined in s. 626.9911, by an authorized or eligible insurer.

(c) The transfer or assignment of a viaticated policy from a licensed viatical settlement provider to another licensed viatical settlement provider, a related provider trust, a financing entity, or a special purpose entity, as those terms are defined in s. 626.9911, or to a contingency insurer, provided that such transfer or assignment is not the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading ~~any provision of~~ this chapter.

(d) The transfer or assignment of a viaticated policy to a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of 1940, as amended, pension or profit-sharing trust, qualified institutional buyer, or an accredited investor, provided such transfer or assignment is not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter.

(e) The transfer or assignment of a viaticated policy by a

conservator of a viatical settlement provider appointed by a court of competent jurisdiction who transfers or assigns ownership of viaticated policies pursuant to that court's order.

Section 22. Subsection (2), paragraph (a) of subsection (9), paragraph (j) of subsection (16), subsection (20), and paragraphs (b) and (c) of subsection (21) of section 517.12, Florida Statutes, are amended to read:

517.12 Registration of dealers, associated persons, intermediaries, and investment advisers.—

(2) The registration requirements of this section do not apply in a transaction exempted by s. 517.061(1)-(6), (8), (9), (12), and (13) ~~s. 517.061(1)-(10), (12), (14), and (15)~~.

(9)(a) An applicant for registration shall pay an assessment fee of $200, in the case of a dealer or investment adviser, or $50, in the case of an associated person. An associated person may be assessed an additional fee to cover the cost for the fingerprints to be processed by the office. Such fee shall be determined by rule of the commission. Such fees become the revenue of the state, except for those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~ until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that registration is withdrawn or not granted.

(16)

(j) All fees collected under this subsection become the revenue of the state, except those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~, until the Securities Guaranty Fund has satisfied the statutory limits. Such fees are not returnable if a notice-filing is withdrawn.

(20) The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, with regard to ~~for~~ the sale of a security as defined in s. 517.021(25)(g) ~~s. 517.021(23)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection ~~shall~~ constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

(21)

(b) Prior to the completion of any securities transaction described in s. 517.061(7) ~~s. 517.061(22)~~, a merger and acquisition broker must receive written assurances from the control person with the largest percentage of ownership for both the buyer and seller engaged in the transaction that:

1. After the transaction is completed, any person who acquires securities or assets of the eligible privately held company, acting alone or in concert, will be a control person of the eligible privately held company or will be a control person for the business conducted with the assets of the eligible privately held company; and

2. If any person is offered securities in exchange for securities or assets of the eligible privately held company, such person will, before becoming legally bound to complete the transaction, receive or be given reasonable access to the most recent year-end financial statements of the issuer of the securities offered in exchange. The most recent year-end financial statements shall be customarily prepared by the

issuer's management in the normal course of operations. If the financial statements of the issuer are audited, reviewed, or compiled, the most recent year-end financial statements must include any related statement by the independent certified public accountant; a balance sheet dated not more than 120 days before the date of the exchange offer; and information pertaining to the management, business, results of operations for the period covered by the foregoing financial statements, and material loss contingencies of the issuer.

(c) A merger and acquisition broker engaged in a transaction exempt under s. 517.061(7) ~~s. 517.061(22)~~ is exempt from registration under this section unless the merger and acquisition broker:

1. Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction;

2. Engages on behalf of an issuer in a public offering of any class of securities which is registered, or which is required to be registered, with the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., or with the office under s. 517.07; or for which the issuer files, or is required to file, periodic information, documents, and reports under s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(d);

3. Engages on behalf of any party in a transaction involving a public shell company;

4. Is subject to a suspension or revocation of registration under s. 15(b)(4) of the Securities Exchange Act of 1934, 15

U.S.C. s. 78o(b)(4);

5. Is subject to a statutory disqualification described in s. 3(a)(39) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78c(a)(39);

6. Is subject to a disqualification under the United States Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d); or

7. Is subject to a final order described in s. 15(b)(4)(H) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(b)(4)(H).

Section 23. Subsection (6) of section 517.1201, Florida Statutes, is amended to read:

517.1201 Notice filing requirements for federal covered advisers.—

(6) All fees collected under this section become the revenue of the state, except for those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~ until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that a notice filing is withdrawn.

Section 24. Subsections (4) and (8) of section 517.1202, Florida Statutes, are amended to read:

517.1202 Notice-filing requirements for branch offices.—

(4) A branch office notice-filing under this section shall be summarily suspended by the office if the notice-filer fails to provide to the office, within 30 days after a written request by the office, all of the information required by this section and the rules adopted under this section. The summary suspension shall be in effect for the branch office until such time as the notice-filer submits the requested information to the office,

pays a fine as prescribed by s. 517.191(9) ~~s. 517.221(3)~~, and a final order is entered. At such time, the suspension shall be lifted. For purposes of s. 120.60(6), failure to provide all information required by this section and the underlying rules constitutes immediate and serious danger to the public health, safety, and welfare. If the notice-filer fails to provide all of the requested information within a period of 90 days, the notice-filing shall be revoked by the office.

(8) All fees collected under this section become the revenue of the state, except for those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~ until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that a branch office notice-filing is withdrawn.

Section 25. Subsection (2) of section 517.302, Florida Statutes, is amended to read:

517.302 Criminal penalties; alternative fine; Anti-Fraud Trust Fund; time limitation for criminal prosecution.—

(2) Any person who violates s. 517.301 ~~the provisions of s. 517.312(1)~~ by obtaining money or property of an aggregate value exceeding $50,000 from five or more persons is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 26. This act shall take effect October 1, 2024.

2023 AGENCY LEGISLATIVE BILL ANALYSIS
Florida Office of Financial Regulation

BILL INFORMATION	
BILL NUMBER:	SB 532
BILL TITLE:	Securities
BILL SPONSOR:	Senator Brodeur
EFFECTIVE DATE:	October 1, 2024

COMMITTEES OF REFERENCE
1)
2)
3)
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	HB 311
SPONSOR:	Representative Barnaby

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	December 1, 2023
LEAD AGENCY ANALYST:	Ryann White, Assistant General Counsel (850) 410-9803
ADDITIONAL ANALYST(S):	Alisa Goldberg, Director, Division of Securities (850) 410-9785
LEGAL ANALYST:	Anthony Cammarata, General Counsel (850) 410-9601
FISCAL ANALYST:	B. Buckley Vernon, Director of Budget, Research, and Analytics (850) 410-9673

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill amends ch. 517, F.S. to facilitate capital raising and expand investment opportunities in Florida. The amendments address various aspects of the exempt offering framework by clarifying, improving the usability of, and expanding existing exemptions, and incorporating new exemptions. New exemptions include, the Florida Invest local

Exemption, an offering designed for small, local securities offerings of no more than $500,000; an accredited investor exemption for securities offerings to accredited investors, and a foreign issuer exemption. The bill also significantly overhauls Florida's intrastate crowdfunding offering exemption to remove its most onerous requirements, to increase the offering limit to $5 million, and to rename it Florida's Limited Offering exemption.

Additionally, the bill adopts a standalone integration provision which provides a general principle of integration and non-exclusive safe harbors from integration to provide clarity to issuers. The bill adds new provisions which allow "demo days" and "testing of the waters" which assist issuers in determining whether there is any interest in a contemplated securities offering.

The bill enhances the Office's enforcement ability by allowing the Office to hold aiders and abettors and control persons liable for certain activity and to collect attorney fees in certain enforcement actions.

The bill also overhauls the Securities Guaranty Fund to assist victims of certain securities law violations.

2. SUBSTANTIVE BILL ANALYSIS

A. PRESENT SITUATION:

The Division of Securities (Division) within the Office of Financial Regulation (OFR or Office) protects the investing public from unlawful securities activities through regulating the sale of securities and investment advice in, to, or from Florida by firms (securities dealers, issuer dealers, and investment advisers), branch offices, and individuals affiliated with these firms.

As of September 30, 2023, the Division had total registrants in the following areas:

- Dealers: 2,427
- Investment Advisers: 8,359
- Branches: 11,702
- Associated Persons: 378,435

A person is prohibited from selling or offering a security within this state unless the security is exempt, is sold in an exempt transaction, is a federal covered security, or is registered pursuant to this chapter. As of September 2023, the Office has five registered offerings and zero crowdfunding offerings.

Securities Offerings

A. Exempt Securities

Section 517.051 – Exempt Securities

Subsection (1) exempts securities issued or guaranteed by the government. The exemption prohibits a person from directly or indirectly offering or selling securities, other than general obligation bonds, if the issuer or guarantor is in default or has been in default any time after December 31, 1975, as to principal or interest:

- With respect to an obligation issued by the issuer or successor of the issuer; or
- With respect to an obligation guaranteed by the guarantor or successor of the guarantor, except by an offering circular containing a full and fair disclosure as prescribed by rule of the Commission.

Subsection (3) exempts securities guaranteed by the following financial institutions:

- A national bank, a federally chartered savings and loan association, or a federally chartered savings bank, or the initial subscription for equity securities in such national bank, federally chartered savings and loan association, or federally chartered savings bank;
- Any federal land bank, joint-stock land bank, or national farm loan association under the provisions of the Federal Farm Loan Act of July 17, 1916;
- An international bank of which the United States is a member; or
- A corporation created and acting as an instrumentality of the government of the United States.

Subsection (4) exempts a security issued or guaranteed, as to principal, interest, or dividend, by a corporation owning or operating a railroad or any other public service utility, provided that such corporation is subject to regulation or supervision whether as to its rates and charges or as to the issue of its own securities by certain government entities.

Subsection (8) exempts certain kinds of commercial paper having a unit amount of $25,000 or more which arises out of a current transaction, or the proceeds of which have been or are to be used for current transactions, and which has a maturity period at the time of issuance not exceeding 9 months exclusive of days of grace, or any renewal thereof which has a maturity period likewise limited.

Subsection (9) exempts securities issued by certain corporations organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes; provided they are offered and sold by an offering circular containing full and fair disclosure, as prescribed by the rules of the Commission, of all material information, and financial statements of the issuer.

Subsection (10) exempts an insurance or endowment policy or annuity contract or optional annuity contract or self-insurance agreement issued by a corporation, insurance company, reciprocal insurer, or risk retention group subject to the supervision of the certain government entities.

B. Exempt Transactions

Section 517.061 – Exempt transactions

The registration provisions of s. 517.07, F.S., do not apply to any of the following transactions; however, such transactions are subject to the provisions of ss. 517.301, 517.311, and 517.312, F.S.:

Subsection (1) exempts securities issued in exchange for one or more outstanding securities, claims, or property interests at any judicial, executor's, administrator's, guardian's, or conservator's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy, or any transaction incident to a judicially approved reorganization.

Subsection (2) exempts a transaction by or for the account of a pledge holder or mortgagee selling or offering for sale or delivery in the ordinary course of business and not for the purposes of avoiding the provisions of this chapter, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

Subsection (3) exempts certain isolated sales or offers for sale of securities when made by or on behalf of a vendor not the issuer or underwriter of the securities, who, being the bona fide owner of such securities, disposes of her or his own property for her or his own account.

Subsection (4) exempts the distribution by a corporation, trust, or partnership, actively engaged in the business authorized by its charter or other organizational articles or agreement, of securities to its stockholders or other equity security holders, partners, or beneficiaries as a stock dividend or other distribution out of earnings or surplus.

Subsection (5) exempts the issuance of securities to equity security holders or other creditors of a corporation, trust, or partnership in the process of a reorganization of such corporation or entity either in exchange for the securities of such equity security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such equity security holders or creditors.

Subsection (6) exempts the distribution of the securities of an issuer exclusively among its own security holders, when no commission or other remuneration is paid or given directly or indirectly in connection with the sale or distribution of such additional securities.

Subsection (7) exempts the offer or sale of securities to certain financial institutions, whether acting in its individual or fiduciary capacity.

Subsection (8) exempts the sale of securities from one corporation to another corporation provided that:

- The sale price of the securities is $50,000 or more; and
- The buyer and seller corporations each have assets of $500,000 or more.

Subsection (9) exempts the offer or sale of securities from one corporation to another corporation, or to security holders thereof, pursuant to a vote or consent of such security holders as may be provided by the articles of incorporation and the applicable corporate statutes in connection with mergers, share exchanges, consolidations, or sale of corporate assets.

Subsection (10) exempts the issuance of notes or bonds in connection with the acquisition of real property or renewals thereof, if such notes or bonds are issued to the sellers of, and are secured by all or part of, the real property so acquired.

Subsection (11) exempts the offer or sale, by or on behalf of an issuer, of its own securities, which offer or sale is part of an offering made in accordance with all of the following conditions:

- There are no more than 35 purchasers, or the issuer reasonably believes that there are no more than 35 purchasers, in this state during any consecutive 12-month period.
- There is no general solicitation or general advertising in this state.
- Before the sale, each purchaser or the purchaser's representative, if any, is provided with, or given reasonable access to, full and fair disclosure of all material information.
- No person defined as a "dealer" in this chapter is paid a commission or compensation for the sale of the issuer's securities unless such person is registered as a dealer under this chapter.
- When sales are made to five or more persons in this state, any sale in this state is voidable by the purchaser either within 3 days after the first tender of consideration is made by such purchaser to the issuer, an agent of the issuer, or an escrow agent or within 3 days after the availability of that privilege is communicated to such purchaser, whichever occurs later.

The following purchasers are excluded from the calculation of the number of purchasers:

- Any relative or spouse, or relative of such spouse, of a purchaser who has the same principal residence as such purchaser.
- Any trust or estate in which a purchaser, certain persons related to such purchaser, and any corporation collectively have more than 50 percent of the beneficial interest (excluding contingent interest).
- Any corporation or other organization of which a purchaser, any of the persons related to such purchaser, and any trust or estate collectively are beneficial owners of more than 50 percent of the equity securities or equity interest.
- Any purchaser who makes a bona fide investment of $100,000 or more, provided such purchaser or the purchaser's representative receives, or has access to, the information required to be disclosed under this subsection.
- Any accredited investor.

The subsection provides an integration provision for purposes of determining which offers and sales of securities constitute part of the same offering under this subsection. Offers or sales of securities made pursuant to, and in compliance with, any other subsection of this section or any subsection of s. 517.051, F.S. are not part of an offering pursuant to this subsection, regardless of when such offers and sales are made.

Subsection (12) exempts the sale of securities by certain bank or trust companies at a profit to such bank or trust company of not more than 2 percent of the total sale price of such securities; provided that there is no solicitation of this business by such bank or trust company where such bank or trust company acts as agent in the purchase or sale of such securities.

Subsection (13) exempts certain unsolicited purchase or sale of securities on order of, and as the agent for, another by a dealer registered under this chapter.

Subsection (14) exempts the offer or sale of shares of a corporation which represent ownership, or entitle the holders of the shares to possession and occupancy, of specific apartment units in property owned by such corporation and organized and operated on a cooperative basis, solely for residential purposes.

Subsection (15) exempts the offer or sale of securities under a bona fide employer-sponsored stock option, stock purchase, pension, profit-sharing, savings, or other benefit plan when offered only to employees of the sponsoring organization or to employees of its controlled subsidiaries.

Subsection (16) exempts the sale by or through a registered dealer of any securities option if at the time of the sale of the option:

- The performance of the terms of the option is guaranteed by any registered dealer, which guaranty and dealer are in compliance with such requirements or rules as may be approved or adopted by the Commission; or
- Such options transactions are cleared by the Options Clearing Corporation or any other clearinghouse recognized by the Office; and
- The option is not sold by or for the benefit of the issuer of the underlying security; and
- The underlying security may be purchased or sold on a recognized securities exchange or is quoted on the National Association of Securities Dealers Automated Quotation System; and
- Such sale is not directly or indirectly for the purpose of providing or furthering any scheme to violate or evade any provisions of this chapter.

Subsection (17) exempts the offer or sale of securities, as agent or principal, by a dealer registered pursuant to s. 517.12, F.S., when such securities are offered or sold at a price reasonably related to the current market price of such securities, provided such securities are:

- Securities of an issuer for which reports are required to be filed by s. 13 or s. 15(d) of the Securities Exchange Act of 1934;
- Securities of a company registered under the Investment Company Act of 1940;
- Securities of an insurance company;
- Securities, other than any security that is a federal covered security, which appear in any list of securities dealt in on any registered stock exchange, and which securities have been listed or approved for listing upon notice of issuance by such exchange, and also all securities senior to any securities so listed or approved for listing upon notice of issuance, or represented by subscription rights which have been so listed or approved for listing upon notice of issuance, or evidences of indebtedness guaranteed by companies any stock of which is so listed or approved for listing upon notice of issuance, such securities to be exempt only so long as such listings or approvals remain in effect. The exemption provided for herein does not apply when the securities are suspended from listing approval for listing or trading.
- The exemption provided in this subsection does not apply if the sale is made for the direct or indirect benefit of an issuer or controlling persons of such issuer or if such securities constitute the whole or part of an unsold allotment to, or subscription or participation by, a dealer as an underwriter of such securities.
- This exemption shall not be available for any securities which have been denied registration pursuant to s. 517.111, F.S. Additionally, the Office may deny this exemption with reference to any particular security, other than a federal covered security, by order published in such manner as the Office finds proper.

Subsection (18) exempts the offer or sale of any security effected by or through a person in compliance with s. 517.12(16), F.S.

Subsection (19) exempts other transactions defined by Commission rule as transactions exempted from the registration provisions of s. 517.07, F.S.

Subsection (20) exempts any nonissuer transaction by a registered associated person of a registered dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days; provided, at the time of the transaction:

- The issuer of the security is actually engaged in business and is not in the organization stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, any unidentified person;
- The security is sold at a price reasonably related to the current market price of the security;
- The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security;
- A nationally recognized securities manual designated by rule of the Commission or order of the Office or a document filed with the Securities Exchange Commission (“SEC”) that is publicly available through the SEC’s electronic data gathering and retrieval system contains certain specified information; and
- The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934 or designated for trading on the National Association of Securities Dealers Automated Quotation System; or
- The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940; or
- The issuer of the security has been engaged in continuous business, including predecessors, for at least 3 years; or
- The issuer of the security has total assets of at least $2 million based on an audited balance sheet as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet.

Subsection (21) exempts the offer or sale of a security by an issuer conducted in accordance with s. 517.0611, F.S.

Subsection (22) exempts the offer or sale of securities, solely in connection with the transfer of ownership of an eligible privately held company, through a merger and acquisition broker in accordance with s. 517.12(21), F.S.

S. 517.0611 – Intrastate Crowdfunding

Subsection (1) cites this section as the “Florida Intrastate Crowdfunding Exemption.”

Subsection (2) specifies that an offer or sale of a security conducted in accordance with this section is an exempt transaction under s. 517.061, F.S. The exemption may not be used in conjunction with any other exemption under ss. 517.051 or 517.061, F.S.

Subsection (3) requires that the offer or sale of securities under this section be conducted in accordance with the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933 and SEC Rule 147.

Subsection (4) requires an issuer to:

- Be a for-profit business entity formed under the laws of the state, be registered with the Secretary of State, maintain its principal place of business in the state, and derive its revenues primarily from operations in the state.
- Conduct transactions for the offering through a dealer or intermediary registered with the office.
- Not be, either before or as a result of the offering, an investment company or subject to the reporting requirements of s. 13 or s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d).
- Not be a company with an undefined business operation, a company that lacks a business plan, a company that lacks a stated investment goal for the funds being raised, or a company that plans to engage in a merger or acquisition with an unspecified business entity.
- Not be subject to a disqualification established by the Commission or Office or a disqualification described in s. 517.1611, F.S., or SEC Rule 506(d). Each director, officer, person occupying a similar status or performing a similar function, or person holding more than 20 percent of the shares of the issuer, is subject to this requirement.
- Execute an escrow agreement with a federally insured financial institution authorized to do business in the state for the deposit of investor funds, and ensure that all offering proceeds are provided to the issuer only when the aggregate capital raised from all investors is equal to or greater than the target offering amount.
- Allow investors to cancel a commitment to invest within 3 business days before the offering deadline, as stated in the disclosure statement, and issue refunds to all investors if the target offering amount is not reached by the offering deadline.

Subsection (5) requires an issuer to file a notice of the offering with the Office together with a nonrefundable filing fee of $200. The filing fee shall be deposited into the Regulatory Trust Fund of the office. The notice and offering expire 12 months after filing the notice with the Office and are not eligible for renewal. The notice must:

- Be filed with the Office at least 10 days before the issuer commences an offering of securities or the offering is displayed on a website of an intermediary.
- Indicate that the issuer is conducting an offering in reliance upon the exemption provided by this section.
- Contain the name and contact information of the issuer.
- Identify any predecessors, owners, officers, directors, and control persons or any person occupying a similar status or performing a similar function of the issuer, including that person's title, his or her status as a partner, trustee, sole proprietor or similar role, and his or her ownership percentage.
- Identify the federally insured financial institution, authorized to do business in the state, in which investor funds will be deposited, in accordance with the escrow agreement.
- Require an attestation under oath that the issuer, its predecessors, affiliated issuers, directors, officers, and control persons, or any other person occupying a similar status or performing a similar function, are not currently and have not been within the past 10 years the subject of regulatory or criminal actions involving fraud or deceit.
- Include documentation verifying that the issuer is organized under the laws of the state and authorized to do business in the state.
- Include the intermediary's website address where the issuer's securities will be offered.
- Include the target offering amount.

Subsection (6) requires an issuer to amend the notice form within 30 days after any information contained in the notice becomes inaccurate for any reason. The Commission may require, by rule, an issuer who has filed a notice under this section to file amendments with the Office.

Subsection (7) requires an issuer to provide investors and the dealer or intermediary, along with a copy to the Office at the time that the notice is filed, and make available to potential investors through the dealer or intermediary, a disclosure statement containing material information about the issuer and the offering, including:

- The name, legal status, physical address, and website address of the issuer.
- The names of the directors, officers, and any person occupying a similar status or performing a similar function, and the name of each person holding more than 20 percent of the shares of the issuer.
- A description of the business of the issuer and the anticipated business plan of the issuer.

- A description of the stated purpose and intended use of the proceeds of the offering.
- The target offering amount, the deadline to reach the target offering amount, and regular updates regarding the progress of the issuer in meeting the target offering amount.
- The price to the public of the securities or the method for determining the price. However, before the sale, each investor must receive in writing the final price and all required disclosures and have an opportunity to rescind the commitment to purchase the securities.
- A description of the ownership and capital structure of the issuer, including:
    - Terms of the securities being offered and each class of security of the issuer.
    - A description of how the exercise of the rights held by the principal shareholders of the issuer could negatively impact the purchasers of the securities being offered.
    - The name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer.
    - How the securities being offered are being valued, and examples of methods of how such securities may be valued by the issuer in the future.
    - The risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate action, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties.
- A description of the financial condition of the issuer.
    - For offerings that within the preceding 12-month period, have target offering amounts of $100,000 or less, the description must include the most recent income tax return filed by the issuer, if any, and a financial statement that must be certified by the principal executive officer of the issuer as true and complete in all material respects.
    - For offerings that within the preceding 12-month period, have target offering amounts of $100,001 - $500,000, the description must include financial statements prepared in accordance with generally accepted accounting principles and reviewed by a certified public accountant who is independent of the issuer, using professional standards and procedures for such review or standards and procedures established by the office, by rule, for such purpose.
    - For offerings that within the preceding 12-month period, have target offering amounts of more than $500,000, the description must include audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant who is independent of the issuer, and other requirements as the Commission may establish by rule.
- The following statement in boldface, conspicuous type on the front page of the disclosure statement:

    These securities are offered under, and will be sold in reliance upon, an exemption from the registration requirements of federal and Florida securities laws. Consequently, neither the Federal Government nor the State of Florida has reviewed the accuracy or completeness of any offering materials. In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved. These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as specifically authorized by applicable federal and state securities laws. Investing in these securities involves a speculative risk, and investors should be able to bear the loss of their entire investment.

Subsection (8) requires an issuer to provide the Office a copy of the escrow agreement with a financial institution authorized to conduct business in this state. All investor funds must be deposited in the escrow account. The escrow agreement must require that all offering proceeds be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan, and that all investors will receive a full return of their investment commitment if that target offering amount is not raised by the date stated in the disclosure statement.

Subsection (9) limits the offering to $1 million. Offers or sales to a person owning 20 percent or more of the outstanding shares of any class or classes of securities or to an officer, director, partner, or trustee, or a person occupying a similar status, do not count toward this limitation.

Subsection (10) specifies that sales of securities to non-accredited investors in a 12-month period may not exceed: The greater of $2,000 or 5 percent of the annual income or net worth of such investor, if the annual income or the net worth of the investor is less than $100,000 or 10 percent of the annual income or net worth of such investor, not to exceed a maximum aggregate amount sold of $100,000, if either the annual income or net worth of the investor is equal to or exceeds $100,000.

Subsection (11) requires the issuer to file with the Office and provide to investors free of charge an annual report of the results of operations and financial statements of the issuer within 45 days after the end of its fiscal year, until no securities under this offering are outstanding. The annual reports must meet specified requirements.

Subsection (12) authorizes the Office to summarily suspend a notice filing if the payment for the filing is dishonored by the financial institution upon which the funds are drawn or if the issuer made a material false statement in the issuer's notice-filing. A material false statement made in the issuer's notice-filing results in a final order by the Office revoking the notice-filing, issuing a fine and permanent bar to the issuer and all owners, officers, directors, and control persons, or any person occupying a similar status or performing a similar function of the issuer.

Subsection (13) requires an intermediary to:

- Take measures, as established by Commission rule, to reduce the risk of fraud with respect to transactions, including verifying that the issuer is in compliance with the requirements of this section and, if necessary, denying an issuer access to its platform if the intermediary believes it is unable to adequately assess the risk of fraud of the issuer or its potential offering.
- Provide basic information on its website regarding the high risk of investment in and limitation on the resale of exempt securities and the potential for loss of an entire investment. The basic information must include:
    - A description of the escrow agreement and the conditions for release of funds to the issuer.
    - A description of whether financial information provided by the issuer has been audited by an independent certified public accountant.
- Obtain a zip code or residence address from each potential investor to confirm that the potential investor is a resident of the state.
- Obtain and verify a valid Florida driver license number or Florida identification card number from each investor before purchase of a security. The Commission may adopt rules authorizing additional forms of identification and prescribing the process for verifying any identification presented.
- Obtain an affidavit from each investor stating that the investment being made by the investor is consistent with the income requirements.
- Direct the release of investor funds in escrow.
- Direct investors to transmit funds directly to the financial institution designated in the escrow agreement to hold the funds for the benefit of the investor.
- Provide a monthly update for each offering on the intermediary's website and must display the date and amount of each sale of securities, and each cancellation of commitment to invest, in the previous calendar month.
- Require each investor to certify in writing that the investor understands the risks of investing, the terms of the offering, and the limitations on resale.
- Require each investor to answer questions demonstrating an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers, and an understanding of the risk of illiquidity.
- Take reasonable steps to protect personal information collected from investors.
- Prohibit its directors and officers from having any financial interest in the issuer using its services.
- Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; the anti-money laundering requirements applicable to registered brokers; and privacy requirements.

Subsection (14) prohibits an intermediary, not registered as a dealer under s. 517.12(5), F.S., from:

- Offering investment advice or recommendations. A refusal by an intermediary to post an offering that it deems not credible or that represents a potential for fraud may not be construed as an offer of investment advice or recommendation.
- Soliciting purchases, sales, or offers to buy securities offered or displayed on its website.
- Compensating employees, agents, or other persons for the solicitation of, or based on the sale of, securities offered or displayed on its website.
- Holding, managing, possessing, or otherwise handling investor funds or securities.
- Compensating promoters, finders, or lead generators for providing the intermediary with the personal identifying information of any potential investor.
- Engaging in any other activities set forth by Commission rule.

Subsection (15) requires all funds received from investors to be directed to the financial institution designated in the escrow agreement to hold the funds and must be used in accordance with representations made to investors by the intermediary. If an investor cancels a commitment to invest, the intermediary must direct the financial institution designated to hold the funds to promptly refund the funds of the investor.

C. Registered Offerings

Section 517.081 – Registration procedure

Subsection (1) requires all securities to be registered before being sold in this state in the manner provided by this section if the securities are not entitled to registration by notification.

Subsection (2) requires the Office to receive and act upon applications to have securities registered. The Commission may prescribe application forms. Applications must be signed by the applicant, sworn to by any person having knowledge of the facts, and filed with the Office. The Commission may establish, by rule, procedures for depositing fees and filing documents by electronic means. An application may be made either by the issuer of the securities for which registration is applied or by any registered dealer desiring to sell the same within the state.

Subsection (3) authorizes the Office to request the following information from the applicant concerning the issuer and such other relevant information as the Office may in its judgment deem necessary to enable it to ascertain whether such securities shall be registered:

- The names and addresses of:
  - All the directors, trustees, and officers, if the issuer is a corporation, association, or trust.
  - All the managers or managing members, if the issuer is a limited liability company.
  - All the partners, if the issuer is a partnership.
  - The issuer, if the issuer is a sole proprietorship or natural person.
- The location of the issuer's principal business office and of its principal office in this state, if any.
- The general character of the business actually to be transacted by the issuer and the purposes of the proposed issue.
- A statement of the capitalization of the issuer.
- A balance sheet showing the amount and general character of its assets and liabilities on a day not more than 90 days prior to the date of filing such balance sheet or such longer period of time, not exceeding 6 months, as the Office may permit at the written request of the issuer on a showing of good cause therefor.
- A detailed statement of the plan upon which the issuer proposes to transact business.
- A specimen copy of the securities certificate, if applicable, and a copy of any circular, prospectus, advertisement, or other description of such securities.
- The Commission must adopt a form for a simplified offering circular to register securities that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended. The following issuers shall not be eligible to submit a simplified offering circular adopted pursuant to this subparagraph:
  - An issuer seeking to register securities for resale by persons other than the issuer.
  - An issuer that is subject to any of the disqualifications described in 17 C.F.R. s. 230.262, adopted pursuant to the Securities Act of 1933, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111, F.S. For purposes of this subparagraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or equity owner who owns at least 10 percent of the ownership interests of the issuer, promoter, or selling agent of the securities to be offered or any officer, director, partner, or manager or managing member of such selling agent.
  - An issuer that is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified company or companies.
  - An issuer of offerings in which the specific business or properties cannot be described.
  - Any issuer the Office determines is ineligible because the form does not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.
  - Any issuer that has failed to provide the Office the reports required for a previous offering registered pursuant to this subparagraph.

As a condition precedent to qualifying for use of the simplified offering circular, an issuer shall agree to provide the Office with an annual financial report containing a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year, prepared in accordance with United States generally accepted accounting principles and accompanied by an independent accountant's report. If the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited. Annual financial reports must be filed with the Office within 90 days after the close of the issuer's fiscal year for each of the first 5 years following the effective date of the registration.

- A statement of the amount of the issuer's income, expenses, and fixed charges during the last fiscal year or, if in actual business less than 1 year, then for such time as the issuer has been in actual business.

- A statement of the issuer's cash sources and application during the last fiscal year or, if in actual business less than 1 year, then for such time as the issuer has been in actual business.
- A statement showing the maximum price at which such security is proposed to be sold, together with the maximum amount of commission, including expenses, or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities.
- A copy of the opinion or opinions of counsel concerning the legality of the issue or other matters which the Office may determine to be relevant to the issue.
- A detailed statement showing the items of cash, property, services, patents, good will, and any other consideration in payment for which such securities have been or are to be issued.
- The amount of securities to be set aside and disposed of and a statement of all securities issued from time to time for promotional purposes.
- If the issuer is a corporation, there shall be filed with the application a copy of its articles of incorporation with all amendments and of its existing bylaws, if not already on file in the office. If the issuer is a limited liability company, there shall be filed with the application a copy of the articles of organization with all the amendments and a copy of the company's operating agreement as may be amended, if not already on file with the office. If the issuer is a trustee, there shall be filed with the application a copy of all instruments by which the trust is created or declared and in which it is accepted and acknowledged. If the issuer is a partnership, unincorporated association, joint-stock company, or any other form of organization whatsoever, there shall be filed with the application a copy of its articles of partnership or association and all other papers pertaining to its organization, if not already on file in the office.

Subsection (4) requires that all of the statements, exhibits, and documents of every kind required under this section, except properly certified public documents, to be verified by the oath of the applicant or of the issuer in such manner and form as may be required by the Commission.

Subsection (5) authorizes the Commission to by rule fix the maximum discounts, commissions, expenses, remuneration, and other compensation to be paid in cash or otherwise, not to exceed 20 percent, directly or indirectly, for or in connection with the sale or offering for sale of such securities in this state.

Subsection (6) requires an issuer filing an application under this section to, at the time of filing, pay a nonreturnable fee.

Subsection (7) requires the Office to record the registration of a security in the register of securities if it finds that the sale of such security would not be fraudulent and would not work or tend to work a fraud upon the purchaser, that the terms of the sale of such securities would be fair, just, and equitable, and that the enterprise or business of the issuer is not based upon unsound business principles. A security so registered may be sold by any registered dealer, subject, however, to the further order of the Office.

In order to determine if an offering is fair, just, and equitable, the Commission may by rule establish requirements and standards for the filing, content, and circulation of any preliminary, final, or amended prospectus and other sales literature and may, by rule, establish merit qualification criteria relating to the issuance of equity securities, debt securities, insurance company securities, real estate investment trusts, and other traditional and nontraditional investments, including, but not limited to, oil and gas investments.

The criteria may include such elements as the promoter's equity investment ratio, the financial condition of the issuer, the voting rights of shareholders, the grant of options or warrants to underwriters and others, loans and other affiliated transactions, the use or refund of proceeds of the offering, and such other relevant criteria as the Office in its judgment may deem necessary to such determination.

Subsection (8) requires the Office to deem an application to register securities abandoned if the issuer or any person acting on behalf of the issuer fails to timely complete an application as specified by Commission rule.

Securities Guaranty Fund

Section 517.131 – Securities Guaranty Fund

Subsection (1) requires the Chief Financial Officer to establish a Securities Guaranty Fund. An amount not exceeding 20 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10), F.S., for dealers and investment advisers or s. 517.1201, F.S., for federal covered advisers and an amount not exceeding 10 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10), F.S., for associated persons shall be part of the regular license fee and shall be transferred to or deposited in the Securities Guaranty Fund.

If the fund at any time exceeds $1.5 million, transfer of assessment fees to this fund shall be discontinued at the end of that license year, and transfer of such assessment fees shall not be resumed unless the fund is reduced below $1 million by disbursement made in accordance with s. 517.141, F.S.

Subsection (2) requires that the Securities Guaranty Fund be disbursed as provided in s. 517.141, F.S., to a person who is adjudged by a court of competent jurisdiction to have suffered monetary damages as a result of any of the following acts committed by a dealer, investment adviser, or associated person who was licensed under this chapter at the time the act was committed:

- A violation of s. 517.07, F.S.
- A violation of s. 517.301, F.S.
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Subsection (3) states that any person is eligible to seek recovery from the Securities Guaranty Fund if:

- Such person has received final judgment in a court of competent jurisdiction in any action wherein the cause of action was based on a violation of those sections referred to in subsection (2).
- Such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and by her or his search the person has discovered no property or assets; or she or he has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment, but the amount thereby realized was insufficient to satisfy the judgment. To verify compliance with such condition, the Office may require such person to have a writ of execution be issued upon such judgment, may require a showing that no personal or real property of the judgment debtor liable to be levied upon in complete satisfaction of the judgment can be found, or may require an affidavit from the claimant setting forth the reasonable searches and inquiries undertaken and the result of those searches and inquiries.
- Such person has applied any amounts recovered from the judgment debtor, or from any other source, to the damages awarded by the court.
- The act for which recovery is sought occurred on or after January 1, 1979.
- The Office waives compliance with the requirements of bullet 1 or 2 above. The Office may waive such compliance if the dealer, investment adviser, or associated person which is the subject of the claim filed with the Office is the subject of any proceeding in which a receiver has been appointed by a court of competent jurisdiction. If the Office waives such compliance, the Office may, upon petition by the debtor or the court-appointed trustee, examiner, or receiver, distribute funds from the Securities Guaranty Fund up to the amount allowed under s. 517.141,F.S. Any waiver granted pursuant to this section shall be considered a judgment for purposes of complying with the requirements of this section and of s. 517.141, F.S.

Subsection (4) allows any person who files an action that may result in the disbursement of funds from the Securities Guaranty Fund pursuant to the provisions of s. 517.141 to give written notice by certified mail to the Office as soon as practicable after such action has been filed. The failure to give such notice shall not bar a payment from the Securities Guaranty Fund if all of the conditions specified in subsection (3) are satisfied.

Subsection (5) authorizes the Commission to adopt rules specifying the procedures for complying with subsections (2), (3), and (4), including rules for the form of submission and guidelines for the sufficiency and content of submissions of notices and claims.

Section 517.141 – Payment from the fund

Subsection (1) allows any person who meets all of the conditions prescribed in s. 517.131, F.S., to apply to the Office for payment to be made to such person from the Securities Guaranty Fund in the amount equal to the unsatisfied portion of such person's judgment or $10,000, whichever is less, but only to the extent and amount reflected in the judgment as being actual or compensatory damages, excluding postjudgment interest, costs, and attorney's fees.

Subsection (2) specifies that regardless of the number of claims or claimants involved, payments for claims shall be limited in the aggregate to $100,000 against any one dealer, investment adviser, or associated person. If the total claims exceed the aggregate limit of $100,000, the office shall prorate the payment based upon the ratio that the person's claim bears to the total claims filed.

Subsection (3) payments from being made on any claim against any one dealer, investment adviser, or associated person before the expiration of 2 years from the date any claimant is found by the Office to be eligible for recovery pursuant to this section.

If during this 2-year period more than one claim is filed against the same dealer, investment adviser, or associated person, or if the office receives notice pursuant to s. 517.131(4), F.S., that an action against the same dealer, investment

adviser, or associated person is pending, all such claims and notices of pending claims received during this period against the same dealer, investment adviser, or associated person may be handled by the office as provided in this section. Two years after the first claimant against that same dealer, investment adviser, or associated person applies for payment pursuant to this section:

- The Office shall determine those persons eligible for payment or for potential payment in the event of a pending action. All such persons may be entitled to receive their pro rata shares of the fund as provided in this section.
- Those persons who meet all the conditions prescribed in s. 517.131, F.S., and who have applied for payment pursuant to this section will be entitled to receive their pro rata shares of the total disbursement.
- Those persons who have filed notice with the Office of a pending claim pursuant to s. 517.131(4), F.S., but who are not yet eligible for payment from the fund will be entitled to receive their pro rata shares of the total disbursement once they have complied with subsection (1). However, in the event that the amounts they are eligible to receive pursuant to subsection (1) are less than their pro rata shares as determined under this section, any excess shall be distributed pro rata to those persons entitled to disbursement under this subsection whose pro rata shares of the total disbursement were less than the amounts of their claims.

Subsection (4) specifies that individual claims filed by persons owning the same joint account, or claims stemming from any other type of account maintained by a particular licensee on which more than one name appears, shall be treated as the claims of one eligible claimant with respect to payment from the fund.

If a claimant who has obtained a judgment which qualifies for disbursement under s. 517.131, F.S., has maintained more than one account with the dealer, investment adviser, or associated person who is the subject of the claims, for purposes of disbursement of the fund, all such accounts, whether joint or individual, shall be considered as one account and shall entitle such claimant to only one distribution from the fund not to exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1).

To the extent that a claimant obtains more than one judgment against a dealer, investment adviser, or one or more associated persons arising out of the same transactions, occurrences, or conduct or out of the dealer's, investment adviser's, or associated person's handling of the claimant's account, such judgments shall be consolidated for purposes of this section and shall entitle the claimant to only one disbursement from the fund not to exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1).

Subsection (5) requires the claimant to reimburse the fund all amounts paid from the fund to the claimant on the claim if the final judgment that gave rise to the claim is overturned in any appeal or in any collateral proceeding or if the claimant satisfies the judgment specified in s. 517.131(3)(a), F.S.

Such reimbursement shall be paid to the Office within 60 days after the final resolution of the appellate or collateral proceedings or the satisfaction of judgment, with the 60-day period commencing on the date the final order or decision is entered in such proceedings.

Subsection (6) requires the claimant to reimburse the fund such excess within 60 days after the claimant receives such excess payment or after the payment is determined to be in excess of that permitted by law, whichever is later if a claimant receives payments in excess of that which is permitted under this chapter.

Subsection (7) authorizes the Office to institute legal proceedings to enforce compliance with this section and with s. 517.131, F.S., to recover moneys owed to the fund, and shall be entitled to recover interest, costs, and attorney's fees in any action brought pursuant to this section in which the Office prevails.

Subsection (8) require the Office to satisfy such unpaid claim or portion of such valid claim as soon as a sufficient amount of money has been deposited in or transferred to the fund if at any time the money in the Securities Guaranty Fund is insufficient to satisfy any valid claim or portion of a valid claim approved by the Office. When there is more than one unsatisfied claim outstanding, such claims shall be paid in the order in which the claims were approved by final order of the Office, which order is not subject to an appeal or other pending proceeding.

Subsection (9) requires a claimant to assign any additional right, title, and interest in the judgment, to the extent of such payment, to the Office upon receipt by the claimant of the payment from the Securities Guaranty Fund. If the provisions of s. 517.131(3)(e), F.S., apply, the claimant must assign to the office any right, title, and interest in the debt to the extent of any payment by the Office from the Securities Guaranty Fund.

Subsection (10) requires all payments and disbursements made from the Securities Guaranty Fund to be made by the Chief Financial Officer upon authorization signed by the director of the office, or such agent as she or he may designate.

Enforcement by the Office & Private Remedies Available in Cases of Unlawful Sale

Section 517.191 - Injunction to restrain violations; civil penalties; enforcement by Attorney General

Subsection (1) authorizes the Office to investigate persons violating ch. 517, F.S., or the rules promulgated thereunder and to, in addition to any other remedies, bring action in the name and on behalf of the state to enjoin such persons.

Subsection (2) authorizes the court, upon application of the Office, to impound and to appoint a receiver or administrator for the property, assets, and business of the defendant.

Subsection (3) authorizes the Office, in addition to, or in lieu of, any other remedies provided by this chapter, to apply to the court hearing a matter under this section for an order directing the defendant to make restitution.

Subsection (4) authorizes the Office to apply to the court hearing a matter under this section for, and the court shall have jurisdiction to impose, a civil penalty against any person found to have violated any provision of this chapter, any rule or order adopted by the Commission or Office, or any written agreement entered into with the Office in an amount not to exceed $10,000 for a natural person or $25,000 for any other person, or the gross amount of any pecuniary gain to such defendant for each such violation other than a violation of s. 517.301, F.S. plus $50,000 for a natural person or $250,000 for any other person, or the gross amount of any pecuniary gain to such defendant for each violation of s. 517.301. All civil penalties collected must be deposited into the Anti-Fraud Trust Fund.

Subsection (5) authorizes the Attorney General, when it has reason to believe that a person has engaged or is engaged in any act or practice constituting a violation of s. 517.275, F.S., s. 517.301, F.S., s. 517.311, F.S., or s. 517.312, F.S., or any rule or order issued under such sections, to investigate and bring an action to enforce these provisions as provided in ss. 517.171, 517.201, and 517.2015, F.S., after receiving written approval from the Office.

Subsection (6) explicitly states that the Office's ability to bring an administrative action against any person that is the subject of a civil action brought pursuant to this section or to engage in investigations or enforcement actions with the Attorney General is not limited by this section. However, a person may not be subject to both a civil penalty under subsection (4) and an administrative fine under s. 517.221(3), F.S., as the result of the same facts.

Subsection (7) specifies that, notwithstanding s. 95.11(4)(f), F.S., an enforcement action brought under this section must be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

Section 517.221 – Cease and desist orders

Subsection (1) authorizes the Office to issue and serve upon a person a cease and desist order whenever the Office has reason to believe that such person is violating, has violated, or is about to violate any provision of this chapter, any rule or order promulgated by the Commission or Office, or any written agreement entered into with the Office.

Subsection (2) authorizes the Office to issue an emergency cease and desist order whenever the Office finds that conduct described in subsection (1) presents an immediate danger to the public requiring an immediate final order.

Subsection (3) authorizes the Office to impose and collect an administrative fine against any person found to have violated any provision of this chapter, any rule or order promulgated by the Commission or Office, or any written agreement entered into with the Office in an amount not to exceed $10,000 for each such violation. All fines collected hereunder shall be deposited as received in the Anti-Fraud Trust Fund.

Subsection (4) authorizes the Office to bar, permanently or for a specific time period, any person found to have violated any provision of this chapter, any rule or order adopted by the Commission or Office, or any written agreement entered into with the Office from submitting an application or notification for a license or registration with the Office.

Section 517.241 – Remedies

Subsection (1) authorizes any person aggrieved by a final order of the Office to have the order reviewed as provided by chapter 120, the Administrative Procedure Act.

Subsection (2) specifies that nothing in this chapter limits any statutory or common-law right of a person to bring an action in a court for an act involved in the sale of securities or investments, or the right of the state to punish any person for a violation of a law.

Subsection (3) specifies that the same civil remedies provided by laws of the United States for the purchasers or sellers of securities, under any such laws, in interstate commerce extend also to purchasers or sellers of securities under this chapter.

Subsection (4) specifies that when not in conflict with the Constitution or laws of the United States, the courts of this state have the same jurisdiction over civil suits instituted in connection with the sale or offer of sale of securities under any laws of the United States as the courts of this state may have under similar cases instituted under the laws of the state.

Section 517.211 – Remedies available in cases of unlawful sale

Subsection (1) authorizes the purchaser to rescind a sale made in violation of either s. 517.07, F.S., or s. 517.12(1), (3), (4), (8), (10), (12), (15), or (17) , F.S., except a sale made in violation of the provisions of s. 517.1202(3) relating to a renewal of a branch office notification shall not be subject to this section, and a sale made in violation of the provisions of s. 517.12(12) relating to filing a change of address amendment shall not be subject to this section.

Subsection (2) makes any person purchasing or selling a security in violation of s. 517.301, F.S., and every director, officer, partner, or agent of or for the purchaser or seller, if the director, officer, partner, or agent has personally participated or aided in making the sale or purchase, jointly and severally liable to the person selling the security to or purchasing the security from such person in an action for rescission.

Subsection (3) specifies that in an action for rescission:

- A purchaser may recover the consideration paid for the security or investment, plus interest thereon at the legal rate, less the amount of any income received by the purchaser on the security or investment upon tender of the security or investment.
- A seller may recover the security upon tender of the consideration paid for the security, plus interest at the legal rate, less the amount of any income received by the defendant on the security.

Subsection (4) specifies that in an action for damages brought by a purchaser of a security or investment, the plaintiff shall recover an amount equal to the difference between:

- The consideration paid for the security or investment, plus interest thereon at the legal rate from the date of purchase; and
- The value of the security or investment at the time it was disposed of by the plaintiff, plus the amount of any income received on the security or investment by the plaintiff.

Subsection (5) specifies that in an action for damages brought by a seller of a security, the plaintiff shall recover an amount equal to the difference between:

- The value of the security at the time of the complaint, plus the amount of any income received by the defendant on the security; and
- The consideration received for the security, plus interest at the legal rate from the date of sale.

Subsection (6) requires a court, in any action brought under this section, including an appeal, to award reasonable attorneys' fees to the prevailing party unless the court finds that the award of such fees would be unjust.

Section 517.301 – Fraudulent transactions; falsification or concealment of facts

Subsection (1) makes it unlawful and a violation of the provisions of this chapter for a person:

- In connection with the rendering of any investment advice or in connection with the offer, sale, or purchase of any investment or security, including any security exempted under the provisions of s. 517.051, F.S., and including any security sold in a transaction exempted under the provisions of s. 517.061, F.S., directly or indirectly:
    - To employ any device, scheme, or artifice to defraud;
    - To obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
    - To engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a person.
- To publish, give publicity to, or circulate any notice, circular, advertisement, newspaper, article, letter, investment service, communication, or broadcast which, though not purporting to offer a security for sale, describes such security for a consideration received or to be received directly or indirectly from an issuer,

underwriter, or dealer, or from an agent or employee of an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount of the consideration.

- In any matter within the jurisdiction of the office, to knowingly and willfully falsify, conceal, or cover up, by any trick, scheme, or device, a material fact, make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry.

Subsection (2) defines the term "investment," for purposes of ss. 517.311, F.S., and 517.312, F.S., and this section.

Section 517.311 – False representations; deceptive words; enforcement

Subsection (1) makes it unlawful for any person in issuing or selling any security within the state, including any security exempted under the provisions of s. 517.051, F.S., and including any transaction exempted under the provisions of s. 517.061, F.S., to misrepresent that such security or company has been guaranteed, sponsored, recommended, or approved by the state or any agency or officer of the state or by the United States or any agency or officer of the United States.

Subsection (2) makes it unlawful for any person registered or required to be registered, or subject to the notice requirements, under any section of this chapter, including such persons and issuers within the purview of ss. 517.051 and 517.061, F.S., to misrepresent that such person has been sponsored, recommended, or approved, or that her or his abilities or qualifications have in any respect been passed upon, by the state or any agency or officer of the state or by the United States or any agency or officer of the United States.
Subsection (3) makes it unlawful and a violation of this chapter for a person in connection with the offer or sale of any investment to obtain money or property by means of:

- A misrepresentation that the investment offered or sold is guaranteed, sponsored, recommended, or approved by the state or any agency or officer of the state or by the United States or any agency or officer of the United States; or
- A misrepresentation that such person is sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been passed upon, by the state or any agency or officer of the state or by the United States or any agency or officer of the United States.

Subsection (4)(a) specifies that no provision of subsection (1) or subsection (2) shall be construed to prohibit a statement that a person or security is registered or has made a notice filing under this chapter if such statement is required by the provisions of this chapter or rules promulgated thereunder, if such statement is true in fact, and if the effect of such statement is not misrepresented.

Paragraph (b) specifies that any statement that a person is registered made in connection with the offer or sale of any security under the provisions of this chapter shall include the following disclaimer: "Registration does not imply that such person has been sponsored, recommended, or approved by the state or any agency or officer of the state or by the United States or any agency or officer of the United States."

- If the statement of registration is made in writing, the disclaimer shall immediately follow such statement and shall be in the same size and style of print as the statement of registration.
- If the statement of registration is made orally, the disclaimer shall be made or broadcast with the same force and effect as the statement of registration.

Section 517.312 – Securities, investments, boiler rooms; prohibited practices; remedies

Subsection (1) makes it unlawful and a violation of this chapter for any person:

- To offer or sell, in this state or from this state, any security or investment when such offer or sale is in violation of s. 517.301, F.S., or s. 517.311, F.S.; or
- To directly or indirectly manage, supervise, control, or own, either alone or in association with others, any boiler room in this state which sells or offers for sale any security or investment in violation of s. 517.301, F.S., or s. 517.311, F.S.

Subsection (2) specifies that any purchaser of a security or investment sold in violation of subsection (1) is entitled to rescind such purchase at any time and recover damages as provided in s. 517.211(3)(a), (4), and (6) , F.S.

Other Provisions

Section 517.021 - Definitions

This section defines various terms for purposes of ch. 517, F.S.

Subsection (14) defines the term "investment adviser" and excludes certain persons from the definition in paragraph (b). Currently, excluded from the term, are persons that meet the Florida *de minimis* standard and persons that meet the national *de minimis* standard. The Florida *de minimis* standard exempts from registration a person that (1) does not hold itself out to the general public as an investment adviser, and (2) has no more than 15 clients within 12 consecutive months in this state. The national *de minimis* standard preempts the states from requiring an investment adviser to register in a state if the investment adviser (1) does not have a place of business located within the State; and (2) during the preceding 12-month period, has had fewer than 6 clients who are residents of that State.

Section 517.101 – Consent to Service

Subsection (1) requires that an issuer file, upon any initial application for registration under s. 517.081, F.S., or s. 517.082, F.S., or upon request of the office, an irrevocable written consent to service.

Subsection (2) specifies where such action shall be brought. The written consent is required to be authenticated by the seal of said issuer, if it has a seal, and by the acknowledged signature of a member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association, and shall in such case be accompanied by a duly certified copy of the resolution of the board of directors, trustees, or managers of the corporation or association, authorizing the officers to execute the same. If the Office is served, it must immediately forward such process or pleadings by registered mail to the principal office of the issuer.

Federal Securities Law Developments

In an effort to simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation while preserving or enhancing important investor protections, the SEC adopted Rules 148, 152, 241, and 147A.

Intrastate Offerings

Rule 147 (17 CFR 230.147) – Securities Act Section 3(a)(11) provides an exemption from registration under the Securities Act for "[a]ny security which is part of an issue offered and sold only to persons resident within a single State or Territory, where the issuer of such security is a person resident and doing business within, or, if a corporation, incorporated by and doing business within, such State or Territory." In 1974, the Commission adopted Rule 147 under the Securities Act to provide objective standards for local businesses seeking to rely on section 3(a)(11).

Due to developments in modern business practices and communications technology in the years since Rule 147 was originally adopted, the SEC determined that it was necessary to update the requirements of Rule 147 to ensure its continued utility and to adopt Rule 147A. Rule 147, as amended, has the following requirements:

- the company must be organized in the state where it offers and sells securities;
- the company must have its "principal place of business" in-state and satisfy at least one "doing business" requirement that demonstrates the in-state nature of the company's business;
- offers and sales of securities can only be made to in-state residents or persons who the company reasonably believes are in-state residents; and
- the company obtains a written representation from each purchaser providing the residency of that purchaser.

Rule 147A (17 CFR 230.147A) - Rule 147A was adopted in October 2016 by the SEC pursuant to its general exemptive authority under Section 28 of the Securities Act, and therefore, Rule 147A is not subject to the statutory limitations of section 3(a)(11). Rule 147A is substantially identical to Rule 147 except that it:

- allows offers to be accessible to out-of-state residents, so long as sales are only made to in-state residents; and
- permits a company to be incorporated or organized out-of-state, so long as the company has its "principal place of business" in-state and satisfies at least one "doing business" requirement that demonstrates the in-state nature of the company's business.

Rule 147A also permits issuers to engage in general solicitation and general advertising of their offerings, using any form of mass media, including unrestricted, publicly available Internet websites, so long as sales of securities, so offered, are made only to residents of the state or territory in which the issuer has its principal place of business.

Both Rule 147A and amended Rule 147 require issuers to include a prominent disclosure with all offering materials stating that sales will be made only to residents of the same state or territory as the issuer.

Demo Day

Rule 148 (17 CFR 230.148) – Effective March 2021, Rule 148 provides that certain "demo day" communications are not deemed general solicitation or general advertising if made in connection with a seminar or meeting sponsored by a college, university, or other institution of higher education, state or local government or instrumentality thereof, a nonprofit organization, or an angel investor group, incubator, or accelerator. Under the rule, sponsors are prohibited from:

- making investment recommendations or providing investment advice to attendees of the event; engaging in any investment negotiations between the issuer and investors attending the event;
- charging attendees of the event any fees other than reasonable administrative fees;
- receiving any compensation for making introductions between attendees and issuers, or investment negotiations between parties; and
- receiving any compensation with respect to the event that would require sponsors to register as a broker or dealer under the federal Securities and Exchange Act of 1934, as amended, or as an investment adviser under the federal Investment Advisers Act of 1940, as amended.

Additionally, Rule 148 specifies that advertising for the event may not reference any specific offering of securities by the issuer and limits the information that may be conveyed at the event regarding the offering of securities by or on behalf of the issuer. Further, Rule 148 limits online participation in the event.

Rule 241 (17 CFR 230.241) – Effective March 2021, Rule 241 allows an issuer, or any person authorized to act on behalf of an issuer, to "test the waters" by communicating, orally or in writing with prospective investors, to determine whether there is any interest in a contemplated offering of securities. Communications made in reliance on this rule must state:

- the issuer is considering an offering of securities exempt from registration under the Securities Act, but has not determined a specific exemption from registration the issuer intends to rely on for the subsequent offer and sale of the securities;
- no money or other consideration is being solicited, and if sent in response, will not be accepted;
- no offer to buy the securities can be accepted and no part of the purchase price can be received until the issuer determines the exemption under which the offering is intended to be conducted and, where applicable, the filing, disclosure, or qualification requirements of such exemption are met; and
- a person's indication of interest involves no obligation or commitment of any kind.

Integration

Rule 152 (17 CFR 230.152) – Effective January 2021, Rule 152 provides four non-exclusive safe harbors from integration. If the safe harbors do not apply Rule 152 provides a general principle of integration, i.e., in determining whether two or more offerings are to be treated as one for the purpose of registration or qualifying for an exemption from registration under the Securities Act, offers and sales will not be integrated if, based on the particular facts and circumstances, the issuer can establish that each offering either complies with the registration requirements of the Securities Act, or that an exemption from registration is available for the particular offering. Additionally, Rule 152 provides a non-exclusive list of factors to consider in determining when an offering will be deemed to be commenced and factors to consider in determining when an offering will be deemed terminated or completed. Rule 152 also cautions issuers that the rule may not be used as part of a plan or scheme to evade the registration requirements of the Securities Act.

Other Developments

NASAA's Model Accredited Investor Exemption

The North American Securities Administrators Association (NASAA) is an international organization that is devoted to investor protection. Its membership consists of state and provincial securities administrators in the United States, Canada, and Mexico. On April 27, 1997, NASAA members voted to approve "Model Accredited Investor Exemption" (the AI Exemption). The AI exemption exempts the offer or sale of a security by an issuer from the security registration process in a transaction meeting certain requirements. Specifically, the AI exemption limits the sale of securities to accredited investors and the issuer must not be subject to disqualification. The AI exemption also requires that an issuer file a notice of transaction, a consent to service of process, and a copy of the general announcement with the Office within 15 days after the first sale in the state. The majority of states have adopted the AI exemption.

The Uniform Securities Act
The Uniform Securities Act is a model Act created by The Uniform Law Commissioners. The Uniform Securities Act was first promulgated in 1956 and was later amended in 1985 and 2002. Most states' securities laws are based, to some degree, on one of these three models.

B. EFFECT OF THE BILL:

The bill makes many changes throughout ch. 517, F.S. The effect of these changes will be analyzed below for each section:

Securities Offerings

A. Exempt Securities

Section 517.051 - Exempt securities

Subsection (1) is amended to allow a person to directly or indirectly offer or sell a security that is an industrial or commercial bond if the issuer or guarantor is in default or has been in default any time after December 31, 1975, as to principal or interest: with respect to an obligation issued by the issuer or successor of the issuer; or with respect to an obligation guaranteed by the guarantor or successor of the guarantor; if payments are made or unconditionally guaranteed by a person whose securities are exempt from registration under s. 18(b)(1) of the Securities act of 1933, as amended.

Subsection (3) is amended to limit the exemption to securities issued by certain financial institutions to only those issued by and representing or that will represent, an interest in or a direct obligation of or be guaranteed by such financial institutions. This exemption is modeled after the Uniform Securities Act. The section limits the list of financial institutions to the following:

- An international bank of which the United States is a member;
- A bank organized under the laws of the United States;
- A member bank of the Federal Reserve System; or
- A depository institution when a substantial portion of the business consists or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

Subsection (4) is expanded to replace the term "corporation" with the more expansive term "business entity" and to expand the categories of businesses such entities are allowed to own or operate to include other common carriers.

Subsection (8) is created to incorporate and amend current s. 517.161(14), F.S. The subsection is expanded to replace the term "corporation" with the more expansive term "business entity" and to include "other equity interests" in addition to "shares."

Subsection (9) is created to exempt a member's or owner's interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a not-for-profit membership entity operated either as a cooperative under the cooperative laws of a state or in accordance with the cooperative provisions of subchapter T of chapter 1 of subtitle A of the United States Internal Revenue Code, as amended, but not a member's or owner's interest, retention certificate, or like security sold or transferred to a person other than:

- A bona fide member of the not-for-profit membership entity; or
- A person who becomes a bona fide member of the not-for-profit membership entity at the time of or in connection with the sale or transfer.

This section is amended to eliminate current subsection (8).

This section is amended to renumber current subsections (9) and (10) to (10) and (11). These subsections are amended to replace the term "corporation" with the more expansive term "business entity." Subsection (10) is further amended for clarity and to ensure any amendments to the federal securities laws are included by reference.

B. Exempt Transactions

Section 517.061 - Exempt transactions

This section is reorganized to group like transactions together.

Subsection (1)(a) is amended to expand the exemption to include any sale by an assignee with respect to an assignment. Subsection (1)(b) is created to exempt a transaction involving a security issued in exchange, except in a case under Title 11 of the United States Code, for one or more bona fide outstanding securities, or property interests, or partly in such exchange and partly for cash, if the terms and conditions are approved by certain governmental entities after a hearing upon the fairness of such terms and conditions and at which all parties to the exchange have a right to appear. Paragraph (b) is modeled after the Uniform Securities Act.

Subsection (2) renumbers current subsection (10) without substantive change.

Subsection (3) renumbers and expands current subsection (4) to replace "corporation, trust, or partnership" with the more expansive term "business entity." The subsection is amended to prohibit the giving of value by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend in the event that each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock. The subsection is further amended to eliminate the requirement that the entity be actively engaged in the business authorized by its charter or other organizational articles or agreement. The subsection is modeled after the Uniform Securities Act.

Subsection (4) renumbers and expands current subsection (6) to include persons that at the date of the transaction are holders of options and all types of warrants. The provision is modeled after the Uniform Securities Act.

Subsection (5) is expanded to replace "corporation, trust, or partnership" with the more expansive term "business entity."

Subsection (6) renumbers and expands current subsection (9) to replace "corporation" with the more expansive terms "issuer" or "person." The subsection is also expanded to include all types of reorganizations. The subsection is amended to require that the issuer, or the issuer's parent or subsidiary, and the other person, or the person's parent or subsidiary, are parties to the reorganization. The subsection is also amended to eliminate the provision requiring that the security holders to vote or consent to the sale of the securities. The provision is modeled after the Uniform Securities Act.

Subsection (7) renumbers current subsection (22) without any substantive change.

Subsection (8) renumbers and expands current subsection (15) to include any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract. The subsection is amended to require that the employee benefit plan be contained in a record established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees. The subsection is further expanded to include the offers or sales of such securities to:

- Directors, managers, managing members, general partners, officers, consultants, and advisors.
- If the issuer is a business trust, trustees and former trustees.
- Family members who acquire such securities from related employees through gifts or domestic relations orders.
- Former employees, directors, managers, managing members, general partners, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were offered.
- Insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than 50 percent of their annual income from those organizations.

The subsection is modeled after the Uniform Securities Act.

Subsection (9) renumbers and amends current subsection (7) to eliminate the requirement that the Commission define "institutional investor" and the provision limiting the exemption to only those offers or sales of securities not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading ch. 517, F.S.

Subsection (10)(a) renumbers and amends current subsection (11)(a) to remove the provision prohibiting a person defined as a "dealer" from being paid a commission or compensation for the sale of the securities if such person is not registered under ch. 517, F.S.[1]

The subsection is amended to require that a purchaser be given, prior to the sale, written notification of a purchaser's right to void the sale. To void the sale, a purchaser must notify the issuer that the purchaser voids the sale within 3 days after the first tender of consideration is made by such purchaser, the option of notifying the issuer within 3 days after

[1] This prohibition is currently found in s. 517.021(8), F.S

the availability of that privilege is communicated to the purchaser if it occurs after the consideration is paid is eliminated. Notification that the purchaser voids the sale must be given via e-mail, to the issuer's e-mail address set forth in the disclosure document provided to the purchaser or purchaser's representative, or by hand delivery, courier service, or other method by which written proof of delivery to the issuer of the purchaser's election to rescind the purchase is evidenced. The subsection is amended to eliminate the requirement that sales be made to five or more persons in this state before a sale is voidable.

The subsection is expanded to replace "corporation" with the more expansive term "business entity." The subsection is amended to eliminate the exclusion from the calculation of the number of purchasers for purchasers who make a bona fide investment of $100,000 or more. The subsection is amended to eliminate the requirement that the Commission define "accredited investor"[2] and to specify when a business entity and a noncontributory employee benefit plan are to be counted as one purchaser for purposes of the exemption. The subsection is amended to eliminate the integration provisions.[3]

Subsection (11) is added to incorporate NASAA's model accredited investor exemption. Sales of securities may only be made to persons who are, or the issuer reasonably believes are, accredited investors.

The exemption is not available to an issuer that:

- Has an undefined business operation;
- Lacks a business plan;
- Lacks a stated investment goal for the funds being raised; or
- Plans to engage in a merger or acquisition with an unspecified business entity.

The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months after a sale is presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under this chapter or pursuant to an exemption available under this chapter, the Securities Act of 1933, as amended, or the rules and regulations adopted thereunder.

A general announcement of the proposed offering, made by any means, may include only the following information:

- The name, address, and telephone number of the issuer of the securities.
- The name, a brief description, and the price, if known, of any security to be issued.
- A brief description of the business.
- The type, number, and aggregate amount of securities being offered.
- The name, address, and telephone number of the person to contact for additional information.
- A statement that:
    - Sales will be made only to accredited investors;
    - Money or other consideration is not being solicited and will not be accepted by way of this general announcement; and
    - The securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.

The issuer, in connection with an offer, may provide information in addition to the general announcement if such information is delivered:

- Through an electronic database that is restricted to persons who have been prequalified as accredited investors; or
- After the issuer reasonably believes that the prospective purchaser is an accredited investor.

The issuer may not use telephone solicitation unless, before placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

The issuer files with the Office a notice of transaction, a consent to service of process, and a copy of the general announcement within 15 days after the first sale in this state. The Commission may adopt by rule procedures for filing documents by electronic means.

Dissemination of the general announcement of the proposed offering to persons who are not accredited investors does not disqualify the issuer from claiming the exemption under this rule.

[2] This requirement is currently found in s. 517.021(1), F.S.
[3] The bill creates s. 517.0614, F.S., a stand-alone integration provision applicable to all offerings.

Subsection (12) renumbers and amends current subsection (3) to replace the term “vendor” with “bona fide owner” and to specify that an isolated offer or sale includes the offer or sale of securities made by or on behalf of the bona fide owner in a transaction exempt under SEC rules or regulations.

Subsection (13) renumbers and amends current subsection (2) to include the account of a secured party as defined in s. 679.1021(1)(ttt), F.S., as a type of account eligible to use the exemption.

Subsection (14) renumbers and amends current subsection (13) and replaces “on order of” with “at the direction of.”

Subsection (15) is created to exempt nonissuer transactions with a federal covered adviser managing investments in excess of $100 million acting in the exercise of discretionary authority in a signed record for the accounts of others. This exemption is modeled after the Uniform Securities Act.

Subsection (16) is amended to allow the Commission to recognize by rule clearinghouses able to clear option transactions for purposes of this subsection. The subsection is also amended to require that the underlying security is purchased or sold on a recognized security exchange registered under the Securities Exchange Act of 1934 and to eliminate the possibility that the underlying security instead be quoted on the National Association of Securities Dealers Automated Quotation System. The subsection further eliminates the prohibition against such sales being directly or indirectly for the purpose of providing or furthering any scheme to violate or evade ch. 517, F.S.

Subsection (17) is amended to reword certain phrases for clarity, to replace the terms “act” with “this chapter” and “companies” with “issuer” for consistency. This subsection is also amended to delete reference to the Securities Act of 1933 in reference to “a federal covered security.”[4]

Subsection (18) renumbers and amends current subsection (20) to require that the transaction be conducted by a registered dealer and to eliminate “order of the office” as a mechanism by which a nationally recognized securities manual may be designated. The subsection is amended to require that the security is listed on a recognized security exchange and eliminate the option that it instead be designated for trading on the National Association of Securities Dealers Automated Quotation System. The subsection is amended to allow certain securities offered, purchased, or sold through an alternative trading system registered with the SEC to utilize the exemption.

Subsection (19) renumbers current subsection (18) without substantive change.

Subsection (20) creates an exemption for certain transactions and is modeled after the Uniform Securities Act. Nonissuer transactions in an outstanding security by or through a dealer registered or exempt from registration are exempt if:

- The issuer is a reporting issuer in Canada or in a foreign jurisdiction designated by Commission rule and the issuer has been subject to continuous reporting requirements for not less than 180 days before the transaction; and
- The security is listed on The Toronto Stock Exchange, Inc. or on a foreign jurisdiction’s securities exchange that has been designated by Commission rule, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing.

The Office may revoke any designation of a securities exchange if the Office finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

Subsection (21) renumbers current subsection (19) without substantive change.

This section is amended to eliminate the exemptions contained within current subsections (8) and (12).

This section is amended to move the exemption contained within current subsection (14) to s. 517.051, F.S.

This section is amended to eliminate the exemption for transactions conducted by an issuer under the Florida Limited Offering Exemption (currently “Intrastate Crowdfunding”) to s. 517.0611, F.S.

This section is further amended to ensure any amendments to the federal securities laws are included by reference.

[4] “Federal covered security” is defined in current s. 517.021(10), F.S. as “a security that is a covered security under s. 18(b) of the Securities Act of 1933, as amended, or rules and regulations adopted thereunder.”

Section 517.0611 – The Florida Limited Offering Exemption

Subsection (1) is amended to change the title of the section to “The Florida Limited Offering Exemption.”

Subsection (2) is amended to specify that the securities registration provisions do not apply to transactions conducted in accordance with this section but that such transactions are subject to s. 517.301, F.S. This provision was moved from s. 517.061(21), F.S., to this section. The subsection is also amended to allow the exemption provided for by this section to be used in conjunction another exemption.

Subsection (3) is amended to allow offerings to be conducted in compliance with SEC Rule 147A.

Subsection (4)(a) is amended to eliminate the requirement that an issuer under this section be formed under the laws of this state and be registered with the Secretary of State.

Paragraph (b) is amended to allow issuers conducting an offering of $2.5 million or less to conduct transactions without a dealer or intermediary registered with the Office. Issuers conducting an offering of $2.5 million or more are required to use a dealer or intermediary.

Paragraph (d) is reorganized and amended to replace the term “company” with “business entity” for consistency.

Paragraph (e) is amended to remove the Office’s ability to establish disqualification, to remove the “United States” before “Securities and Exchange Commission” for consistency, and to remove unnecessary language referencing the Securities Act of 1933. This paragraph is also amended to explicitly require that managers, managing members, and general partners of an issuer not be subject to disqualification.

Paragraph (f) is amended to eliminate the requirement to execute an escrow agreement. The paragraph is amended to require that investor funds be deposited in an account in a federally insured financial institution and maintained in the account until the target offering amount has been reached, the offering has been terminated, or the offering has expired. The paragraph is further amended to require the issuer to refund all funds to investors within 10 business days if the target offering amount is not reached or the offering is terminated or expires.

Paragraph (g) is amended to require that an issuer must use all investor funds in accordance with the use of proceeds as disclosed to prospective investors and to delete the provision allowing investors to cancel a commitment to invest.[5]

Subsection (5)(c) is amended to require issuers to provide an e-mail address and to identify any general partners, managers, and managing members in the notice the issuer files with the Office. The subsection is further amended to eliminate the requirement that issuers identify their control persons in the notice filed with the Office.

Paragraph (e) is amended to remove the requirement that the federally insured financial institution into which investor funds will be deposited be authorized to do business in this state and that the funds be deposited in accordance with the escrow agreement.

The subsection is amended to eliminate current paragraph (f) which requires an attestation under oath that the issuer, and certain other related persons are not currently and have not been within the past 10 years the subject of regulatory or criminal actions involving fraud or deceit.

The subsection is amended to eliminate current paragraph (g) which requires the issuer to provide documentation verifying that it is organized under the laws of the state and authorized to do business in the state.

Paragraph (f) relabels and amends current paragraph (h) to include the phrase “if applicable” to accommodate offerings in which an intermediary is not used.

Paragraph (g) relabels and amends current paragraph (i) to require an issuer to state the date, not to exceed 365 days, by which the target offering amount must be reached in order for the offering to not be terminated.

Subsection (6) is amended to reduce the number of days in which an issuer must amend the notice it submitted to the Office from 30 days after any information becomes inaccurate to 10 business days after any material information becomes inaccurate.

[5] This provision is moved to subsection (15).

Subsection (7) is created to allow the issuer to engage in general advertising and general solicitation of the offer to prospective investors. Any oral or written statements made in advertising or solicitation of the offer which contain a material misstatement, or which fail to disclose material information, are subject to enforcement under this chapter. Any general advertising or other general announcement must state that the offering is limited and open only to residents of this state.

Subsection (8) renumbers and amends subsection (7) to require an issuer to provide a disclosure statement to each prospective investor at least 3 days before the investor's commitment to purchaser or payment of any consideration.

Paragraph (a) is amended to require that the issuer provide its e-mail address in the disclosure statement.

Paragraph (b) is amended to explicitly require that the issuer provide the names of managers, managing members, and general partners and the ownership percentage of each person holding more than 20 percent of the issuer's equity interests in the disclosure statement.

Paragraph (c) is amended to specify that an issuer must provide a description of its current business in the disclosure statement.

Paragraph (e) is amended to eliminate the requirement that the issuer provide regular updates regarding the progress of the issuer in meeting the target offering amount.

Paragraph (f) is amended to eliminate the requirement that the issuer provide the method for determining the price of the securities, and that the issuer provide in writing the final price and all required disclosures and give each investor and opportunity to rescind the commitment to purchase the securities.

Subparagraph (g)2. is amended to replace the term "shareholders" with "equity holders." Subparagraph (g)3. which requires the issuer to describe the name and ownership level of each existing shareholder who owns more than 20 percent of any class of securities of the issuer is deleted.[6] Current subparagraph (g)4. which requires the issuer to describe how the securities being offered are valued and examples of methods of how such securities may be valued by the issuer in the future is deleted. Current subparagraph (g)5. which requires the issuer to describe the risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate action, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties is deleted and moved to paragraph (j).

Paragraph (h) is created to require an issuer to provide a statement that the security being offered is not registered and that the securities are subject to a limitation on resale in the disclosure statement.

Paragraph (i) is created to require an issuer to provide any issuer plans to offer additional securities in the future in the disclosure statement.

Paragraph (j) is created to require an issuer to provide the risks to purchasers of the securities relating to minority ownership in the issuer in the disclosure statement.

Paragraph (k) relabels and amends current paragraph (h) to revise the target offering amounts forming the basis for the 3 tiers of information that must be provided in the disclosure statement as part of the description of the issuer's financial condition. Subparagraph 1. is amended to increase the threshold of tier I from $100,000 or less to $500,000 or less and eliminate the requirement that the description include the issuers most recent income tax return and a financial statement. Subparagraph 2. is amended to increase the threshold of tier II from $100,000 - $500,000 to $500,001 – $2.5 million and to replace "office" with "commission" for accuracy. Subparagraph 3. is amended to increase the threshold of tier III from more than $500,000 to more than $2.5 million.

Paragraph (l) relabels and amends current paragraph (i) to require the following statement in boldface, conspicuous type on the front page of the disclosure statement: Neither the SEC nor any state securities commission has approved or disapproved these securities or determined that the disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense under chapter 517, Florida Statutes.

This section is amended to delete current subsection (8) which requires an issuer to provide the Office with a copy of the escrow agreement.

[6] This information is now required by paragraph (b) above.

Subsection (9) is amended to increase the offering limit under this section from $1 million to $5 million. The subsection is further amended to explicitly state that offers or sales of equity interests to a manager, managing member, or general partner do not count toward the $5 million offering limitation and to replace the term “shares” with “equity interests.”

Subsection (10) is amended to replace the existing limit on the amount of securities that can be sold by an issuer to an unaccredited investor, which is computation based and requires an investor’s net worth or annual income, with a flat $10,000 limit. The subsection is also amended to delete the definition of accredited investor since this term is defined in s. 517.021, F.S.

This section is amended to delete current subsection (11) thereby eliminating the requirement that an issuer file an annual report with the Office and provided the same to investors.

Subsection (11) renumbers and amends current subsection (12) for purposes of reorganization and clarity. The subsection is further amended to specifically include general partners in the list of persons that the Office shall bar if an issuer made a material false statement in the issuer’s notice-filing under this section.

Subsection (12) renumbers and amends current subsection (13) to specify the duties of an intermediary if an issuer uses one. Paragraph (a) is amended to eliminate the requirement that intermediaries verify that the issuer is in compliance with this section and deny an issuer access to its platform if the intermediary cannot assess the risk of fraud of the issuer or its potential offering.

Paragraph (b) is amended to specify that an intermediary’s website must contain the information specified in this paragraph but that the website may contain additional information. Subparagraph (b)1. is amended to eliminate reference to the escrow agreement and require that an intermediary’s website include a description of the financial institution into which investor funds will be deposited and the conditions for the use of such funds by the issuer.

Paragraph (c) relabels, amends, and combines current paragraphs (c) and (d) to allow an intermediary to obtain from each prospective investor any proof of residency necessary for the issuer or intermediary to reasonably believe that the potential investor is a resident of Florida.

Paragraph (d) is created to require an intermediary to obtain information sufficient for the issuer or intermediary to reasonably believe that a particular prospective investor is an accredited investor.

This section is amended to delete paragraph (e) and thereby the requirement that an intermediary obtain an affidavit from each investor regarding income requirements. This section is also amended to delete paragraph (f) and thereby the requirement that an intermediary direct the release of investor funds in escrow. This section is further amended to delete paragraph (g) and thereby the requirement that an intermediary direct investors to transmit funds directly to the financial institution designated in the escrow agreement to hold the funds for the benefit of the investor.

Paragraph (e) relabels current paragraph (h) without substantive change.

This section is amended to delete paragraph (i) and thereby the requirement that an intermediary require each investor to certify in writing an acknowledgement of the risks associated with investing and the illiquid nature of the investment, and affirming that the investor is a Florida resident at the time the contract is formed and acknowledging that if the representation is shown to be false, that the contract is void.

This section is amended to delete paragraph (j) and thereby the requirement that an intermediary require investors to answer questions demonstrating an understanding of the level of risk generally applicable to investments in startups, and implement written policies and procedures designed to achieve compliance with applicable securities law.

Paragraph (f) relabels current paragraph (k) without substantive change.

Paragraph (g) relabels and amends current paragraph (l) to expand the persons related to the intermediary which are prohibited from having any financial interest in an issuer using the intermediary’s services to include managers, managing members, general partners, employees, and agents.

This section is amended to delete paragraph (m) and thereby the requirement that an intermediary implement written policies and procedures reasonably designed to achieve compliance with securities laws, anti-money laundering requirements, and privacy requirements.

Subsection (13) renumbers current subsection (14) without substantive change.

Subsection (14) is created to require that an issuer, electing not to employ a dealer or intermediary, undertake certain obligations required to be performed by a dealer or intermediary facilitating an offering under this section.

Subsection (15) is amended to allow a purchaser to void any sale made pursuant to this section by notifying the issuer that the purchaser expressly voids the purchase within 3 days after the first tender of consideration is made by such purchaser to the issuer. The purchaser's notice must be sent by email, certified mail, or overnight delivery service with proof of delivery. This section is amended to eliminate the requirement that all funds received from investors be directed to the financial institution designated in the escrow agreement and used in accordance with representations made to investors. This subsection is further amended to eliminate the requirement that an intermediary direct the financial institution to hold the funds to promptly refund the funds of the investor if the investor cancels a commitment to invest.

This section is further amended to use gender neutral language, to replace the term "potential investor" with "prospective investor," and to ensure any amendments to the federal securities laws are included by reference.

Section 517.0612, F.S. – Florida Invest Local Exemption

This section creates a new intrastate offering exemption which may be cited as the "Florida Invest Local Exemption."

The securities registration provisions do not apply to a securities transaction conducted in accordance with this section; however, such transaction is subject to the enforcement provisions of ch. 517, F.S.

The transaction must meet the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933 and SEC Rule 147 or SEC Rule 147A.

The issuer must be a for-profit business entity registered with the Department of State with its principal place of business in this state. The issuer may not be, before or as a result of the offering:

- an investment company;
- subject to the reporting requirements of the Securities and Exchange Act of 1934;
- a business entity that has an undefined business operation, that lacks a business plan, that lacks a stated investment goal for the funds being raised, or that plans to engage in a merger or acquisition with an unspecified business entity; or
- disqualified pursuant to s. 517.0616, F.S.

The Offering is limited to $500,000 and any one investor may not invest more than $10,000 unless the investor is accredited, an officer, director, partner, or trustee, or an individual occupying a similar status or performing similar functions of the issuer, or an owner of 10 percent or more of the issuer's outstanding equity.

An issuer may engage in general advertising and general solicitation. Any general advertising or general announcement must state that the offer is limited and open only to residents of this state and, if containing a material misstatement or failing to disclose material information, are subject to the enforcement provisions of ch. 517, F.S.

A purchaser must receive, at least 3 business days before any binding commitment to purchase or consideration paid, a disclosure statement that provides material information of the issuer, including but not limited to, all of the following:

- The issuer's name, form of entity, and contact information.
- The name and contact information of each director, officer, or other manager of the issuer.
- A description of the issuer's business.
- A description of the security being offered.
- The total amount of the offering.
- The intended use of proceeds from the sale of the securities.
- The target offering amount.
- A statement that if the target offering amount is not obtained in cash or in the value of other tangible consideration received within a date that is no more than 180 days after the commencement of the offering, the offering will be terminated, and any funds or other consideration received from purchasers shall be promptly returned.
- A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in Securities and Exchange Commission Rule 147 or Rule 147A.
- The names and addresses of all persons who will be involved in the offer and sale of securities on behalf of the issuer.

- The name of the bank or other depository institution into which investor funds will be deposited.
- The following statement in boldface, conspicuous type: "Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined that this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense under chapter 517, Florida Statutes."

All funds received from investors must be deposited into a bank or depository institution authorized to do business in this state and funds may not be withdrawn until the target offering amount has been received.

The issuer must file a notice of the offering and the disclosure statement with the Office on a form prescribed by Commission rule no less than 5 business days before the offering commences. Amendments to the notice must be filed with the Office within 3 business days.

Any person acting as an agent for the issuer in an offering under this section and not registered as a dealer under this chapter, may not receive compensation based upon the solicitation of purchases, sales, or offers to purchase securities or have custody of investor funds.

A purchaser may void any sale made pursuant to this section by notifying the issuer that the purchaser expressly voids the purchase within 3 days after the first tender of consideration is made by such purchaser to the issuer. The purchaser's notice must be sent by email, hand delivery, courier service, or other method with proof of delivery.

C. Registered Offerings

Section 517.081, F.S. – Registration procedure

This section is reorganized for clarity and to put all rulemaking authority in the same subsection.

Subsection (2) is amended to eliminate the Commission's rulemaking authority to prescribe application forms and establish procedures for depositing fees and filing documents by electronic means from this subsection and move such authority to subsection (4).

Subparagraph (3)(g)2. is eliminated to move the Commission's rulemaking authority to adopt a form for a simplified offering circular to subsection (4).

Subsection (4) is amended to include all the Commission's rulemaking authority under this section.

Paragraph (a) relabels and amends part of current subsection (7). The language is amended to remove the phrase "merit qualification." The language is amended to include in the criteria the escrow of proceeds of the offering. The language is also amended to require the Commission to consider the rules and regulations of the SEC and statements of policy by NASAA relating to the registration of securities offerings in establishing the criteria.

Paragraph (b) relabels and combines parts of current subsections (2) and (3)(g)2. without substantive change.

Paragraph (c) relabels part of current subsection (2) without substantive change.

Paragraph (d) relabels and amends part of current subsection (7). The language is expanded to require the Commission to establish requirements and standards for filing, content, and circulation of advertisements. The language is amended to require the Commission to consider the rules and regulations of the SEC relating to preliminary, final, or amended or supplemented prospectuses and the rules of the Financial Industry Regulatory Authority ("FINRA") relating to advertisements and sales literature.

Subsection (5) relabels part of current subparagraph (3)(g)2. and is amended to allow issuers seeking to register securities for resale by persons other than the issuer to use the simplified offering form.

Paragraph (a) relabels and amends current subsubparagraph (3)(g)2.b. to delete "adopted pursuant to the Securities Act of 1933."

Paragraph (b) relabels current sub-subparagraph (3)(g)2.c. and replaces the current terms "company" and "companies" with the more expansive terms "business entity" and "business entities."

Paragraph (c) relabels current sub-subparagraph (3)(g)2.d. without substantive change.

Paragraph (d) relabels current sub-subparagraph (3)(g)2.e. without substantive change.

This section is amended to eliminate the requirement that issuers provide the Office with annual financial reports. Accordingly, current sub-subparagraph (3)(g)2.f. is deleted.

Subsection (9) renumbers, reorganizes, and amends part of current subsection (7). The language is amended to require that the Office find that the application to register a security is complete and that the fee has been paid before recording the registration of a security.

Current subsections (4) through (8) are redesignated as subsections (6) through (10), respectively.

D. Other Provisions Related to Securities Offerings

Section 517.0613 - Failure to comply with a securities registration exemption

This section is created to state that failure to comply with any exemption from securities registration does not preclude the issuer from claiming the availability of any other applicable state or federal exemption.

This section is created to state that ss. 517.061, 517.0611, and 517.0612, F.S., are not available to an issuer for any transaction or series of transactions that, although in technical compliance with the applicable provisions, is part of a plan or scheme to evade the registration provision of s. 517.07, F.S.

Section 517.0614, F.S. – Integration of offerings

This section creates a stand-alone integration provision, applicable to all issuer capital raising exemptions, and substantially similar to recently adopted SEC Rule 152. SEC Rule 152 significantly reduces the threat to companies, especially smaller ones that have continuing and sporadic needs for capital, that multiple offerings will be integrated as one, with the result that otherwise distinct valid exempt offerings will be deemed in violation of the registration provisions.

Offerings may not be integrated if, based on particular facts and circumstances, the issuer can establish either that each offering complies with the registration requirements of ch. 517, F.S., or that an exemption from registration is available for the particular offering, provided that any transaction or series of transactions that, although in technical compliance with ch. 517, F.S.,, is part of a plan or scheme to evade the registration requirements of ch. 517, F.S., will not have the effect of avoiding integration.

For an exempt offering prohibiting general solicitation, the issuer must have a reasonable belief, based on the facts and circumstances, with respect to each purchaser in the exempt offering, that the issuer or any person acting on the issuer's behalf:

- Did not solicit such purchaser through the use of general solicitation; or
- Established a substantive relationship with such purchaser before the commencement of the exempt offering, provided that a purchaser previously solicited by general solicitation is not deemed to have been solicited through the use of general solicitation in the current offering if, during the 45 calendar days following such previous general solicitation:
    - No offer or sale of the same or similar class of securities has been made by or on behalf of the issuer, including to such purchaser; and
    - The issuer or any person acting on the issuer's behalf has not solicited such purchaser through the use of general solicitation for any other security.

For two or more concurrent exempt offerings permitting general solicitation, in addition to satisfying the requirements of the particular exemption relied on, general solicitation offering materials for one offering that includes information about the material terms of a concurrent offering under another exemption may constitute an offer of securities in such other offering, and therefore the offer must comply with all the requirements for, and restrictions on, offers under the exemption being relied on for such other offering, including any legend requirements and communications restrictions.

No integration analysis is required if any of the following nonexclusive safe harbors apply:

- An offering commenced more than 30 calendar days before the commencement of any other offering, or more than 30 calendar days after the termination or completion of any other offering, may not be integrated with such other offering, provided that for an exempt offering for which general solicitation is not permitted which follows by 30 calendar days or more an offering that allows general solicitation, the integration analysis for an exempt offering prohibiting general solicitation applies.

- Offers and sales made in compliance with any provision of s. 517.051, F.S.; s. 517.061, F.S., except s. 517.061(9), (10), or (11); s. 517.0611, F.S.; or s. 517.0612, F.S., are not subject to integration with other offerings.

Section 517.0616 – Disqualification

A registration exemption under s. 517.061(9), (10), or (11) , F.S.; s. 517.0611, F.S.; or s. 517.0612, F.S., is not available to an issuer that would be disqualified under SEC Rule 506(d), at the time the issuer makes an offer for the sale of a security.

Securities Guaranty Fund

These sections are substantially amended and reorganized to improve usability and clarity. Also, the term "license" is replaced with "registration" for accuracy and the term "Fund" is replaced with "Securities Guaranty Fund" for consistency throughout ss. 517.131 and 517.141, F.S.

Section 517.131 – Securities Guaranty Fund

Subsection (1) is amended to define the term "final judgment" as also including an arbitration award confirmed by a court of competent jurisdiction. The subsection is also amended to delete the reference to s. 517.141, F.S., and to eliminate the requirement that the wrongdoer be a dealer, investment adviser, or associated person registered under ch. 517, F.S. The remaining provisions of this subsection are moved to subsection (2).

Subsection (2) is amended to specify that the purpose of the Securities Guaranty Fund (the "Fund") is to provide monetary relief to victims of securities violations under this chapter who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer.

Subsection (3) is amended to require that a person meet the following conditions to be eligible for payment from the Fund:

- The person holds an unsatisfied final judgment in which a wrongdoer was found to have violated s. 517.07, F.S. or s. 517.301, F.S.
- The person has applied any amounts recovered from the judgment debtor or from any other source to the damages awarded by the court or arbitrator.
- The person is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation giving rise to the claim.

A person may also be eligible for payment from the Fund if the person is a receiver appointed pursuant to s. 517.191(2), F.S., for a wrongdoer ordered to pay restitution under s. 517.191(3), F.S., as a result of a violation of s. 517.07, F.S., or s. 517.301, F.S., which has requested payment form the Fund on behalf of a person eligible for payment.

This subsection is also amended to eliminate the requirement that the act for which recovery is sought occurred on or after January 1, 1979, and to eliminate the ability of the Office to waive certain requirements under this section.

This subsection is amended to delete the provision requiring a person to make all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and move it to subsection 5(g).

Subsection (4) is created to prohibit a person from being eligible for payment from the Fund if the person has:

- Participated or assisted in a violation of ch. 517, F.S.
- Attempted to commit or committed a violation of ch. 517, F.S., or
- Profited from a violation of ch. 517, F.S.

Subsection (5) is created to require an eligible person, or a receiver on behalf of an eligible person, seeking payment from the Fund to file a written application. The Commission may prescribe by rule procedures for filing documents by electronic means, if such procedures provide the Office with the information and data required by this section.

The application must be filed with the Office within 1 year after the date of the final judgment, the date on which restitution order has been ripe for execution, or the date of any appellate decision thereon, and the application must contain such information as the Office may require, including, but not limited to:

- The eligible person's and, if applicable, the receiver's full name, address, and contact information.
- The person ordered to pay restitution.

- If the eligible person is a business entity, the eligible person's form and place of organization and a copy of the business entity's articles of incorporation, its articles of organization with amendments, trust agreement, or its partnership agreement.
- Any final judgment and a copy thereof.
- Any restitution ordered pursuant to s. 517.191(3), F.S., and a copy thereof.
- An affidavit stating either one of the following:
    - The eligible person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment and, by the eligible person's search, that the eligible person has not discovered any property or assets.
    - The eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment remains unsatisfied.
- An affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's order of restitution.
- The eligible person's residence or domicile at the time of the violation of s. 517.07, F.S., or s. 517.301, F.S., which resulted in the eligible person's monetary damages.
- The amount of any unsatisfied portion of the eligible person's final judgment.
- Whether an appeal or motion to vacate an arbitration award has been filed.

Subsection (6) is created to require the Office to approve a person for payment from the fund if the Office finds that a person is eligible and if the person has complied with the provisions of this section and the rules adopted under this section.

Within 90 days after the Office's receipt of a complete application, each eligible person or receiver must be given written notice, personally or by mail, that the Office intends to approve or deny, or has approved or denied, the application for payment from the Fund.

Subsection (7) is created to incorporate current s. 517.141(9), F.S., requiring an eligible person or receiver to assign all right, title, and interest in the final judgment or order of restitution, to the extent of such payment to the Office upon receipt of the notice indicating the Office’s intent to approve an application for payment from the Fund and before any disbursement.

Subsection (8) is created to require the Office to deem an application for payment from the Fund abandoned if the eligible person or receiver, or any person acting on behalf of the eligible person or receiver, fails to timely complete the application as prescribed by Commission rule. The time period to complete an application is tolled during the pendency of an appeal or motion to vacate an arbitration award.

The section is amended to delete current subsections (4) and (5).

Section 517.141, F.S. – Payment from the fund

Subsection (1) is created to define the terms “claimant,” “final judgment,” and “specified adult” as used in this section.

Subsection (2) renumbers and amends current subsection (1) to increase the amount that an eligible person may recover from the Fund from $10,000 to $15,000 or $25,000 if the victim is a specified adult.

Subsection (3) renumbers and amends current subsection (2) to increase the aggregate limit on claims to $250,000.

Subsection (4) renumbers current subsection (8) without substantive change.

Subsection (5) renumbers and amends current subsection (10) to require the Office to submit authorization for payment to the Chief Financial Officer within 30 days after the approval of an eligible person for payment from the Fund. The subsection is further amended to allow the Chief Financial Officer’s designee, to make payments or disbursements from the Fund.

Subsection (6) renumbers and amends current subsection (4) to include final orders of restitution in addition to final judgments.

Subsection (7) renumbers and amends current subsection (5) to include final orders of restitution in addition to final judgments and to require that reimbursements to the Fund be paid to the Department of Financial Services.

Subsection (8) renumbers current subsection (6) without substantive change.

Subsection (9) is created to require a claimant who knowingly and willfully files or causes to be filed an application under s. 517.131, F.S., or documents in support of the application, any of which contain false, incomplete, or misleading information in any material aspect, to forfeit all payments from the Fund and specifies that such act violates s. 517.301(1)(c), F.S.

Subsection (10) renumbers and amends current subsection (7) to allow the Department of Financial Services, instead of the Office, to institute legal proceedings to enforce compliance with s. 517.131, F.S., and to recover moneys owed to the Fund, and to recover interest, costs, and attorney's fees in any action brought pursuant to this section in which the Department prevails.

The section is amended to delete current subsection (3) thereby eliminating the two-year waiting period.

The section is amended to delete current subsection (9) and move it to s. 517.131(7), F.S.

Section 517.191, F.S. – Enforcement by the Office of Financial Regulation

This section is retitled, and s. 517.221, F.S., and parts of s. 517.241, F.S., are consolidated into this section.

Subsection (4) is amended to increase the amount of a civil penalty against a natural person found to have violated any provision of this chapter, other than s. 517.301, F.S., from $10,000 to $20,000. The subsection is also amended to require that the civil penalty be the greater of the specified amount or the amount of any pecuniary loss to the investor or pecuniary gain to a business entity. Further, the section is amended to allow for a civil fine of twice the amount that would otherwise be imposed if a specified adult, i.e., a natural person 65 years of age or older, or a vulnerable adult, is a victim of a violation of this chapter.

Subsection (4) is further amended to allow the Office to recover any costs and attorney fees related to the Office's investigation or enforcement of ch. 517, F.S., in an action for injunctive relief or the Office's enforcement of any restraining order or injunction. Any costs and attorney fees collected are to be deposited in the Anti-Fraud Trust Fund.

Subsection (5) is created to allow the Office to hold any control person who controls any person found to have violated ch. 517, F.S., or of any rule adopted thereunder, jointly and severally liable with, and to the same extent as, such controlled person in any action brought under this section unless the control person acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

Subsection (6) is created to allow the Office to hold a person who knowingly or recklessly provides substantial assistance to another person in violation of ch. 517, F.S., or of any rule adopted thereunder, liable to the same extent as the person to whom such assistance is provided.

Subsection (7) is created to incorporate current s. 517.221(1), F.S. without substantive change.

Subsection (8) is created to incorporate current s. 517.221(2), F.S. without substantive change.

Subsection (9) is created to incorporate and amend current s. 517.221(3), F.S. to increase the maximum administrative fine that can be imposed to match the newly amended maximum civil penalty discussed in subsection (4) above.

Subsection (10) is created to incorporate current s. 517.221(4), F.S. without substantive change.

Subsection (11) renumbers current subsection (5) without substantive change.

Subsection (12) renumbers current subsection (6) without substantive change.

Subsection (13) renumbers current subsection (7) without substantive change.

Subsection (14) is created to incorporate the applicable portions of current s. 517.241(2), F.S., without substantive change.

Subsection (15) is created to incorporate the applicable portions of current s. 517.241(4), F.S., without substantive change.

Section 517.211 – Private remedies available in cases of unlawful sale

Subsection (3) is created to allow a purchaser to hold any control person who controls any person found to have violated ss. 517.07 or 517.12(1), (3), (4), (8), (10), (12), (15), or (17), F.S., jointly and severally liable with, and to the same extent as, such controlled person in any action brought in action for recission unless the control person acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

Subsection (4) renumbers and amends current subsection (3) to clarify that the interest accrues from the date the security is purchased.

Subsection (5) renumbers and amends current subsection (4) to replace “shall” with “must.”

Subsection (6) renumbers current subsection (5) without substantive change.

Subsection (7) renumbers and amends current subsection (6) and replaces “attorneys’” with attorney.

Subsection (8) is created to incorporate the applicable portions of current s. 517.241(2), F.S., without substantive change.

Subsection (9) is created to incorporate current s. 517.241(3), F.S., without substantive change.

Section 517.221 – Cease and desist orders

This section is repealed, and its provisions are consolidated into s. 517.191, F.S.

Subsection 517.241 – Remedies

This section is repealed, and its applicable provisions are consolidated into ss. 517.191 and 517.211, F.S.

Section 517.301 - Fraudulent transactions; falsification or concealment of facts

This section is amended to incorporate provisions from ss. 517.311 and 517.312, F.S., into this section.

Subsection (1)(a) is amended to include transactions exempted under ss. 517.0611 and 517.0612, F.S.

Subsection (1)(b) is amended to clarify that an offer to sell securities can be published, given publicity, or circulated through the use of any means.

Subsection (3) is created to incorporate current s. 517.311(1), F.S. The section is amended to include transactions exempted under ss. 517.0611 and 517.0612, F.S., and to change the term “company” to “business entity” for consistency.

Subsection (4) is created to incorporate current s. 517.311(2), F.S. The section is amended to include persons who are subject to ss. 517.0611, 517.0612, and 517.081, F.S. and to remove gender specific pronouns.

Subsection (5) is created to incorporate current s. 517.311(3), F.S., and amended to change “passed upon” to “examined.”

Subsection (6) is created to incorporate current s. 517.311(4), F.S., without substantive change.

Subsection (7) is created to incorporate current s. 517.312(1), F.S, without substantive change.

Section 517.311 - False representations; deceptive words; enforcement

This section is repealed and consolidated into s. 517.191, F.S.

Section 517.312 - Securities, investments, boiler rooms; prohibited practices; remedies

This section is repealed and consolidated into s. 517.191, F.S.

Other Provisions

Section 517.021, F.S. – Definitions

This section is amended to add definitions for the terms "angel investor group" and "business entity."

- The term "angel investor group" is used in new s. 517.0615, F.S., and is one of the entities able to host a "demo" day.
- Chapter 517, F.S., is amended throughout to use the concise term "business entity" instead of listing individually the various types of business entities.

The term "boiler room" is amended to modernize the definition and expand the mechanisms by which a boiler room operator solicits investors.

The term "dealer" is reorganized to mirror the structure of the definition for the term "investment adviser."

The definition of "investment adviser" is amended to combine the existing Florida and national *de minimis* standards into a single *de minimis* standard exempting from registration a person that has fewer than six clients during the preceding 12 months who are Florida residents regardless of whether the person has a place of business in Florida or holds itself out as an investment adviser. The definition is also amended to include a definition for the term "client" consistent with how the term "client" is used in the national *de minimis* standard. The definition is further amended to exclude the United States, states, and certain related persons from the definition of "investment adviser."

Section 517.0615, F.S. – Solicitations of interest

Subsection (1) is created to allow issuers to participate in "demo day" presentations similar to SEC Rule 148. Pre-offering communications made in connection with a seminar or meeting in which more than one issuer participates are not deemed to constitute general solicitation or general advertising. Seminars or meetings must be sponsored by a college, university, or other institution of higher education, a state or local government or instrumentality thereof, a nonprofit chamber of commerce or other nonprofit organization, or an angel investor group, incubator, or accelerator, if all of the following apply:

- Advertising for the seminar or meeting does not reference a specific offering of securities by the issuer;
- The sponsor of the seminar or meeting does not do any of the following:
    - Make investment recommendations or provide investment advice to attendees of the seminar or meeting.
    - Engage in any investment negotiations between the issuer and investors attending the seminar or meeting.
    - Charge attendees of the seminar or meeting any fees, other than reasonable administrative fees.
    - Receive any compensation for making introductions between seminar or meeting attendees and issuers or for investment negotiations between such parties.
    - Receive any compensation with respect to the seminar or meeting, which compensation would require registration or notice-filing under the securities laws. The sponsorship of or participation in the seminar or meeting does not by itself require registration or notice-filing under this ch. 517, F.S.

Information regarding an offering of securities by the issuer which is communicated or distributed by or on behalf of the issuer in connection with a seminar or meeting is limited to a notification that the issuer is in the process of offering or planning to offer securities, the type and amount of securities being offered, the intended use of the proceeds of the offering, and the unsubscribed amount in an offering.

If the event allows attendees to participate virtually, rather than in person, online participation in the seminar or meeting is limited to certain specified participants.

Subsection (2) is created to allow issuers to "test the waters," similar to SEC Rule 241, by engaging in pre-offering oral or written communications with prospective investors solely for the purpose of determining whether there is any interest in a contemplated securities offering. A communication under this subsection is not deemed to constitute general solicitation or general advertising. Written or oral statements made in the course of such communication are subject to the enforcement provisions of ch. 517, F.S. No solicitation or acceptance of money or other consideration, nor of any commitment, binding or otherwise, from any person is permitted. The communication must state that:

- Money or other consideration is not being solicited and, if sent in response, will not be accepted;
- Any offer to buy the securities will not be accepted, and any part of the purchase price will not be received; and

- A person's indication of interest does not involve obligation or commitment of any kind.

Any written communication under this subsection may include a means by which a person may indicate to the issuer that the person is interested in a potential offering. The issuer may require the name, address, telephone number, or e-mail address in any response form included in the written communication under this paragraph.

A communication in accordance with this subsection is not subject to s. 501.059, F.S., regarding telephone solicitations.

Section 517.072 - Viatical settlement investments

This section is amended to update cross-references.

Section 517.101, F.S. – Consent to service

Subsection (2) is amended to expand the persons who can sign the written consent to include directors, managers, managing members, general partners, trustees, or officers of the issuer and to expand the persons that can authorize the signer to execute the consent to include the issuer's managing members, and general partners.

Section 517.12 - Registration of dealers, associated persons, intermediaries, and investment advisers

This section is amended to update cross-references and replace "for" in subsection (20) with "with regard to."

Section 517.1202 - Notice-filing requirements for branch offices

This section is amended to update cross-references.

Section 517.302 - Criminal penalties; alternative fine; Anti-Fraud Trust Fund; time limitation for criminal prosecution

This section is amended to update cross-references.

*** Cross-references are updated throughout the bill.

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

If yes, explain:	Section 517.061(11) allows the commission to prescribe a notice of transaction form and procedures for filing it for purposes of the Accredited Investor exemption. Section 517.061(1)(b)1. allows the commission to recognize a clearinghouse by rule. Section 517.061(19)(a) and (b) allows the commission to designate foreign jurisdictions and foreign securities exchanges. Section 517.0612(2)(h) allows the commission to prescribe a notice of offering form and procedures for filing it for purposes of the Florida Invest Local Exemption. Section 517.131(5) allows the commission to prescribe an application form and procedures for filing it for purposes of the Securities Guaranty Fund. Section 517.131(7) allows the commission to prescribe an assignment form for purposes of the Securities Guaranty Fund. Section 517.131(5) allows the commission to specify a time period for completing an application for purposes of the Securities Guaranty Fund.
Is the change consistent with the agency's core mission?	Y☒N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Rules 69W-200.001; 69W-200.002; 69W-400.003; 69W-500.001, 69W-500.004; 69W-500.006, 69W-500.007, 69W-500.008; 69W-500.010; 69W-500.011, 69W-500.016, 69W-500.017; 69W-700.001, 69W-700.002; 69W-700.003; 69W-700.004; 69W-700.005; 69W-700.009; 69W-700.019; 69W-

	700.030; 69W-700.031, 69W-800.001, 69W-800.004, and 69W-1000.001, F.A.C.

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

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

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

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

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

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. FISCAL IMPACT TO LOCAL GOVERNMENT Y☐ N☒

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

2. FISCAL IMPACT TO STATE GOVERNMENT Y☒ N☐

Revenues:	N/A
Expenditures:	The bill requires issuers conducting an offering under the Accredited Investor exemption to file a notice of transaction, a consent to service of process, and a copy of the general announcement with the Office. The Office will need to review this material. The bill does not provide additional funds for personnel to conduct such review. Although it is unknown how many filings the Office will receive, the Office does not anticipate needing additional personnel in fiscal year 2024/2025. The bill requires issuers conducting an offering under Florida Invest Local Exemption to file a notice of the offering and a copy of the disclosure document with the Office. The Office will need to review this material. The bill does not provide additional funds for personnel to conduct such review. Although it is unknown how many filings the Office will receive, the Office does not anticipate needing additional personnel in fiscal year 2024/2025.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. FISCAL IMPACT TO THE PRIVATE SECTOR Y☐ N☒

Revenues:	
Expenditures:	
Other:	

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

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

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

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

FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	OGC has reviewed the agency's bill analysis concerning SB 532, and the analysis sufficiently details the possible effects of the bill and the areas of impact. OGC has no additional issues, concerns, or further comments regarding the bill.

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 676
INTRODUCER:	Regulated Industries Committee and Senator Bradley
SUBJECT:	Food Delivery Platforms
DATE:	February 7, 2024
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 676 provides for the regulation of food delivery platforms. The bill defines the term "food delivery platform" to mean a business that acts as a third-party intermediary for the consumer by taking and arranging for the delivery or pickup of orders from multiple food service establishments. The bill does not apply to delivery or pickup orders placed directly with, and fulfilled by, a food service establishment. The bill defines the term "food service establishment" to have the same meaning as the term "public food service establishment," as defined in s. 509.013(5), F.S.

The bill prohibits a food delivery platform from taking and arranging for the delivery or pickup of orders from a food service establishment without the express consent of that food service establishment. The food service establishment's consent must be in either a written or electronic format.

Under the bill, a food delivery platform must itemize and clearly disclose to the consumer the cost breakdown of each transaction. The food delivery platform must provide the consumer with information about the delivery, including the anticipated date and time of the delivery of the order.

By July 1, 2025, the bill requires a food delivery platform to provide a food service establishment with a method of contacting the consumer while the order is prepared and being

delivered for up to two hours after the order is picked up from the food service establishment for delivery to the consumer and a method for responding to a consumer's ratings or reviews.

The bill requires a food delivery platform to remove a food service establishment's listing on the food delivery platform within 10 days after receiving the food service establishment's request for removal, unless there is an existing agreement between the two parties stating otherwise as provided in the bill. Under the bill, a food delivery platform may not, without an agreement with the food service establishment, intentionally inflate, decrease, or alter a food service establishment's pricing.

The bill specifies the requirements for the agreement between a food delivery platform and a food service establishment, including clearly stating all fees, commissions, and charges that the food service establishment is expected to pay or absorb, policies related to alcoholic beverages, insurance requirements, the collection and remitting of taxes, and how disputes will be resolved.

The agreement between the food delivery platform and the food service establishment may not include a provision that requires a food service establishment to indemnify the food delivery platform, or any employee, contractor, or agent of the food delivery platform, for any damage or harm caused by the acts or omissions of the food delivery platform or any of its employees, contractors, or agents. A food delivery platform may also not unreasonably limit the value or number of transactions that may be disputed by a food service establishment with respect to orders, goods, or delivery errors for determining responsibility for errors and reconciling disputed transactions.

The bill authorizes the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) to enforce the provisions in the bill by issuing cease and desist orders upon a finding of probable cause that there is a violation and seeking an injunction or writ of mandamus against persons who violate the notice to cease and desist. The bill authorizes the division to issue a civil penalty of not more than $1,000 per offense for each violation and provides that the division is entitled to attorney fees and costs if it is required seek enforcement of a notice for a penalty under the Administrative Procedures Act.

The bill expressly preempts the regulation of food delivery platforms to the state.

This bill has a significant fiscal impact on the DBPR. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Division of Hotels and Restaurants

The division is charged with enforcing the laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.[1]

[1] Section 509.032, F.S.

Public Food Service Establishments

A "public food service establishment" is defined as:

> …any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.[2]

There are several exclusions from the definition of public food service establishment, including:

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests;
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier;
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families;
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any vending machine that dispenses any food or beverage other than potentially hazardous food;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items; and
- Any research and development test kitchen limited to use by employees and not open to the general public.[3]

The regulation of public food service establishments is preempted to the state.[4]

Off-premises Options for Public Food Establishments

Due to the loss of business during the coronavirus pandemic, many public food establishments added new off-premises food options. The most common addition was curbside takeout by 67 percent of operators nationwide according to the National Restaurant Association.[5] Twenty-seven percent of the operators added food delivery by third party food delivery platforms and an additional 17 percent added in-house delivery options.[6] Food delivery platforms are third-party ordering apps that pick up and deliver food from public food service establishments for a fee.[7]

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[2] Section 509.013(5)(a), F.S.
[3] Section 509.013(5)(b), F.S.
[4] Section 509.032(7), F.S.
[5] *Consumers respond to new off-premise options at restaurants*, September 17, 2020, available at https://restaurant.org/education-and-resources/resource-library/consumers-respond-to-new-off-premises-options-at-restaurants/ (last visited January 16, 2024).
[6] *Id.*
[7] *See* https://cloudkitchens.com/blog/top-food-delivery-apps/ (last visited January 24, 2024).

Regulation of Food Delivery Platforms

Food delivery platforms, which are third-party providers who, for a fee, deliver food orders from public food service establishments to the consumer are not regulated by the State of Florida.

United State Food and Drug Administration (FDA), in coordination with the U.S. Department of Agriculture and the Centers for Disease Control and Prevention, have developed best practices recommendations for the safe delivery of food, including when ordering food from online retailers, produce and meal-kit subscription services, ghost kitchens (which only prepare and fulfill orders for delivery, without a physical storefront), and third-party delivery services and programs.[8]

A proposed ordinance in Miami-Dade County would regulate food delivery platforms.[9] The proposed ordinance would require the food delivery service to itemize and clearly disclose the cost breakdown of each transaction. The proposed ordinance would permit public food service establishments to access the information about the customers who place orders for their food through a third-party food delivery application, including the consumer's name and address. It also would bar the food delivery service prohibiting a food delivery platform from restricting a public food service establishment from marketing to or contacting a customer under certain circumstances. This appears to be the first local ordinance of its kind in the United States.[10] However, the Board of County Commissioners has deferred action on this proposed ordinance.[11]

III. Effect of Proposed Changes:

The bill creates s. 509.103, F.S., to regulate food delivery platforms.

The bill defines the term "food delivery platform" to mean a business that acts as a third-party intermediary for the consumer by taking and arranging for the delivery or pickup of orders from multiple food service establishments. The bill exempts the following types of activities from the term:

- Delivery or pickup orders placed directly with, and fulfilled by, a food service establishment.
- Websites, mobile applications, or other electronic services that do not post food service establishment menus, logos, or pricing information on their platforms.

The bill defines the term "food service establishment" to have the same meaning as the term "public food service establishment" as defined in s. 509.013(5), F.S. It also defines the term

[8] U.S. Food and Drug Administration, *FDA Highlights Best Practices on Food Safety for Online Delivery Services*, Dec. 9, 2022, available at: https://www.fda.gov/food/cfsan-constituent-updates/fda-highlights-best-practices-food-safety-online-delivery-services (last visited Jan. 24,2024).
[9] *See Memorandum to Honorable Chairman Oliver G. Gilbert, III and Members, Board of County Commissioners*, Sept. 11, 2023, available at: https://www.miamidade.gov/govaction/legistarfiles/Matters/Y2023/231055.pdf (last visited Jan. 24, 2024).
[10] Jesse Scheckner, *Miami-Dade sets table for food delivery app regulations amid privacy concerns*, Aug. 29, 2323, available at: https://floridapolitics.com/archives/631690-miami-dade-sets-table-for-food-delivery-app-regulations-amid-privacy-concerns/ (last visited Jan. 24, 2024).
[11] *See* Miami-Dade Legislative Item File Number: 231055, at: https://www.miamidade.gov/govaction/matter.asp?matter=231055&file=true&fileAnalysis=false&yearFolder=Y2023 (last visited Jan. 24, 2024).

"purchase price" to mean the price, as listed on the menu, for the items in a consumer's order. The term does not include fees, tips or gratuities, and taxes.

The bill prohibits a food delivery platform from taking and arranging for the delivery or pickup of orders from a food service establishment without the express consent of that food service establishment. The food service establishment's consent must be in either a written or electronic format.

Under the bill, a food delivery platform must itemize and clearly disclose to the consumer the cost breakdown of each transaction, including, but not limited to, the following information:

- The purchase price of the food and beverage.
- Any commission, delivery fee, or promotional fee charged to the consumer by the food delivery platform.
- Any tip or gratuity.
- Any taxes due on the transaction.

In addition, a food delivery platform must clearly provide to the consumer:

- The anticipated date and time of the delivery of the order.
- The delivery address.
- Confirmation that the order has been successfully delivered or completed.
- A mechanism for the consumer to express order concerns directly to the food delivery platform.

By July 1, 2025, the bill requires a food delivery platform to provide a food service establishment with:

- A method of contacting the consumer while the order is prepared and being delivered for up to two hours after the order is picked up from the food service establishment for delivery to the consumer.
- A method for responding to a consumer's ratings or reviews.

The bill requires a food delivery platform to remove a food service establishment's listing on the food delivery platform within 10 days after receiving the food service establishment's request for removal, unless there is an existing agreement between the two parties stating otherwise as provided in the bill.

Under the bill, a food delivery platform may not, without an agreement with the food service establishment, intentionally inflate, decrease, or alter a food service establishment's pricing.

The bill requires that the agreement between a food delivery platform and a food service establishment:

- Clearly state all fees, commissions, and charges that the food service establishment is expected to pay or absorb.
- Clearly state the policies of the food delivery platform, including, but not limited to, policies related to alcoholic beverages, marketing, menus and pricing, payment, and prohibited conduct.

- Include the insurance requirements for delivery partners of the food delivery platform and identify the party responsible for the cost of such insurance.
- Identify the party responsible for collecting and remitting applicable sales taxes.
- Clearly disclose policies regarding disputed transactions and the procedure for resolving those disputes.

The agreement between the food delivery platform and the food service establishment may not include a provision that requires a food service establishment to indemnify the food delivery platform, or any employee, contractor, or agent of the food delivery platform, for any damage or harm caused by the acts or omissions of the food delivery platform or any of its employees, contractors, or agents.

A food delivery platform may also not unreasonably limit the value or number of transactions that may be disputed by a food service establishment with respect to orders, goods, or delivery errors for determining responsibility for errors and reconciling disputed transactions.

The bill authorizes the division to enforce the provisions in the bill by:
- Authorizing the division to issue a cease and desist order upon a finding of probable cause that there is a violation;
- Providing that the division's issuance of a cease and desist order is not subject to Administrative Procedures Act requirements for agency actions which affect substantial interests, including a hearing before the Division of Administrative Hearing;
- Authorizing the division to seek an injunction or writ of mandamus against persons who violate the notice to cease and desist;
- Providing that the division is entitled to attorney fees and costs if it is required seek enforcement of a notice for a penalty under the Administrative Procedures Act;
- Authorizing the division to issue a civil penalty that may not exceed $1,000 per offense for each violation, and that the division may regard as a separate offense each day or portion of a day in which there has been a violation of the provision in the bill or of a the rules of the division; and
- Requiring the division to allow food delivery platforms seven business days to cure a violation before issuing a notice to cease or desist, an injunction, or a writ of mandamus or imposing a civil penalty.

The bill expressly preempts the regulation of food delivery platforms to the state.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Food delivery platforms may incur costs associated with the requirements of this bill.

C. Government Sector Impact:

The DBPR states it will incur additional expenses related to the number of full-time employees (FTE) required to handle the workload needed to implement the bill. The DBPR estimates it will need three additional staff and associated costs of $309,705 ($187,495 Hotels and Restaurant Trust Fund and $122,210 Administrative Trust Fund) for Fiscal Year 2024-2025.[12]

According to DBPR, the bill is unclear if the division would need to create a new license classification or online registration for food delivery platforms to allow regulation and enforcement. However, the DBPR is also expected to incur some nonrecurring costs to configure changes to DBPR's licensing system. According to the DBPR, the system modifications can be made with existing resources.[13]

The bill may result in an indeterminate increase in fines collected by the division due to noncompliance.

VI. Technical Deficiencies:

None.

[12] *See* Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for CS/SB 676* at 8 (January 22, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).
[13] *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 509.103 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 Regulated Industries on January 22, 2024:
The committee substitute authorizes the division to enforce the provisions in the bill by issuing cease and desist orders upon a finding of probable cause that there is a violation and seeking an injunction or writ of mandamus against persons who violate the notice to cease and desist. The bill authorizes the division to issue a civil penalty of not more than $1,000 per offense for each violation and provides that the division is entitled to attorney fees and costs if it is required seek enforcement of a notice for a penalty under the Administrative Procedures Act.

B. Amendments:

None.

By the Committee on Regulated Industries; and Senator Bradley

580-02345-24 2024676c1

A bill to be entitled

An act relating to food delivery platforms; creating s. 509.103, F.S.; defining terms; prohibiting food delivery platforms from taking or arranging for the delivery or pickup of orders from a food service establishment without the food service establishment's consent; requiring food delivery platforms to disclose certain information to the consumer; requiring food delivery platforms to provide food service establishments with a method of contacting and responding to consumers by a specified date; providing circumstances under which a food delivery platform must remove a food service establishment's listing on its platform; prohibiting certain actions by food delivery platforms; providing requirements for agreements between food delivery platforms and food service establishments; authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to issue a notice to cease and desist to a food delivery platform for violations; providing that such notice does not constitute agency action; authorizing the division to enforce such notice and collect attorney fees and costs under certain circumstances; authorizing the division to impose a specified civil penalty; requiring the division to allow a food delivery platform to cure any violation within a specified timeframe before imposing such a civil penalty; preempting regulation of food delivery platforms to the state; providing an

580-02345-24 2024676c1

effective date.

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

Section 1. Section 509.103, Florida Statutes, is created to read:

509.103 Food delivery platforms.—

(1) As used in this section, the term:

(a) "Food delivery platform" means a business that acts as a third-party intermediary for the consumer by taking and arranging for the delivery or pickup of orders from multiple food service establishments. The term does not include:

1. Delivery or pickup orders placed directly with, and fulfilled by, a food service establishment.

2. Websites, mobile applications, or other electronic services that do not post food service establishment menus, logos, or pricing information on their platforms.

(b) "Food service establishment" has the same meaning as the term "public food service establishment" as defined in s. 509.013(5).

(c) "Purchase price" means the price, as listed on the menu, for the items in a consumer's order, excluding fees, tips or gratuities, and taxes.

(2) A food delivery platform may not take and arrange for the delivery or pickup of orders from a food service establishment without the express consent of that food service establishment. Such consent must be in either a written or electronic format.

(3) A food delivery platform shall itemize and clearly

disclose to the consumer the cost breakdown of each transaction, including, but not limited to, the following information:

(a) The purchase price of the food and beverage.

(b) Any commission, delivery fee, or promotional fee charged to the consumer by the food delivery platform.

(c) Any tip or gratuity.

(d) Any taxes due on the transaction.

(4) A food delivery platform shall clearly provide to the consumer:

(a) The anticipated date and time of the delivery of the order.

(b) The address to which the order will be delivered.

(c) Confirmation that the order has been successfully delivered or that the delivery cannot be completed.

(d) A mechanism for the consumer to express order concerns directly to the food delivery platform.

(5) By July 1, 2025, a food delivery platform shall provide a food service establishment with:

(a) A method of contacting the consumer while preparing the order, during delivery of the order, and for up to 2 hours after the order is picked up from the food service establishment for delivery to the consumer.

(b) A method to respond to ratings or reviews that are left by the consumer.

(6) A food delivery platform shall remove a food service establishment's listing on the food delivery platform within 10 days after receiving the food service establishment's request for removal, unless there is an existing agreement between the two parties which includes the provisions specified in

subsection (8) stating otherwise.

(7) A food delivery platform may not, without an agreement with the food service establishment, intentionally inflate, decrease, or alter a food service establishment's pricing.

(8) An agreement between a food delivery platform and a food service establishment must:

(a) Clearly state all fees, commissions, and charges that the food service establishment is expected to pay or absorb.

(b) Clearly state the policies of the food delivery platform, including, but not limited to, policies related to alcoholic beverages, marketing, menus and pricing, payment, and prohibited conduct.

(c) Include the insurance requirements for delivery partners of the food delivery platform and identify the party responsible for the cost of such insurance.

(d) Identify the party responsible for collecting and remitting applicable sales taxes.

(e) Clearly disclose policies regarding disputed transactions and the procedure for resolving those disputes.

An agreement may not include a provision that requires a food service establishment to indemnify the food delivery platform, or any employee, contractor, or agent of the food delivery platform, for any damage or harm caused by the acts or omissions of the food delivery platform or any of its employees, contractors, or agents.

(9) A food delivery platform may not unreasonably limit the value or number of transactions that may be disputed by a food service establishment with respect to orders, goods, or delivery

errors for determining responsibility for errors and reconciling disputed transactions.

(10) If the division has probable cause to believe that a food delivery platform has violated this section or any rule adopted pursuant to this section, the division may issue to the food delivery platform a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.569, it is entitled to collect attorney fees and costs, together with any cost of collection.

(11) The division may impose a civil penalty on a food delivery platform in an amount not to exceed $1,000 per offense for each violation of this section or of a division rule. For purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which there has been a violation of this section or rules of the division. The division shall issue to the food delivery platform a written notice of any violation and provide the food delivery platform 7 business days in which to cure the violation before imposing a civil penalty under this subsection or commencing any legal proceeding under subsection (10).

(12) Regulation of food delivery platforms is expressly preempted to the state.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Criminal and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JENNIFER BRADLEY
6th District

January 24, 2024

Senator Jason Brodeur, Chairman
Senate Appropriations Committee on Agriculture, Environment, and General Government
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Brodeur:

I respectfully request that CS/SB 676 be placed on the committee's agenda at your earliest convenience. This bill relates to food delivery platforms.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

Jennifer Bradley

cc: Giovanni Betta, Staff Director
Julie Brass, Administrative Assistant

REPLY TO:
❒ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
❒ 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
❒ 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

2/8/2024
Meeting Date

SB 0676
Bill Number or Topic

Approp Comm on Ag., Environ. & General
Committee

Amendment Barcode (if applicable)

Name Samantha Padgett

Phone (850) 224-2250 ext. 228

Address 230 S. Adams Street
Street

Email Spadgett@FRLA.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 Restaurant & Lodging Assoc.

☐ 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
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2/8/24
Meeting Date

~~Approps~~ AEGG
Committee

676
Bill Number or Topic

Amendment Barcode (if applicable)

Name Greg Black

Phone 8505098022

Address 1727 Highland Place
Street

Email greg@blackconsultingllc.com

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:**
Grub Hub

☐ **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

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2/7/24	676
Meeting Date	Bill Number or Topic
Ag, Env & Gen Gov Appropriations	
Committee	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)

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
Senate professional staff conducting the meeting

February 8, 2024
Meeting Date

Approps Ag, Env, Gen Gov
Committee

SB 676
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tiffany Garling - FL Chamber

Phone 850-661-3339

Address 136 S. Bronough Street
Street

Email tgarling@flchamber.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:
Florida Chamber of Commerce

☐ 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
Senate professional staff conducting the meeting

2.8.24
Meeting Date

Ag, Env, GG Approps
Committee

676
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sarah Sukey

Phone 850.222.8400

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Street

Email SarahC@tapfla.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: TechNet

☐ 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
Senate professional staff conducting the meeting

2/8/24
Meeting Date

AG/EN/GENGOV APPROPS
Committee

0676
Bill Number or Topic

Amendment Barcode (If applicable)

Name Sal Nuzzo - THE JAMES MADISON INSTITUTE

Phone 8503229941

Address 100 N Duval Street
Street

Email snuzzo@jamesmadison.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:

☐ 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 804
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government and Senator Hutson
SUBJECT:	Gaming Licenses and Permits
DATE:	February 12, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Favorable**
2.	Kraemer/Davis	Betta	AEG	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 804 revises gaming permitting and licensing procedures, including the method for serving official communications and administrative complaints upon permitholders and licensees licensed under chs. 550 and 551, F.S., (Pari-mutuel Wagering and Slot Machines), by the Florida Gaming Control Commission (commission).

The bill provides that the commission may also deny a license to, or revoke, suspend, or place conditions upon or restrictions on a license of, any person who has been subject to a provisional suspension or period of ineligibility by the federal Horseracing Integrity and Safety Authority, or on the person suspended or ineligible for licensing related to the finding of a prohibited substance in an animal's hair or bodily fluids. The bill requires, if an occupational license is summarily suspended, the commission to offer the licensee a post-suspension hearing within 72 hours after commencement of the suspension.

The bill authorizes the commission to deny an application for license, or to suspend or revoke a license, if an applicant for a license or a licensee has falsely sworn, in a signed oath or affirmation, to a material statement, including, but not limited to, the criminal history of the applicant or licensee.

Under the bill, the commission is authorized to waive certain restrictions related to slot machine occupational licensing, similar to the waiver authority in current law for pari-mutuel wagering

occupational licensing. Current law authorizes the commission to deny, revoke, or refuse to renew a slot machine occupational license if the applicant or the licensee has been convicted of a felony or misdemeanor in Florida or another state or under federal law when the criminal conviction is related to gambling or bookmaking.[1]
Under the bill, the commission will be able to waive the restriction on criminal convictions for slot machine licenses, if the applicant establishes that the applicant:

- Is of good moral character;
- Has been rehabilitated;
- The criminal conviction is not related to slot machine gaming; and
- The criminal conviction is not a capital offense.

The bill has no fiscal impact to the state.[2] See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Background

In general, gambling is illegal in Florida.[3] Chapter 849, F.S., prohibits keeping a gambling house,[4] running a lottery,[5] or the manufacture, sale, lease, play, or possession of slot machines.[6] However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel[7] wagering at licensed greyhound and horse tracks and jai alai frontons;[8]
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[9]
- Cardrooms[10] at certain pari-mutuel facilities;[11]

[1] The term "bookmaking" is defined in s. 849.25, F.S., to mean "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever."
[2] *See* Florida Gaming Control Commission, *2024 Agency Legislative Bill Analysis for SB 804* at 6 (Jan. 11, 2024) (on file with the Senate Committee on Regulated Industries).
[3] See s. 849.08, F.S.
[4] *See* s. 849.01, F.S.
[5] *See* s. 849.09, F.S.
[6] Section 849.16, F.S.
[7] "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.
[8] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[9] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.
[10] 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."
[11] *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. 10, 2024), which states that of 29 licensed permitholders, 26 operated at a pari-mutuel facility.

- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;[12]
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;[13] and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
  - Penny-ante games;[14]
  - Bingo;[15]
  - Charitable drawings;[16]
  - Game promotions (sweepstakes);[17] and
  - Bowling tournaments.[18]

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.[19]

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.[20] 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.[21]

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 and other laws relating to authorized gaming.[22] The Office of

[12] 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.
[13] *See* s. 546.10, F.S.
[14] *See* s. 849.085, F.S.
[15] *See* s. 849.0931, F.S.
[16] *See* s. 849.0935, F.S.
[17] *See* s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[18] *See* s. 849.141, F.S.
[19] *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)*.
[20] 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.
[21] 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.
[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 to the section in ch. 2022-7, Laws of Fla., (Reviser's Bill) and ch. 2023-8, Laws of Fla., (Reviser's Bill).

Statewide Prosecution in the Department of Legal Affairs is authorized to investigate and prosecute, in addition to gambling offenses, any violation of chs. 24, 285 (part II), 546, 550, 551, or 849, F.S., (State Lotteries, Gaming Compact, Amusement Facilities, Pari-mutuel Wagering, Slot Machines, and 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 (DPMW) which was transferred from the Department of Business and Professional Regulation effective July 1, 2022 (as discussed below).

The commission must do all of the following:[25]

- 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 chs. 24, 285 (part II), 546, 550, 551, or 849, F.S.
- 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

[23] Section 16.56(1)(a), F.S.
[24] Section 16.71, F.S.
[25] Section 16.712, F.S. The commission also administers the Pari-mutuel Wagering Trust Fund. *See* s. 16.71(6), F.S.

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 commission.
- Review the regulation of licensees, permitholders, or persons regulated by the commission and the procedures used by the commission to implement and enforce the law.
- Review the procedures of the commission which are used to qualify applicants applying for a license, permit, or registration.
- 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 chs. 24, 285 (part II), 546, 550, 551, or 849, F.S., and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of chs. 24, 285 (part II), 546, 550, 551, or 849, F.S., 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.[26] 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.[27]

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 chs. 24, 285 (part II), 546, 550, 551, or 849, F.S., or any rule adopted pursuant thereto, or any law of this state.[28]

[26] For a summary of DGE investigations and actions in Fiscal Year 2022-2023, s*ee* Annual Report, *supra* n. 11 at p.5.
[27] Section 16.711(2), F.S.
[28] Section 16.711(3), F.S.

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 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.[29]

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.[30]

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.[31] 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.[32]

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 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.[33]

Division of Pari-mutuel Wagering

The commission 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. The Division of Pari-Mutuel Wagering (DPMW) is a program area of the commission which is charged with the regulation of Florida's pari-mutuel, cardroom, and slot gaming industries, as authorized by chs. 550, 551, and 849, F.S., as well as collecting and safeguarding associated revenues due to the state. The DPMW supports the commission in meeting the commission's obligations as the State Compliance Agency

[29] *Id*.
[30] *Id*.
[31] Section 16.711(4), F.S.
[32] *Id*.
[33] Section 16.711(5), F.S.

(SCA)[34] in carrying out the state's oversight responsibilities under the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.[35]

Issuance of Pari-mutuel Permits and Annual Licenses

Section 550.054, F.S., provides that any person meeting the qualification requirements of ch. 550, F.S., may apply to the commission for a permit to conduct pari-mutuel wagering. Upon approval, a permit must be issued to the applicant that indicates:

- The name of the permitholder;
- The location of the pari-mutuel facility;
- The type of pari-mutuel activity to be conducted; and
- A statement showing qualifications of the applicant to conduct pari-mutuel performances under ch. 550, F.S.

A permit does not authorize any pari-mutuel performances until approved by a majority of voters in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. An application may not be considered, nor may a permit be issued by the commission or be voted upon in any county, for the conduct of:

- Harness horse racing, quarter horse racing, thoroughbred horse racing, or greyhound racing at a location within 100 miles of an existing pari-mutuel facility; or
- Jai alai games within 50 miles of an existing pari-mutuel facility.

Distances are measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.[36]

After issuance of the permit and a ratification election, the commission may issue an annual operating license for wagering at the specified location in a county, indicating the time, place, and number of days during which pari-mutuel operations may be conducted at the specified location.[37] Section 550.5251, F.S., specifies the requirements for annual operating licenses to be issued to thoroughbred permitholders by March 15 of each year, including the number and dates of all performances to be conducted for the racing season commencing the following July 1.

Pursuant to s. 550.054(9)(b), F.S., the commission may revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of ch. 550, F.S., or any administrative rule adopted by the commission, and may impose a civil penalty against the permitholder or licensee up to $1,000 for each offense.

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[34] *See* s. 285.710, F.S. Until June 30, 2022, the DPMW was designated as the SCA, prior to that division's transfer to the commission from the Department of Business and Professional Regulation, as set forth in ch. 2021-269, Laws of Fla.
[35] *See* s. 285.710(3)(b), F.S., which provides that the Gaming Compact between the Seminole Tribe of Florida and the State of Florida (2021 Gaming Compact), executed by the Governor and the Tribe on April 23, 2021, as amended on May 17, 2021, is ratified and approved. The 2021 Gaming Compact may be accessed at https://www.flgov.com/wp-content/uploads/pdfs/2021%20Gaming%20Compact.pdf (last visited Jan. 10, 2024). The May 17, 2021 amendment states that Part XVIII.A [relating to certain negotiations within 36 months] is deleted in its entirety and replaced with "Reserved", and that the Seminole Tribe of Florida agrees that it will not commence Sports Betting, as defined in Park III.CC, prior to October 15, 2021. (on file with the Senate Regulated Industries Committee).
[36] *See* s. 550.054(2), F.S.
[37] *See* s. 550.054(9)(a), F.S.

Section 550.054(14), F.S., authorizes conversion of jai alai permits to greyhound permits, under limited conditions.

Section 550.054(15), F.S., provides that a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses may only be held by a:

- Permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 or who holds a permit issued pursuant to s. 550.3345, F.S.; or
- Purchaser, transferee, or assignee of a valid permit for the conduct of pari-mutuel wagering if approved by the commission before such purchase, transfer, or assignment and provided that the commission does not approve or issue an additional permit for the conduct of pari-mutuel wagering.

Under current law, no additional permits for the conduct of pari-mutuel wagering may be approved or issued by the commission, and a pari-mutuel permit may not be converted to another class of permit.[38]

The issuance of limited thoroughbred racing permits (through conversion from a quarter horse permit) is authorized in s. 550.3345, F.S. A limited thoroughbred racing permit authorizes the conduct of live thoroughbred horseracing, with net revenues dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under ch. 550, F.S., promotion of the thoroughbred horse breeding industry, and the care of retired thoroughbred horses in Florida.

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorizes slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade counties, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state is limited to Broward and Miami-Dade counties, and as authorized by federal law, in the tribal gaming facilities of the Seminole Tribe.

Sections 551.102, 551.103, 551.104, 551.114, 551.116, and 551.121, F.S., address slot machine gaming operations, and:

- Restrict the issuance of slot machine licenses to licensed pari-mutuel permitholders, for slot machine gaming only at the address specified in the licensed permitholder's slot machine license issued for Fiscal Year 2020-2021;
- Require the licensee to be in compliance with chs. 550, F.S., relating to Pari-mutuel Wagering, and ch. 551, F.S., relating to Slot Machines;
- Require, as to thoroughbred permitholders, the conduct of a full schedule of live racing as defined in s. 550.002(10), F.S.;

[38] *See* s. 550.054(15)(c) and (d), F.S. Pursuant to s. 550.054(15)(b), F.S., all pari-mutuel permits issued under ch. 550, F.S., that were held by permitholders on January 1, 2021, are deemed valid for the sole and exclusive purpose of satisfying all conditions for the valid issuance of the permits, if such permitholder held an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021 or if such permitholder held a permit issued pursuant to s. 550.3345, F.S., relating to limited thoroughbred permits.

- Require testing of slot machines by an independent testing laboratory with demonstrated competence testing gaming machines and equipment, that is licensed by at least 10 other states; and that has not had its license suspended or revoked by any other state within the immediately preceding 10 years;
- Allow slot machine gaming areas to be open 24 hours daily throughout the year;
- Regulate the serving of alcoholic beverages to players in certain areas; complimentary or reduced-cost alcoholic beverages may not be served in slot machine gaming areas;
- Prohibit certain other actions concerning the advancement of credit, the acceptance of checks, and the placement of automated teller machines or devices; and
- Provide other requirements regarding ownership, law enforcement access, computer systems, security, records, and audits.

Cardrooms

Section 849.086, F.S., authorizes cardrooms at certain pari-mutuel facilities.[39] In Fiscal Year 2022-2023, 29 permitholders held a cardroom license.[40] A license to offer pari-mutuel wagering, slot machine gaming, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[41] A cardroom may be open 24 hours per day.[42]

Under current law, notwithstanding any other provision of law, a pari-mutuel permitholder (other than a limited thoroughbred permitholder) may not be issued a license for the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021.[43] For a limited thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least a full schedule of live racing.[44] An initial cardroom license may be issued to a pari-mutuel permitholder only after its facilities are in place and after it conducts its first day of pari-mutuel activities on live racing or games.[45]

Sections 849.086(5) and (6), F.S., provide that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit may hold a cardroom license authorizing the operation of a cardroom and the conduct of authorized games at the cardroom. An authorized game is a game or series of games of poker or dominoes.[46] Such games must be played in a non-banking manner,[47] where the participants play against each other, instead of against the house (cardroom).

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[39] Section 849.086, F.S. Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized 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.
[40] *See* Annual Report, *supra* n. 11 at p.15, which states that of 29 permitholders, 26 operated at a pari-mutuel facility.
[41] *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, 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). *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."
[42] Section 849.086(7)(b), F.S.
[43] Section 849.086(5), F.S.
[44] *Id*.
[45] *Id*.
[46] *See* s. 849.086(2)(a), F.S.
[47] *Id*.

At least four percent of the gross cardroom receipts of jai alai permitholders conducting live games must supplement greyhound purses and jai alai prize money.[48] Thoroughbred and harness horse racing permitholders that conduct live performances and operate a cardroom must use at least 50 percent of the monthly net proceeds from the cardroom for purses and awards, with 47 percent to supplement purses and three percent to supplement breeders' awards. Quarter horse permitholders must have a contract with a horsemen's association governing the payment of purses on live quarter horse races conducted by the permitholder.[49]

Prohibition on Racing of and Wagering on Greyhounds or other Dogs

Amendment 13 to the Florida Constitution was adopted in 2018 with 69.06 percent support of the electorate. The amendment, titled "Prohibition on Racing of and Wagering on Greyhounds or other Dogs, is codified in s. 32, Art. X of the State Constitution.[50] The amendment banned all racing of and wagering on live dog racing in Florida after December 31, 2020, and allowed greyhound permitholders to stop racing after December 31, 2018, without affecting other pari-mutuel activities as authorized by law, and the Legislature was directed to specify civil or criminal penalties for violations.

III. Effect of Proposed Changes:

Section 1 creates s. 16.717, F.S., to authorize the Florida Gaming Control Commission (commission) to deny an application for license, or to suspend or revoke a license if an applicant for a license or a licensee has falsely sworn, in a signed oath or affirmation, to a material statement, including, but not limited to, the criminal history of the applicant or licensee. In addition, the bill provides that such applicants and licensees are subject to other penalties as provided by law.

The bill mirrors similar authority held by the Department of Business and Professional Regulation (DBPR) under current law,[51] to deny an application for license, or to suspend or revoke a license. However, the authority for the taking of these actions that is in current law does not apply to the commission, notwithstanding the transfer of licensing authority to it,[52] and such authority is necessary to properly regulate the persons licensed to conduct pari-mutuel wagering, slot machine games, or cardroom activity in the state.

Section 2 creates s. 16.718, F.S, to establish procedures relating to notification to the commission of applicant and licensee addresses, places of employment, and the authorized methods of service by the commission of its official communications and administrative complaints to applicants and licensees.

[48] Section 849.086(13), F.S.
[49] *See* s. 849.086(13)(d), F.S.
[50] *See* http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A10S32 (last visited Jan. 17, 2024).
[51] *See* s. 559.791, F.S.
[52] Pursuant to ch. 2021-269, s. 11, Laws of Fla., a type two transfer occurred on July 1, 2022, that transferred the Division of Pari-Mutuel Wagering from the DBPR to the commission.

The bill provides that applicants and licensees are responsible for providing written notification to the commission of their current mailing address, e-mail address, and place of employment. Failure to do so constitutes a violation by an applicant, whose application may be denied for failure to provide the information. A licensee's failure to notify the commission of any change to the e-mail or mailing address of record constitutes a violation that may subject the licensee to discipline by the commission as described in s. 550.0251(10), F.S.[53]

As to service by the commission of its official communications, under the bill, an e-mail to an applicant's or licensee's e-mail address of record with the commission constitutes sufficient notice to applicants and licensees, notwithstanding any provision of Florida law to the contrary. The bill provides the commission with discretion to instead provide service by regular mail to the last known mailing address of an applicant or licensee, but the commission is not required to provide service by both e-mail and regular mail.

The bill further provides, as to service of an administrative complaint or other document setting forth intended or final agency action on an applicant or a licensee, the commission is only required to provide service by e-mail to the applicant's or licensee's e-mail address on record with the commission, notwithstanding any provision of law to the contrary. Under the bill, e-mail service constitutes sufficient notice to those served with an administrative complaint or any other document setting forth intended or final agency action. The commission may, in its discretion, provide service of such documents by regular mail to an applicant's or licensee's last known mailing address, but is not required to provide service by both e-mail and regular mail.

Section 3 amends s. 550.01215, F.S., relating to annual operating licenses, to revise deadlines for submission of applications and issuance of licenses, and to revise the process for changes in a licensee's operating dates.

The bill revises the date by which a pari-mutuel permitholder must submit an application for its annual operating license, from the period between December 15 and January 4 to the period between January 15 and February 4. This may reduce errors and deficiencies related to a deadline in the first week of the year. Also, a permitholder may amend their application through March 28 instead of February 28. To address the later submission date of such applications, the bill extends the date by which the commission must issue annual operating licenses to April 15, from March 15 of each year.

In prior years, the setting of permitholder operating dates was an important aspect of horse racing, to avoid conflicting dates and improve profitability to horse owners, breeders, and racetracks, and changes were subject to review by competing permitholders. Under the bill, approval requirements relating to the procedure for a requested change in operating dates are substantially revised, as these requirements are eliminated:

- That there be no objection to the requested change from active permitholders operating within 50 miles of the permitholder requesting the change; and

[53] Section 550.251, F.S., authorizes the commission to impose an administrative fine not to exceed $1,000 for each count or separate offense (unless otherwise provided in ch. 550, F.S., relating to pari-mutuel wagering), and to suspend or revoke a permit, a pari-mutuel license, or an occupational license.

- That when such an objection is made, the commission must approve or disapprove the requested change based upon its impact on all the active permitholders located within 50 miles of the permitholder requesting the change.

The bill provides that when the commission determines to approve a change in operating dates, it has the discretion whether to take the impact of the change on state revenues into consideration. Current law provides that the commission must consider impacts on state revenues.

The bill revises the term "racing" dates to the term "performance" dates. This is a technical revision in order to also allow changes in operating dates for the conduct of jai alai games. Current law allows changes to racing dates, which is applicable only to horse racing.

Section 4 amends s. 550.0351, F.S., relating to charity days, to remove obsolete references to "racing" from the provision.

Section 5 amends s. 550.054, F.S., relating to applications for permits to conduct pari-mutuel wagering, to remove an obsolete reference to "racing" from the provision.

Section 6 amends s. 550.0951, F.S., relating to daily license fees and taxes, to delete obsolete language related to daily license fees and tax rates payable on live greyhound racing that is no longer authorized to be conducted in this state.

Section 7 amends s. 550.09515, F.S., relating to admissions taxes and rates for thoroughbred races, to delete obsolete language related to thoroughbred permitholders that did not operate during the 2001-2002 license year in a provision that expired by its own terms on July 1, 2003.

Section 8 amends s. 550.105, F.S., relating to occupational licensing and discipline of racetrack employees. In 2020, Congress passed the Horseracing Integrity and Safety Act of 2020 (HISA) within the Consolidated Appropriations Act of 2021.[54] This federal legislation resulted in the creation of the Horseracing Integrity and Safety Authority (the authority), which was created for the purposes of developing and implementing a horseracing anti-doping and medication control program and racetrack safety program.[55] The funding for the authority comes from assessments for racing activities within each state,[56] and permitholders that conduct thoroughbred racing have paid those assessments.

One of the functions of the authority is to suspend individuals from Florida racetracks for violations associated with the authority's programs.[57] Under current law the commission may deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission or racing authority.

The bill provides that the commission may also deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been subject to a provisional

[54] Pub. L. No. 116-260.
[55] Section 1203, Pub. L. No. 116-260.
[56] *Id.*
[57] *See* the regulations promulgated by HISA for its Racetrack Safety Program (Rule Series 2000) and Equine Anti-Doping and Controlled Medication Protocol (Rule Series 3000) at https://hisaus.org/regulations (last visited Jan. 17, 2024).

suspension or period of ineligibility by the authority, or another such authority as may be designated by the Federal Trade Commission.

Similarly, as to the commission's authority under current law to deny, suspend, or place conditions on a license of any person who is under suspension or has unpaid fines in another jurisdiction, the bill allows such actions by the commission against the license of any person who is subject to a provisional suspension or period of ineligibility under HISA that is related to the finding of a prohibited substance in an animal's hair or bodily fluids. The bill provides that any such suspension expires on the same date that the HISA-imposed provisional suspension or period of ineligibility expires.

The bill requires, if an occupational license is summarily suspended, the commission must offer the licensee a post-suspension hearing within 72 hours after commencement of the suspension. The occupational licensee has the burden of proving by clear and convincing evidence that she or he is not subject to a provisional suspension or period of ineligibility imposed by HISA. The standard of review is whether the commission's action was an abuse of its discretion.

The bill includes technical drafting changes to eliminate obsolete references in this provision.

Section 9 amends s. 550.125, F.S., relating to permitholder accounting requirements permitholders' and the submission of annual reports, to delete obsolete language and to clarify that the required records must show cardroom gross receipts and slot machine revenue, in addition to funds contributed to pari-mutuel pools.

Section 10 amends s. 550.3551, F.S., relating to transmission of racing and jai alai information, to authorize a licensed horse track to receive broadcasts of horseraces conducted at horse racetracks outside Florida, if the track conducted a full schedule of live racing in the preceding fiscal year. See Section VII of this analysis related to consideration of an amendment to revise this provision to authorize licensed horse tracks that are not required to conduct a full schedule of live racing under current law, to continue to receive broadcasts of horseraces conducted at horse racetracks outside Florida.

Section 11 amends s. 550.505, F.S., relating to nonwagering permits for the conduct of horse racing when no pari-mutuel wagering occurs. The bill revises the deadline for submission of annual applications by nonwagering permitholders to the period of time between January 15 and February 4 each year for the next fiscal year (i.e., July 1 to June 30). Under current law the annual application deadline for nonwagering permitholders is before June 1, for the next calendar year (i.e., January 1 to December 31). The bill also provides for license issuance on or before April 15, consistent with the deadline for other annual licenses set forth in **Section 3** of the bill. The bill establishes a transitional period during which the commission is authorized to extend a nonwagering license during the 2024 calendar year through the 2024-2025 fiscal year, if requested by a permitholder.

Section 12 amends s. 550.5251, F.S., relating to thoroughbred racing, to revise the date by which a thoroughbred permitholder must submit an application for its annual operating license, from the period between December 15 and January 4 to the period between January 15 and February 4. This may reduce errors and deficiencies related to a deadline in the first week of the

year. Also, a thoroughbred permitholder may amend the application through March 28 instead of February 28. To address the later submission date of such applications, the bill extends the date by which the commission must issue annual operating licenses to April 15, from March 15 of each year. These revisions conform to the revisions to s. 550.01215, F.S., made by the bill. See **Section 3**.

Section 13 amends s. 551.104, F.S. relating to slot machine gaming licenses, by:
- Deleting obsolete language and conform to bill drafting conventions;
- Adding to the requirement that an independent certified accountant audit a licensee's slot machine revenues, that the accountant must be licensed under Florida law pursuant to ch. 373, F.S., relating to Public Accountancy, (revising text enacted in 2005[58]); and
- Requiring the audit of slot machine revenues be filed within 120 days after the end of the licensee's fiscal year, rather than 60 days after completion of its scheduled racing or games.

Section 14 amends s. 551.107, F.S., relating to slot machine occupational licensing, to conform the power of the commission to waive certain restrictions related to slot machine occupational licensing to the power it has in current law to waive similar restrictions for pari-mutuel wagering occupational licensing under s. 550.105(5)(c), F.S. Current law authorizes the commission to deny, revoke, or refuse to renew a slot machine occupational license if the applicant or the licensee has been convicted of a felony or misdemeanor in Florida or another state or under federal law when the criminal conviction is related to gambling or bookmaking.[59]

The bill provides that the commission may waive the restriction on criminal convictions, if the applicant establishes that the applicant:
- Is of good moral character;
- Has been rehabilitated;
- The criminal conviction is not related to slot machine gaming; and
- The criminal conviction is not a capital offense.

Statutory Provisions Reenacted in the Bill

Sections 15 to 24 provide for the reenactment of provisions in current law, to incorporate the amendments made by the bill to s. 550.0951, F.S., relating to the payment of daily license fees and taxes on horse races and jai alai games. The statutory sections reenacted in the bill include sections:
- 212.04(2)(c), F.S., relating to admissions taxes and rates;
- 550.0351(4), F.S., relating to charity racing days;
- 550.09511(2), F.S., relating to jai alai taxes;
- 550.09512(4), F.S., relating to harness horse taxes;
- 550.09514(1) and (2)(e), F.S., relating to greyhound dogracing taxes and purse requirements;
- 550.09516(3), F.S., relating to thoroughbred racing permitholders;

[58] *See* ch. 2005-362, Laws of Fla.
[59] The term "bookmaking" is defined in s. 849.25, F.S., to mean "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever."

- 550.135(1), F.S., relating to the distribution of daily licensing fees from pari-mutuel racing;
- 550.1625(2), F.S., relating to dogracing taxes;
- 550.26352(3)-(6), F.S., relating to authorizing Breeders' Cup Meet pools; and
- 550.375(4), F.S., F.S., relating to the operation of certain harness tracks.

Section 25 provides that 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.

B. Private Sector Impact:

Persons who hold gaming permits and licenses will be minimally impacted financially by having to comply with the procedures revised by the bill, including the method for service of official communications and administrative complaints upon permitholders and licensees licensed under chs. 550, and 551, F.S., ((Pari-mutuel Wagering and Slot Machines), by the Florida Gaming Control Commission (commission).

Licensees may be affected financially by the authority of the commission to deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been subject to a provisional suspension or period of ineligibility by the federal Horseracing Integrity and Safety Authority, or who has been suspended or ineligible for licensing related to the finding of a prohibited substance in an animal's hair or bodily fluids.

Applicants for licenses and licensees may be affected financially if the commission denies an application for license, or suspend or revoke a license if an applicant for a license or a licensee has falsely sworn to a material statement, such as the criminal history of the applicant or licensee.

Some applicants for slot machine licenses may benefit financially from the authority granted to the commission by the bill to waive certain restrictions related to slot machine occupational licensing in cases where the applicant or the licensee has been convicted of a felony or misdemeanor in Florida or another state or under federal law when the criminal conviction is related to gambling or bookmaking. Under the bill, such a waiver by the commission is possible, if the applicant establishes that the applicant is of good moral character, has been rehabilitated, the criminal conviction is not related to slot machine gaming, and the criminal conviction is not a capital offense.

C. Government Sector Impact:

According to the commission, there will be a "minimal decrease in expenditures due to expected decrease in use of certified mail, posting notices in local newspapers, and manhours for hand service of official communication, documents, final orders, and final agency action of the commission.[60]

VI. Technical Deficiencies:

Section 550.3551, F.S., relating to transmission of racing and jai alai information, authorizes a licensed horse track to receive broadcasts of horseraces conducted at horse racetracks outside Florida, if the track conducted a full schedule of live racing in the preceding fiscal year. The sponsor may wish to consider an amendment to revise this provision to authorize licensed horse tracks that are not required to conduct a full schedule of live racing under current law to continue to receive broadcasts of horseraces conducted at horse racetracks outside Florida. See **Section 10**.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 550.01215, 550.0351, 550.054, 550.0951, 550.09515, 550.105, 550.125, 550.3551, 550.505, 550.5251, and 551.104.

This bill creates the following sections of the Florida Statutes: 16.717 and 16.718.

[60] *See* Florida Gaming Control Commission, *2024 Agency Legislative Bill Analysis for SB 804* at 6 (Jan. 11, 2024) (on file with the Senate Committee on Regulated Industries).

This bill reenacts the following sections of the Florida Statutes: 212.04, 550.0351, 550.09511, 550.09512, 550.09514, 550.09516, 550.135, 550.1625, 550.3551, 550.26352, and 550.375.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 8, 2024:

The committee substitute:

- Revises the title to "Gaming Licenses and Permits," a more comprehensive description for the provisions addressed in the bill;
- Clarifies the authority of the Florida Gaming Control Commission (commission) to deny applications, and suspend or revoke licenses, if an applicant or licensee falsely swears, in a signed oath or affirmation, to material statements or criminal history information;
- Authorizes the commission to fine or suspend a permitholder's license if all licensed racing performances do not occur;
- Authorizes the commission, notwithstanding the requirements of Florida's Administrative Procedure Act, to summarily suspend the occupational license of any person suspended by the federal Horseracing Integrity and Safety Authority (HISA) relating to prohibited substances in an animal's hair or bodily fluids. After an occupational licensee is summarily suspended, the commission must offer the licensee a hearing within 72 hours;
- Deletes an obsolete provision allowing permitholders to apply for performance dates that are not used by another permitholder;
- Retains current law relating to daily license fees and tax rates payable on live greyhound racing;
- Retains current law relating to a greyhound racing tax on unclaimed wagering tickets, to avoid addressing tax issues in this bill;
- Amends the authority for a licensed horse track to receive broadcasts of horseraces conducted at horse racetracks outside Florida, if the track conducted a full schedule of live racing in the preceding fiscal year;
- Includes a provision to revise the deadlines for annual license applications and amendments by thoroughbred permitholders, and for issuance of such licenses by the commission, to conform with similar deadline revisions in the bill;
- Deletes a provision authorizing the commission to waive criminal convictions of slot machine occupational licensees in certain circumstances; and
- Removes obsolete language and conforms provisions to changes made by the amendment.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 84 - 469

and insert:

licensees.—The commission may deny the application of, or suspend or revoke the license of, any person who submits an application for licensure upon which application the person has falsely sworn, in a signed oath or affirmation, to a material statement, including, but not limited to, the criminal history of the applicant or licensee. Additionally, the person is

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subject to any other penalties provided by law.

Section 2. Section 16.718, Florida Statutes, is created to read:

16.718 Florida Gaming Control Commission; notification of applicants' or licensees' addresses and place of employment; service.—

(1) Each applicant for a license with the commission and each licensee of the commission is responsible for notifying the commission in writing of the applicant's or licensee's current mailing address, e-mail address, and place of employment. An applicant's failure to notify the commission constitutes a violation of this section, and the applicant's application may be denied. A licensee's failure to notify the commission of any change to the e-mail or mailing address of record constitutes a violation of this section, and the licensee may be disciplined by the commission as described in s. 550.0251(10).

(2) Notwithstanding any provision of law to the contrary, service by e-mail to an applicant's or licensee's e-mail address of record with the commission constitutes sufficient notice to the applicant or licensee for any official communication. The commission may, in its discretion, provide service for any official communication by regular mail to an applicant's or licensee's last known mailing address. The commission is not required to provide service by both e-mail and regular mail.

(3) Notwithstanding any provision of law to the contrary, when an administrative complaint or other document setting forth intended or final agency action is to be served on an applicant or a licensee, the commission is only required to provide service by e-mail to the applicant's or licensee's e-mail

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address on record with the commission. E-mail service constitutes sufficient notice to the person or persons upon whom an administrative complaint or any other document setting forth intended or final agency action is served. The commission may, in its discretion, provide service of an administrative complaint or any other documents setting forth intended or final agency action by regular mail to an applicant's or licensee's last known mailing address. The commission is not required to provide service by both e-mail and regular mail.

Section 3. Subsections (1), (3), (4), and (5) of section 550.01215, Florida Statutes, are amended to read:

550.01215 License application; periods of operation; license fees; bond.—

(1) Each permitholder shall annually, during the period between January ~~December~~ 15 and February ~~January~~ 4, file in writing with the commission its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.

(a) Each application for an operating license also must include:

1. For each permitholder, whether the permitholder intends to accept wagers on intertrack or simulcast events.

2. For each permitholder that elects to operate a cardroom, the dates and periods of operation the permitholder intends to

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operate the cardroom.

3. For each thoroughbred racing permitholder that elects to receive or rebroadcast out-of-state races, the dates for all performances that the permitholder intends to conduct.

(b)1. A greyhound permitholder may not conduct live racing. A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games. A thoroughbred permitholder must conduct live racing. A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games retains its permit; is a pari-mutuel facility as defined in s. 550.002(23); if such permitholder has been issued a slot machine license, the facility where such permit is located remains an eligible facility as defined in s. 551.102(4), continues to be eligible for a slot machine license pursuant to s. 551.104(3), and is exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is eligible, but not required, to be a guest track and, if the permitholder is a harness horse racing permitholder, to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and remains eligible for a cardroom license.

2. A permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The commission may deny, suspend, or revoke any permit or license under this chapter if a permitholder or licensee conducts live greyhound racing or dogracing in violation of this subparagraph. In addition to, or in lieu of, denial, suspension, or revocation of

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such permit or license, the commission may impose a civil penalty of up to $5,000 against the permitholder or licensee for a violation of this subparagraph. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(c) Permitholders may amend their applications through March ~~February~~ 28.

(d) Notwithstanding any other provision of law, other than a permitholder issued a permit pursuant to s. 550.3345, a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. This paragraph does not apply to a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering approved pursuant to s. 550.054(15)(a).

(3) The commission shall issue each license no later than April ~~March~~ 15. Each permitholder shall operate all performances at the date and time specified on its license. ~~The commission shall have the authority to approve minor changes in racing dates after a license has been issued.~~ The commission may approve changes in performance ~~racing~~ dates after a license has been issued ~~when there is no objection from any operating permitholder that is conducting live racing or games and that is located within 50 miles of the permitholder requesting the changes in operating dates~~. ~~In the event of an objection, the commission shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located~~

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~~within 50 miles of the permitholder requesting the change in operating dates.~~ In making the determination to change performance ~~racing~~ dates, the commission may ~~shall~~ take into consideration the impact of such changes on state revenues.

(4) In the event that a permitholder fails to operate all performances specified on its license at the date and time specified, the commission may ~~shall hold a hearing to determine whether to~~ fine or suspend the permitholder's license, unless such failure was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified.

~~(5) In the event that performances licensed to be operated by a permitholder are vacated, abandoned, or will not be used for any reason, any permitholder shall be entitled, pursuant to rules adopted by the commission, to apply to conduct performances on the dates for which the performances have been abandoned. The commission shall issue an amended license for all such replacement performances which have been requested in compliance with this chapter and commission rules.~~

Section 4. Section 550.0351, Florida Statutes, is amended to read:

550.0351 Charity ~~racing~~ days.—

(1) The commission shall, upon the request of a permitholder, authorize each horseracing permitholder and jai alai permitholder up to five charity or scholarship days in addition to the regular ~~racing~~ days authorized by law.

(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the commission. Eligible charities include any charity that provides evidence of compliance with the provisions of chapter 496 and evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.

(3) The permitholder shall, within 120 days after the conclusion of its fiscal year, pay to the authorized charities the total of all profits derived from the operation of the charity day performances conducted. If charity days are operated on behalf of another permitholder pursuant to law, the permitholder entitled to distribute the proceeds shall distribute the proceeds to charity within 30 days after the actual receipt of the proceeds.

(4) The total of all profits derived from the conduct of a charity day performance must include all revenues derived from the conduct of that ~~racing~~ performance, including all state taxes that would otherwise be due to the state, except that the daily license fee as provided in s. 550.0951(1) and the breaks for the promotional trust funds as provided in s. 550.2625(3), (4), (5), (7), and (8) shall be paid to the commission. All other revenues from the charity ~~racing~~ performance, including the commissions, breaks, and admissions and the revenues from parking, programs, and concessions, shall be included in the total of all profits.


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(5) In determining profit, the permitholder may elect to distribute as proceeds only the amount equal to the state tax that would otherwise be paid to the state if the charity day were conducted as a regular or matinee performance.

(6)(a) The commission shall authorize one additional scholarship day for horseracing in addition to the regular racing days authorized by law and any additional days authorized by this section, to be conducted at all horse racetracks located in Hillsborough County. The permitholder shall conduct a full schedule of racing on the scholarship day.

(b) The funds derived from the operation of the additional scholarship day shall be allocated as provided in this section and paid to Pasco-Hernando Community College.

(c) When a charity or scholarship performance is conducted as a matinee performance, the commission may authorize the permitholder to conduct the evening performances of that operation day as a regular performance in addition to the regular operating days authorized by law.

(7) In addition to the eligible charities that meet the criteria set forth in this section, a jai alai permitholder is authorized to conduct two additional charity performances each fiscal year for a fund to benefit retired jai alai players. This performance shall be known as the “Retired Jai Alai Players Charity Day.” The administration of this fund shall be determined by rule by the commission.

Section 5. Paragraph (a) of subsection (9) of section 550.054, Florida Statutes, is amended to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

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(9)(a) After a permit has been granted by the commission and has been ratified and approved by the majority of the electors participating in the election in the county designated in the permit, the commission shall grant to the lawful permitholder, subject to the conditions of this chapter, a license to conduct pari-mutuel operations under this chapter, and, except as provided in s. 550.5251, the commission shall fix annually the time, place, and number of days during which pari-mutuel operations may be conducted by the permitholder at the location fixed in the permit and ratified in the election. After the first license has been issued to the holder of a ratified permit ~~for racing~~ in any county, all subsequent annual applications for a license by that permitholder must be accompanied by proof, in such form as the commission requires, that the ratified permitholder still possesses all the qualifications prescribed by this chapter and that the permit has not been recalled at a later election held in the county.

Section 6. Subsections (1) and (5) of section 550.0951, Florida Statutes, are amended to read:

550.0951 Payment of daily license fee and taxes; penalties.—

(1) DAILY LICENSE FEE.—

(a) Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the commission, for the use of the commission, a daily license fee on each live or simulcast pari-mutuel event of $100 for each horserace and $80 for each dograce and $40 for each jai alai game conducted at a racetrack or fronton licensed


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under this chapter. In addition to the tax exemption specified in s. 550.09514(1) of $360,000 or $500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. 550.09514(1) apply ~~shall be applicable~~ to any tax imposed by this chapter or the daily license fees imposed by this chapter except during any charity or scholarship performances conducted pursuant to s. 550.0351. Each permitholder shall pay daily license fees not to exceed $500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(b) Each permitholder that cannot utilize the full amount of the exemption of $360,000 or $500,000 provided in s. 550.09514(1) or the daily license fee credit provided in this section may, after notifying the commission in writing, elect once per state fiscal year on a form provided by the commission to transfer such exemption or credit or any portion thereof to any greyhound permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such exemption or credit is filed with the commission, it may ~~shall~~ not be rescinded. The commission shall disapprove the transfer when the amount of the exemption or

credit or portion thereof is unavailable to the transferring permitholder or when the permitholder who is entitled to transfer the exemption or credit or who is entitled to receive the exemption or credit owes taxes to the state pursuant to a deficiency letter or administrative complaint issued by the commission. Upon approval of the transfer by the commission, the transferred tax exemption or credit is ~~shall be~~ effective for the ~~first performance of the~~ next payment period as specified in subsection (5). The exemption or credit transferred to such host track may be applied by such host track against any taxes imposed by this chapter or daily license fees imposed by this chapter. The greyhound permitholder host track to which such exemption or credit is transferred shall reimburse such permitholder the exact monetary value of such transferred exemption or credit as actually applied against the taxes and daily license fees of the host track. The commission shall ensure that all transfers of exemption or credit are made in accordance with this subsection and has ~~shall have~~ the authority to adopt rules to ensure the implementation of this section.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments imposed by this section must ~~shall~~ be paid to the commission. The commission shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund, hereby established. The permitholder shall remit to the commission payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such ~~payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, such~~ payments must ~~shall~~ be remitted by 3 p.m. on

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the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments must ~~shall~~ be remitted by 3 p.m. the first Monday following the weekend. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments must ~~shall~~ be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and such other information as may be prescribed by the commission.

Section 7. Subsection (7) of section 550.09515, Florida Statutes, is amended, and subsection (4) of that section is reenacted for the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all thoroughbred horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

~~(7) If a thoroughbred permitholder fails to operate all performances on its 2001-2002 license, failure to pay tax on handle for a full schedule of live races for those performances~~


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~~in the 2001-2002 fiscal year does not constitute failure to pay taxes on handle for a full schedule of live races in a fiscal year for the purposes of subsection (3). This subsection may not be construed as forgiving a thoroughbred permitholder from paying taxes on performances conducted at its facility pursuant to its 2001-2002 license other than for failure to operate all performances on its 2001-2002 license. This subsection expires July 1, 2003.~~

Section 8. Paragraphs (a) and (c) of subsection (5) of section 550.105, Florida Statutes, are amended to read:

550.105 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(5)(a) The commission may do the following, if the state racing commission or racing authority of such other state or jurisdiction extends to the commission reciprocal courtesy to maintain the disciplinary control:

1. Deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission or racing authority or has been subject to a provisional suspension or period of ineligibility by the federal Horseracing Integrity and Safety Authority (HISA), or another such authority designated by the Federal Trade Commission.~~;~~

2. Deny, suspend, or place conditions on a license of any person who is under suspension, ~~or~~ has unpaid fines in another jurisdiction, or is subject to a provisional suspension or period of ineligibility under HISA.~~;~~

3. Notwithstanding subparagraph 2. and chapter 120,

summarily suspend the occupational license of any person subject to a provisional suspension or period of ineligibility imposed by HISA related to a prohibited substance in an animal's hair or in its blood, urine, saliva, or any other bodily fluid. Any suspension imposed pursuant to this subparagraph expires on the date that the provisional suspension or period of ineligibility imposed by HISA expires. If an occupational licensee is summarily suspended under this subparagraph, the commission must offer the licensee a postsuspension hearing within 72 hours after commencement of the suspension. The occupational licensee has the burden of proving by clear and convincing evidence that he or she is not subject to a provisional suspension or period of ineligibility imposed by HISA. The standard of review applicable to the commission under this subparagraph is whether the commission's action was an abuse of discretion

~~if the state racing commission or racing authority of such other state or jurisdiction extends to the commission reciprocal courtesy to maintain the disciplinary control~~.

(c) The commission may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions

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excluding offenders may be waived by ~~the director of~~ the commission.

Section 9. Paragraph (a) of subsection (2) of section 550.125, Florida Statutes, is amended to read:

550.125 Uniform reporting system; bond requirement.—

(2)(a) Each permitholder issued an operating license ~~that conducts race meetings or jai alai exhibitions~~ under this chapter shall keep records that clearly show the ~~total number of admissions and the~~ total amount of money contributed to ~~each~~ pari-mutuel pools, cardroom gross receipts, and slot machine revenues ~~pool on each race or exhibition separately and the amount of money received daily from admission fees~~ and, within 120 days after the end of its fiscal year, shall submit to the commission a complete annual report of its accounts, audited by a certified public accountant licensed to practice in this ~~the~~ state.

Section 10. Subsection (3) of section 550.3551, Florida Statutes, is amended to read:

550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.—

(3) Any horse track licensed under this chapter may receive broadcasts of horseraces conducted at other horse racetracks located outside this state at the racetrack enclosure of the licensee, if the horse track conducted a full schedule of live racing during the preceding state fiscal year ~~during its racing meet~~.

(a) All broadcasts of horseraces received from locations outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss.

3001 et seq.

(b) Wagers accepted at the horse track in this state may be, but are not required to be, included in the pari-mutuel pools of the out-of-state horse track that broadcasts the race. Notwithstanding any contrary provisions of this chapter, if the horse track in this state elects to include wagers accepted on such races in the pari-mutuel pools of the out-of-state horse track that broadcasts the race, from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track, the horse track in this state shall deduct as the takeout from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track a percentage equal to the percentage deducted from the amount wagered at the out-of-state racetrack as is authorized by the laws of the jurisdiction exercising regulatory authority over the out-of-state horse track.

(c) All forms of pari-mutuel wagering are allowed on races broadcast under this section, and all money wagered by patrons on such races shall be computed as part of the total amount of money wagered at each racing performance for purposes of taxation under ss. 550.0951, 550.09512, and 550.09515. Section 550.2625(2)(a), (b), and (c) does not apply to any money wagered on races broadcast under this section. Similarly, the takeout shall be increased by breaks and uncashed tickets for wagers on races broadcast under this section, notwithstanding any contrary provision of this chapter.

Section 11. Subsection (3) of section 550.505, Florida Statutes, is amended to read:

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550.505 Nonwagering permits.—

(3)(a) Upon receipt of a nonwagering permit, the permitholder shall apply between January 15 and February 4 ~~must apply to the commission before June 1~~ of each year for a ~~an annual~~ nonwagering license for the next state fiscal ~~succeeding calendar~~ year. Such application must set forth the days and locations at which the permitholder will conduct nonwagering horseracing, must demonstrate that any location to which the nonwagering license applies is available for such use, and must indicate any changes in ownership or management of the permitholder occurring since the date of application for the prior license.

(b) On or before April 15 ~~August 1~~ of each year, the commission shall issue a license authorizing the nonwagering permitholder to conduct nonwagering horseracing during the next state fiscal ~~succeeding calendar~~ year during the period and for the number of days set forth in the application, subject to ~~all other provisions of~~ this section.

(c) The commission may extend a nonwagering license for the 2024 calendar year through the 2024-2025 fiscal year upon application for such extension by the nonwagering permitholder ~~conduct an eligibility investigation to determine the qualifications of any new ownership or management interest in the permit~~.

Section 12. Subsection (1) of section 550.5251, Florida Statutes, is amended to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—

(1) Each thoroughbred permitholder shall annually, during

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the period commencing January ~~December~~ 15 of each year and ending February ~~January~~ 4 of the following year, file in writing with the commission its application to conduct one or more thoroughbred racing meetings during the thoroughbred racing season commencing on the following July 1. Each application shall specify the number and dates of all performances that the permitholder intends to conduct during that thoroughbred racing season. On or before April ~~March~~ 15 of each year, the commission shall issue a license authorizing each permitholder to conduct performances on the dates specified in its application. Up to March ~~February~~ 28 of each year, each permitholder may request and shall be granted changes in its application to conduct ~~authorized~~ performances; but thereafter, as a condition precedent to the validity of its license and its right to retain its permit, each permitholder must operate the full number of days authorized on each of the dates set forth in its license.

Section 13. Paragraph (b) of subsection (4) and subsection (8) of section 551.104, Florida Statutes, are amended to read:

551.104 License to conduct slot machine gaming.—

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

(b) Continue to be in compliance with chapter 550, when ~~where~~ applicable, and maintain the pari-mutuel permit and license in good standing pursuant to ~~the provisions of~~ chapter 550. ~~Notwithstanding any contrary provision of law and in order to expedite the operation of slot machines at eligible facilities, any eligible facility shall be entitled within 60 days after the effective date of this act to amend its 2006-2007~~

~~pari-mutuel wagering operating license issued by the commission under ss. 550.0115 and 550.01215. The commission shall issue a new license to the eligible facility to effectuate any approved change.~~

(8) A slot machine licensee shall file with the commission an audit of the receipt and distribution of all slot machine revenues provided by an independent certified public accountant licensed under chapter 473 verifying compliance with all financial and auditing provisions of this chapter and ~~the~~ associated rules ~~adopted under this chapter~~. The audit must include verification of compliance with all statutes and rules regarding all required records of slot machine operations. Such audit must ~~shall~~ be filed within 120 ~~60~~ days after the end of the slot machine licensee's fiscal year ~~completion of the permitholder's pari-mutuel meet~~.

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

And the title is amended as follows:

Delete lines 2 - 59

and insert:

An act relating gaming licenses and permits; creating s. 16.717, F.S.; authorizing the Florida Gaming Control Commission to deny an application for licensure of, or suspend or revoke the license of, any person who falsely swears under oath or affirmation to certain material statements on his or her application for a license; providing that such persons are subject to other applicable penalties; creating s. 16.718, F.S.; requiring applicants for licenses and licensees to notify the commission of certain contact

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information and of any change in such contact information and providing penalties for failure to comply; providing that delivery of correspondence to the licensee's or applicant's e-mail or mailing address on record with the commission constitutes sufficient notice for official communications, including administrative complaints or other documents setting forth intended or final agency action; providing discretion to the commission in the method of service of such correspondence; amending s. 550.01215, F.S.; revising the timeframe during which a permitholder is required to annually file an application for an operating license for a pari-mutuel facility during the next state fiscal year; revising the date by which the commission is required to issue such license; revising the deadline for application amendments; revising the deadline date for the commission to issue a license; authorizing, rather than requiring, the commission to take into consideration the impact of such change on state revenues when determining whether to change a performance date; authorizing, rather than requiring, the commission to hold a hearing before taking specified actions on a permitholder's license; deleting a provision giving permitholders the right to apply for a license for performances that have been vacated, abandoned, or will not be used by another permitholder; making technical changes; amending ss. 550.0351 and 550.054, F.S.; conforming provisions to

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changes made by the act; amending s. 550.0951, F.S.; making technical changes; removing obsolete language; reenacting and amending s. 550.09515, F.S.; removing obsolete language; amending s. 550.105, F.S.; expanding the commission's authority to deny, revoke, suspend, or place conditions on certain licenses; authorizing the commission to summarily suspend a license when a person has been subject to a provisional suspension or period of ineligibility imposed by the federal Horseracing Integrity and Safety Authority related to the finding of a prohibited substance in an animal's hair or bodily fluids; providing that any suspension imposed expires at the same time the Horseracing Integrity and Safety Authority's provisional suspension or period of ineligibility expires; requiring the commission to offer a licensee a postsuspension hearing within a specified timeframe; providing a burden of proof for such hearings; providing a standard of review for the commission for such appeals; amending s. 550.125, F.S.; revising requirements for maintaining certain financial records and applying such requirements to all, rather than specified, pari-mutuel wagering permitholders; amending s. 550.3551, F.S.; authorizing a licensed horse track to receive broadcasts of horseraces conducted at horse racetracks outside this state if certain conditions are met; amending s. 550.505, F.S.; revising the timeframe for nonwagering permitholders to apply for a nonwagering license;


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requiring permitholders to demonstrate that locations designated for nonwagering horseracing are available for such use; revising the date by which the commission is required to issue certain nonwagering licenses; authorizing the commission to extend a certain nonwagering license for a specified timeframe; amending s. 550.5251, F.S.; revising the timeframes for when a thoroughbred permitholder must file with the commission an application for a license to conduct thoroughbred racing meetings, for when the commission must issue such licenses, and for when the permitholder may request changes in its application to conduct performances; amending s. 551.104, F.S.; removing obsolete language; requiring that audits of licensees' receipts and distributions of slot machine revenues be conducted by a certified public accountant licensed under ch. 473, F.S.; revising the timeframe within which such audits must be filed with the commission; amending s.

872214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Hutson) recommended the following:

Senate Amendment to Amendment (597826)

Delete lines 343 - 346

and insert:

(5)(a) The commission may do the following:

837390

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Hutson) recommended the following:

Senate Amendment to Amendment (597826) (with title amendment)

Delete line 518
and insert:
~~permitholder's pari-mutuel meet~~.

Section 14. Paragraph (b) of subsection (6) of section 551.107, Florida Statutes, is amended to read:

551.107 Slot machine occupational license; findings; application; fee.—

837390

(6)

(b) The commission may deny, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States if such felony or misdemeanor is related to gambling or bookmaking as described in s. 849.25. The restrictions authorized in this paragraph may be waived by the commission if the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to slot machine gaming and is not a capital offense.

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

And the title is amended as follows:

Delete line 609

and insert:

commission; amending s. 551.107, F.S.; authorizing the waiver of required action on the part of the commission under certain circumstances; amending s.

By Senator Hutson

7-00359D-24 2024804__

A bill to be entitled

An act relating to gaming permits; creating s. 16.717, F.S.; providing penalties for persons who falsely swear on an application for, or a renewal of, a license submitted to the Florida Gaming Control Commission; creating s. 16.718, F.S.; requiring applicants for licenses and licensees to notify the commission of certain contact information and of any change in such contact information and providing penalties for failure to comply; providing that delivery of correspondence to the licensee's or applicant's e-mail or mailing address on record with the commission constitutes sufficient notice for official communications, including administrative complaints or other documents setting forth intended or final agency action; amending s. 550.01215, F.S.; revising the timeframe during which a permitholder is required to annually file an application for an operating license for a pari-mutuel facility during the next state fiscal year; revising the date by which the commission is required to issue such license; authorizing, rather than requiring, the commission to take into consideration the impact of such change on state revenues when determining whether to change a performance date; making technical changes; amending s. 550.0951, F.S.; removing a specified tax credit for greyhound permitholders; making technical changes; reenacting and amending s. 550.09515, F.S.; removing obsolete language; amending s. 550.105, F.S.;

7-00359D-24 2024804__

expanding the commission's authority to deny, revoke, suspend, or place conditions on certain licenses; authorizing the commission to take such action when a person has been subject to a provisional suspension or period of ineligibility imposed by the federal Horseracing Integrity and Safety Authority related to the finding of a prohibited substance in an animal's hair or bodily fluids; providing an appeals process for a licensee who has been summarily suspended; providing a standard of review for the commission for such appeals; amending s. 550.125, F.S.; revising requirements for maintaining certain financial records and applying such requirements to all, rather than specified, pari-mutuel wagering permitholders; repealing s. 550.1647, F.S., relating to greyhound racing permitholders' unclaimed tickets and breaks; amending s. 550.505, F.S.; revising the timeframe for nonwagering permitholders to apply for a nonwagering license; requiring permitholders to demonstrate that locations designated for nonwagering horseracing are available for such use; revising the date by which the commission is required to issue certain nonwagering licenses; authorizing the commission to extend a certain nonwagering license for a specified timeframe; amending s. 551.104, F.S.; removing obsolete language; requiring audits of licensees' receipts and distributions of slot machine revenues to be conducted by a certified public accountant licensed under ch. 473, F.S.; revising the timeframe within which the

audit may be filed with the commission; amending s. 551.107, F.S.; authorizing the waiver of required action on the part of the commission under certain circumstances; reenacting ss. 212.04(2)(c), 550.0351(4), 550.09511(2), 550.09512(4), 550.09514(1) and (2)(e), 550.09516(3), 550.135(1), 550.1625(2), 550.3551(2)(b), (3)(c), and (4), 550.26352(3)-(6), and 550.375(4), F.S., relating to admissions taxes and rates, charity racing days, jai alai taxes, harness horse taxes, greyhound dogracing taxes and purse requirements, thoroughbred racing permitholders, daily licensing fees collected from pari-mutuel racing, dogracing taxes, transmitting racing and jai alai information and commingling pari-mutuel pools, authorizing Breeders' Cup Meet pools, and operating certain harness tracks, respectively, to incorporate the amendment made to s. 550.0951, F.S., in references thereto; providing an effective date.

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

Section 1. Section 16.717, Florida Statutes, is created to read:

16.717 Florida Gaming Control Commission; penalties for false oath or affirmation of applicants for licensure; licensees.—Any person who submits an application for a license to the commission, or any person issued a license or renewal by the commission in response to an application, and upon which application the person signing under oath or affirmation has

falsely sworn to a material statement, including, but not limited to, the criminal history of the applicant or licensee, is subject to denial of his or her application or to suspension or revocation of his or her license, and is subject to any other penalties provided by law.

Section 2. Section 16.718, Florida Statutes, is created to read:

16.718 Florida Gaming Control Commission; notification of applicants' or licensees' addresses and place of employment; service.—

(1) Each applicant for a license with the commission and each licensee of the commission is responsible for notifying the commission in writing of the applicant's or licensee's current mailing address, e-mail address, and place of employment. An applicant's failure to notify the commission constitutes a violation of this section, and the applicant's application may be denied. A licensee's failure to notify the commission of any change to the e-mail or mailing address of record constitutes a violation of this section, and the licensee may be disciplined by the commission as described in s. 550.0251(10).

(2) Notwithstanding any provision of law to the contrary, service by e-mail to an applicant's or licensee's e-mail address of record with the commission constitutes sufficient notice to the applicant or licensee for any official communication. The commission may, in its discretion, provide service for any official communication by regular mail to an applicant's or licensee's last known mailing address. The commission is not required to provide service by both e-mail and regular mail.

(3) Notwithstanding any provision of law to the contrary,

when an administrative complaint or other document setting forth intended or final agency action is to be served on an applicant or a licensee, the commission is only required to provide service by e-mail to the applicant's or licensee's e-mail address on record with the commission. E-mail service constitutes sufficient notice to the person or persons upon whom an administrative complaint or any other document setting forth intended or final agency action is served. The commission may, in its discretion, provide service of an administrative complaint or any other documents setting forth intended or final agency action by regular mail to an applicant's or licensee's last known mailing address. The commission is not required to provide service by both e-mail and regular mail.

Section 3. Subsections (1) and (3) of section 550.01215, Florida Statutes, are amended to read:

550.01215 License application; periods of operation; license fees; bond.—

(1) Each permitholder shall annually, during the period between January ~~December~~ 15 and February ~~January~~ 4, file in writing with the commission its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.

(a) Each application for an operating license also must include:

1. For each permitholder, whether the permitholder intends to accept wagers on intertrack or simulcast events.

2. For each permitholder that elects to operate a cardroom, the dates and periods of operation the permitholder intends to operate the cardroom.

3. For each thoroughbred racing permitholder that elects to receive or rebroadcast out-of-state races, the dates for all performances that the permitholder intends to conduct.

(b)1. A greyhound permitholder may not conduct live racing. A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games. A thoroughbred permitholder must conduct live racing. A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games retains its permit; is a pari-mutuel facility as defined in s. 550.002(23); if such permitholder has been issued a slot machine license, the facility where such permit is located remains an eligible facility as defined in s. 551.102(4), continues to be eligible for a slot machine license pursuant to s. 551.104(3), and is exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is eligible, but not required, to be a guest track and, if the permitholder is a harness horse racing permitholder, to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and remains eligible for a cardroom license.

2. A permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The commission

may deny, suspend, or revoke any permit or license under this chapter if a permitholder or licensee conducts live greyhound racing or dogracing in violation of this subparagraph. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the commission may impose a civil penalty of up to $5,000 against the permitholder or licensee for a violation of this subparagraph. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(c) Permitholders may amend their applications through February 28.

(d) Notwithstanding any other provision of law, other than a permitholder issued a permit pursuant to s. 550.3345, a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. This paragraph does not apply to a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering approved pursuant to s. 550.054(15)(a).

(3) The commission shall issue each license no later than April ~~March~~ 15. Each permitholder shall operate all performances at the date and time specified on its license. ~~The commission shall have the authority to approve minor changes in racing dates after a license has been issued.~~ The commission may approve changes in performance ~~racing~~ dates after a license has been issued ~~when there is no objection from any operating permitholder that is conducting live racing or games and that is~~

~~located within 50 miles of the permitholder requesting the changes in operating dates~~. ~~In the event of an objection, the commission shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates.~~ In making the determination to change performance ~~racing~~ dates, the commission may ~~shall~~ take into consideration the impact of such changes on state revenues.

Section 4. Subsection (1), paragraph (b) of subsection (3), and subsection (5) of section 550.0951, Florida Statutes, are amended to read:

550.0951 Payment of daily license fee and taxes; penalties.—

(1) DAILY LICENSE FEE.—

(a) Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the commission, for the use of the commission, a daily license fee on each live or simulcast pari-mutuel event of $100 for each horserace and $80 for each dograce and $40 for each jai alai game conducted at a racetrack or fronton licensed under this chapter. The ~~In addition to the tax exemption specified in s. 550.09514(1) of $360,000 or $500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This~~ tax ~~credit and the~~ exemption in

s. 550.09514(1) applies ~~shall be applicable~~ to any tax imposed by this chapter or the daily license fees imposed by this chapter except during any charity or scholarship performances conducted pursuant to s. 550.0351. Each permitholder shall pay daily license fees not to exceed $500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(b) Each permitholder that cannot utilize the full amount of the exemption of $360,000 or $500,000 provided in s. 550.09514(1) ~~or the daily license fee credit provided in this section~~ may, after notifying the commission in writing, elect once per state fiscal year on a form provided by the commission to transfer such exemption or credit or any portion thereof to any greyhound permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such exemption or credit is filed with the commission, it shall not be rescinded. The commission shall disapprove the transfer when the amount of the exemption or credit or portion thereof is unavailable to the transferring permitholder or when the permitholder who is entitled to transfer the exemption or credit or who is entitled to receive the exemption or credit owes taxes to the state pursuant to a deficiency letter or administrative complaint issued by the commission. Upon approval of the transfer by the commission, the transferred tax exemption or credit is ~~shall be~~ effective for

the ~~first performance of the~~ next payment period as specified in subsection (5). The exemption or credit transferred to such host track may be applied by such host track against any taxes imposed by this chapter or daily license fees imposed by this chapter. The greyhound permitholder host track to which such exemption or credit is transferred shall reimburse such permitholder the exact monetary value of such transferred exemption or credit as actually applied against the taxes and daily license fees of the host track. The commission shall ensure that all transfers of exemption or credit are made in accordance with this subsection and has ~~shall have~~ the authority to adopt rules to ensure the implementation of this section.

(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

(b)1. The tax on handle for dogracing is 5.5 percent of the handle~~, except that for live charity performances held pursuant to s. 550.0351, and for intertrack wagering on such charity performances at a guest greyhound track within the market area of the host, the tax is 7.6 percent of the handle~~.

2. The tax on handle for jai alai is 7.1 percent of the handle.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments imposed by this section must ~~shall~~ be paid to the commission.

The commission shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund, hereby established. The permitholder shall remit to the commission payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such ~~payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, such~~ payments must ~~shall~~ be remitted by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments must ~~shall~~ be remitted by 3 p.m. the first Monday following the weekend. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments must ~~shall~~ be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and such other information as may be prescribed by the commission.

Section 5. Subsection (7) of section 550.09515, Florida Statutes, is amended, and subsection (4) of that section is reenacted for the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all

thoroughbred horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

~~(7) If a thoroughbred permitholder fails to operate all performances on its 2001-2002 license, failure to pay tax on handle for a full schedule of live races for those performances in the 2001-2002 fiscal year does not constitute failure to pay taxes on handle for a full schedule of live races in a fiscal year for the purposes of subsection (3). This subsection may not be construed as forgiving a thoroughbred permitholder from paying taxes on performances conducted at its facility pursuant to its 2001-2002 license other than for failure to operate all performances on its 2001-2002 license. This subsection expires July 1, 2003.~~

Section 6. Paragraphs (a) and (c) of subsection (5) of section 550.105, Florida Statutes, are amended, and paragraph (g) is added to that subsection, to read:

550.105 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(5)(a) The commission may do the following, if the state racing commission or racing authority of such other state or jurisdiction extends to the commission reciprocal courtesy to maintain the disciplinary control:

1. Deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission

or racing authority or has been subject to a provisional suspension or period of ineligibility by the federal Horseracing Integrity and Safety Authority (HISA), or another such authority designated by the Federal Trade Commission.~~,~~

2. Deny, suspend, or place conditions on a license of any person who is under suspension, ~~or~~ has unpaid fines in another jurisdiction, or is subject to a provisional suspension or period of ineligibility under HISA related to the finding of a prohibited substance in an animal's hair or bodily fluids. Any suspension imposed pursuant to this subparagraph expires on the date that the provisional suspension or period of ineligibility imposed by HISA expires.~~,~~

~~if the state racing commission or racing authority of such other state or jurisdiction extends to the commission reciprocal courtesy to maintain the disciplinary control.~~

(c) The commission may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by ~~the director of~~ the commission.

(g) If an occupational license is summarily suspended under

this subsection, the commission must offer the licensee a postsuspension hearing within 72 hours after commencement of the suspension. The occupational licensee has the burden of proving by clear and convincing evidence that she or he is not subject to a provisional suspension or period of ineligibility imposed by HISA. The standard of review for the commission under this paragraph is whether the commission's action was an abuse of its discretion.

Section 7. Paragraph (a) of subsection (2) of section 550.125, Florida Statutes, is amended to read:

550.125 Uniform reporting system; bond requirement.—

(2)(a) Each permitholder issued an operating license ~~that conducts race meetings or jai alai exhibitions~~ under this chapter shall keep records that clearly show the ~~total number of admissions and the~~ total amount of money contributed to ~~each~~ pari-mutuel pools, cardroom gross receipts, and slot machine revenues ~~on each race or exhibition separately and the amount of money received daily from admission fees~~ and, within 120 days after the end of its fiscal year, shall submit to the commission a complete annual report of its accounts, audited by a certified public accountant licensed to practice in the state.

Section 8. Section 550.1647, Florida Statutes, is repealed.

Section 9. Subsection (3) of section 550.505, Florida Statutes, is amended to read:

550.505 Nonwagering permits.—

(3)(a) Upon receipt of a nonwagering permit, the permitholder shall apply annually between January 15 and February 4 ~~must apply to the commission before June 1~~ of each year for a ~~an annual~~ nonwagering license for the next state

fiscal ~~succeeding calendar~~ year. Such application must set forth the days and locations at which the permitholder will conduct nonwagering horseracing, must demonstrate that any location to which the nonwagering license applies is available for such use, and must indicate any changes in ownership or management of the permitholder occurring since the date of application for the prior license.

(b) On or before April 15 ~~August 1~~ of each year, the commission shall issue a license authorizing the nonwagering permitholder to conduct nonwagering horseracing during the next state fiscal ~~succeeding calendar~~ year during the period and for the number of days set forth in the application, subject to ~~all other provisions of~~ this section.

(c) The commission may extend a nonwagering license during the 2024 calendar year through the 2024-2025 fiscal year upon application for such extension by the nonwagering permitholder ~~conduct an eligibility investigation to determine the qualifications of any new ownership or management interest in the permit~~.

Section 10. Paragraph (b) of subsection (4) and subsection (8) of section 551.104, Florida Statutes, are amended to read:

551.104 License to conduct slot machine gaming.—

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

(b) Continue to be in compliance with chapter 550, when ~~where~~ applicable, and maintain the pari-mutuel permit and license in good standing pursuant to ~~the provisions of~~ chapter 550. ~~Notwithstanding any contrary provision of law and in order~~

~~to expedite the operation of slot machines at eligible facilities, any eligible facility shall be entitled within 60 days after the effective date of this act to amend its 2006-2007 pari-mutuel wagering operating license issued by the commission under ss. 550.0115 and 550.01215. The commission shall issue a new license to the eligible facility to effectuate any approved change.~~

(8) A slot machine licensee shall file with the commission an audit of the receipt and distribution of all slot machine revenues provided by an independent certified public accountant licensed under chapter 473 verifying compliance with all financial and auditing provisions of this chapter and ~~the~~ associated rules ~~adopted under this chapter~~. The audit must include verification of compliance with all statutes and rules regarding all required records of slot machine operations. Such audit must ~~shall~~ be filed within 120 ~~60~~ days after the end of its fiscal year ~~completion of the permitholder's pari-mutuel meet~~.

Section 11. Paragraph (b) of subsection (6) of section 551.107, Florida Statutes, is amended to read:

551.107 Slot machine occupational license; findings; application; fee.—

(6)

(b) The commission may deny, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States if such felony or misdemeanor is related to gambling or bookmaking as described in s. 849.25. The

restrictions authorized in this paragraph may be waived by the commission if the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to slot machine gaming and is not a capital offense.

Section 12. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in references thereto, paragraph (c) of subsection (2) of section 212.04, Florida Statutes, is reenacted to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)

(c) The taxes imposed by this section shall be collected in addition to the admission tax collected pursuant to s. 550.0951, but the amount collected under s. 550.0951 shall not be subject to taxation under this chapter.

Section 13. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a reference thereto, subsection (4) of section 550.0351, Florida Statutes, is reenacted to read:

550.0351 Charity racing days.—

(4) The total of all profits derived from the conduct of a charity day performance must include all revenues derived from the conduct of that racing performance, including all state taxes that would otherwise be due to the state, except that the daily license fee as provided in s. 550.0951(1) and the breaks for the promotional trust funds as provided in s. 550.2625(3), (4), (5), (7), and (8) shall be paid to the commission. All other revenues from the charity racing performance, including the commissions, breaks, and admissions and the revenues from

parking, programs, and concessions, shall be included in the total of all profits.

Section 14. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a reference thereto, subsection (2) of section 550.09511, Florida Statutes, is reenacted to read:

550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.—

(2) Notwithstanding the provisions of s. 550.0951(3)(b), wagering on live jai alai performances shall be subject to the following taxes:

(a)1. The tax on handle per performance for live jai alai performances is 4.25 percent of handle per performance. However, when the live handle of a permitholder during the preceding state fiscal year was less than $15 million, the tax shall be paid on the handle in excess of $30,000 per performance per day.

2. The tax rate shall be applicable only until the requirements of paragraph (b) are met.

(b) At such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the commission by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in fiscal year 1991-1992, the permitholder shall pay tax on handle for live jai alai performances at a rate of 2.55 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering in fiscal year 1991-1992 shall include any admissions tax, tax on handle,

surtaxes on handle, and daily license fees.

(c) If no tax on handle for live jai alai performances were paid to the commission by a jai alai permitholder during the 1991-1992 state fiscal year, then at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the commission by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in the last state fiscal year in which the permitholder conducted a full schedule of live games, the permitholder shall pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees. This paragraph shall take effect July 1, 1993.

(d) A permitholder who obtains a new permit issued by the commission subsequent to the 1991-1992 state fiscal year and a permitholder whose permit has been converted to a jai alai permit under the provisions of this chapter, shall, at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the commission by the permitholder during the current state fiscal year exceeds the average total state tax revenues from wagering on live jai alai performances for the first 3 consecutive jai alai seasons paid to or due the commission by the permitholder and during which the permitholder conducted a full schedule of live games, pay tax on handle for live jai alai performances at a rate of

3.3 percent of the handle per performance for the remainder of the current state fiscal year.

(e) The payment of taxes pursuant to paragraphs (b), (c), and (d) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this section and the report of taxes required by s. 550.0951(5) is submitted to the commission.

(f) A jai alai permitholder paying taxes under this section shall retain the breaks and pay an amount equal to the breaks as special prize awards which shall be in addition to the regular contracted prize money paid to jai alai players at the permitholder's facility. Payment of the special prize money shall be made during the permitholder's current meet.

(g) For purposes of this section, "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

Section 15. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a reference thereto, subsection (4) of section 550.09512, Florida Statutes, is reenacted to read:

550.09512 Harness horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all harness horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it

would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

Section 16. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in references thereto, subsection (1) and paragraph (e) of subsection (2) of section 550.09514, Florida Statutes, are reenacted to read:

550.09514 Greyhound dogracing taxes; purse requirements.—

(1) Wagering on greyhound racing is subject to a tax on handle for live greyhound racing as specified in s. 550.0951(3). However, each permitholder shall pay no tax on handle until such time as this subsection has resulted in a tax savings per state fiscal year of $360,000. Thereafter, each permitholder shall pay the tax as specified in s. 550.0951(3) on all handle for the remainder of the permitholder's current race meet. For the three permitholders that conducted a full schedule of live racing in 1995, and are closest to another state that authorizes greyhound pari-mutuel wagering, the maximum tax savings per state fiscal year shall be $500,000. The provisions of this subsection relating to tax exemptions shall not apply to any charity or scholarship performances conducted pursuant to s. 550.0351.

(2)

(e) In addition to the purse requirements of paragraphs (a)-(c), each greyhound permitholder shall pay as purses an amount equal to one-third of the amount of the tax reduction on live and simulcast handle applicable to such permitholder as a result of the reductions in tax rates provided by this act through the amendments to s. 550.0951(3). With respect to

intertrack wagering when the host and guest tracks are greyhound permitholders not within the same market area, an amount equal to the tax reduction applicable to the guest track handle as a result of the reduction in tax rate provided by this act through the amendment to s. 550.0951(3) shall be distributed to the guest track, one-third of which amount shall be paid as purses at the guest track. However, if the guest track is a greyhound permitholder within the market area of the host or if the guest track is not a greyhound permitholder, an amount equal to such tax reduction applicable to the guest track handle shall be retained by the host track, one-third of which amount shall be paid as purses at the host track. These purse funds shall be disbursed in the week received if the permitholder conducts at least one live performance during that week. If the permitholder does not conduct at least one live performance during the week in which the purse funds are received, the purse funds shall be disbursed weekly during the permitholder's next race meet in an amount determined by dividing the purse amount by the number of performances approved for the permitholder pursuant to its annual license, and multiplying that amount by the number of performances conducted each week. The commission shall conduct audits necessary to ensure compliance with this paragraph.

Section 17. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a reference thereto, subsection (3) of section 550.09516, Florida Statutes, is reenacted to read:

550.09516 Credit for eligible permitholders conducting thoroughbred racing.—

(3) Beginning July 1, 2023, and each July 1 thereafter,

each permitholder granted a credit pursuant to this section may apply the credit to the taxes and fees due under ss. 550.0951, 550.09515, and 550.3551(3), less any credit received by the permitholder under s. 550.09515(6), and less the amount of state taxes that would otherwise be due to the state for the conduct of charity day performances under s. 550.0351(4). The unused portion of the credit may be carried forward and applied each month as taxes and fees become due. Any unused credit remaining at the end of a fiscal year expires and may not be used.

Section 18. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in a reference thereto, subsection (1) of section 550.135, Florida Statutes, is reenacted to read:

550.135 Division of moneys derived under this law.—All moneys that are deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund shall be distributed as follows:

(1) The daily license fee revenues collected pursuant to s. 550.0951(1) shall be used to fund the operating cost of the commission; however, other collections in the Pari-mutuel Wagering Trust Fund may also be used to fund the operation of the commission in accordance with authorized appropriations.

Section 19. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in references thereto, subsection (2) of section 550.1625, Florida Statutes, is reenacted to read:

550.1625 Dogracing; taxes.—

(2) A permitholder that conducts a dograce meet under this chapter must pay the daily license fee, the admission tax, the

breaks tax, and the tax on pari-mutuel handle as provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6).

Section 20. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in references thereto, paragraph (b) of subsection (2), paragraph (c) of subsection (3), and subsection (4) of section 550.3551, Florida Statutes, are reenacted to read:

550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.—

(2) Any horse track or fronton licensed under this chapter may transmit broadcasts of races or games conducted at the enclosure of the licensee to locations outside this state.

(b) Wagers accepted by any out-of-state pari-mutuel permitholder or licensed betting system on a race broadcasted under this subsection may be, but are not required to be, included in the pari-mutuel pools of the horse track in this state that broadcasts the race upon which wagers are accepted. The handle, as referred to in s. 550.0951(3), does not include any wagers accepted by an out-of-state pari-mutuel permitholder or licensed betting system, irrespective of whether such wagers are included in the pari-mutuel pools of the Florida permitholder as authorized by this subsection.

(3) Any horse track licensed under this chapter may receive broadcasts of horseraces conducted at other horse racetracks located outside this state at the racetrack enclosure of the licensee during its racing meet.

(c) All forms of pari-mutuel wagering are allowed on races broadcast under this section, and all money wagered by patrons

on such races shall be computed as part of the total amount of money wagered at each racing performance for purposes of taxation under ss. 550.0951, 550.09512, and 550.09515. Section 550.2625(2)(a), (b), and (c) does not apply to any money wagered on races broadcast under this section. Similarly, the takeout shall be increased by breaks and uncashed tickets for wagers on races broadcast under this section, notwithstanding any contrary provision of this chapter.

(4) Any greyhound permitholder or jai alai permitholder licensed under this chapter may receive at its licensed location broadcasts of dograces or jai alai games conducted at other tracks or frontons located outside the state. All forms of pari-mutuel wagering are allowed on dograces or jai alai games broadcast under this subsection. All money wagered by patrons on dograces broadcast under this subsection shall be computed in the amount of money wagered each performance for purposes of taxation under ss. 550.0951 and 550.09511.

Section 21. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in references thereto, subsections (3) through (6) of section 550.26352, Florida Statutes, are reenacted to read:

550.26352 Breeders' Cup Meet; pools authorized; conflicts; taxes; credits; transmission of races; rules; application.—

(3) If the permitholder conducting the Breeders' Cup Meet is located within 35 miles of one or more permitholders scheduled to conduct a thoroughbred race meet on any of the 3 days of the Breeders' Cup Meet, then operation on any of those 3 days by the other permitholders is prohibited. As compensation for the loss of racing days caused thereby, such operating

permitholders shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515. This credit shall be in an amount equal to the operating loss determined to have been suffered by the operating permitholders as a result of not operating on the prohibited racing days, but shall not exceed a total of $950,000. The determination of the amount to be credited shall be made by the commission upon application by the operating permitholder. The tax credits provided in this subsection shall not be available unless an operating permitholder is required to close a bona fide meet consisting in part of no fewer than 10 scheduled performances in the 15 days immediately preceding or 10 scheduled performances in the 15 days immediately following the Breeders' Cup Meet. Such tax credit shall be in lieu of any other compensation or consideration for the loss of racing days. There shall be no replacement or makeup of any lost racing days.

(4) Notwithstanding any provision of ss. 550.0951 and 550.09515, the permitholder conducting the Breeders' Cup Meet shall pay no taxes on the handle included within the pari-mutuel pools of said permitholder during the Breeders' Cup Meet.

(5) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be utilized by the permitholder to pay the purses offered by the permitholder during the Breeders' Cup Meet in excess of the purses which the permitholder is otherwise required by law to pay. The amount to be credited shall be

determined by the commission upon application of the permitholder which is subject to audit by the commission.

(6) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be utilized by the permitholder for such capital improvements and extraordinary expenses as may be necessary for operation of the Breeders' Cup Meet. The amount to be credited shall be determined by the commission upon application of the permitholder which is subject to audit by the commission.

Section 22. For the purpose of incorporating the amendment made by this act to section 550.0951, Florida Statutes, in references thereto, subsection (4) of section 550.375, Florida Statutes, is reenacted to read:

550.375 Operation of certain harness tracks.—

(4) The permitholder conducting a harness horse race meet must pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(6).

Section 23. This act shall take effect July 1, 2024.

The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 17, 2024

I respectfully request that **Senate Bill #804**, relating to Gaming Permits, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Travis Hutson
Florida Senate, District 7

File signed original with committee office

The Florida Senate

APPEARANCE RECORD

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

02/08/2024	SB 804
Meeting Date	Bill Number or Topic
Agriculture, Environment, and General Government	
Committee	Amendment Barcode (if applicable)

Name Executive Director Louis Trombetta

Phone 850-597-4813

Address 4070 Esplanande Way Ste. 250
Street

Email louis.trombetta@flgaming.gov

Tallahassee (*City*) Florida (*State*) 32399 (*Zip*)

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Gaming Control Commission

☐ 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 846
INTRODUCER:	Banking and Insurance Committee and Senator DiCeglie
SUBJECT:	Risk Retention Groups
DATE:	February 7, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.	Sanders	Betta	AEG	**Favorable**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 846 amends s. 324.021, F.S., to provide that motor vehicle liability insurance coverage issued by a risk retention group operating in accordance with 15 U.S.C. ss. 3901 et seq., which conducts business in this state pursuant to ss. 627.943 or 627.944, F.S., satisfies the financial responsibility requirements of Florida's state motor vehicle law.

Risk retention groups sell insurance to eligible members, do not submit rate and form filings to state regulators, and are not members of state guaranty associations that manage claims if an insurer becomes insolvent. Members of a risk retention group must be engaged in similar businesses or activities that have similar exposures due to the type of business, trade, product, service, premises, or operations.

The bill does not impact state revenues or expenditures.

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

II. Present Situation:

Risk Retention Groups

Risk retention groups (RRGs) are liability insurance companies owned by its members. Membership is comprised of businesses with similar insurance needs that pool their risks and

form an insurance company, using a combination of state and federal laws under the auspices of the Federal Liability Risk Retention Act,[1] are treated as multi-state insurance companies and are subject to National Association of Insurance Commissioners accreditation standards.[2] Federal law treats risk retention groups (RRGs) – which may sell insurance only to eligible members – differently than traditional insurance companies. Members of a RRG must be engaged in similar businesses or activities that have similar exposures due to the type of business, trade, product, service, premises, or operations.[3]

Authorized insurers must be licensed in every state in which they operate and the domicile state serves as the primary regulator. RRGs need to be licensed as a liability insurer in only one state; further, those that were chartered prior to 1985 may operate under the laws of Bermuda or the Cayman Islands.[4] State regulators may require RRGs to comply with state laws relating to claim settlement and false or fraudulent acts, pay premium taxes, register with the designated state agent for service of process, and submit to financial exams if such exam has not been completed by the state in which the RRG is chartered.[5]

States may not require a RRG to participate in any insolvency guaranty association.[6] However, states may require notice insurance provided by a RRG is not protected by an insolvency guaranty association.[7] Unlike authorized insurers, RRGs do not submit rate and form filings with a state regulator. Instead, RRGs apportion risk among their members; thus, rates are based on an actuarial analysis of the membership and policies can be tailored to suit the needs of the membership.[8]

RRGs may only provide liability insurance. Federal and state law defines liability insurance as coverage for liability for damages to persons or property arising out of any business, trade, product, professional service, premise, operation, or activity of a state or local government.[9] Liability insurance does not include an employer's liability to its employees; thus, RRGs may not issue workers' compensation insurance policies to their members.[10]

RRGs may operate in Florida if they obtain a certificate of authority as a liability insurer, or are licensed in another state and provide a copy of their business plan and annual financial statement to the Office of Insurance Regulation (OIR) and designate the Chief Financial Officer (CFO) as

[1] National Association of Insurance Commissioners (NAIC), *Risk Retention Groups*, Risk Retention Groups (naic.org) (last visited January 23, 2024). 15 U.S.C. Ch. 65: Liability Risk Retention. *available at*: https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter65&edition=prelim (last visited Jan. 23, 2024).
[2] NAIC, *Risk Retention Groups*, Risk Retention Groups (naic.org) (last visited January 23, 2024).
[3] 15 U.S.C. § 3901(a)(4)(F) and s. 627.942(9), F.S.
[4] 15 U.S.C. § 3901(a)(4) and s. 627.942(9), F.S.
[5] 15 U.S.C. § 3902(a)(1).
[6] 15 U.S.C. § 3902(a)(2).
[7] 15 U.S.C. § 3902(a)(1).
[8] National Association of Insurance Commissioners, *Risk Retention Groups*, Risk Retention Groups (naic.org) (last visited January 23, 2024).
[9] 15 U.S.C. 3901(a)(2)(A) and s. 627.942(4), F.S.
[10] 15 U.S.C. 3901(a)(2)(B) and s. 627.942(9)(g), F.S.

agent for service of process.[11] According to the OIR, 146 RRGs are licensed in a state other than Florida and are registered to do business in Florida.[12]

RRGs licensed in Florida pay the same premium taxes as Florida-licensed insurers.[13] RRGs registered to operate in Florida but licensed in another state pay the same premium taxes as surplus lines insurers that are allowed to sell lines of insurance that consumers cannot obtain from Florida-licensed insurers.[14] All RRGs operating in Florida must use agents who are licensed and appointed in Florida.[15]

Confusion exists as to whether "a non-domiciliary or foreign RRG registered in the State is indeed deemed an 'insurer authorized to do business in the state' consistent with" federal law.[16] This confusion has been an issue especially for Florida trucking companies seeking to prove financial responsibility under Florida's motor vehicle law. However, in a memorandum written in 2012 by the General Counsel of the Department of Highway Safety and Motor Vehicles (DHSMV), a RRG:

> …can be accepted as an insurer writing commercial vehicle coverage for vehicles owned or operated by their members, so long as the policy does not extend to coverage for members who own a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle, as set forth in s. 324.031 Fla. Stats.[17]

Presently, there are 40 RRGs authorized to sell commercial automobile liability insurance to its members.[18]

Florida's Motor Vehicle Financial Responsibility Law

Chapter 324, F.S., sets forth the financial responsibility laws for owners or operators of motor vehicles in Florida, whether they be used for personal or commercial purposes. Generally, a motor vehicle owner or operator is required to insure against losses from liability for bodily injury, death, and property damage by either purchasing auto insurance from an insurance carrier

[11] Sections 627.943 and 627.944, F.S.
[12] Florida Office of Insurance Regulation, *Active Company Search*, https://companysearch.myfloridacfo.gov/ (last visited January 23, 2024).
[13] Section 627.943(4), F.S. Pursuant to s. 624.509, F.S., premium taxes (typically 1.75 percent of the premium) are collected by the licensed insurer and paid to the Department of Revenue on or before March 1 of each year.
[14] Section 627.944 (3), F.S. Pursuant to s. 626.932, F.S., premium taxes (4.94 percent of the premium) are collected by the licensed insurance agent and paid to the Department of Financial Services on a quarterly basis; premiums are also reported to the Florida Surplus Lines Service Office (FSLSO) which oversees the reporting requirements of eligible surplus lines insurers. The FSLSO website is *available at:* https://www.fslso.com/.
[15] Sections 627.943(1) and 627.944(12), F.S.
[16] Email to Staff Director, Senate Committee on Banking and Insurance, James Knudson, from Joseph E. Deems, Executive Director, National Risk Retention Association, November 1, 2023 (on file with the Senate Committee on Banking and Insurance).
[17] Memorandum to Julie Gentry, Chief of Motorist Compliance, DHSMV, from Stephen D. Hurm, General Counsel, DHSMV, May 25, 2012 (on file with the Senate Committee on Banking and Insurance).
[18] Florida Office of Insurance Regulation, *Active Company Search*, https://companysearch.myfloridacfo.gov/ (last visited January 23, 2024).

authorized by the OIR to do business in Florida;[19] or obtaining a certificate of self-insurance from the DHSMV after demonstrating the ability to cover potential losses arising out of the ownership, maintenance, or use of a motor vehicle.[20]

The OIR licenses insurance carriers and reviews policy contracts and premium rates of its licensees.[21] An insurance carrier may not issue an auto insurance policy in Florida unless the policy includes coverages for both personal injury and property damage.[22]

The DHSMV administers the Financial Responsibility Law[23] by requiring all licensed insurance companies to provide electronic notification of all policies issued or cancelled.[24] Vehicle owners must show proof of personal injury protection and property damage liability coverage to register a vehicle,[25] and must provide proof of bodily injury liability coverage if they are involved in an accident and charged with a moving violation.[26] A vehicle owner who fails to maintain continuous coverage may have his or her driver's license and registration suspended.[27]

Required coverages vary based on the use of a motor vehicle. For individual motorists, the law requires $10,000 in personal injury protection and $10,000 for property damage.[28] If a driver has been convicted of driving under the influence of alcohol, the motorist must maintain liability coverage of $100,000 for bodily injury to, or death of, one person in any one crash and in the amount of $300,000 due to bodily injury to, or death of, two or more persons in any one crash and in the amount of $50,000 because of property damage in any one crash per accident, for three years after the license is reinstated.[29]

For leased motor vehicles, the lessor is not liable for the actions of a lessee so long as the lease requires $100,000/$300,000 bodily injury liability and $50,000 property damage liability or not less than $500,000 combined property damage and bodily injury liability.[30] For-hire passenger vehicles like taxicabs and limousines must have bodily injury liability coverage of $125,000 per person and $250,000 per occurrence, and $50,000 property damage coverage.[31]

Commercial motor vehicles operating on Florida's highways are subject to state and federal regulations related to size and weight limits, safety standards, and registration requirements. Commercial vehicles which have a gross vehicle weight of 10,001 pounds or more, and engage in interstate commerce or haul hazardous materials, are subject to federal law, where required

[19] Section 324.021(8), F.S.
[20] Sections 324.161 and 324.171, F.S. *See* Florida Department of Highway Safety and Motor Vehicles, Self-Insurance, https://www.flhsmv.gov/insurance/self-insurance/firm/ (last visited January 24, 2024).
[21] Sections 624.404, 627.062, 627.410, and 627.4102, F.S.
[22] Section 627.7275, F.S.
[23] Ch. 324, F.S.
[24] Sections 324.0221, 324.252, F.S., and Rules 15A-3.007, and 15A-3.012, F.A.C.
[25] Sections 324.022, 324.023, F.S., and Rule 15A-3.006, F.A.C.
[26] Section 324.021, F.S. *See* Florida Highway Safety and Motor Vehicles, *Florida Insurance Requirements*, https://www.flhsmv.gov/insurance/ (last visited January 24, 2024).
[27] Section 324.0221, F.S.
[28] Sections 324.021(7), 324.022, and 627.736, F.S.
[29] Section 324.023, F.S.
[30] Section 324.021(9), F.S.
[31] Sections 324.032, F.S.

coverages range from $750,000 to five million dollars.[32] Commercial vehicles that weigh 26,001 pounds or more, operate only within Florida, and do not transport hazardous materials are subject to Florida law, where required coverages range from $50,000 to $300,000.[33]

When the owner or operator of a motor vehicle purchases liability insurance to satisfy Florida's Financial Responsibility Law, the policy must be issued by an insurance company authorized to do business in Florida.[34] When an owner or operator self-insures a vehicle or fleet of vehicles, the owner or operator must obtain a certificate of self-insurance from the DHSMV.[35]

III. Effect of Proposed Changes:

The bill amends s. 324.021, F.S., to provide motor vehicle liability insurance coverage issued by a risk retention group operating in accordance with 15 U.S.C. ss. 3901 et seq., which conducts business in this state pursuant to ss. 627.943 or 627.944, F.S., satisfies the financial responsibility requirements of state motor vehicle law. The change should eliminate any existing confusion as to whether these RRGs are permitted to sell commercial motor vehicle liability coverage to its members.

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.

[32] 49 CFR § 387.9.
[33] Sections 207.002(1), 320.01(25), and 627.7415, F.S.
[34] Section 324.021(8), F.S.
[35] Section 324.171, F.S.

B. Private Sector Impact:

The bill may end the confusion regarding the ability of RRGs to offer commercial motor vehicle liability insurance to its members. The bill may benefit members of RRGs who are able to buy their motor vehicle policies through the group at a lower rate.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 324.021of 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 Banking and Insurance Committee on January 16, 2024:
The committee substitute removes the entire substance of the bill and amends s. 324.021, F.S., to provide that motor vehicle insurance coverage issued by risk retention groups operating under federal law, and conducting business in the state, satisfies the financial responsibility requirements of Florida motor vehicle law.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator DiCeglie

597-02155-24 2024846c1

A bill to be entitled

An act relating to risk retention groups; amending s. 324.021, F.S.; revising the definition of the term "motor vehicle liability policy" to include policies of liability insurance issued by certain risk retention groups; providing an effective date.

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

Section 1. Subsection (8) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(8) MOTOR VEHICLE LIABILITY POLICY.—Any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring such owner or operator against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by any insurance company authorized to do business in this state, including, but not limited to, a risk retention group operating in accordance with 15 U.S.C. ss. 3901 et seq. which conducts business in this state pursuant to s. 627.943 or s. 627.944. The owner, registrant, or operator of a motor vehicle is exempt from providing such proof

597-02155-24 2024846c1

of financial responsibility if he or she is a member of the United States Armed Forces and is called to or on active duty outside this state or the United States, or if the owner of the vehicle is the dependent spouse of such active duty member and is also residing with the active duty member at the place of posting of such member, and the vehicle is primarily maintained at such place of posting. The exemption provided by this subsection applies only as long as the member of the armed forces is on such active duty outside this state or the United States and the owner complies with the security requirements of the state of posting or any possession or territory of the United States.

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

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

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 1046
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government and Senator Martin
SUBJECT:	Gaming Control
DATE:	February 12, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Favorable**
2.	Kraemer/Davis	Betta	AEG	**Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1046 revises laws relating to illegal gambling and gaming to:

- Provide that false personation of Florida Gaming Control Commission (commission) staff and agents is a crime;
- Increase the penalties applicable for the offense of knowingly keeping a gambling house;
- Prohibit the production and publication of advertisements for use or distribution in Florida of an illegal gambling or gaming operation by any person or property owner;
- Revise penalties for transactions involving slot machines; and
- Revise the information to be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances, a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of chs. 550, 551, or 849, F.S., (Pari-mutuel Wagering**,** Slot Machines**,** and Gambling) (gambling laws).

The bill has an indeterminate fiscal impact to the state. 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] However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel[5] wagering at licensed greyhound and horse tracks and jai alai frontons;[6]
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[7]
- Cardrooms[8] at certain pari-mutuel facilities;[9]
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;[10]
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;[11] and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
  - Penny-ante games;[12]
  - Bingo;[13]
  - Charitable drawings;[14]
  - Game promotions (sweepstakes);[15] and
  - Bowling tournaments.[16]

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.[17]

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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] "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.
[6] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[7] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.
[8] 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."
[9] *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. 17, 2024), which states that of 29 licensed permitholders, 26 operated at a pari-mutuel facility.
[10] 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.
[11] *See* s. 546.10, F.S.
[12] *See* s. 849.085, F.S.
[13] *See* s. 849.0931, F.S.
[14] *See* s. 849.0935, F.S.
[15] *See* s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[16] *See* s. 849.141, F.S.
[17] *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

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.[18] A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited in the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.[19]

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 and other laws relating to authorized gaming.[20] 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 chs. 24, 285 (part II), 546, 550, 551, or 849, F.S., (State Lotteries, Gaming Compact, Amusement Facilities, Pari-mutuel Wagering, Slot Machines, and Gambling), which are referred to the Office of Statewide Prosecution by the Florida Gaming Control Commission (commission).[21]

In addition to the enhanced authority of the Office of Statewide Prosecution, the commission was created[22] 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 (DPMW) which was transferred from the Department of Business and Professional Regulation effective July 1, 2022 (as discussed below).

The commission must do all of the following:[23]

- 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.

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)*.

[18] 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.

[19] 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.

[20] 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 to the section in ch. 2022-7, Laws of Fla., (Reviser's Bill) and ch. 2023-8, Laws of Fla., (Reviser's Bill).

[21] Section 16.56(1)(a), F.S.

[22] Section 16.71, F.S.

[23] Section 16.712, F.S. The commission also administers the Pari-mutuel Wagering Trust Fund. *See* s. 16.71(6), F.S.

- Ensure the laws of this state are not interpreted in any manner that expands the activities authorized in ch**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S.
- 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.
- The commission must 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.
- 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**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S., and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S., 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.[24] 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.[25]

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**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S., or any rule adopted pursuant thereto, or any law of this state.[26]

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 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.[27]

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.[28]
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.[29] 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.[30]

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 FDLE's the executive director. Any

[24] For a summary of DGE investigations and actions in Fiscal Year 2022-2023, s*ee* Annual Report, *supra* n. 11 at p.5.
[25] Section 16.711(2), F.S.
[26] Section 16.711(3), F.S.
[27] *Id*.
[28] *Id*.
[29] Section 16.711(4), F.S.
[30] *Id*.

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.[31]

Division of Pari-mutuel Wagering

The commission 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. The DPMW is a program area of the commission which is charged with the regulation of Florida's pari-mutuel, cardroom, and slot gaming industries, as authorized by chs. 550, 551, 849, F.S., as well as collecting and safeguarding associated revenues due to the state. The DPMW supports the commission in meeting the commission's obligations as the State Compliance Agency (SCA)[32] in carrying out the state's oversight responsibilities under the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.[33]

Manufacture, Sale, Possession, etc., of Slot Machines or Devices

Section 849.15(1), F.S., relating to actions relating to slot machines or devices, provides that is unlawful to:

- Manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person or under the person's management or control, any slot machine or device or any part thereof; or
- Make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

[31] Section 16.711(5), F.S.
[32] *See* s. 285.710, F.S. Until June 30, 2022, the DPMW was designated as the SCA, prior to that division's transfer to the commission from the Department of Business and Professional Regulation, as set forth in ch. 2021-269, Laws of Fla.
[33] *See* s. 285.710(3)(b), F.S., which provides that the Gaming Compact between the Seminole Tribe of Florida and the State of Florida (2021 Gaming Compact), executed by the Governor and the Tribe on April 23, 2021, as amended on May 17, 2021, is ratified and approved. The 2021 Gaming Compact may be accessed at https://www.flgov.com/wp-content/uploads/pdfs/2021%20Gaming%20Compact.pdf (last visited Jan. 10, 2024). The May 17, 2021 amendment states that Part XVIII.A [relating to certain negotiations within 36 months] is deleted in its entirety and replaced with "Reserved", and that the Seminole Tribe of Florida agrees that it will not commence Sports Betting, as defined in Park III.CC, prior to October 15, 2021 (on file with the Senate Regulated Industries Committee).

Section 849.15(2), F.S., provides:

- Counties in Florida where slot machine gaming is authorized pursuant to ch. 551, F.S. (i.e., in Broward and Miami-Dade counties)[34] are exempt from federal law prohibiting transportation of gaming devices in interstate and foreign commerce; and
- All shipments of gaming devices, including slot machines, into any Florida county where slot machine gaming is authorized are deemed to be legal shipments into Florida, if the destination of such shipments is a licensed slots facility, or the facility of a slot machine manufacturer or slot machine distributor.

III. Effect of Proposed Changes:

Section 1 amends s. 843.08, F.S., relating to the obstruction of justice, to provide that a person who falsely assumes or pretends to be, and acts as any personnel or representative of the Florida Gaming Control Commission (commission), commits a third degree felony.[35]

Under current law, the false personation offense occurs when a person impersonates and acts as a firefighter, a sheriff, a Florida Highway Patrol officer, a Fish and Wildlife Conservation Commission officer, a Department of Environmental Protection officer, a Department of Financial Services officer, any personnel or representative of the Division of Investigative and Forensic Services, a Department of Corrections officer, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, any personnel or representative of the Department of Law Enforcement, certain federal law enforcement officers, and others.[36]

If the false personation occurs during the course of the commission of a felony, the violator commits a second degree felony (up to 15 years/$10,000 fine).[37]

Section 2 amends s. 849.01, F.S., relating to the keeping of gambling houses, to specify a violation of the prohibition against keeping a gambling house must be committed knowingly and to increase the penalty for that offense from a second degree misdemeanor (up to 60 days/$500 fine)[38] to a third degree felony (up to five years/$5,000 fine).[39] Current law provides, in part, that the keeping of a gambling house includes any person, servant, clerk, or agent who:

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[34] In addition, pursuant to s. 285.710, F.S., relating to gaming compacts, the Seminole Tribe of Florida is authorized to conduct slot machine gaming and to own, possess, and operate slot machines. *See* s. 285.710(13)(a), F.S.

[35] Section 775.082, F.S., provides a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides a felony of the third degree is punishable by a fine not to exceed $5,000. Under s. 775.084, F.S., an habitual felony offender is subject to enhanced penalties.

[36] *See* s. 843.08, F.S.

[37] Section 775.082, F.S., provides a felony of the second degree is punishable by a term of imprisonment not to exceed 15 years. Section 775.083, F.S., provides a felony of the second degree is punishable by a fine not to exceed $10,000. Under s. 775.084, F.S., an habitual felony offender is subject to enhanced penalties.

[38] Section 775.082, F.S., provides a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides a misdemeanor of the second degree is punishable by a fine not to exceed $500. The enhanced penalties for this violation increase to imprisonment not to exceed five years and a fine not to exceed $5,000.

[39] Section 775.082, F.S., provides a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides a felony of the third degree is punishable by a fine not to exceed $5,000.

> [H]as, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever . . . .

Section 3 revises s. 849.15, F.S., relating to the prohibited manufacture, sale, or possession of slot machines or devices. The term "conviction" is defined to mean "a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

The term "manager" is defined to mean a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:

- Authorization to operate or hold open the business, establishment, premises, or other location without any other employee present;
- Authorization to supervise another employee or employees; or
- Any ownership interest in the business, establishment, premises, or other location.

For those convicted of violating s. 849.15(2), F.S., as renumbered by the bill, relating to the manufacturing, ownership, , possession, sale, or transport of slot machines or devices, the bill sets forth the following offenses and respective penalties, with enhanced penalties for managers under certain circumstances:

- A person who violates this provision commits a first degree misdemeanor (imprisonment up to one year and a fine up to $1,000), unless the person is acting as a manager or has one prior conviction for violating this provision;
- A person acting as a manager at the time of the violation or who has one prior conviction for a violation of this provision, commits a third degree felony (imprisonment up to five years and a fine up to $5,000);
- A person acting as a manager at the time of the violation who has two or more prior convictions for a violation of this provision, and the violation involves five or more slot machines or devices, commits a second degree felony (imprisonment up to 15 years and a fine up to $10,000).

Section 4 creates s. 849.155, F.S., relating to trafficking in slot machines or devices, or parts thereof, relating to trafficking in slot machines or devices. The bill makes it a:

- First degree felony, (imprisonment up to 30 years and a fine up to $10,000), to knowingly sell, purchase, manufacture, transport, deliver, or bring into Florida more than 15 slot machines or devices or any part thereof; and includes
    - An additional fine of $100,000, if the quantity of slot machines or devices or any part thereof involved is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part thereof.
    - An additional fine of $250,000, if the quantity of slot machines or devices or any part thereof involved is 25 slot machines or devices or any part thereof or more, but less than 50 slot machines or devices or any part thereof.
    - An additional fine of $500,000, if the quantity of slot machines or devices or any part thereof involved is 50 slot machines or devices or any part thereof or more.

The bill requires all fines imposed and collected pursuant to these provisions to be deposited into the Pari-mutuel Wagering Trust Fund and authorizes such funds to be used for the enforcement of chs. 546, 550, F.S., 551, F.S., and 849, F.S., by the commission.

Section 5 creates s. 849.157, F.S., relating to making false or misleading statements regarding the legality of slot machines or devices to facilitate their sale. The bill makes it a:

- Third degree felony (imprisonment up to five years and a fine up to $5,000) , punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., to knowingly and willfully:
  - Make a materially false or misleading statement regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration; or
  - Disseminate false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration.
- Second degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices.

Section 6 repeals s. 849.23, F.S., relating to slot machine penalties.

Section 7 creates s. 849.47, F.S., relating to transporting or procuring the transportation of persons to facilitate illegal gambling. A person who knowingly and willfully for profit or hire transports, or procures the transportation of, five or more other persons into or within Florida when he or she knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling, commits a first degree misdemeanor (a fine up to $1,000). Anyone who transports or procures the transportation of a minor, a person 65 years of age or older, or 12 or more persons to facilitate illegal gambling, commits a third degree felony (imprisonment up to five years and a fine up to $5,000).

Section 8 creates s. 849.48, F.S., relating to prohibited gambling or gaming advertisements. Except as otherwise specifically authorized by law, a person may not:

- Knowingly and intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in Florida, in any manner, any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling; and
- Set up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

The bill provides that violators of the above prohibitions commit a first degree misdemeanor.

Under the bill, the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation, outside of Florida, where such gambling is not prohibited.

The bill defines the term "illegal gambling" to mean any criminal violation of chs. 546, 550, 551, or 849, F.S., that occurs at any business, establishment, premises, or other location which operates for profit.

Section 9 creates s. 849.49, F.S., relating to preemption, and provides that a Florida county, municipality, or other political subdivision may not enact or enforce any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10, F.S., relating to amusement games or machines, or ch. 849, F.S., relating to gambling, except as otherwise expressly provided by the state constitution or general law.

Section 10 revises s. 903.046, F.S., relating to the purpose of and criteria for bail determination, to revise considerations to be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances, a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of chs. 546, 550, 551, or 903, F.S., (Amusement Facilities, Pari-Mutuel Wagering, Slot Machines, and Bail). See Section VII of this analysis related to consideration of an amendment to correct a drafting oversight in the bill.

Section 11 revises s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code, to revise the penalties for offenses in the ranking chart as follows:

- Section 849.01, F.S., related to knowingly keeping a gambling house, is increased from a second degree misdemeanor to a third degree felony (Level 3);
- Section 849.09(1)(a) - (d), F.S., relating to promoting, conducting, or advertising a lottery, is increased to a third degree felony (Level 3) from a third degree felony (Level 1);
- Section 849.09(1)(e), (f), (g), (i), and (k), F.S., relating to a second or subsequent offense of conducting an unlawful lottery, is added to the ranking chart as a third degree felony (Level 3);
- Section 849.15(3)(b), F.S., relating to a violator who is a manager at the time of the violation or who has one prior conviction for violating this provision, is added to the ranking chart as a third degree felony (Level 3);
- Section 849.15(c), F.S., relating to a violator who is a manager at the time of the violation or who has two or more prior convictions for violating this provision, and the violation involves five or more slot machines or devices, is added to the ranking chart as a second degree felony (Level 5);
- Section 849.155, F.S., relating to trafficking in slot machines or devices or any parts thereof, is added to the ranking chart as a first degree felony (Level 7);
- Section 849.157(1), F.S., relating to false or misleading statements regarding the legality of slot machines or devices to facilitate their sale, is added to the ranking chart as a third degree felony (Level 3);
- Section 849.157(2), F.S., relating to false or misleading statements regarding the legality of slot machines or devices to facilitate the sale of five or more slot machines or devices, is added to the ranking chart as a second degree felony (Level 5);
- Section 849.23, F.S., relating to slot machine penalties, is deleted from the ranking chart, as the provision is repealed by the bill;

- Section 849.47, F.S., relating to transporting or procuring the transportation of a minor or a person 65 years of age or older, or of 12 or more persons, to facilitate illegal gambling, is added to the ranking chart as a third degree felony (Level 3).

Section 12 amends s. 772.102, F.S., to conform definitions relating to civil remedies for criminal practices, to remove references to s. 849.23, F.S., which is repealed by the bill.

Section 13 amends s. 895.02, F.S., to conform definitions relating to offenses concerning racketeering and illegal debts, to remove references to s. 849.23, F.S., which is repealed by the bill.

Section 14 provides that 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.

B. Private Sector Impact:

Persons who violate the gambling laws will be subject to penalties or increased penalties, as described in Section III of this analysis. *See* the list of penalties in **Section 11**.

Such violators may be impacted by the information that must be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances,

a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of the gambling laws.

C. Government Sector Impact:

The fiscal impact to state and local government is indeterminate. The bill increases and creates new criminal penalties for violations relating to illegal gambling. This may create a positive fiscal impact to the state and local governmental entities that receive proceeds from related fines. This bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) due to expanding the crimes eligible for enhancements which may lead to an increased number of offenders receiving enhanced sentences. The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, is scheduled to review similar bill CS/HB 189 on February 14, 2024. A final impact, if, any is not available at this time.

No anticipated fiscal impact to the Florida Gaming Control Commission.[40]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 903.46, F.S., relating to bail, includes the phrase "or this chapter." The sponsor may wish to consider an amendment to correct a drafting oversight in the bill created by the phrase "or this chapter," which means ch. 903, F.S., (Bail) in the context of the bill as written. The amendment should revise "or this chapter" to "or chapter 849." See **Section 10** and line 305 of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 772.102, 843.08, 849.01, 849.15, 895.02, 903.046, and 921.0022.

This bill creates the following sections of the Florida Statutes: 849.155, 849.157, 849.47, 849.48, and 849.49 of the Florida Statutes.

This bill repeals section 849.23 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 on February 8, 2024:
The committee substitute:

[40] *See* Florida Gaming Control Commission, *2024 Agency Legislative Bill Analysis for SB 1046* at 6 (Jan. 10, 2024) (on file with the Senate Committee on Regulated Industries).

- Revises the title to "Gaming Control," a more comprehensive description that conforms to the companion bill CS/HB 189;
- Revises certain criminal penalties in Florida law related to illegal gambling, as follows:
  - Prohibits falsely impersonating personnel or representatives of the Florida Gaming Control Commission.
  - Increases the penalty for keeping an illegal gambling house from a second degree misdemeanor to a third degree felony.
  - Increases the penalty for the manufacture, sale, and possession of illegal slot machines from a second degree misdemeanor to a first degree misdemeanor, and to a felony for managers with prior convictions.
  - Makes it a first degree felony for trafficking more than 15 illegal slot machines or any parts thereof, and imposes certain monetary fines.
  - Makes it a third degree felony to make a false or misleading statement to facilitate the sale of illegal slot machines, and a second degree felony when such violation involves five or more machines.
  - Makes it a first degree misdemeanor to transport five or more persons into or within the state to facilitate illegal gambling, and a third degree felony when violations include a minor or person 65 years old or older, or 12 or more persons.
  - Makes it a first degree misdemeanor to make certain gambling or gaming advertisements.
  - Prohibits counties, municipalities, or other political subdivisions from regulating gaming, gambling, lotteries, or other activities described in s. 546.10, F.S., relating to Amusement Games or Machines, or ch. 849, F.S., relating to Gambling.
  - Requires courts to consider the amount of currency seized in connection with certain gambling violations when determining bail conditions.
  - Conforms the offense severity ranking chart to the changes made by the bill.
  - Deletes the exemption from ch. 255, F.S. for the commission.
  - Deletes penalties for keeping a gambling house within 1000 feet of certain areas.
  - Deletes penalties for having firearms and serving alcoholic beverages on the premises of a gambling house.
  - Deletes penalties relating to minors, guardianships, and gambling at pool halls.
  - Deletes provisions relating to illegal lotteries.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/09/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 16.717, Florida Statutes, is created to read:

16.717 Florida Gaming Control Commission; authority to purchase necessary property.—The Florida Gaming Control Commission is specifically exempt from chapter 255 and shall have the authority to purchase, lease, exchange, or otherwise

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acquire land, property interests, buildings, or other improvements, including personal property within such buildings or on such lands that is necessary to or useful in securing or storing any seized slot machines or devices or any other contraband. Any such property shall be held in the name of the state.

Section 2. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 772.102, Florida Statutes, is amended to read:

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

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers' compensation.

4. Part IV of chapter 501, relating to telemarketing.

5. Chapter 517, relating to securities transactions.

6. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

7. Chapter 550, relating to jai alai frontons.

8. Chapter 552, relating to the manufacture, distribution, and use of explosives.

9. Chapter 562, relating to beverage law enforcement.

10. Section 624.401, relating to transacting insurance

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without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

11. Chapter 687, relating to interest and usurious practices.

12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

13. Chapter 782, relating to homicide.

14. Chapter 784, relating to assault and battery.

15. Chapter 787, relating to kidnapping or human trafficking.

16. Chapter 790, relating to weapons and firearms.

17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

18. Chapter 806, relating to arson.

19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

20. Chapter 812, relating to theft, robbery, and related crimes.

21. Chapter 815, relating to computer-related crimes.

22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

33. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 687.071, relating to criminal usury and loan sharking.

4. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 3. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, any personnel or representative of the Florida Gaming Control Commission, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of

the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In determining whether a defendant has violated this section, the court or jury may consider any relevant evidence, including, but not limited to, whether the defendant used lights in violation of s. 316.2397 or s. 843.081.

Section 4. Section 849.01, Florida Statutes, is amended to read:

849.01 Keeping gambling houses, etc.—Whoever by herself or himself, her or his servant, clerk or agent, or in any other manner knowingly has, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever, whether heretofore prohibited or not, commits a felony of the third ~~misdemeanor of the second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 5. Section 849.09, Florida Statutes, is amended to read:

849.09 Lottery prohibited; exceptions.—

(1) It is unlawful for any person in this state to do any of the following:

(a) Set up, promote, or conduct any lottery for money or for anything of value.~~;~~

(b) Dispose of any money or other property of any kind whatsoever by means of any lottery.~~;~~

(c) Conduct any lottery drawing for the distribution of a

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prize or prizes by lot or chance, or advertise any such lottery scheme or device in any newspaper or by circulars, posters, pamphlets, radio, telegraph, telephone, or otherwise.~~;~~

(d) Aid or assist in the setting up, promoting, or conducting of any lottery or lottery drawing, whether by writing, printing, or in any other manner whatsoever, or be interested in or connected in any way with any lottery or lottery drawing.~~;~~

(e) Attempt to operate, conduct, or advertise any lottery scheme or device.~~;~~

(f) Have in her or his possession any lottery wheel, implement, or device whatsoever for conducting any lottery or scheme for the disposal by lot or chance of anything of value.~~;~~

(g) Sell, offer for sale, or transmit, in person or by mail or in any other manner whatsoever, any lottery ticket, coupon, or share, or any share in or fractional part of any lottery ticket, coupon, or share, whether such ticket, coupon, or share represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played.~~;~~

(h) Have in her or his possession any lottery ticket, or any evidence of any share or right in any lottery ticket, or in any lottery scheme or device, whether such ticket or evidence of share or right represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played.~~;~~

(i) Aid or assist in the sale, disposal, or procurement of any lottery ticket, coupon, or share, or any right to any drawing in a lottery.~~;~~


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(j) Have in her or his possession any lottery advertisement, circular, poster, or pamphlet, or any list or schedule of any lottery prizes, gifts, or drawings.~~; or~~

(k) Have in her or his possession any so-called "run down sheets," tally sheets, or other papers, records, instruments, or paraphernalia designed for use, either directly or indirectly, in, or in connection with, the violation of the laws of this state prohibiting lotteries and gambling.

(2) This section does not prohibit participation in any nationally advertised contest, drawing, game, or puzzle of skill or chance for a prize or prizes unless it can be construed as a lottery under this section. Exemptions for national contests do not apply to any such contest based upon the outcome or results of any horserace, harness race, dograce, or jai alai game.

~~Provided, that nothing in this section shall prohibit participation in any nationally advertised contest, drawing, game or puzzle of skill or chance for a prize or prizes unless it can be construed as a lottery under this section; and, provided further, that this exemption for national contests shall not apply to any such contest based upon the outcome or results of any horserace, harness race, dograce, or jai alai game.~~

(3)~~(2)~~ Any person who is convicted of violating paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) commits ~~any of the provisions of paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of subsection (1) is guilty of~~ a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)~~(3)~~ Any person who is convicted of violating paragraph (1)(e), paragraph (1)(f), paragraph (1)(g), or paragraph (1)(k) commits ~~any of the provisions of paragraph (e), paragraph (f), paragraph (g), paragraph (i), or paragraph (k) of subsection (1) is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The provisions of this section do not apply to bingo as provided for in s. 849.0931.

(5)~~(4)~~ Any person who is convicted of violating paragraph (1)(h), paragraph (1)(i), or paragraph (1)(j) commits ~~any of the provisions of paragraph (h) or paragraph (j) of subsection (1) is guilty of~~ a felony ~~misdemeanor~~ of the third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 849.15, Florida Statutes, is amended to read:

849.15 Manufacture, sale, possession, etc., of slot machines or devices prohibited.—

(1) As used in this section, the term:

(a) "Conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

(b) "Manager" means a person who, at any business,

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establishment, premises, or other location at which a slot machine or device is offered for play, has:

1. Authorization to operate or hold open the business, establishment, premises, or other location without any other employee present;

2. Authorization to supervise another employee or employees; or

3. Any ownership interest in the business, establishment, premises, or other location.

(2) It is unlawful:

(a) To manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person or under the person’s management or control, any slot machine or device or any part thereof; or

(b) To make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

(3)(a) Except as provided in paragraphs (b) and (c), a person who violates subsection (2) commits a misdemeanor of the

first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she violates subsection (2) and:

1. At the time of the violation the person is acting as a manager; or

2. Has one prior conviction for a violation of this section.

(c) A person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she violates subsection (2) and:

1.a. At the time of the violation the person is acting as a manager; and

b. The violation involves five or more slot machines or devices; or

2. Has two or more prior convictions for a violation of this section.

(4) ~~(2)~~ Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the

provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).

Section 7. Section 849.155, Florida Statutes, is created to read:

849.155 Trafficking in slot machines or devices or any parts thereof.—Any person who knowingly sells, purchases, manufactures, transports, delivers, or brings into this state more than 15 slot machines or devices or any part thereof, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of slot machines or devices or any part thereof involved:

(1) Is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part

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thereof, such person must be ordered to pay a fine of $100,000.

(2) Is 25 slot machines or devices or any part thereof or more, but less than 50 slot machines or devices or any part thereof, such person must be ordered to pay a fine of $250,000.

(3) Is 50 slot machines or devices or any part thereof or more, such person must be ordered to pay a fine of $500,000.

All fines imposed and collected pursuant to this section must be deposited into the Pari-mutuel Wagering Trust Fund and may be used for the enforcement of chapters 546, 550, 551, and this chapter by the Florida Gaming Control Commission.

Section 8. Section 849.157, Florida Statutes, is created to read:

849.157 Making a false or misleading statement regarding the legality of slot machines or devices to facilitate sale.—

(1) Except as provided in subsection (2), a person who knowingly and willfully makes a materially false or misleading statement or who knowingly and willfully disseminates false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who violates subsection (1) when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. Section 849.23, Florida Statutes, is repealed.

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Section 10. Section 849.47, Florida Statutes, is created to read:

849.47 Transporting or procuring the transportation of persons to facilitate illegal gambling.—

(1) Except as provided in subsection (2), a person who knowingly and willfully for profit or hire transports, or procures the transportation of, five or more other persons into or within this state when he or she knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) A person who transports, or procures the transportation of, a minor or a person 65 years of age or older in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who transports, or procures the transportation of, 12 or more persons in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 11. Section 849.48, Florida Statutes, is created to read:

849.48 Gambling or gaming advertisements; prohibited.—

(1)(a) Except as otherwise specifically authorized by law,

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a person may not knowingly and intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state, in any manner, any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling.

(b) Except as otherwise specifically authorized by law, a person may not set up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Nothing in this section prohibits the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation where such gambling is not prohibited.

(4) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 12. Section 849.49, Florida Statutes, is created to read:

849.49 Preemption.—No county, municipality, or other

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political subdivision of the state shall enact or enforce any ordinance or local rule relating to gaming, gambling, lotteries, and any activities described in s. 546.10 or this chapter except as otherwise expressly provided by the State Constitution or general law.

Section 13. Paragraph (a) of subsection (12) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(12) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 551.109, relating to slot machine gaming.

4. Chapter 687, relating to interest and usury.

5. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 14. Present paragraphs (i) through (m) of subsection (2) of section 903.046, Florida Statutes, are redesignated as paragraphs (j) through (n), respectively, and a new paragraph (i) is added to that subsection, to read:

903.046 Purpose of and criteria for bail determination.—

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(i) The amount of currency seized that is connected to or involved in a violation of chapter 546, chapter 550, chapter 551, or chapter 849.

Section 15. Paragraphs (a), (c), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
104.0616(2)	3rd	Unlawfully distributing, ordering, requesting, collecting, delivering, or possessing vote-by-mail ballots.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount $1,000 or more but less than $20,000.

316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
322.212(5)(a)	3rd	False application for driver license or identification card.
414.39(3)(a)	3rd	Fraudulent misappropriation of

			public assistance funds by employee/official, value more than $200.
468			
	443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
469			
	509.151(1)	3rd	Defraud an innkeeper, food or lodging value $1,000 or more.
470			
	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
471			
	713.69	3rd	Tenant removes property upon which lien has accrued, value $1,000 or more.
472			
	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
473			
	815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
474			
	817.52(2)	3rd	Hiring with intent to defraud,

			motor vehicle services.
475			
	817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
476			
	826.01	3rd	Bigamy.
477			
	828.122(3)	3rd	Fighting or baiting animals.
478			
	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
479			
	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
480			
	832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
481			
	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or

			more.
482			
	838.15(2)	3rd	Commercial bribe receiving.
483			
	838.16	3rd	Commercial bribery.
484			
	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
485			
	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
486			
	~~849.09(1)(a)-(d)~~	~~3rd~~	~~Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.~~
487			
	~~849.23~~	~~3rd~~	~~Gambling-related machines; "common offender" as to property rights.~~
488			
	~~849.25(2)~~	~~3rd~~	~~Engaging in bookmaking.~~
489			
	860.08	3rd	Interfere with a railroad signal.
490			
	860.13(1)(a)	3rd	Operate aircraft while under

		the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and

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		lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

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376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.

400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.

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790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.

812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
812.081(2)	3rd	Theft of a trade secret.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

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817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
849.01	3rd	Keeping a gambling house.

849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.09(1)(e), (f), (g), (i), or (k)	3rd	Conducting an unlawful lottery; second or subsequent offense.
849.09(1)(h) or (j)	3rd	Conducting an unlawful lottery; second or subsequent offense.
849.15(3)(b)1. & 2.	3rd	Manufacture, sale, or possession of slot machine; by manager or with prior conviction.
849.157(1)	3rd	False or misleading statement to facilitate sale of slot machines or devices.
849.25(2)	3rd	Engaging in bookmaking.
849.47(2)(a) & (b)	3rd	Transporting persons to facilitate illegal gambling; minor or person 65 years of age or older or 12 or more persons.

860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public

		housing facility.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.

893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner’s practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner’s practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)	3rd	Tampering with or fabricating

		physical evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.

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316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates;

			making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
582			
	379.367(4)	3rd	Willful molestation of a commercial harvester’s spiny lobster trap, line, or buoy.
583			
	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
584			
	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
585			
	440.10(1)(g)	2nd	Failure to obtain workers’ compensation coverage.

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586			
	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
587			
	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
588			
	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
589			
	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
590			
	790.01(3)	3rd	Unlawful carrying of a concealed firearm.
591			
	790.162	2nd	Threat to throw or

		discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.

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806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.
812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or

			conducting a chop shop.
606			
	817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
607			
	817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
608			
	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
609			
	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification

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			information of 10 or more persons.
610			
	817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
611			
	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
612			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
613			
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
614			
	827.071(5)	3rd	Possess, control, or intentionally view any

			photographic material, motion picture, etc., which includes child pornography.
828.12(2)		3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
836.14(4)		2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
839.13(2)(b)		2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01(1)		3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)		2nd	Lewd or lascivious

			exhibition using computer; offender 18 years or older.
620			
	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
621			
	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
622			
	849.15(3)(c)1.	2nd	Manufacture, sale, or possession of a slot machine; by a manager of five or more machines or with two or more prior convictions.
623			
	849.157(2)	2nd	False or misleading statement to facilitate the sale of slot machines or devices; five or more machines.
624			
	849.25(3)	2nd	Bookmaking; second or subsequent offense.

874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility,

			school, or state, county, or municipal park or publicly owned recreational facility or community center.
629			
	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
630			
	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
631			
	893.13(1)(f)1.	1st	Sell, manufacture, or

		deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.

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316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.

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646	456.065(2)	3rd	Practicing a health care profession without a license.
647	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
648	458.327(1)	3rd	Practicing medicine without a license.
649	459.013(1)	3rd	Practicing osteopathic medicine without a license.
650	460.411(1)	3rd	Practicing chiropractic medicine without a license.
651	461.012(1)	3rd	Practicing podiatric medicine without a license.
652	462.17	3rd	Practicing naturopathy without a license.
	463.015(1)	3rd	Practicing optometry without a license.

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464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.

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484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.

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667	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
668	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
669	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
670	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
671	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
	782.071	2nd	Killing of a human being or unborn child by the

		operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.

784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer

			or transport of an adult from outside Florida to within the state.
686			
	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
687			
	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
688			
	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
689			
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
690			
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
691			
	790.166(4)	2nd	Possessing, displaying, or

			threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23		1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)		3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.05(1)		1st	Live on earnings of a prostitute; 2nd offense.
796.05(1)		1st	Live on earnings of a prostitute; 3rd and subsequent offense.
800.04(5)(c)1.		2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than

			18 years of age.
697			
	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
698			
	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
699			
	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
700			
	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
701			
	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
702			

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810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.

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812.014(2)(f)	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims

			with intent to defraud.
715			
	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
716			
	817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
717			
	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
718			
	817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
719			
	817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
720			
	817.535(2)(a)	3rd	Filing false lien or other

		unauthorized document.
817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.

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837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.

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847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
849.155	1st	Trafficking in slot machines or any part thereof.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or

			(2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
741			
	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
742			
	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
743			
	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
744			
	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less

		than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.

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893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

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759	893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
760	893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
761	893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
762	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
763	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less

			than $20,000.
764			
	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
765			
	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
766			
	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
767			
	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
768			
	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

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769			
	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
770			
	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
771			
	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
772			
	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
773			
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
774			
	985.4815(12)	3rd	Failure to report or providing false information about a sexual

			offender; harbor or conceal a sexual offender.
985.4815(13)		3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

Section 16. 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 gaming control; creating s. 16.717, F.S.; authorizing the Florida Gaming Control Commission to acquire property for the purpose of storing seized contraband; amending s. 772.102, F.S.; conforming cross-references; amending s. 843.08, F.S.; prohibiting a person from falsely personating any personnel or representative from the Florida Gaming Control Commission; providing a criminal penalty; amending s. 849.01, F.S.; specifying that a violation of the prohibition against keeping a gambling house must be committed knowingly; increasing the criminal

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penalty for a violation; amending s. 849.09, F.S.; revising the criminal penalty for individuals who participate in illegal lotteries; providing an exception; making technical changes; amending s. 849.10, F.S.; revising the criminal penalty for printing lottery tickets; amending s. 849.15, F.S.; defining terms; increasing the criminal penalty for specified violations involving a slot machine or device; creating s. 849.155, F.S.; prohibiting a person from trafficking in slot machines or devices; providing a criminal penalty; requiring a court to order an offender to pay a specified fine if he or she is convicted of trafficking in a specified number of slot machines or devices; requiring any fines imposed and collected to be deposited into the Pari-mutuel Wagering Trust Fund to be used for specified purposes; creating s. 849.157, F.S.; prohibiting a person from making false statements or disseminating false information regarding the legality of a slot machine or device to facilitate the sale or delivery of such slot machine or device; providing criminal penalties; repealing s. 849.23, F.S., relating to penalties for specified violations; creating s. 849.47, F.S.; prohibiting a person from, for profit or hire, transporting or procuring the transportation of a specified number of other persons for the purpose of facilitating illegal gambling; providing criminal penalties; defining the term “illegal gambling”; creating s. 849.48, F.S.; prohibiting a person from


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making, publishing, disseminating, or circulating specified advertisements for the purpose of promoting or facilitating illegal gambling; prohibiting a person from setting up any type or plate for specified advertisements when he or she knows or reasonably should know such material will be used for the purpose of promoting or facilitating illegal gambling; providing a criminal penalty; providing an exception; defining the term "illegal gambling"; creating s. 849.49, F.S.; specifying that the regulation of gambling is expressly preempted to the state; providing an exception; amending s. 895.02, F.S.; conforming a cross-reference; amending s. 903.046, F.S.; requiring a court to consider the amount of currency seized that is connected to specified violations relating to illegal gambling when determining bail; amending s. 921.0022, F.S.; ranking offenses created by the act on the offense severity ranking chart of the Criminal Punishment Code; re-ranking specified offenses on the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

703598

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of

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Environmental Protection, an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, any personnel or representative of the Florida Gaming Control Commission, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In determining whether a defendant has violated this section, the court or jury may consider any relevant evidence, including, but not limited to, whether the

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defendant used lights in violation of s. 316.2397 or s. 843.081.

Section 2. Section 849.01, Florida Statutes, is amended to read:

849.01 Keeping gambling houses, etc.—Whoever by herself or himself, her or his servant, clerk or agent, or in any other manner knowingly has, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever, whether heretofore prohibited or not, commits a felony of the third ~~misdemeanor of the second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or 775.084.

Section 3. Section 849.15, Florida Statutes, is amended to read:

849.15 Manufacture, sale, possession, etc., of slot machines or devices prohibited.—

(1) As used in this section the term:

(a) "Conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

(b) "Manager" means a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:

1. Authorization to operate or hold open the business, establishment, premises, or other location without any other employee present;

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2. Authorization to supervise another employee or employees; or

3. Any ownership interest in the business, establishment, premises, or other location.

(2)~~(1)~~ It is unlawful:

(a) To manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person or under the person's management or control, any slot machine or device or any part thereof; or

(b) To make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

(3)(a) Except as provided in paragraphs (b) and (c), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she violates subsection (2) and:

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1. At the time of the violation the person is acting as a manager.

2. Has one prior conviction for a violation of this section.

(c) A person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she violates subsection (2) and:

1.a. At the time of the violation the person is acting as a manager; and

b. The violation involves five or more slot machines or devices.

2. Has two or more prior convictions for a violation of this section.

(4) ~~(2)~~ Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any

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county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).

Section 4. Section 849.155, Florida Statutes, is created to read:

849.155 Trafficking in slot machines or devices or any parts thereof.—Any person who knowingly sells, purchases, manufactures, transports, delivers, or brings into this state more than 15 slot machines or devices or any part thereof, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of slot machines or devices or any part thereof involved:

(1) Is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part thereof, such person must be ordered to pay a fine of $100,000.

(2) Is 25 slot machines or devices or any part thereof or more, but less than 50 slot machines or devices or any part thereof, such person must be ordered to pay a fine of $250,000.

(3) Is 50 slot machines or devices or any part thereof or


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more, such person must be ordered to pay a fine of $500,000.

All fines imposed and collected pursuant to this section must be deposited into the Pari-mutuel Wagering Trust Fund and may be used for the enforcement of chapters 546, 550, 551, and this chapter by the Florida Gaming Control Commission.

Section 5. Section 849.157, Florida Statutes, is created to read:

849.157 Making a false or misleading statement regarding the legality of slot machines or devices to facilitate sale.—

(1) Except as provided in subsection (2), a person who knowingly and willfully makes a materially false or misleading statement or who knowingly and willfully disseminates false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who violates subsection (1) when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 849.23, Florida Statutes, is repealed.

Section 7. Section 849.47, Florida Statutes, is created to read:

849.47 Transporting or procuring the transportation of persons to facilitate illegal gambling.—

(1) Except as provided in subsection (2), a person who

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knowingly and willfully for profit or hire transports, or procures the transportation of, five or more other persons into or within this state when he or she knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) A person who transports, or procures the transportation of, a minor or a person 65 years of age or older in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who transports, or procures the transportation of, 12 or more persons in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 8. Section 849.48, Florida Statutes, is created to read:

849.48 Gambling or gaming advertisements; prohibited.—

(1)(a) Except as otherwise specifically authorized by law, a person may not knowingly and intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state, in any manner, any advertisement, circular, bill, poster, pamphlet,

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list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling.

(b) Except as otherwise specifically authorized by law, a person may not set up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section does not prohibit the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation, outside of this state, where such gambling is not prohibited.

(4) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 9. Section 849.49, Florida Statutes, is created to read:

849.49 Preemption.— No county, municipality, or other political subdivision of the state shall enact or enforce any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10 or this chapter, except as otherwise expressly provided by the state constitution or

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general law.

Section 10. Paragraphs (i) through (m) of subsection (2) of section 903.046, Florida Statutes, are redesignated as paragraphs (j) through (n), respectively, and a new paragraph (i) is added to that subsection, to read:

903.046 Purpose of and criteria for bail determination.—

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(i) The amount of currency seized that is connected to or involved in a violation of chapter 546, chapter 550, chapter 551, or this chapter.

Section 11. Paragraphs (a), (c), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
104.0616(2)	3rd	Unlawfully distributing, ordering, requesting, collecting, delivering, or

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		possessing vote-by-mail ballots.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount $1,000 or more but less than $20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated

		identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
322.212(5)(a)	3rd	False application for driver license or identification card.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value $1,000 or more.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
713.69	3rd	Tenant removes property upon which lien has accrued, value $1,000 or more.

812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled

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		substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
~~849.09(1)(a)-(d)~~	~~3rd~~	~~Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.~~

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~~849.23~~	~~3rd~~	~~Gambling-related machines; "common offender" as to property rights.~~
~~849.25(2)~~	~~3rd~~	~~Engaging in bookmaking.~~
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential

		information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described

			in the Marine Turtle Protection Act.
320			
	379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
321			
	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
322			
	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
323			
	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
324			
	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
325			
	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.

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624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than

			structure or conveyance armed with firearm or dangerous weapon.
334			
	812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
335			
	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
336			
	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
337			
	812.081(2)	3rd	Theft of a trade secret.
338			
	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
339			
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
340			
	817.233	3rd	Burning to defraud insurer.
341			
	817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.

817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
831.29	2nd	Possession of instruments for counterfeiting driver licenses

		or identification cards.
836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
849.01	3rd	Keeping a gambling house.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.09(1)(e), (f), (g), (i), or (k)	3rd	Conducting an unlawful lottery; second or subsequent offense.
849.09(1)(h) or (j)	3rd	Conducting an unlawful lottery; second or subsequent offense.
849.15(3)(b)	3rd	Manufacture, sale, or possession of slot machine; by manager or with prior conviction.

849.157(1)	3rd	False or misleading statement to facilitate sale of slot machines or devices.
849.25(2)	3rd	Engaging in bookmaking.
849.47(2)(a) & (b)	3rd	Transporting persons to facilitate illegal gambling; minor or person 65 years of age or older or 12 or more persons.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6.,


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			(2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.		2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(4)(c)		3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)		3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.		3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.		3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation,

			etc.
369			
	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
370			
	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
371			
	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner’s practice.
372			
	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner’s practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
373			
	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for


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		a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)	3rd	Tampering with or fabricating physical evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving

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		away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false,

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			misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
396			
	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
397			
	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
398			
	790.01(3)	3rd	Unlawful carrying of a concealed firearm.
399			
	790.162	2nd	Threat to throw or discharge destructive device.
400			
	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
401			
	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
402			
	790.23	2nd	Felons in possession of firearms, ammunition, or

		electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.
812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.

812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud,

			$5,000 or more or use of personal identification information of 10 or more persons.
418			
	817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
419			
	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
420			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
421			
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
422			
	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
423			
	828.12(2)	3rd	Tortures any animal with intent

			to inflict intense pain, serious physical injury, or death.
424			
	836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
425			
	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
426			
	843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
427			
	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
428			
	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
429			
	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by

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		electronic device or equipment.
849.15(3)(c)	2nd	Manufacture, sale, or possession of a slot machine; by a manager of five or more machines or two or more prior convictions.
849.157(2)	2nd	False or misleading statement to facilitate sale of slot machines or devices; five or more machines.
849.25(3)	2nd	Bookmaking; second or subsequent offense.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.


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			drugs).
436			
	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
437			
	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
438			
	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within

			1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.		1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)		2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)		3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.

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316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care

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		profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a

			license.
464			
	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
465			
	467.201	3rd	Practicing midwifery without a license.
466			
	468.366	3rd	Delivering respiratory care services without a license.
467			
	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
468			
	483.901(7)	3rd	Practicing medical physics without a license.
469			
	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
470			
	484.053	3rd	Dispensing hearing aids without a license.
471			
	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more

			victims.
472			
	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
473			
	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
474			
	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
475			
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
476			
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
477			
	775.21(10)(g)	3rd	Failure to report or providing false information about a

		sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.

784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.

784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation;

			victim younger than 12 years of age; offender younger than 18 years of age.
	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault

			or battery.
512			
	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
513			
	812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
514			
	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
515			
	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
516			
	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
517			
	812.014(2)(f)	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.

812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341	1st	Making false entries of

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	(2)(b) & (3)(b)		material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
527			
	817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
528			
	817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
529			
	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
530			
	817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
531			
	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
532			
	825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is

			valued at $10,000 or more, but less than $50,000.
533			
	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
534			
	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
535			
	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
536			
	838.015	2nd	Bribery.
537			
	838.016	2nd	Unlawful compensation or reward for official behavior.
538			
	838.021(3)(a)	2nd	Unlawful harm to a public servant.
539			
	838.22	2nd	Bid tampering.
540			
	843.0855(2)	3rd	Impersonation of a public officer or employee.
541			
	843.0855(3)	3rd	Unlawful simulation of legal

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		process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
849.155	1st	Trafficking in slot machines or devices or any part thereof.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug

			prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.		1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)		1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.		1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.		1st	Trafficking in cocaine, more than 28 grams, less than 200

		grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.

893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.

893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in

			state after indicating intent to leave; failure to comply with reporting requirements.
575			
	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
576			
	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
577			
	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
578			
	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
579			
	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
580			
	944.607(12)	3rd	Failure to report or providing false information about a

			sexual offender; harbor or conceal a sexual offender.
944.607(13)		3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)		3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)		3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)		3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

Section 12. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 772.102, Florida Statutes, are amended to read:

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

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(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers' compensation.

4. Part IV of chapter 501, relating to telemarketing.

5. Chapter 517, relating to securities transactions.

6. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

7. Chapter 550, relating to jai alai frontons.

8. Chapter 552, relating to the manufacture, distribution, and use of explosives.

9. Chapter 562, relating to beverage law enforcement.

10. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

11. Chapter 687, relating to interest and usurious practices.

12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

13. Chapter 782, relating to homicide.

14. Chapter 784, relating to assault and battery.

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15. Chapter 787, relating to kidnapping or human trafficking.

16. Chapter 790, relating to weapons and firearms.

17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

18. Chapter 806, relating to arson.

19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

20. Chapter 812, relating to theft, robbery, and related crimes.

21. Chapter 815, relating to computer-related crimes.

22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

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33. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 687.071, relating to criminal usury and loan sharking.

4. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 13. Paragraph (a) of subsection (12) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(12) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

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3. Section 551.109, relating to slot machine gaming.

4. Chapter 687, relating to interest and usury.

5. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 14. 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 gaming control; amending s. 843.08, F.S.; prohibiting a person from falsely personating any personnel or representative from the Florida Gaming Control Commission; providing a criminal penalty; amending s. 849.01, F.S.; specifying a violation of the prohibition against keeping a gambling house must be committed knowingly; increasing the criminal penalty for a violation; amending s. 849.15, F.S.; providing definitions; increasing the criminal penalty for specified violations involving a slot machine or device; creating s. 849.155, F.S.; prohibiting a person from trafficking in slot machines or devices; providing a criminal penalty; requiring a court to order an offender to pay a specified fine if he or she is convicted of trafficking in a specified number of slot machines or devices; providing for deposit of fines collected and use of proceeds; creating s. 849.157, F.S.; prohibiting a person from

making false statements or disseminating false information regarding the legality of a slot machine or device to facilitate the sale or delivery of such device; providing criminal penalties; repealing s. 849.23, F.S., relating to penalties for specified violations; creating s. 849.47, F.S.; prohibiting a person from, for profit or hire, transporting or procuring the transportation of a specified number of other persons to facilitate illegal gambling; providing criminal penalties; defining the term "illegal gambling"; creating s. 849.48, F.S.; prohibiting a person from making or disseminating specified advertisements to promote or facilitate illegal gambling; prohibiting activities for creation of specified advertisements if a person knows or reasonably should know such material will be used to promote or facilitate illegal gambling; providing a criminal penalty; providing an exception; defining the term "illegal gambling"; creating s. 849.49, F.S.; specifying that the regulation of gambling is expressly preempted to the state; providing an exception; amending s. 903.046, F.S.; requiring a court to consider the amount of currency seized that is connected to specified violations relating to illegal gambling when determining bail; amending s. 921.0022, F.S.; ranking offenses created by the act on the offense severity ranking chart of the Criminal Punishment Code; re-ranking specified offenses on the offense severity ranking chart of the Criminal

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Punishment Code; conforming provisions to changes made by the act; amending ss. 772.102 and 895.02, F.S.; conforming provisions to changes made by the act; providing an effective date.

By Senator Martin

33-00487A-24 20241046__

A bill to be entitled

An act relating to gaming activities; amending s. 16.712, F.S.; exempting the Florida Gaming Control Commission from ch. 255, F.S.; authorizing the commission to acquire land, property interests, buildings, or other improvements for the purpose of securing and storing seized contraband; requiring such property to be held in the name of the state; amending s. 843.08, F.S.; prohibiting false personation of personnel or representatives of the Florida Gaming Control Commission; providing criminal penalties; amending s. 849.01, F.S.; revising criminal penalties for certain crimes relating to keeping a gambling house or possessing certain gambling apparatuses; revising the criminal penalty for operators of illegal gambling or gaming houses when operating within 1,000 feet of certain places; defining the terms "community center" and "real property of a public housing facility"; revising criminal penalties for operators of illegal gambling or gaming houses under certain circumstances; prohibiting the raising of specified arguments as a defense in prosecutions for certain violations; revising the criminal penalty for operators of illegal gambling or gaming houses when an operator serves or allows to be served alcoholic beverages at or on the premises; creating s. 849.011, F.S.; prohibiting persons from disseminating any advertisement for illegal gambling or gaming; prohibiting owners or lessees of certain

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establishments from knowingly permitting the production or dissemination of any advertisement for illegal gambling or gaming; prohibiting any type of plate from being set up for the purpose of disseminating any advertisement for illegal gambling or gaming in or outside this state; providing exceptions; providing criminal penalties; amending s. 849.03, F.S.; creating a rebuttable presumption that an individual knows that the place he or she is renting is being used for a gambling or gaming house when there is one or more slot machines; amending s. 849.04, F.S.; revising the criminal penalties for permitting minors and persons under guardianship to gamble; amending s. 849.07, F.S.; revising the criminal penalty for permitting gambling on billiard or pool tables by a licenseholder; amending s. 849.09, F.S.; revising the criminal penalty for individuals who participate in illegal lotteries; providing an exception; making technical changes; amending s. 849.10, F.S.; revising the criminal penalty for printing lottery tickets; amending s. 849.13, F.S.; revising the criminal penalty for individuals who are subsequently convicted for illegal lotteries; making a technical change; amending s. 849.15, F.S.; revising criminal penalties for the manufacture, sale, or possession of certain slot machine devices; revising the criminal penalties based on subsequent convictions, number of slot machine devices involved, and a participant's involvement; making technical

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changes; amending s. 849.23, F.S.; revising the criminal penalty for individuals who violate certain sections of law that do not currently provide a specified criminal penalty; revising the criminal penalties for those individuals who are subsequently convicted; making technical changes; amending s. 903.046, F.S.; revising the source of funds a court shall consider when determining bail or other release conditions when such funds may be linked to or derived from illegal gambling or gaming activity; providing legislative findings and intent; amending s. 921.0022, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Subsection (8) is added to section 16.712, Florida Statutes, to read:

16.712 Florida Gaming Control Commission authorizations, duties, and responsibilities.—

(8) The commission is exempt from chapter 255 and may purchase, lease, exchange, or otherwise acquire any land, property interests, buildings, or other improvements, including personal property within such buildings or on such lands, which are necessary or useful in securing or storing any seized slot machine or any other contraband. Such property must be held in the name of the state.

Section 2. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, any personnel or representative of the Florida Gaming Control Commission, an officer of the Department of Environmental Protection, an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of

the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In determining whether a defendant has violated this section, the court or jury may consider any relevant evidence, including, but not limited to, whether the defendant used lights in violation of s. 316.2397 or s. 843.081.

Section 3. Section 849.01, Florida Statutes, is amended to read:

849.01 Keeping gambling houses, etc.—

(1) Whoever by herself or himself, her or his servant, clerk or agent, or in any other manner has, keeps, exercises, or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter, or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control, or management, either exclusively or with others, procures, suffers, or permits any person to play for money or other valuable thing at any game whatever~~, whether heretofore prohibited or not,~~ commits a felony ~~misdemeanor~~ of the third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(2) Notwithstanding subsection (1), a person who violates this section commits a felony of the second degree if the illegal gambling or gaming house described in subsection (1) is located within 1,000 feet of any of the following:

(a) A physical place of worship.

(b) A public or private elementary, middle, or secondary school.

(c) The real property comprising a public or private college, university, or other postsecondary educational

institution.

(d) The real property of a child care facility as defined in s. 402.302.

(e) The real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. As used in this paragraph, the term "community center" means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public.

(f) The real property comprising a mental health facility, as that term is used in chapter 394.

(g) The real property of a health care facility licensed under chapter 395 which provides substance abuse treatment.

(h) The real property of a licensed service provider as defined in s. 397.311.

(i) The real property of a facility providing services that include clinical treatment, intervention, or prevention as those terms are defined in s. 397.311(26).

(j) A recovery residence as defined in s. 397.311.

(k) An assisted living facility as defined in s. 429.02.

(l) A pain-management clinic as defined in s. 458.3265(1)(a)1.c.

(m) The real property of a public housing facility at any time. As used in this paragraph, the term "real property of a public housing facility" means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421.

(n) A convenience business as defined in s. 812.171.

(3) Notwithstanding subsection (1), a person who violates

this section and, while at or on the premises of the illegal gambling or gaming house described in subsection (1), actually or constructively possesses a destructive device or a weapon, as those terms are defined in s. 790.001, which is not a firearm as defined in s. 790.001, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Notwithstanding subsection (1), a person who violates this section and, while at or on the premises of the illegal gambling or gaming house, actually or constructively possesses a firearm as defined in s. 790.001 commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)(a) Notwithstanding subsection (1), a person who violates this section and, during the course of the violation, an individual under the age of 21 or 65 years of age or older is present at or on the premises of the illegal gambling or gaming house described in subsection (1), commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person's ignorance of an individual's age, an individual's misrepresentation of his or her age, or a bona fide belief of an individual's consent may not be raised as a defense in a prosecution for a violation of this subsection.

(6)(a) Notwithstanding subsection (1), a person who violates this section and, during the course of the violation, an individual under the age of 21 or 65 years of age or older is present at or on the premises of the illegal gambling or gaming house described in subsection (1) and is participating in any illegal gambling or gaming activity, commits a felony of the

first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person's ignorance of an individual's age, an individual's misrepresentation of his or her age, or a bona fide belief of an individual's consent may not be raised as a defense in a prosecution for a violation of this subsection.

(7) Notwithstanding subsection (1), a person who violates this section and serves or allows to be served any alcoholic beverage as defined in s. 561.01(4), at or on the premises of the illegal gambling or gaming house described in subsection (1), regardless of whether the location of the illegal gambling or gaming house is licensed with the Department of Business and Professional Regulation or the Division of Alcoholic Beverages and Tobacco to otherwise serve or sell alcoholic beverages pursuant to chapter 561, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 849.011, Florida Statutes, is created to read:

849.011 Gambling or gaming advertising; prohibited.—

(1) Except as otherwise provided by law, it is unlawful for any person to write, typewrite, print, publish, or disseminate in any way any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice of an illegal gambling or gaming operation or any other matter or thing in any way related to or in connection with illegal gambling or gaming. It is unlawful to set up any type of plate for any advertisement in relation to or connection with illegal gambling or gaming to be used or distributed in this state or to be sent outside of this state.

(2) Except as otherwise provided by law, it is unlawful for the owner or lessee of a house, shop, office, building, or any other establishment of any kind in this state to knowingly permit the printing, typewriting, writing, publishing, or any other dissemination of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice of any activity in relation to or connection with illegal gambling or gaming. It is unlawful for the owner or lessee of a house, shop, office, building, or any other establishment of any kind in this state to knowingly permit the setting up of any type of plate for gambling purposes to be used or distributed in this state or to be sent outside of this state.

(3) This section does not prohibit the printing or producing within this state of any advertisement for gambling or gaming conducted in any other state or nation where such gambling or gaming is permitted, or the sale of such materials by manufacturers in this state to any person or entity conducting or participating in such gambling or gaming in any other state or nation. This section does not authorize any advertisement within this state relating to any gambling or gaming of any other state or nation, or the sale or resale of anything related to gambling or gaming within this state.

(4) Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Section 849.03, Florida Statutes, is amended to read:

849.03 Renting house for gambling purposes.—

(1) Whoever, whether as owner or agent, knowingly rents to

another a house, room, booth, tent, shelter, or place for the purpose of gaming shall be punished in the manner and to the extent mentioned in s. 849.01.

(2) The presence of one or more slot machines or devices as defined in s. 849.16 at the house, room, booth, tent, shelter, or place referenced in subsection (1) creates a rebuttable presumption that an individual is knowingly renting such a house, room, booth, tent, shelter, or place for the purpose of gambling or gaming.

Section 6. Section 849.04, Florida Statutes, is amended to read:

849.04 Permitting minors and persons under guardianship to gamble.—The proprietor, owner, or keeper of any E. O., keno or pool table, or billiard table, wheel of fortune, or other game of chance kept for the purpose of betting, who willfully and knowingly allows a minor or person who is mentally incompetent or under guardianship to play at such game or to bet on such game of chance; or whoever aids or abets or otherwise encourages such playing or betting of any money or other valuable thing upon the result of such game of chance by a minor or person who is mentally incompetent or under guardianship, commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purpose of this section, the term "person who is mentally incompetent" means a person who because of mental illness, intellectual disability, senility, excessive use of drugs or alcohol, or other mental incapacity is incapable of managing his or her property or caring for himself or herself or both.

Section 7. Section 849.07, Florida Statutes, is amended to

read:

849.07 Permitting gambling on billiard or pool table by holder of license.—If any holder of a license to operate a billiard or pool table shall permit any person to play billiards or pool or any other game for money, or any other thing of value, upon such tables, she or he shall be deemed guilty of a felony ~~misdemeanor~~ of the third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 8. Section 849.09, Florida Statutes, is amended to read:

849.09 Lottery prohibited; exceptions.—

(1) It is unlawful for any person in this state to do any of the following:

(a) Set up, promote, or conduct any lottery for money or for anything of value.~~;~~

(b) Dispose of any money or other property of any kind whatsoever by means of any lottery.~~;~~

(c) Conduct any lottery drawing for the distribution of a prize or prizes by lot or chance, or advertise any such lottery scheme or device in any newspaper or by circulars, posters, pamphlets, radio, telegraph, telephone, or otherwise.~~;~~

(d) Aid or assist in the setting up, promoting, or conducting of any lottery or lottery drawing, whether by writing, printing, or in any other manner whatsoever, or be interested in or connected in any way with any lottery or lottery drawing.~~;~~

(e) Attempt to operate, conduct, or advertise any lottery scheme or device.~~;~~

(f) Have in her or his possession any lottery wheel,

implement, or device whatsoever for conducting any lottery or scheme for the disposal by lot or chance of anything of value.~~;~~

(g) Sell, offer for sale, or transmit, in person or by mail or in any other manner whatsoever, any lottery ticket, coupon, or share, or any share in or fractional part of any lottery ticket, coupon, or share, whether such ticket, coupon, or share represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played.~~;~~

(h) Have in her or his possession any lottery ticket, or any evidence of any share or right in any lottery ticket, or in any lottery scheme or device, whether such ticket or evidence of share or right represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played.~~;~~

(i) Aid or assist in the sale, disposal, or procurement of any lottery ticket, coupon, or share, or any right to any drawing in a lottery.~~;~~

(j) Have in her or his possession any lottery advertisement, circular, poster, or pamphlet, or any list or schedule of any lottery prizes, gifts, or drawings.~~; or~~

(k) Have in her or his possession any so-called "run down sheets," tally sheets, or other papers, records, instruments, or paraphernalia designed for use, either directly or indirectly, in, or in connection with, the violation of the laws of this state prohibiting lotteries and gambling.

(2) This section does not prohibit participation in any nationally advertised contest, drawing, game, or puzzle of skill or chance for a prize or prizes unless it can be construed as a

lottery under this section. Exemptions for national contests do not apply to any such contest based upon the outcome or results of any horserace, harness race, dograce, or jai alai game.

~~Provided, that nothing in this section shall prohibit participation in any nationally advertised contest, drawing, game or puzzle of skill or chance for a prize or prizes unless it can be construed as a lottery under this section; and, provided further, that this exemption for national contests shall not apply to any such contest based upon the outcome or results of any horserace, harness race, dograce, or jai alai game.~~

(3)~~(2)~~ Any person who is convicted of violating paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) commits ~~any of the provisions of paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of subsection (1) is guilty of~~ a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)~~(3)~~ Any person who is convicted of violating paragraph (1)(e), paragraph (1)(f), paragraph (1)(g), or paragraph (1)(k) commits ~~any of the provisions of paragraph (c), paragraph (f), paragraph (g), paragraph (i), or paragraph (k) of subsection (1) is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The provisions of this section do not apply to bingo as provided for in s. 849.0931.

(5)~~(4)~~ Any person who is convicted of violating paragraph (1)(h), paragraph (1)(i), or paragraph (1)(j) commits ~~any of the provisions of paragraph (h) or paragraph (j) of subsection (1) is guilty of~~ a felony ~~misdemeanor~~ of the third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. Subsection (4) of section 849.10, Florida Statutes, is amended to read:

849.10 Printing lottery tickets, etc., prohibited.—

(4) Any violation of this section shall be a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Section 849.13, Florida Statutes, is amended to read:

849.13 Punishment on second conviction.—Whoever, after being convicted of an offense forbidden by law in connection with lotteries, commits the like offense, commits ~~shall be guilty of~~ a felony ~~misdemeanor~~ of the next higher ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 11. Section 849.15, Florida Statutes, is amended to read:

849.15 Manufacture, sale, possession, etc., of slot machines or devices prohibited.—

(1) It is unlawful to do any of the following:

(a) To manufacture, own, store, keep, possess, sell, rent,

lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person or under the person's management or control, any slot machine or device or any part thereof.~~; or~~

(b) To make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

(2) Any person convicted of violating subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person convicted of a second violation of subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any person convicted of a third or subsequent violation of subsection (1) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any person convicted of violating subsection (1), and such conviction involved the use of more than one but fewer than five slot machines, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person convicted of violating subsection (1), and such conviction involved the use of five or more slot machines, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) Notwithstanding any provision of this section, any person convicted of violating subsection (1), and who is not a manager, supervisor, or owner of any location at which a slot machine is offered for play, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subsection, a person is a manager, a supervisor, or an owner if he or she is working at the location where a slot machine is offered for play, has supervisory duties at the location where a slot machine is offered for play, or has any ownership interest in the business where a slot machine is located.

(8) Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss.

1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).

Section 12. Section 849.23, Florida Statutes, is amended to read:

849.23 Penalty for violations of ss. 849.15-849.22.—

(1) Whoever shall violate any of the provisions of ss. 849.15-849.22, for which no penalty is already specified, shall, upon conviction thereof, be guilty of a felony ~~misdemeanor~~ of the third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(2) Any person convicted of violating any provision of ss. 849.15-849.22, for which no penalty is already specified, a second time shall, upon conviction thereof, be guilty of a felony ~~misdemeanor~~ of the second ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(3) Any person violating any provision of ss. 849.15-

849.22, for which no penalty is already specified, after having been twice convicted already, commits ~~shall be deemed a "common offender," and shall be guilty of~~ a felony of the first ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. Present paragraphs (i) through (m) of subsection (2) of section 903.046, Florida Statutes, are redesignated as paragraphs (j) through (n), respectively, a new paragraph (i) is added to that subsection, and paragraph (f) of that subsection is amended, to read:

903.046 Purpose of and criteria for bail determination.—

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(f) The source of funds used to post bail or procure an appearance bond, particularly whether the proffered funds, real property, property, or any proposed collateral or bond premium may be linked to or derived from the crime alleged to have been committed, from any crime involving any controlled substance, from any crime involving a slot machine or any type of illegal gambling or gaming, or from any other criminal or illicit activities. The burden of establishing the noninvolvement in or nonderivation from criminal or other illicit activity of such proffered funds, real property, property, or any proposed collateral or bond premium falls upon the defendant or other person proffering them to obtain the defendant's release.

(i) The amount of currency seized that is connected either directly or indirectly to any violation of chapter 550, chapter 551, or chapter 849. It is the finding of the Legislature that

any violation of chapter 550, chapter 551, or chapter 849 is of serious social concern, that the flight of defendants to avoid prosecution is of similar serious social concern, and that frequently such defendants are able to post monetary bail using the proceeds of their unlawful enterprises to defeat the social utility of pretrial bail. Therefore, it is the intent of the Legislature that courts be required to carefully consider the utility and necessity of substantial bail in relation to the amount of proceeds a defendant obtained from any violation of chapter 550, chapter 551, or chapter 849.

Section 14. Paragraphs (a) and (b) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
104.0616(2)	3rd	Unlawfully distributing, ordering, requesting, collecting, delivering, or possessing vote-by-mail ballots.

212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount $1,000 or more but less than $20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or

		unlawfully issued driver license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
322.212(5)(a)	3rd	False application for driver license or identification card.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value $1,000 or more.
517.302(1)	3rd	Violation of the Florida

		Securities and Investor Protection Act.
713.69	3rd	Tenant removes property upon which lien has accrued, value $1,000 or more.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
826.01	3rd	Bigamy.

828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.

843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
~~849.09(1)(a)-(d)~~	~~3rd~~	~~Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.~~
849.23	3rd	Gambling-related machines; "common offender" as to property rights.
849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.

893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.

806.13(3)	3rd	Criminal mischief; damage of $200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $750, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device

		countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more

		within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.

832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.
843.08	3rd	False personation.
843.19(3)	3rd	Touch or strike police, fire, SAR canine or police horse.
849.09(1)(a)-(d)	2nd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.,

			(2)(c)10., (3), or (4) drugs other than cannabis.
893.147(2)		3rd	Manufacture or delivery of drug paraphernalia.

Section 15. This act shall take effect July 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

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

2/8/24
Meeting Date

Approps on A, E, Gen Gov't
Committee

1046 (As Amended)
Bill Number or Topic

Amendment Barcode (if applicable)

Name Adam Potts

Phone 850 841-1726

Address 113 E. College Ave
Street

Email adam@libertypartnersfl.com

Tallahassee FL 32302
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Sheriff's 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

APPEARANCE RECORD

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

02/08/2024
Meeting Date

Agriculture, Environment, and General Government
Committee

SB 1046
Bill Number or Topic

Amendment Barcode (if applicable)

Name Executive Director Louis Trombetta

Phone 850-597-4813

Address 4070 Esplanande Way Ste. 250
Street

Email louis.trombetta@flgaming.gov

Tallahassee | Florida | 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:
Florida Gaming Control Commission

☐ 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 Senate professional staff conducting the meeting

2-8-24
Meeting Date

Approps. on Ag, Env. and Nat. Res.
Committee

1054 46
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Zachem

Phone

Address
Street

Email jon@zachem law.com

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:

AMOAF

☐ 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
Senate professional staff conducting the meeting

2-8-24
Meeting Date

Approps. on Ag., Env. and Gen. Gov.
Committee

~~SB~~ 46
Bill Number or Topic

703598
Amendment Barcode (if applicable)

Name Jonathan Zachem

Phone

Address
Street

Email jon@zachemlaw.com

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: Amusement Machine Association 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)

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 1084
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government and Senator Collins
SUBJECT:	Department of Agriculture and Consumer Services
DATE:	February 12, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	**Favorable**
2.	Blizzard	Betta	AEG	**Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1084 makes a number of changes to various regulatory activities of the Department of Agriculture and Consumer Services (department). Specifically, the bill:

- Preempts the regulation of electric vehicle charging stations to the state and prohibits local governmental entities from enacting or enforcing such regulations.
- Provides an expiration date of the pest control operator's certificate and amends requirements for its renewal.
- Prohibits applicants from swearing or affirming a false statement on an application for a pest control license, prohibits cheating on an examination required for licensure, and grants the department rulemaking authority to establish penalties for violations.
- Authorizes a Class "K" instructor to allow a Class "G" licensee to qualify for up to two calibers of firearms in a four hour firearm requalification class.
- Authorizes the department to appoint a tax collector to accept new, renewal, and replacement license applications on behalf of the department for licenses issued under ch. 493, F.S.
- Authorizes a tax collector appointed under s. 790.0625, F.S., to collect certain fees and provide certain services for concealed weapon or firearm licenses on behalf of the department.
- Revises certain information that charitable organizations, sponsors, professional fundraising consultants, and professional solicitors must provide to the department to include street addresses.

- Amends the contribution-based registration fee thresholds to remove an option related to contributions raised by non-compensated volunteers, members, officers, or permanent employees under $50,000 in the previous year.
- Amends the charitable organizations' exemption from registration thresholds to refer to total contributions.
- Revises the information that must be displayed on certain collection receptacles to include street addresses.
- Provides that a person who solicits funds within a public transportation facility must obtain a written permit that includes street addresses and must be displayed prominently on the person's badge or insignia.
- Prohibits and creates penalties for the manufacture, sale, hold or offer for sale, or distribution of cultivated meat in this state.
- Repeals the provision that requires the Weights and Measures Act from expiring on July 1, 2025.
- Revises the information that must be provided to the department on a motor vehicle repair shop registration application and provides that the registration fee must be calculated for each location.
- Increases the threshold value of repair work which requires motor vehicle repair shops to provide a customer with a written repair estimate from $100 to $150.
- Increases the department's statutory authority to repair or build structures from $250,000 to $500,000.
- Changes the name of the Florida Agriculture Museum to the Florida Agriculture Legacy Learning Center, and makes conforming changes.
- Prohibits the willful destroying, harvesting, or selling of saw palmetto berries on private or public land without the written permission of the landowner, provides penalties for violations, and grants rulemaking authority to the department.
- Provides criminal penalties for trespassing on land classified as commercial agricultural property.
- Provides that a student's participation in a 4-H or Future Farmers of America (FFA) activity is an excused absence from school.

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

Unless otherwise provided, the effective date of the bill is July 1, 2024.

II. Present Situation:

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Electric Vehicles

Present Situation

Electric Vehicle Charging Stations

Consumers and fleets considering electric vehicles (EVs), including all-electric vehicles and plug-in hybrid electric vehicles (PHEVs), need access to charging equipment. For most drivers, this starts with charging at home or at fleet facilities. Charging stations at workplaces, public destinations, and along highways offer more flexible charging opportunities at commonly visited locations.[1]

EV charging equipment is classified based on the rate of charge:[2]

- Alternating Current (AC) Level 1 equipment provides charging through a common 120 volt AC outlet. Most, if not all, EVs come with a portable Level 1 cord, so no additional charging equipment is required. Level 1 chargers can take 40-50 hours to charge an all-electric vehicle from empty and five to six hours to charge a PHEV from empty.[3]
- AC Level 2 equipment offers charging through 240 volt (in residential applications) or 208 volt charging. As of 2022, 80 percent of public EV charging ports in the country were Level 2.[4] Level 2 chargers can charge an all-electric vehicle from empty in four to 10 hours and a PHEV from empty in one to two hours.[5]
- Direct-current (DC) fast charging equipment enables rapid charging along heavy traffic corridors at installed stations. As of 2022, more than 20 percent of public EV charging ports in the country were DC fast chargers.[6] DC fast charging equipment can charge an all-electric vehicle to 80 percent in 20 minutes to one hour.[7]

Charging times vary depending on the depletion level of the battery, how much energy the battery holds, the type of battery, temperature, and the type of supply equipment.

Currently, 44 of Florida's 67 counties[8] have 3,230 EV public charging stations offering a total of 8,981 charging ports. AC Level 2 charging ports comprise 6,793 of these ports, and DC fast charging ports comprise 2,164 of these ports.[9] Florida law requires the Department of

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[1] U.S. Dept. of Energy (DOE), Alternative Fuels Data Center, *Developing Infrastructure to Charge Electric Vehicles,* https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited Jan. 17, 2024).
[2] U.S. Environmental Protection Agency (EPA), *Plug-in Electric Vehicle Charging,* https://www.epa.gov/greenvehicles/plug-electric-vehicle-charging-basics (last visited Jan. 17, 2024).
[3] U.S. Dept. of Transportation (USDOT), *Electric Vehicle Charging Speeds,* https://www.transportation.gov/rural/ev/toolkit/ev-basics/charging-speeds (last visited Jan. 17, 2024).
[4] DOE, *supra* note 1.
[5] DOT *supra* note 3.
[6] DOE, *supra* note 1.
[7] DOT, *supra* note 3.
[8] Florida Department of Agriculture and Consumer Services (FDACS), Transportation, *Alternative Fueling Stations and Electric Vehicle Charging Stations,* https://www.fdacs.gov/Business-Services/Energy/Florida-Energy-Clearinghouse/Transportation (last visited Jan. 17, 2024)
[9] U.S. Dept. of Energy, Alternative Fuels Data Center (AFDC), *Alternative Fueling Station Counts by State*, https://afdc.energy.gov/stations/states (last visited Jan. 17, 2024).

Agriculture and Consumer Services (department) to adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for EV charging stations to provide consistency for consumers and the industry.[10]

Preemption

The State Constitution grants local county and municipal governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are proved by general or special law.[11] Those counties operating under a county charter have all powers of self-government not inconsistent with general or with special law approved by the vote of the electors.[12] Likewise, municipalities[13] have those governmental, corporate, and proprietary powers enabling them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.[14]

There are two ways that a local government can be inconsistent with state law and therefore unconstitutional. First, a local government cannot legislate in a field if the subject area has been preempted to the state. Second, in a field where both the state and local government can legislate concurrently, a local government cannot enact an ordinance that directly conflicts with the state statute.[15]

State law recognizes two types of state preemption: express and implied. Express preemption requires a specific legislative statement of intent to preempt a specific area of law; it cannot be implied or inferred.[16] In contrast, implied preemption exists if the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.[17] Courts determining the validity of local government ordinances enacted in the face of state preemption, whether express or implied, have found such ordinances to be null and void.[18]

[10] Section 366.94, F.S.
[11] Art. VIII, s. 1(f), Fla. Const.
[12] Art. VIII, s. 1(g), Fla. Const.
[13] A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term "municipality" may be used interchangeably with the terms "town,", "city," and "village."
[14] Art. VIII, s. 2(b), Fla. Const.; *see also* section 166.021(1), F.S.
[15] *Orange County v. Singh*, 268 So. 3d 668, 673 (Fla. 2019) (citing *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309, 314 (Fla. 2008)); *see also* James Wolf & Sarah Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. Bar J. 92 (2009), https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/ (last visited Jan. 17, 2024).
[16] *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantam of Brevard, Inc.*, 3 So. 3d at 1018.
[17] *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).
[18] *See, e.g., National Rifle Association of America, Inc. v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002) (concluding that a City of South Miami local government ordinance, which purported to provide safety standards for firearms, was null and void because the Legislature expressly preempted the entire field of firearm and ammunition regulation when it enacted section 790.33, F.S.)

Effect of Proposed Changes

Section 1 amends s. 366.94, F.S., to preempt the regulation of EV charging stations to the state and prohibits local governmental entities from enacting or enforcing such regulations.

Pest Control

Present Situation

Pest Control License

For structural pest control (pest control provided to homes or other structures), Florida law requires that each pest control business location must:

- Be licensed by the Florida Department of Agriculture and Consumer Services (department);
- Carry the required insurance coverage ($250,000 per person and $500,000 per occurrence for bodily injury, and $250,000 per occurrence and $500,000 in the aggregate for property damage, or a combined single limit coverage of $500,000 in the aggregate); and
- Employ full-time a Florida-certified operator in charge of the pest control operations of the business location. This operator must be certified in the categories in which the business operates:
  - General Household Pest and Rodent Control,
  - Termite and Other Wood-Destroying Organisms Control,
  - Lawn and Ornamental Pest Control, and/or
  - Fumigation.[19]

The business license fee is $300, and the fee for each employee identification card is $10.[20]

A certified operator is an individual who has passed an examination administered by the department in any of four certification categories:

- General Household and Rodent Control;
- Lawn and Ornamental Pest Control;
- Termite and Other Wood-Destroying Organisms Control; and
- Fumigation.[21]

A person can be certified in just one or all four categories.

A company's pest control operations are the responsibility of the certified operator in charge and the business operations are limited to the category (or categories) possessed by the certified operator (or operators) in charge at the business location.[22]

[19] FDACS, Pest Control Licensing and Certification, *available at*, https://www.fdacs.gov/Business-Services/Pest-Control/Licensing-and-Certification (last visited January 17, 2024).
[20] *Id.*
[21] FDACS, Pest Control FAQ, *available at*, https://www.fdacs.gov/Business-Services/Pest-Control/Pest-Control-FAQ (last visited January 17, 2024).
[22] *Id.*

Limited Certification Programs

The department also administers four Limited Certification Categories:
- Commercial landscape maintenance applicators;
- Governmental or private applicators;
- Commercial urban fertilizer applicators; and
- Commercial wildlife management.[23]

None of these certifications allows the operation of a commercial pest control business.

Effect of Proposed Changes

Section 2 amends s. 482.111, F.S., to provide an expiration date of the pest control operator's certificate and amends requirements for its renewal.

Section 3 amends s. 482.151, F.S., to provide an expiration date of the special identification card for fumigation and amends requirements for its renewal.

Section 4 amends s. 482.155, F.S., to provide an expiration date of the limited certification for governmental pesticide applicators or private applicators and amends requirements for its renewal.

Section 5 amends s. 482.156, F.S., to authorize individual commercial landscape maintenance personnel to apply herbicides in certain areas and to use certain pesticides. This section also sets the expiration date of the limited certification for commercial landscape maintenance personnel and amends requirements for its renewal.

Section 6 amends s. 482.157, F.S., to provide an expiration date of the limited certification for commercial wildlife management personnel and amends requirements for its renewal.

Section 7 amends s. 482.161, F.S., to provide additional disciplinary grounds related to licensure or licensure renewal applications.

Section 8 amends s. 482.191, F.S., to prohibit applicants from swearing or affirming a false statement on an application. This section also prohibits cheating on an examination required for licensure and grants the department rulemaking authority to establish penalties for violations.

Wood-Destroying Organisms Inspections

Inspection for wood destroying organisms is regulated as a pest control activity under the Florida Structural Pest Control Act, ch. 482, F.S. Section 482.226, F.S., requires that when an inspection for wood destroying organisms is conducted for the purposes of a real estate transaction, and

[23] FDACS, Pest Control Licensing and Certification, *available at*, https://www.fdacs.gov/Business-Services/Pest-Control/Licensing-and-Certification (last visited January 17, 2024).

either a fee is charged, or a written report is requested, that a person qualified under Chapter 482 issue the report.[24]

Section 482.226, F.S., also includes requirements as to what the report must include and a requirement that a notice of the inspection be posted in the access area to the attic or crawl or other accessible area of the structure inspected.[25] Licensees who perform wood destroying organism inspections for real estate transactions are required to have a minimum of $50,000 in insurance coverage (or a bond) for professional liability for errors and omissions, or demonstrate an equity or net worth of no less than $100,000.[26]

In addition, if treatment is made to the structure at the time of the inspection, the report must include information on the name of each wood destroying organism for which treatment was provided at the time of the inspection, the name of the pesticide used, and the conditions and terms associated with that treatment.[27]

Effect of Proposed Changes

Section 9 amends s. 482.226, F.S., to require that a signed report be supplied to the property owner after each inspection or treatment for the presence or absence of wood destroying organisms. The bill also prohibits inspections and treatments unless the licensee has an identification card.

Section 10 amends s. 487.031, F.S., relating to prohibited acts, to prohibit pesticide applicator license applicants from swearing or affirming a false statement on an application. This section also prohibits cheating on an examination required for licensure.

Section 11 amends s. 487.175, F.S., relating to penalties and administrative fines, to prohibit applicants from swearing or affirming a false statement on an application for pesticide applicator licensure. This section also prohibits cheating on an examination required for licensure and grants the department rulemaking authority to establish penalties for violations.

Firearm Licensing

Present Situation

Chapter 493 Licensees, Generally

The Division of Licensing within the department is responsible for investigating and issuing licenses to conduct private security and private investigative services pursuant to ch. 493, F.S. As of November 30, 2023, there are 140,248 Class "D" security officer licensees, 6,921 Class "C" private investigator licensees, 25,283 Class "G" statewide firearm licensees, 691 Class "K" firearms instructor licensees, 1,320 Class "CC" private investigator intern licensees, 455 Class "M" private investigative or security manager licensees, 73 Class "MA" private investigative

[24] FDACS, Baseline practices for performing 13645 WDO inspections, *available at*, https://ccmedia.fdacs.gov/content/download/3137/file/industry_baseline_final_10-07.pdf (last visited January 17, 2024).
[25] Section 482.226(2)(4), F.S.
[26] Section 482.226(6), F.S.
[27] Section 482.226(2)(b), F.S.

agency manager licensees, and 1,497 Class "MB" security manager licensees.[28] A ch. 493, F.S., licensee must renew his or her individual license every two years.[29]

A security officer is an individual who advertises for, or performs: bodyguard services, personal or property protection; theft and loss prevention; armored car staffing; or transportation of prisoners.[30] Law enforcement officers engaged in their official duties or off-duty security activities that have been approved by appropriate superiors are not considered security officers.[31] Additionally, unarmed security officers who are employed by, and perform their work entirely on the premises of either their employer's business, a church or denominational organization, or a church cemetery are not required to be licensed as a security officer under ch. 493, F.S.[32]

A private investigator is an individual who investigates a person for the purpose of obtaining information with reference to the following specific matters:[33]

- Crimes or wrongdoings against the United States or any state or territory, when operating under express authority of a governmental official;
- The identity, habits, conduct, movement, and other characteristics of any society, person, or group of persons;
- The credibility of a witness or other person;
- The whereabouts of a missing person, owner of unclaimed or escheated property, or heirs to an estate;
- The location or recovery of lost or stolen property;
- The causes and origin of fires, libel, slander, losses, accidents, damage, or injuries to real or personal property; or
- Securing evidence to be used before an investigating committee or board, or in a civil or criminal trial.

Class "G" Statewide Firearm License

A Class "G" license is a supplemental license that permits specific licensees to carry a firearm during the course of their licensed, employment-related activity. A Class "G" license is available only to individuals who currently hold one of the following licenses: private investigator (Class "C"), private investigator intern (Class "CC"), security officer (Class "D"), private investigative or security agency manager (Class "M"), private investigative agency manager (Class "MA"), or security agency manager (Class "MB").[34] The "Class G" license must be renewed every two years.

[28] FDACS, Division of Licensing, *Number of Licensees by Type* (Nov. 30, 2023), https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Jan. 17, 2024).
[29] Licenses shall be valid for a period of two years, except for Class "A," Class "B," Class "AB," Class "K," Class "R," and branch agency licenses, which shall be valid for a period of three years. *See* s. 493.6111(2), F.S.
[30] Section 493.6101(19), F.S.; *see also*, FDACS, *Private Security Licenses*, https://www.fdacs.gov/Business-Services/Private-Security-Licenses (last visited Jan. 17, 2024).
[31] Section 493.6102(1), F.S.
[32] Section 493.6102(4), (13), F.S.
[33] Section 493.6101(16), F.S. *See also*, FDACS, *Private Investigation* (Dec. 2017), https://licensing.freshfromflorida.com/forms/P-01721.pdf (last visited Jan. 17, 2024).
[34] Section 493.6115(2), F.S.

Application and Training Requirements for Class "G" Licensees

An initial applicant for a Class "G" license must complete firearm training, which must include at least 28 hours of range and classroom training (range training must be eight hours) that is administered by a Class "K" licensee.[35]

Class "G" licensees must annually complete four hours of firearms requalification training for each caliber of firearm that he or she carries in the course of his or her duties.[36]

A Class "G" licensee is subject to a biennial statewide firearm license fee of $112, but there is no application fee.[37] The applicant for a Class "G" license must submit a fingerprint processing ($42) and retention ($10.75) fee, however—this fee is waived if the applicant has otherwise paid these fees for any other license under ch. 493, F.S., within the last six months.[38]

Regulation of Class "G" Licensees

A Class "G" licensee may only carry two firearms when performing his or her licensed duties. Unless the department grants specific approval otherwise, the types of weapons a Class "G" licensee may use are limited to the following: a .38 caliber revolver; a .380 caliber or .9 mm semiautomatic pistol; a .357 caliber revolver used with .38 caliber ammunition; a .40 caliber handgun; or a .45 ACP handgun.[39]

If a Class "G" licensee discharges his or her firearm during the course of her or his duties, the licensee must file an incident report with the department.[40]

Class "G" licensees are subject to penalty, ranging from a fine to the suspension or revocation of their license, for the following violations of administrative rule:[41]

- Conviction of, or adjudication of guilt withheld, on a crime directly related to the business for which the license is held;
- Improper exhibition of a firearm;
- Careless or improper handling of a firearm resulting in a discharge;
- Firing an unjustifiable warning shot while on duty;
- Impersonating a law enforcement officer or government employee; and
- Commission of an act of violence not in the lawful protection of one's self or another.

[35] Section 493.6105(5), F.S. *See also* Fla. Admin. Code R. 5N-1.132(1)(a).
[36] Section 493.6113(3)(b), F.S.
[37] Fla. Admin. Code R. 5N-1.116(2)(a)6. and (2)(c). *See also*, FDACS, *Chapter 493, F.S., Renewal License Fee Schedule*, https://www.fdacs.gov/content/download/73502/file/FS493_Renewal_License_Fees.pdf (last visited Jan. 17, 2024).
[38] Fla. Admin. Code R. 5N-1.116(3)(a).
[39] Section 493.6115(6), F.S. *See also*, FDACS, *Approved Firearms for Class "G" License Holders*, https://www.fdacs.gov/Business-Services/Private-Investigation-Licenses/Approved-Firearms-for-Class-G-License-Holders (last visited Jan. 17, 2024).
[40] Section 493.6115(9), F.S.
[41] Fla. Admin. Code R. 5N-1.113. *See also*, s. 493.6118(1), F.S.

Concealed Weapon and Firearm License

Florida is a "shall issue"[42] state for applications for concealed weapon and firearm licenses.[43] The department must review and either issue or deny a license within 90 days of receiving an application.[44] As of November 30, 2023, there were 2,511,443 concealed weapon or firearm licensees in Florida.[45]

The department must issue a license, which expires after seven years,[46] if an applicant:

- Is a citizen of the United States, permanent resident alien, or consular security official of a foreign government;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Has not been convicted of a felony;
- Has not been found guilty of a controlled substances crime within the previous three years;
- Has not been committed for the abuse of a controlled substance;[47]
- Does not suffer from chronic and habitual use of alcohol or other substances to the extent that their normal faculties are impaired;[48]
- Desires to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency with a firearm;[49]
- Has not been adjudicated as an incapacitated person;
- Has not been committed to a mental institution;[50]
- Has not had an adjudication of guilt withheld or a suspended sentence on a felony unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;

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[42] Generally, states issue a permit, or license, to carry a concealed weapon such as a firearm on either a "shall issue," or "may issue" basis. The key difference is that shall issue states must issue the permit or license if the applicant meets the requirements; whereas, may issue states have much more discretion to deny an application even if the applicant meets the requirements under the law.

[43] Section 790.06(2), F.S.

[44] Section 790.06(6)(c), F.S.

[45] FDACS, Division of Licensing, *Number of Licensees by Type* (Nov. 30, 2023), https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Jan. 17, 2024).

[46] Section 790.06(1), F.S.

[47] An applicant granted relief of firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to be committed for the abuse of a controlled substance.

[48] The law presumes that a person chronically and habitually uses alcoholic beverages or other substances to the point of impairment if the applicant has been convicted of using a firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances or has been deemed a habitual offender of disorderly intoxication under s. 856.011(3), F.S., or has had two or more convictions of driving under the influence within a three-year period preceding the date which the application is submitted. *See*, s. 790.06(2)(f), F.S.

[49] There are several methods of demonstrating competency with a firearm, including completion of a hunter education or safety course approved by the Fish and Wildlife Conservation Commission, completion of any law enforcement firearms safety or training course, or completion of firearms training safety courses using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the department.

[50] An applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to have been committed in a mental institution.

- Has not had an adjudication of guilt withheld or an imposition of sentence suspended on a misdemeanor crime of domestic violence, unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has not been issued an injunction that is currently in force and effect that restrains that applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.[51]

The department must suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license until final disposition of the case.[52] The department is also required to suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.[53]

Once obtained, the licensee must carry the license with valid identification at all times when the licensee is in actual possession of a concealed weapon or firearm.[54] According to s. 790.06(12)(a), F.S., the license, however, "does not authorize any person to carry a concealed weapon or firearm into:"

- Any place of nuisance;[55]
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom;[56]
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any elementary or secondary school facility or administration building;
- Any career center;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any college or university facility;[57]
- The inside of the passenger terminal and sterile area of any airport; or
- Any place where the carrying of firearms is prohibited by federal law.[58]

[51] Section 790.06(2)(n), F.S.
[52] Section 790.06(3), F.S.
[53] *Id.*
[54] Section 790.06(1), F.S.
[55] *See* s. 823.05, F.S., for an extensive description of places of nuisance.
[56] However, judges may carry a concealed weapon and allow others to do so within their courtroom. Section 790.06(12)(a)5., F.S.
[57] However, a "student, employee, or faculty member" may carry a stun gun or nonlethal electric weapon designed for defensive purposes as long as the weapon does not fire a dart or projectile.
[58] Section 790.06(12)(a)1.-15., F.S.

Appointment of tax collectors to accept applications for a concealed weapon or firearm license

The department may appoint tax collectors,[59] to accept applications on behalf of the department's Division of Licensing (division) for concealed weapon or firearm licenses. A tax collector appointed under s. 790.0625, F.S., may collect and retain a convenience fee of $22 for each new application and $12 for each renewal application.[60]

A tax collector seeking to be appointed must submit a written request to the division stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the division.[61] If the written request is approved by the division, the tax collector will be permitted to accept applications for new or renewal concealed weapon or firearm licenses on behalf of the department.[62]

A tax collector is prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm.[63]Upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, an authorized tax collector may, upon approval and confirmation of license issuance by the department, print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.[64]

Effect of Proposed Changes

Section 12 amends s. 493.6113(3)(b), F.S., to provide that a Class "K" instructor has discretion to allow a Class "G" licensee to qualify for up to two calibers of firearms in a four hour firearm requalification class if the licensee successfully completes training for each firearm, including a separate course of fire for each caliber of firearm.

Section 13 creates s. 493.6127, F.S., which gives the department authority to appoint tax collectors to accept new, renewal, and replacement license applications on behalf of the department for licenses issued under ch. 493, F.S. Such appointments must be for specified locations that will best serve the public interest.

The bill provides that a tax collector seeking to be appointed must submit a written request to the department stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the department.

The bill requires the department to review each written request upon receipt. The department may decline to enter into a memorandum of understanding, or may approve the written request and enter into a memorandum of understanding with the tax collector to accept applications for

[59] *See* s. Art. VIII, § 1(d), Fla. Const.
[60] Section 790.0625(5), F.S.
[61] Section 790.0625(3), F.S.
[62] Section 790.0625(3)(a), F.S.
[63] Section 790.0625(6)(a), F.S.
[64] Section 790.0625(8), F.S.

new or renewal licenses on behalf of the department. However, the department may rescind a memorandum of understanding for any reason at any time.

The bill provides that information and records provided pursuant to ss. 493.6105 and 493.6113, F.S., remain confidential pursuant to s. 493.6122, F.S., or any other state or federal law.

The bill prohibits any person from handling an application for a license issued under ch. 493, F.S., for a fee or compensation of any kind unless he or she has been appointed by the department to do so.

The bill establishes that an appointed tax collector may collect and retain a convenience fee of $22 for each new application, $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photographing services associated with the completion of an application submitted online or by mail. Each week, the tax collector is required to remit the license fees to the department to be deposited in the Division of Licensing Trust Fund. The bill provides that a person who willfully violates s. 493.6127, F.S., commits a second degree misdemeanor.[65]

The bill provides that upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, an authorized tax collector may, upon approval and confirmation of license issuance by the department, print and deliver a license to a licensee renewing or replacing his or her license at the tax collector's office.

Section 36 amends s. 790.0625, F.S., to provide that a tax collector appointed under s.790.0625, F.S., may collect and retain $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photographing services associated with the completion of an application submitted online or by mail.

The bill clarifies that a tax collector is authorized to accept renewal applications from an applicant for the renewal of a concealed weapon or firearm license. If an applicant is approved by the department and completes a renewal application, provides a color photograph, and pays the required fees, then the tax collector may print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.

The bill authorizes a tax collector to print and deliver a concealed weapon or firearm license to a licensee whose license has been lost or destroyed if a statement is received to the department made under oath and payment of the required fees is received. The department must confirm and approve that the aforementioned license is in good standing. Additionally, a tax collector who is authorized to accept an application for a concealed weapon or firearm license may provide fingerprinting and photographing services to aid concealed weapon and firearm applicants and licensees with initial and renewal applications submitted online or by mail.

[65] A second degree misdemeanor is generally punishable by not more than 60 days in county jail, and a fine not exceeding $500. Sections 775.082 and 775.083.

Section 43 reenacts s. 493.6115, F.S., related to Class "G" license.

Charitable Organizations

Present Situation

Charitable Organizations and Sponsors

Organizations that intend to solicit donations in Florida are required to register with the department pursuant to the Solicitation of Contributions Act.[66] The Act contains basic registration, financial disclosures, and notification requirements for charitable organizations and sponsors,[67] fundraising consultants, and solicitors.

Registration Statements

An initial registration statement must be submitted to the department and include a financial report, a statement of the purpose of the charity, how donations will be used, names of individuals in charge of solicitation activities, and proof of federal tax exempt status. The charity must also identify any professional solicitors and fundraising consultants the charity will use, along with the terms of the arrangements for compensation to be paid to the consultant and solicitor. The registration must include a statement related to the charity's activity in other states, including whether the charity is authorized to operate in another state; whether the charity's registration has been denied, suspended, or revoked in another state; and whether the charity or any person associated with the charity has been subject to any adverse administrative actions or criminal convictions in any state.[68]

The following charitable organizations and sponsors are exempt from the registration requirements:

- A person who is soliciting for a named individual;
- A charitable organization or sponsor that limits solicitations of contributions to the membership of the charitable organization or sponsor;
- Any division, department, post, or chapter of certain veterans' service organizations are exempt from the registration requirements; or
- A charitable organization that has less than $50,000 in total revenue as long as they did not employ professional solicitors or have paid employees.[69]

Before soliciting contributions, the charitable organization or sponsor claiming the exemption must provide the department with certain financial and identifying information including the name, address, and telephone number of the charitable organization or sponsor, the name under

[66] Section 496.401, F.S.
[67] A sponsor is a group or person who is or holds itself out to be soliciting contributions by the use of a name that implies that the group or person is in any way affiliated with or organized for the benefit of emergency service employees or law enforcement officers and the group or person is not a charitable organization. The term includes a chapter, branch, or affiliate that has its principal place of business outside the state if the chapter, branch, or affiliate solicits or holds itself out to be soliciting contributions in the state. Section 496.404(25), F.S.
[68] Section 496.405(2), F.S.
[69] Section 496.406(1), F.S.

which it intends to solicit contributions, the purpose for which it is organized, and the purpose for which the contributions to be solicited will be used.[70]

Financial Statements

A charitable organization or sponsor that is required to register or renew registration must file an annual financial statement for the immediate preceding year with the department. The statement must include:

- A balance sheet;
- A statement of support, revenue and expenses;
- Names and addresses of any charities, professional fundraising consultants, professional solicitors, and commercial co-ventures used and the amounts received from each of them; and
- A statement of functional expenses that must include program service costs, management and general costs, and fundraising costs.[71]

Upon the showing of good cause by a charitable organization or sponsor, the department may extend the time for the filing of a financial statement by up to 180 days.[72]

Disclosure Requirements of Charitable Organizations and Sponsors

Charitable organizations or sponsors can solicit contributions only for the purpose expressed in the solicitation for contributions or the registration statement. The following disclosures must be included at the point of solicitation: the name of the organization or sponsor and principal place of business of the organization or sponsor; a description of the purpose for which the solicitation is being made; the name and address or telephone number of a person to whom inquiries may be addressed; the amount of the contribution which may be deducted from federal income tax; and the source from which a written financial statement may be obtained.[73]

Professional Fundraising Consultants

Professional fundraising consultants[74] are required to annually register and pay a $300 fee to the department before operating in Florida.[75] Additionally, professional fundraising consultants who enter into agreements with charities may do so only if the charity has complied with ch. 496, F.S., and has obtained approval from the department of a registration statement.[76]

Applications for registration or renewal must be signed by an authorized official of the professional fundraising consultant and must include certain identifying information such as

[70] Section 496.406(2), F.S.
[71] Section 496.407(1), F.S.
[72] Section 496.407(3), F.S.
[73] Section 496.411, F.S.
[74] A professional fundraising consultant is a person retained by a charitable organization or sponsor for a fixed fee or rate under a written agreement to plan, manage, conduct, carry on, advise, consult, or prepare material for a solicitation of contributions in Florida but who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions and who does not at any time have custody or control of contributions. Section 496.404(20), F.S.
[75] Section 496.409(1),(3), F.S.
[76] *See* s. 496.409(6), F.S.

the names and residence addresses of all principals of the applicant, including all officers, directors, and owners; the form of the applicant's business; and the street address and telephone number of the principal place of business of the applicant and any Florida street addresses if the principal place of business is located outside of Florida.[77]

After receiving the registration statement, the department has 15 business days to either approve the registration or notify the consultant that the registration requirements are not satisfied. If, after 15 days the department has not notified the consultant, the registration is deemed approved.[78]

Professional Solicitors

Professional solicitors[79] must annually register and pay a $300 fee to the department before operating in Florida.[80] Information that must be provided for registration or renewal includes the street address and telephone number of the business, the form of the applicant's business, the place and date when the applicant was legally established, and the names and residence addresses of all principals, including officers, directors, and owners. The application must also provide a list of all telephone numbers to be used by the applicant to solicit contributions as well as the physical address associated with each telephone number. [81]

After receiving the registration statement, the department has 15 business days to either approve the registration or notify the solicitor that the registration requirements are not satisfied. If, after 15 days the department has not notified the solicitor, the registration is deemed approved.[82]

Solicitors must also file a solicitation notice with the department at least 15 days before beginning a solicitation campaign or event. The notice must include identifying information including residence addresses.[83] During each solicitation campaign, and for not less than three years after its completion, the solicitor must maintain certain records including addresses of contributors and employees involved in the solicitation.[84] Additionally, if solicitors sell tickets to events, the solicitor must maintain records including addresses of contributors and of organizations that receive the donated tickets.[85]

A solicitor license must be obtained from the department by each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor conducting telephonic solicitations during which a donor's or potential donor's personal financial

[77] Section 496.409(2), F.S.
[78] Section 496.409(6), F.S.
[79] A professional solicitor is a person who, for compensation, performs for a charitable organization or sponsor a service in connection with which contributions are or will be solicited in, or from a location in, Florida by the compensated person or by a person it employs, procures, or otherwise engages, directly or indirectly, to solicit contributions, or a person who plans, conducts, manages, carries on, advises, consults, directly or indirectly, in connection with the solicitation of contributions for or on behalf of a charitable organization or sponsor but who does not qualify as a professional fundraising consultant. Section 496.404(21), F.S.
[80] Section 496.410, F.S.
[81] Section 496.410(2), F.S.
[82] Section 496.410(5), F.S.
[83] Section 496.410(6), F.S.
[84] Section 496.410(10), F.S.
[85] Section 496.410(11), F.S.

information is requested or provided, is required. Among other information, the license application must include the name, home address, date of birth, and identification number of a government-issued ID of the applicant.[86]

Collection Receptacles for Donations

All collection receptacles for donations must display a permanent sign on each side of the receptacle. For receptacles used by a charity required to register under ch. 496, F.S., the sign must provide the name, address, telephone number, and registration number of the charity.[87]

Solicitation of Funds within Public Transportation Facilities

Any person wanting to solicit funds within a public transportation facility must obtain a written permit from the authority responsible for the administration of the facility. The application for the permit submitted to the authority must include the name, mailing address, and telephone number of the person or organization; the name, mailing address, and telephone number of each person participating in the activity as well as the person in charge of the activity; a description of the proposed activities; the dates and hours of the activities; and the number of persons engaged in such activities. While conducting the activities, each solicitor must display prominently a badge or insignia provided by the authority that describes the solicitor by name, age, height, weight, eye color, hair color, address, and principal occupation, and indicating the name of the organization for which the funds are solicited.[88]

Effect of Proposed Changes

Section 14 amends s. 496.404, F.S., to define the term "street address" as the physical location where activities subject to regulation under ch. 496, F.S., are conducted or where an applicant, licensee, or other referenced individual actually resides. The term does not include a virtual office, a post office box, or a mail drop.

Section 15 amends s. 496.405, F.S., to revise the information charitable organizations and sponsors must provide to the department in an initial registration statement to include the name and street addresses of each institution where banking or similar monetary transactions are done by the charitable organization or sponsor. The bill also amends the contribution-based registration fee thresholds to remove an option related to contributions raised by non-compensated volunteers, members, officers or permanent employees under $50,000 in the previous fiscal year.

Section 16 amends s. 496.406, F.S., to revise the information charitable organizations and sponsors must provide to the department when claiming certain exemptions to include street addresses.

Section 17 amends s. 496.407, F.S., to revise the financial information charitable organizations and sponsors must provide to the department to include street addresses, and removes the

[86] Section 496.4101, F.S.
[87] Section 496.4121, F.S.
[88] S. 496.425, F.S.

requirement that a charitable organization or sponsor must show good cause in order to receive a filing extension from the department.

Section 18 amends s. 496.409, F.S., to revise the information professional fundraising consultants must include in applications for registration or renewals of registration to include street addresses rather than residence addresses.

Section 19 amends s. 496.410, F.S., to revise the information that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to the department, and that solicitors are required to maintain in their records to include street addresses rather than physical or residence addresses.

Section 20 amends s. 496.4101, F.S., to revise the information that must be included in certain solicitor license applications to include street addresses rather than home addresses.

Section 21 amends s. 496.411, F.S., to revise the information that disclosures of charitable organizations or sponsors soliciting in Florida must include street addresses.

Section 22 amends s. 496.4121, F.S., to revise the information that must be displayed on certain collection receptacles to include street addresses.

Section 23 amends s. 496.425, F.S., to provide that a person who solicits funds within a public transportation facility must provide in an application to the authority and must display prominently on the person's bade or insignia, to include street addresses.

Section 44 reenacts s. 496.4055, F.S., related to the board of directors of a charitable organization.

Alternative Meat

Present Situation

Cultivated Meat

The United States Department of Agriculture (USDA) describes human food made with cultured animal cells as the ability to take a small number of cells from living animals and grow them in a controlled environment to create food.[89] The USDA summarizes the process of making cultured meat below:

- Step 1: Scientists typically start with a sample of cells from the tissue of an animal or fish, a process that typically does not permanently harm or kill the animal. Some cells from the sample are selected, screened, and grown to make a "bank" of cells to store for later use.
- Step 2: To make food, a small number of cells are taken from the cell bank and placed in a tightly controlled and monitored environment (e.g., a very large, sealed vessel) that supports growth and cellular multiplication by supplying appropriate nutrients and other factors.

[89] USDA, Human Food Made with Cultured Animal Cells, *available at*, https://www.fsis.usda.gov/inspection/compliance-guidance/labeling/labeling-policies/human-food-made-cultured-animal-cells (last visited January 17, 2024).

- Step 3: After the cells have multiplied many times over into billions or trillions of cells, additional factors (e.g., protein growth factors, new surfaces for cell attachment, additional nutrients) are added to the controlled environment to enable the cells to differentiate into various cell types and assume characteristics of muscle, fat, or connective tissue cells.
- Step 4: Once the cells have differentiated into the desired type, the cellular material can be harvested from the controlled environment and prepared using conventional food processing and packaging methods.[90]

In 2019 the United States Food and Drug Administration (FDA) and the USDA's Food Safety and Inspection Service agreed to establish a joint regulatory framework for human foods made from cultured cells of livestock and poultry to help ensure that any such products brought to market are safe, unadulterated, and truthfully labeled.[91]

As of 2024, there are currently several states that have laws related to the proper labeling of meat and lab grown meat products.[92]

Effect of Proposed Changes

Section 24 amends s. 500.03, F.S., to provide a definition for cultivated meat to mean any meat or food product produced from cultured animal cells. This section is effective upon the bill becoming a law.

Section 25 creates s. 500.452, F.S., to prohibit the manufacture, sale, hold or offer for sale, or distribution of cultivated meat in this state. The bill also provides the penalties for violations and gives the department rulemaking authority. This section is effective upon the bill becoming a law.

Section 26 amends s. 507.07, F.S., to prohibit a mover from placing a shipper's goods in a storage unit not owned by the mover unless the goods are stored in the shipper's name and the shipper contracts directly with the owner storage unit.

Bureau of Standards

Present Situation

Weights, Measures, and Standards

The department's Bureau of Standards is responsible for the inspection of weights and measures devices or instruments in Florida.[93] "Weights and measures" are defined as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices, excluding taximeters, transportation measurement systems, and those weights and measures used for the purpose of

[90] *Id.*
[91] *Id.*
[92] Penn State Law, Scope of the Meat Labeling Law Issue Tracker, *available at*, https://aglaw.psu.edu/research-by-topic/issue-tracker/meat-labeling-law-2018-present/ (last visited January 17, 2024).
[93] Ch. 531, F.S. "Weights and Measures Act of 1971"

inspecting the accuracy of devices used in conjunction with aviation fuel.[94] The weights and measures program is funded through permit fees.[95] This framework including provisions related to general permitting, initial and renewal applications, maximum permit fees, suspensions, penalties, revocations, and exemptions, are set to expire on July 1, 2025.[96]

Effect of Proposed Changes

Section 27 repeals s. 531.67, F.S.; thus, saving the Weights and Measures Act from expiring on July 1, 2025.

Motor Vehicle Repair

Present Situation

Motor Vehicle Repair Shop Registration and Written Repair Estimates

The Florida Motor Vehicle Repair Act[97] requires anyone who is paid to repair motor vehicles owned by other individuals to register with the department. Registration applications must include: the name of the applicant; the name under which the applicant is doing business; the business address; copies of all licenses, permits, and certifications; and the number of employees which the applicant intends to employ or currently employs.[98] Each application must be accompanied by a registration fee calculated on a per-year basis.[99]

For repairs costing more than $100, repair shops are required to prepare a written repair estimate that includes the estimated cost of repair work, including diagnostic work, before beginning any diagnostic work or repair. The repair shop must then give the customer the option of:

- Requesting a written estimate;
- Being notified by the shop if the repair exceeds an amount the customer specifies; or
- Not requiring a written estimate at all. [100]

Effect of Proposed Changes

Section 28 amends s. 559.904, F.S., to remove the requirement for a motor vehicle repair shop to provide copies of licenses, permits, and certifications obtained by the applicant or employees of the applicant on the registration application; and to specify that the registration fee must be calculated for each location.

Section 29 amends s. 559.905, F.S., to increase the threshold value of repair work which requires a motor vehicle repair shop to provide a customer with a written repair estimate from $100 to $150.

[94] Section 531.37(1), F.S.
[95] Section 531.63, F.S.
[96] Section 531.67, F.S.
[97] Section 559.901, F.S.
[98] Section 559.904(1), F.S.
[99] Section 559.904(3), F.S.
[100] Section 559.905, F.S.

Section 30 amends s. 570.07, F.S., to increase the department's statutorily authorized threshold to repair or build structures from $250,000 to $500,000.

Section 45 reenacts s. 559.907, F.S., related to charges for motor vehicle repair estimate.

The Florida Agricultural Museum

Present Situation

Florida Agricultural Museum

The Florida Agricultural Museum was established in 1983 by a group of concerned agriculturalists and historians at the request of Agricultural Commissioner Doyle Conner to help preserve this important part of Florida's heritage.[101] Originally located in Tallahassee, the museum was part of the Department of Agriculture and Consumer Services.[102] The Museum, now located in Flagler County, is a private non-profit 501(c)(3) corporation led by a board of trustees.[103]

Effect of Proposed Changes

Section 31 amends s. 570.69, F.S., to provide the definition of "center" to mean the Florida Agricultural Legacy Learning Center. The bill also removes the definition of "museum," which is the Florida Agricultural Museum.

Section 32 amends s. 570.691, F.S., and **Section 33** amends s. 570.692, F.S., to conform to the changes made by Section 31.

Saw Palmetto Berries Harvesting

Present Situation

Saw Palmetto Berries

Saw palmetto berries collected from forests in Florida and Georgia are the most abundantly harvested medicinal non-timber forest products (NTFPs) in terms of dry weight. Saw palmetto berries are the fruit of a commonly occurring understory plant in Florida flatwoods. They are the source of certain medicinal compounds used in Native American, herbal and alternative medical treatments for prostate and other urologic conditions.[104]

[101] Florida Agricultural Museum, About the Museum, *available at*, https://www.floridaagmuseum.org/about-the-museum/ (last visited January 17, 2024).
[102] *Id.*
[103] *Id.*
[104] Florida Department of Agriculture and Consumer Services (FDACS), Non-Timber Forest Products (NTFP): Additional Potential Revenue Sources for Forest Landowners, https://www.fdacs.gov/Forest-Wildfire/Our-Forests/Working-Forest/Non- Timber-Forest-Products-NTFP (last visited January 17, 2024).

Effective July 2018, the Department of Agriculture and Consumer Services (department) requires a permit to harvest and sell saw palmetto berries in Florida.[105] The Endangered Plant Advisory Council unanimously recommended adding saw palmetto to the department commercially exploited plant list.[106] There is no application fee to apply for a permit. The permit expires 12 months after the date of issuance and is not transferable.[107]

Effect of Proposed Changes

Section 34 creates s. 581.189, F.S., to provide definitions for "harvest," "harvester," "landowner," "person," "saw palmetto berries," "saw palmetto berry dealer," and "seller." The bill prohibits willful destroying, harvesting, or selling saw palmetto berries, on private or public land, without the written permission of the landowner. The bill provides what must be included in the landowner's written permission to harvest saw palmetto berries. The bill also provides the reporting requirements after the berries have been harvested along with authorizing law enforcement to seize berries harvested in violation of this bill.

The bill also provides penalties for violations created by this bill. The department is granted rulemaking authority.

Section 35 amends s. 585.01, F.S., to include poultry in the definition of "livestock."

Section 46 reenacts s. 468.382, F.S., related to the definition of "livestock."

Section 47 reenacts s. 534.47, F.S.

Section 48 reenacts s. 767.01, F.S.

Section 49 reenacts s. 767.03, F.S.

Criminal Trespass

Present Situation

Trespassing on Agricultural Land

A person commits the offense of trespass on property other than a structure or conveyance, when he or she, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation; or

[105] Florida Department of Agriculture and Consumer Services (FDACS), Saw Palmetto Berry Harvesting, *available at*, https://www.fdacs.gov/Agriculture-Industry/Plant-Industry-Permits/Saw-Palmetto-Berry-Harvesting (last visited January 17, 2024).
[106] *Id.*
[107] FDACS, Saw Palmetto (Serenoa repens), Berry Harvesting FAQs, *available at*, https://ccmedia.fdacs.gov/content/download/104215/file/SPBFAQs%5B84%5D.pdf (last visited January 17, 2024).

- If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.[108]

Section 810.09, F.S., provides criminal penalties for specific types of trespass:

- The offender commits a felony of the third degree, if the property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: "THIS AREA IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
- The offender commits a felony of the third degree, if the property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
- Any person who in taking or attempting to take any animal, or in killing, attempting to kill, or endangering any animal,[109] knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree. For purposes of this paragraph, the term "potentially lethal projectile" includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This section does not apply to any governmental agent or employee acting within the scope of his or her official duties.
- The offender commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, if the property trespassed upon is an agricultural chemicals manufacturing facility that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

Effect of Proposed Changes

Section 37 amends s. 810.011, F.S., to add agricultural land to the definition of "posted land."

Section 38 amends s. 810.09, F.S., to provide criminal penalties for trespassing on land classified as commercial agricultural property. The bill also provides the definition for "commercial agricultural property" to mean property cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, raising, producing, or storing plant or animal commercial commodities.

Section 40 amends s. 379.3004, F.S., to conform with the changes in this bill related to trespassing on property while armed.

Section 41 amends s. 812.014, F.S., to conform with the changes in this bill related to trespassing on property that is identified as a construction zone.

[108] Section 810.09(1)(a), F.S.

[109] Animal is defined in s. 585.01(13) as: "Livestock" means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for private use or commercial purposes.

Section 42 amends s. 921.0022, F.S., to conform with the changes in this bill related to trespassing.

4-H Participation in School

Present Situation

Public School Attendance Policies

Florida law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness.[110] Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.[111] The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.[112] However, a parent is not responsible for the student's nonattendance at school if:

- The absence was with permission of the head of the school;
- The absence was without the parent's knowledge, consent, or connivance, in which case the student must be dealt with as a dependent child;
- The parent is financially unable to provide necessary clothes; or
- On account of sickness, injury, or other insurmountable conditions.[113]

4-H Participation in School

4-H is the nation's largest youth development organization. Over 230,000 members in the State of Florida help to make up the community of more than 6.5 million young people across America. 4-H is a non-formal, practical educational program for youth. Florida 4-H is the youth development program of Florida Cooperative Extension, a part of the University of Florida IFAS.[114]

4-H is open to all youth, ages five through 18, determined as of September 1 of the current 4-H program year and open to all counties in the State of Florida. 4-H serves youth from all backgrounds and interests. It reaches both boys and girls through 4-H clubs, special interest groups and short term projects, school-age childcare, individual and family learning and mentoring, camping, and school enrichment. There are three primary program areas, or mission mandates; science, citizenship, and healthy living.[115]

Future Farmers of America

The Future Farmers of America (FFA) is a youth leadership organization that helps young people develop their potential for leadership, personal growth, and career success through agriculture

[110] Section 1003.24, F.S.
[111] *Id.*
[112] Section 1003.26, F.S.
[113] Section 1003.24, F.S.
[114] Florida 4-H, What is 4-H?, https://florida4h.ifas.ufl.edu/about-us/ (last visited January 17, 2024).
[115] *Id.*

education. FFA is not just for students who want to be productive farmers. FFA welcomes members who aspire to careers as teachers, doctors, scientists, business owners and more.[116]

Effect of Proposed Changes

Section 39 amends s. 1003.24, F.S., to provide that a student's participation in a 4-H or FFA activity is an excused absence from school. A 4-H or FFA representative must provide documentation as proof of a student's participation in a 4-H or FFA activity upon request by a school principal or the principal's designee. The 4-H representative must be officially recognized or designated by the Florida Cooperative Extension Service 4-H Program as a 4-H professional or a 4-H adult volunteer.

Section 50 provides that this bill shall take 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:

Article VII, s. 19 of the Florida Constitution requires the authorization of a state tax or fee be contained in a separate bill that contains no other subject and be approved by 2/3 of the membership of each house of the Legislature. These provisions do not apply to any tax or fee authorized to be imposed by a county. This bill authorizes county tax collectors approved by the department to collect certain fees for processing applications.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill authorizes a county tax collector approved by the Department of Agriculture and Consumer Services (department) to accept certain new, renewal, and replacement license applications, and to collect fees associated with such services. The appointed county tax

[116] What is FFA?, https://www.ffa.org/about-us/what-is-ffa (last visited January 28, 2024).

collector may collect and retain the following fees associated with an application for a license under ch. 493, F.S.: a convenience fee of $22 for each new application, $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services, and $9 for photographing services. Additionally, the appointed county tax collector may collect and retain the following fees associated with an application for a concealed weapon or firearm license: $12 for each replacement license, $9 for fingerprinting services, and $9 for photographing services.

B. Private Sector Impact:

None.

C. Government Sector Impact:

A county tax collector that elects to seek appointment under ss. 493.6127, F.S., or 790.0625, F.S., to accept new, renewal, and replacement license applications on behalf of the department may collect fees associated with such activities. These fees should cover the cost of the tax collector to provide such services. License fees collected will be remitted to the department by the tax collector and deposited into the Division of Licensing Trust Fund.

The bill creates new third degree felonies for illegal activities relating to saw palmetto berries and trespass on agricultural property. This may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections.

Overall, the bill has an indeterminate, yet insignificant impact to the Department of Agriculture and Consumer Services. It is unknown how many administrative and enforcement actions the department will realize due to the changes in the bill. Any additional responsibilities required by the bill will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 366.94, 379.3004, 482.111, 482.151, 482.155, 482.156, 482.157, 482.161, 482.191, 482.226, 487.031, 487.175, 493.6113, 496.404, 496.405, 496.406, 496.407, 496.409, 496.410, 496.4101, 496.411, 496.4121, 496.425, 500.03, 507.07, 559.904, 559.905, 570.07, 570.69, 570.691, 570.692, 585.01, 790.0625, 810.011, 810.09, 812.014, 921.0022, and 1003.24.

This bill creates the following sections of the Florida Statutes: 493.6127, 500.452, and 581.189.

This bill re-enacts the following sections of the Florida Statutes: 468.382, 493.6115, 496.4055, 534.47, 559.907, 767.01, and 767.03.

This bill repeals section 531.67 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 Appropriations Committee on Agriculture, Environment, and General Government on February 8, 2024:
The committee substitute**:**

- Amends the contribution-based registration fee thresholds to remove an option related to contributions raised by non-compensated volunteers, members, officers or permanent employees under $50,000 in the previous fiscal year.
- Amends the exemption threshold to refer to total contributions instead of total revenue. The bill also revises the information charitable organizations and sponsors must provide to the department when claiming certain exemptions to include street addresses.
- Increases the department's statutorily authorized threshold to repair or build structures from $250,000 to $500,000.
- Provides technical changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (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 253.0341, Florida Statutes, to read:

253.0341 Surplus of state-owned lands.—

(19) The Acquisition and Restoration Council shall determine whether any lands surplused by a local governmental entity as defined in s. 218.72 are within a Florida wildlife

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corridor opportunity area. The local governmental entity may not transfer future development rights for any local governmental entity surplus lands determined to be within a Florida wildlife corridor opportunity area.

(20) Notwithstanding any other law or rule, the Department of Environmental Protection may surplus state-owned conservation lands without development rights within the Florida wildlife corridor. The Department of Environmental Protection must retain a rural-lands-protection easement pursuant to s. 570.71(3), and all proceeds must be deposited into the Incidental Trust Fund within the Department of Agriculture and Consumer Services for less than fee simple land acquisition pursuant to ss. 570.71 and 570.715. By January 1, 2025, and each January 1 thereafter, the Department of Environmental Protection shall provide to the board of trustees a report on conversation lands surplused pursuant to this subsection.

Section 2. Subsection (2) of section 366.94, Florida Statutes, is amended to read:

366.94 Electric vehicle charging stations.—

(2) The regulation of electric vehicle charging stations is preempted to the state.

(a) A local governmental entity may not enact or enforce an ordinance or regulation related to electric vehicle charging stations.

(b) The Department of Agriculture and Consumer Services shall adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for electric vehicle charging stations to allow for consistency for consumers and the industry.

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Section 3. Paragraph (e) is added to subsection (6) of section 373.089, Florida Statutes, to read:

373.089 Sale or exchange of lands, or interests or rights in lands.—The governing board of the district may sell lands, or interests or rights in lands, to which the district has acquired title or to which it may hereafter acquire title in the following manner:

(6) Any lands the title to which is vested in the governing board of a water management district may be surplused pursuant to the procedures set forth in this section and s. 373.056 and the following:

(e) For all lands, the governing board shall determine whether the lands are within a Florida wildlife corridor opportunity area. Future development rights may not be attached to any water management district surplus lands determined to be within a Florida wildlife corridor opportunity area.

If the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

Section 4. Subsections (3), (4), and (10) of section 482.111, Florida Statutes, are amended to read:

482.111 Pest control operator’s certificate.—

(3) A certificate expires 1 year after the date of issuance. Annually, on or before the 1-year ~~an~~ anniversary of the date of issuance ~~set by the department~~, an individual ~~so~~ issued a pest control operator’s certificate must apply to the department on a form prescribed by the department to renew the

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~~for renewal of such~~ certificate. After a grace period not exceeding 30 calendar days following such expiration ~~renewal~~ date, the department shall assess a late renewal charge of $50 ~~shall be assessed~~ and the certificateholder must pay the late renewal charge ~~be paid~~ in addition to the renewal fee.

(4) If a certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education units under subsection (10) within 60 days after the certificate's expiration date, the certificateholder may be recertified only after reexamination ~~Unless timely renewed, a certificate automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination and issuance fees due~~.

(10) In order to renew ~~Prior to the expiration date of~~ a certificate, the certificateholder must complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate or must pass an examination given by the department. The department may not renew a certificate if the continuing education or examination requirement is not met.

(a) Courses or programs, to be considered for credit, must include one or more of the following topics:

1. The law and rules of this state pertaining to pest control.

2. Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application

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of pesticides.

3. Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.

4. Current accepted industry practices in the conducting of fumigation, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and household pest control.

5. How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels used in pest control.

6. Integrated pest management.

(b) The certificateholder must submit with her or his application for renewal a statement certifying that she or he has completed the required number of hours of continuing education. The statement must be on a form prescribed by the department and must identify at least the date, location, provider, and subject of the training and must provide such other information as required by the department.

(c) The department shall charge the same fee for examination as provided in s. 482.141(2).

Section 5. Subsections (6), (7), and (8) of section 482.151, Florida Statutes, are amended to read:

482.151 Special identification card for performance of fumigation.—

(6) A special identification card expires 1 year after the date of issuance. A cardholder must apply ~~An application~~ to the department to renew his or her ~~for renewal of a~~ special identification card ~~must be made~~ on or before the 1-year ~~an~~ anniversary of the date of issuance ~~set by the department~~. The

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department shall set the fee for renewal of a special identification card ~~shall be set by the department~~ but the fee may not be more than $100 or less than $50; however, until a rule setting this fee is adopted by the department, the renewal fee is ~~shall be~~ $50. After a grace period not exceeding 30 calendar days following such expiration ~~renewal~~ date, the department shall assess a late renewal charge of $25, which the cardholder must pay ~~be paid~~ in addition to the renewal fee.

(7) If a cardholder fails to renew his or her card and provide proof of completion of the continuing education units required by subsection (8) within 60 days after the expiration date, the cardholder may be reissued a special identification card only after reexamination ~~Unless timely renewed, a special identification card automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a special identification card may be issued only upon successful reexamination and upon payment of examination and issuance fees due, as provided in this section~~.

(8) In order to renew ~~Prior to the expiration date of~~ a special identification card, the cardholder must do at least one of the following:

(a) Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category.~~; or~~

(b) Pass an examination in fumigation given by the department.

Section 6. Paragraph (b) of subsection (1) of section 482.155, Florida Statutes, is amended to read:

482.155 Limited certification for governmental pesticide

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applicators or private applicators.—

(1)

(b) A person seeking limited certification under this subsection must pass an examination given or approved by the department. Each application for examination must be accompanied by an examination fee set by the department, in an amount of not more than $150 or less than $50; and a recertification fee of $25 every 4 years. Until rules setting these fees are adopted by the department, the examination fee is $50. Application for recertification must be accompanied by proof of having completed 4 classroom hours of acceptable continuing education. The limited certificate expires 4 years after the date of issuance. If the certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination. The department shall provide the appropriate reference material and make the examination readily accessible and available to all applicants at least quarterly or as necessary in each county.

Section 7. Subsections (1), (2), and (3), of section 482.156, Florida Statutes, are amended to read:

482.156 Limited certification for commercial landscape maintenance personnel.—

(1) The department shall establish a limited certification category for individual commercial landscape maintenance personnel to authorize them to apply herbicides for controlling weeds in plant beds, driveways, sidewalks, and patios and to perform integrated pest management on ornamental plants using pesticides that do not have a ~~insecticides and fungicides having~~

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~~the~~ signal word or that have the signal word "caution" but do not have ~~having~~ the signal word "warning" or "danger" on the label. The application equipment that may be used by a person certified pursuant to this section is limited to portable, handheld application equipment and ~~3-gallon compressed air sprayers or~~ backpack sprayers but ~~having no more than a 5-gallon capacity and~~ does not include any type of power equipment.

(2)~~(a)~~ A person seeking limited certification under this section must pass an examination given by the department. Each application for examination must be accompanied by an examination fee set by rule of the department, in an amount of not more than $150 or less than $50. Before the department issues ~~Prior to the department's issuing~~ a limited certification under this section, each person applying for the certification must furnish proof of having a certificate of insurance which states that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage required by s. 482.071(4).

~~(b) To be eligible to take the examination, an applicant must have completed 6 classroom hours of plant bed and ornamental continuing education training approved by the department and provide sufficient proof, according to criteria established by department rule.~~ The department shall provide the appropriate reference materials for the examination and make the examination readily accessible and available to applicants at least quarterly or as necessary in each county.

(3) A certificate expires 1 year after the date of issuance. A certificateholder must apply to the department to renew his or her certificate on or before the 1-year anniversary

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of the date of issuance. The ~~An~~ application ~~for recertification under this section~~ must ~~be made annually and~~ be accompanied by a recertification fee set by rule of the department, in an amount of not more than $75 or less than $25. The application must also be accompanied by proof of having completed 4 classroom hours of acceptable continuing education and the same proof of having a certificate of insurance as is required for issuance of this certification. After a grace period not exceeding 30 calendar days following such expiration date ~~the annual date that recertification is due~~, a late renewal charge of $50 shall be assessed and must be paid in addition to the renewal fee. If a certificateholder fails to renew his or her certificate and provide proof of completing the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination ~~Unless timely recertified, a certificate automatically expires 180 calendar days after the anniversary recertification date~~. ~~Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination fees due.~~

Section 8. Subsection (3) of section 482.157, Florida Statutes, is amended to read:

482.157 Limited certification for commercial wildlife management personnel.—

(3) A certificate expires 1 year after the date of issuance. A certificateholder must apply to the department to renew his or her certificate on or before the 1-year anniversary of the date of issuance. The ~~An~~ application ~~for recertification~~ must ~~be made annually and~~ be accompanied by a recertification

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fee of at least $75, but not more than $150, as prescribed by the department by rule. The application must also be accompanied by proof of completion of the required 4 classroom hours of acceptable continuing education and the required proof of insurance. After a grace period not exceeding 30 calendar days following such expiration ~~after the recertification renewal~~ date, the department shall assess a late fee of $50 in addition to the renewal fee. If a certificateholder fails to renew his or her certificate and provide proof of completing the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination ~~A certificate automatically expires 180 days after the recertification date if the renewal fee has not been paid~~. ~~After expiration, the department shall issue a new certificate only if the applicant successfully passes a reexamination and pays the examination fee and late fee.~~

Section 9. Paragraphs (k) and (l) are added to subsection (1) of section 482.161, Florida Statutes, to read:

482.161 Disciplinary grounds and actions; reinstatement.—

(1) The department may issue a written warning to or impose a fine against, or deny the application for licensure or licensure renewal of, a licensee, certified operator, limited certificateholder, identification cardholder, or special identification cardholder or any other person, or may suspend, revoke, or deny the issuance or renewal of any license, certificate, limited certificate, identification card, or special identification card that is within the scope of this chapter, in accordance with chapter 120, upon any of the following grounds:

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(k) Swearing to or affirming any false statement in an application for a license issued pursuant to this chapter.

(l) Cheating on an examination required for licensure under this chapter or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee.

Section 10. Section 482.191, Florida Statutes, is amended to read:

482.191 Violation and penalty.—

(1) It is unlawful to do any of the following:

(a) Solicit, practice, perform, or advertise in pest control except as provided by this chapter.

(b) Swear to or affirm a false statement in an application for a license or certificate issued pursuant to this chapter. A false statement contained in an application for such license or certificate renders the application, license, or certificate void.

(c) Cheat on an examination required for licensure under this chapter or violate a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by an examinee. Violating this paragraph renders the examinee's exam attempt void. The department shall adopt rules establishing penalties for examinees who violate this subsection. The department may exercise discretion in assessing penalties based on the nature and frequency of the violation.

(2) Except as provided in paragraph (1)(c), a person who violates ~~any provision of~~ this chapter commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s.

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775.082 or s. 775.083.

(3) A ~~Any~~ person who violates any rule of the department relative to pest control commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Subsection (3) of section 482.226, Florida Statutes, is amended to read:

482.226 Wood-destroying organism inspection report; notice of inspection or treatment; financial responsibility.—

(3) When an inspection ~~If periodic reinspections or retreatments are~~ specified in wood-destroying organisms preventive or control contracts is conducted or any treatment covered by the wood-destroying organisms preventive or control contracts is performed, the licensee shall furnish the property owner or the property owner's authorized agent~~, after each such reinspection or retreatment,~~ a signed report indicating the presence or absence of wood-destroying organisms covered by the contract, whether treatment ~~retreatment~~ was made, and the common or brand name of the pesticide used. Such report need not be on a form prescribed by the department.

(a) If a licensee performs an inspection not specified in the wood-destroying organisms preventive or control contract, and the presence of wood-destroying organisms covered by the contract is identified, the licensee must provide the property owner or property owner's authorized agent with a signed report notifying her or him of the presence of wood-destroying organisms.

(b) A person may not perform inspections ~~periodic reinspections~~ or treatments ~~retreatments~~ unless she or he has an

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identification card issued under s. 482.091(9).

Section 12. Subsection (13) of section 487.031, Florida Statutes, is amended to read:

487.031 Prohibited acts.—It is unlawful:

(13) For any person to do any of the following:

(a) Make a false or fraudulent claim through any medium, misrepresenting the effect of materials or methods used.~~;~~

(b) Make a pesticide recommendation or application not in accordance with the label, except as provided in this section, or not in accordance with recommendations of the United States Environmental Protection Agency or not in accordance with the specifications of a special local need registration.~~;~~

(c) Operate faulty or unsafe equipment.~~;~~

(d) Operate in a faulty, careless, or negligent manner.~~;~~

(e) Apply any pesticide directly to, or in any manner cause any pesticide to drift onto, any person or area not intended to receive the pesticide.~~;~~

(f) Fail to disclose to an agricultural crop grower, before ~~prior to the time~~ pesticides are applied to a crop, full information regarding the possible harmful effects to human beings or animals and the earliest safe time for workers or animals to reenter the treated field.~~;~~

(g) Refuse or, after notice, neglect to comply with ~~the provisions of~~ this part, the rules adopted under this part, or any lawful order of the department.~~;~~

(h) Refuse or neglect to keep and maintain the records required by this part or to submit reports when and as required.~~;~~

(i) Make false or fraudulent records, invoices, or

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reports.~~;~~

(j) Use fraud or misrepresentation in making an application for a license or license renewal.~~;~~

(k) Swear to or affirm a false statement in an application for a license issued pursuant to this chapter.

(l) Cheat on an examination required for licensure under this chapter or violate a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee.

(m) Refuse or neglect to comply with any limitations or restrictions on or in a duly issued license.~~;~~

(n)~~(l)~~ Aid or abet a licensed or unlicensed person to evade ~~the provisions of~~ this part, or combine or conspire with a licensed or unlicensed person to evade ~~the provisions of~~ this part, or allow a license to be used by an unlicensed person.~~;~~

(o)~~(m)~~ Make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land.~~;~~

(p)~~(n)~~ Make false or misleading statements, or fail to report, pursuant to this part, any suspected or known damage to property or illness or injury to persons caused by the application of pesticides.~~;~~

(q)~~(o)~~ Impersonate any state, county, or city inspector or official.~~;~~

(r)~~(p)~~ Fail to maintain a current liability insurance policy or surety bond required by ~~as provided for in~~ this part.~~;~~

(s)~~(q)~~ Fail to adequately train, as required by ~~provided for in~~ this part, unlicensed applicators or mixer-loaders applying restricted-use pesticides under the direct supervision

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of a licensed applicator.~~; or~~

(t)~~(r)~~ Fail to provide authorized representatives of the department with records required by this part or with free access for inspection and sampling of any pesticide, areas treated with or impacted by these materials, and equipment used in their application.

Section 13. Section 487.175, Florida Statutes, is amended to read:

487.175 Penalties; administrative fine; injunction.—

(1) In addition to any other penalty provided in this part, when the department finds any person, applicant, or licensee has violated any provision of this part or rule adopted under this part, it may enter an order imposing any one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Issuance of a warning letter.

(d) Placement of the licensee on probation for a specified period of time and subject to conditions the department may specify by rule, including requiring the licensee to attend continuing education courses, to demonstrate competency through a written or practical examination, or to work under the direct supervision of another licensee.

(e) Imposition of an administrative fine in the Class III category pursuant to s. 570.971 for each violation. When imposing a fine under this paragraph, the department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator benefited from by noncompliance, whether the violation

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was committed willfully, and the compliance record of the violator.

(2) It is unlawful for a person to swear to or affirm a false statement in an application for a license or certificate issued pursuant to this chapter. A false statement contained in an application for such license or certificate renders the application, license, or certificate void.

(3) Cheating on an examination required for licensure under this chapter or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee renders the examinee's exam attempt void. The department shall adopt rules establishing penalties for examinees who violate this section. The department may exercise discretion in assessing penalties based on the nature and frequency of the violation.

(4) Except as provided under subsection (3), a ~~Any~~ person who violates ~~any provision of~~ this part or rules adopted pursuant thereto commits a misdemeanor of the second degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083. For a subsequent violation, such person commits a misdemeanor of the first degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083.

(5)~~(3)~~ In addition to the remedies provided in this part and notwithstanding the existence of any adequate remedy at law, the department may bring an action to enjoin the violation or threatened violation of ~~any provision of~~ this part, or rule adopted under this part, in the circuit court of the county in which the violation occurred or is about to occur. Upon the department's presentation of competent and substantial evidence

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to the court of the violation or threatened violation, the court shall immediately issue the temporary or permanent injunction sought by the department. The injunction shall be issued without bond. A single act in violation of ~~any provision of~~ this part is ~~shall be~~ sufficient to authorize the issuance of an injunction.

Section 14. Paragraph (b) of subsection (3) of section 493.6113, Florida Statutes, is amended to read:

493.6113 Renewal application for licensure.—

(3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the renewal fee and the fingerprint retention fee to cover the cost of ongoing retention in the statewide automated biometric identification system established in s. 943.05(2)(b). Upon the first renewal of a license issued under this chapter before January 1, 2017, the licensee shall submit a full set of fingerprints and fingerprint processing fees to cover the cost of entering the fingerprints into the statewide automated biometric identification system pursuant to s. 493.6108(4)(a) and the cost of enrollment in the Federal Bureau of Investigation’s national retained print arrest notification program. Subsequent renewals may be completed without submission of a new set of fingerprints.

(b) Each Class “G” licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms requalification training taught by a Class “K” licensee and has complied with such other health and training requirements that the department shall adopt by rule. Proof of completion of firearms requalification

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training shall be submitted to the department upon completion of the training. A Class "G" licensee must successfully complete this requalification training for each type and caliber of firearm carried in the course of performing his or her regulated duties. At the discretion of a Class "K" instructor, a Class "G" licensee may qualify for up to two calibers of firearms in one 4-hour firearm requalification class if the licensee successfully completes training for each firearm, including a separate course of fire for each caliber of firearm. If the licensee fails to complete the required 4 hours of annual training during the first year of the 2-year term of the license, the license is ~~shall be~~ automatically suspended. The licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be reinstated. If the licensee fails to complete the required 4 hours of annual training during the second year of the 2-year term of the license, the licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be renewed. The department may waive the firearms training requirement if:

1. The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous 2 years of the licensure period;

2. The applicant provides proof that he or she is currently

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certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous 2 years of the licensure period;

3. The applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a) and provides proof of having completed requalification training during the previous 2 years of the licensure period; or

4. The applicant provides proof that he or she has completed annual firearms training in accordance with the requirements of the federal Law Enforcement Officers Safety Act under 18 U.S.C. ss. 926B-926C.

Section 15. Section 493.6127, Florida Statutes, is created to read:

493.6127 Appointment of tax collectors to accept applications and renewals for licenses; fees; penalties.—

(1) The department may appoint a tax collector, a county officer as described in s. 1(d), Art. VIII of the State Constitution, to accept new, renewal, and replacement license applications on behalf of the department for licenses issued under this chapter. Such appointment shall be for specified locations that will best serve the public interest and convenience in persons applying for these licenses. The department shall establish by rule the type of new, renewal, or replacement licenses a tax collector appointed under this section is authorized to accept.

(2) A tax collector seeking to be appointed to accept applications for new, renewal, or replacement licenses must submit a written request to the department stating his or her

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name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the department.

(a) Upon receipt of a written request, the department shall review it and may decline to enter into a memorandum of understanding or, if approved, may enter into a memorandum of understanding with the tax collector to accept applications for new or renewal licenses on behalf of the department.

(b) The department may rescind a memorandum of understanding for any reason at any time.

(3) All information provided pursuant to s. 493.6105 or s. 493.6113 and contained in the records of a tax collector appointed under this section which is confidential pursuant to s. 493.6122, or any other state or federal law, retains its confidentiality.

(4) A person may not handle an application for a license issued pursuant to this chapter for a fee or compensation of any kind unless he or she has been appointed by the department to do so.

(5) A tax collector appointed under this section may collect and retain a convenience fee of $22 for each new application, $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photography services associated with the completion of an application submitted online or by mail, and shall remit weekly to the department the license fees pursuant to chapter 493 for deposit in the Division of Licensing Trust Fund.

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(6) A person who willfully violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) Upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, a tax collector authorized to accept renewal or replacement applications for licenses under this section may, upon approval and confirmation of license issuance by the department, print and deliver a license to a licensee renewing or replacing his or her license at the tax collector's office.

Section 16. Subsection (28) is added to section 496.404, Florida Statutes, to read:

496.404 Definitions.—As used in ss. 496.401-496.424, the term:

(28) "Street address" means the physical location where activities subject to regulation under this chapter are conducted or where an applicant, licensee, or other referenced individual actually resides. The term does not include a virtual office, a post office box, or a mail drop.

Section 17. Present paragraphs (d) through (g) of subsection (2) of section 496.405, Florida Statutes, are redesignated as paragraphs (e) through (h), respectively, a new paragraph (d) is added to that subsection, and paragraphs (b) and (d) of subsection (1), subsection (3), paragraph (a) of subsection (4), and paragraph (b) of subsection (7) of that section are amended, to read:

496.405 Registration statements by charitable organizations and sponsors.—

(1) A charitable organization or sponsor, unless exempted

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pursuant to s. 496.406, which intends to solicit contributions in or from this state by any means or have funds solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor, or that participates in a charitable sales promotion or sponsor sales promotion, must, before engaging in any of these activities, file an initial registration statement, and a renewal statement annually thereafter, with the department.

(b) Any changes to the information submitted to the department pursuant to paragraph (2)(d) or paragraph (2)(e) on the initial registration statement or the last renewal statement must be reported to the department on a form prescribed by the department within 10 days after the change occurs.

(d) The registration of a charitable organization or sponsor may not continue in effect and shall expire without further action of the department under either of the following circumstances:

1. After the date the charitable organization or sponsor should have filed, but failed to file, its renewal statement in accordance with this section.

2. For failure to provide a financial statement within any extension period provided under s. 496.407.

(2) The initial registration statement must be submitted on a form prescribed by the department, signed by an authorized official of the charitable organization or sponsor who shall certify that the registration statement is true and correct, and include the following information or material:

(d) The name and street address of each institution where banking or similar monetary transactions are done by the

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charitable organization or sponsor.

(3) Each chapter, branch, or affiliate of a parent organization ~~that is~~ required to register under this section must file a separate registration statement and financial statement or report the required information to its parent organization, which shall then file, on a form prescribed by the department, a consolidated registration statement for the parent organization and its Florida chapters, branches, and affiliates. A consolidated registration statement filed by a parent organization must include or be accompanied by financial statements as specified in s. 496.407 for the parent organization and each of its Florida chapters, branches, and affiliates that solicited or received contributions during the preceding fiscal year. However, if all contributions received by chapters, branches, or affiliates are remitted directly into a depository account that feeds directly into the parent organization's centralized accounting system from which all disbursements are made, the parent organization may submit one consolidated financial statement on a form prescribed by the department. The consolidated financial statement must comply with s. 496.407 and must reflect the activities of each chapter, branch, or affiliate of the parent organization, including all contributions received in the name of each chapter, branch, or affiliate; all payments made to each chapter, branch, or affiliate; and all administrative fees assessed to each chapter, branch, or affiliate. A copy of Internal Revenue Service Form 990 and all attached schedules filed for the preceding fiscal year, or a copy of Internal Revenue Service Form 990-EZ and Schedule O for the preceding fiscal year, for the parent

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organization and each Florida chapter, branch, or affiliate ~~that is~~ required to file such forms must be attached to the consolidated financial statement.

(4)(a) Every charitable organization, sponsor, or parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates shall total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees shall be assessed as follows:

1.~~a.~~ Ten dollars, if the contributions received for the last fiscal or calendar year were less than $5,000; ~~or~~

~~b. Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than $50,000 and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such contributions, provided no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer;~~

2. Seventy-five dollars, if the contributions received for the last fiscal year were $5,000 or more, but less than $100,000;

3. One hundred twenty-five dollars, if the contributions received for the last fiscal year were $100,000 or more, but

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less than $200,000;

4. Two hundred dollars, if the contributions received for the last fiscal year were $200,000 or more, but less than $500,000;

5. Three hundred dollars, if the contributions received for the last fiscal year were $500,000 or more, but less than $1 million;

6. Three hundred fifty dollars, if the contributions received for the last fiscal year were $1 million or more, but less than $10 million;

7. Four hundred dollars, if the contributions received for the last fiscal year were $10 million or more.

(7)

(b) If a charitable organization or sponsor discloses information specified in subparagraphs (2)(e)2.-7. ~~subparagraphs (2)(d)2.-7.~~ in the initial registration statement or annual renewal statement, the time limits set forth in paragraph (a) are waived, and the department must ~~shall~~ process such initial registration statement or annual renewal statement in accordance with the time limits set forth in chapter 120. The registration of a charitable organization or sponsor shall be automatically suspended for failure to disclose any information specified in subparagraphs (2)(e)2.-7. ~~subparagraphs (2)(d)2.-7.~~ until such time as the required information is submitted to the department.

Section 18. Paragraph (d) of subsection (1) and paragraph (a) of subsection (2) of section 496.406, Florida Statutes, are amended to read:

496.406 Exemption from registration.—

(1) The following charitable organizations and sponsors are

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exempt from the requirements of s. 496.405:

(d) A charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year if the fundraising activities of such organization or sponsor are carried on by volunteers, members, or officers who are not compensated and no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer. If a charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year actually acquires total contributions ~~revenue~~ equal to or in excess of $50,000, the charitable organization or sponsor must register with the department as required by s. 496.405 within 30 days after the date the contributions reach ~~revenue reaches~~ $50,000.

(2) Before soliciting contributions, a charitable organization or sponsor claiming to be exempt from the registration requirements of s. 496.405 under paragraph (1)(d) must submit annually to the department, on forms prescribed by the department:

(a) The name, street address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose or purposes for which the contributions to be solicited will be used.

Section 19. Paragraph (a) of subsection (1) and subsection (3) of section 496.407, Florida Statutes, are amended to read:

496.407 Financial statement.—

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(1) A charitable organization or sponsor that is required to initially register or annually renew registration must file an annual financial statement for the immediately preceding fiscal year on a form prescribed by the department.

(a) The statement must include the following:

1. A balance sheet.

2. A statement of support, revenue and expenses, and any change in the fund balance.

3. The names and street addresses of the charitable organizations or sponsors, professional fundraising consultant, professional solicitors, and commercial co-venturers used, if any, and the amounts received therefrom, if any.

4. A statement of functional expenses that must include, but is not limited to, expenses in the following categories:

a. Program service costs.

b. Management and general costs.

c. Fundraising costs.

(3) ~~Upon a showing of good cause by a charitable organization or sponsor,~~ The department may extend the time for the filing of a financial statement required under this section ~~by up to 180 days~~, during which time the previous registration shall remain active. The registration must ~~shall~~ be automatically suspended for failure to file the financial statement within the extension period.

Section 20. Paragraph (c) of subsection (2) of section 496.409, Florida Statutes, is amended to read:

496.409 Registration and duties of professional fundraising consultant.—

(2) Applications for registration or renewal of


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registration must be submitted on a form prescribed by the department, signed by an authorized official of the professional fundraising consultant who shall certify that the report is true and correct, and must include the following information:

(c) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

Section 21. Paragraphs (d) and (j) of subsection (2), paragraph (c) of subsection (6), paragraphs (a), (b), and (h) of subsection (10), and subsection (11) of section 496.410, Florida Statutes, are amended to read:

496.410 Registration and duties of professional solicitors.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by rule of the department, signed by an authorized official of the professional solicitor who shall certify that the report is true and correct, and must include the following information:

(d) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

(j) A list of all telephone numbers the applicant will use to solicit contributions as well as the actual street ~~physical~~ address associated with each telephone number and any fictitious names associated with such address.

(6) No less than 15 days before commencing any solicitation campaign or event, the professional solicitor must file with the department a solicitation notice on a form prescribed by the department. The notice must be signed and sworn to by the

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contracting officer of the professional solicitor and must include:

(c) The legal name and street ~~residence~~ address of each person responsible for directing and supervising the conduct of the campaign.

(10) During each solicitation campaign, and for not less than 3 years after its completion, the professional solicitor shall maintain the following records:

(a) The date and amount of each contribution received and the name, street address, and telephone number of each contributor.

(b) The name and ~~residence~~ street address of each employee, agent, and any other person, however designated, who is involved in the solicitation, the amount of compensation paid to each, and the dates on which the payments were made.

(h) If a refund of a contribution has been requested, the name and street address of each person requesting the refund, and, if a refund was made, its amount and the date it was made.

(11) If the professional solicitor sells tickets to any event and represents that the tickets will be donated for use by another person, the professional solicitor also must ~~shall~~ maintain for the same period as specified in subsection (10) the following records:

(a) The name and street address of each contributor who purchases or donates tickets and the number of tickets purchased or donated by the contributor.

(b) The name and street address of each organization that receives the donated tickets for the use of others, and the number of tickets received by the organization.

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Section 22. Paragraph (a) of subsection (2) of section 496.4101, Florida Statutes, is amended to read:

496.4101 Licensure of professional solicitors and certain employees thereof.—

(2) Persons required to obtain a solicitor license under subsection (1) shall submit to the department, in such form as the department prescribes, an application for a solicitor license. The application must include the following information:

(a) The true name, date of birth, unique identification number of a driver license or other valid form of identification, and street ~~home~~ address of the applicant.

Section 23. Paragraph (c) of subsection (2) of section 496.411, Florida Statutes, is amended, and paragraph (e) of that subsection is reenacted, to read:

496.411 Disclosure requirements and duties of charitable organizations and sponsors.—

(2) A charitable organization or sponsor soliciting in this state must include all of the following disclosures at the point of solicitation:

(c) Upon request, the name and either the street address or telephone number of a representative to whom inquiries may be addressed.

(e) Upon request, the source from which a written financial statement may be obtained. Such financial statement must be for the immediate preceding fiscal year and must be consistent with the annual financial statement filed under s. 496.407. The written financial statement must be provided within 14 days after the request and must state the purpose for which funds are raised, the total amount of all contributions raised, the total

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costs and expenses incurred in raising contributions, the total amount of contributions dedicated to the stated purpose or disbursed for the stated purpose, and whether the services of another person or organization have been contracted to conduct solicitation activities.

Section 24. Paragraph (a) of subsection (2) of section 496.4121, Florida Statutes, is amended to read:

496.4121 Collection receptacles used for donations.—

(2) A collection receptacle must display a permanent sign or label on each side which contains the following information printed in letters that are at least 3 inches in height and no less than one-half inch in width, in a color that contrasts with the color of the collection receptacle:

(a) For a collection receptacle used by a person required to register under this chapter, the name, street ~~business~~ address, telephone number, and registration number of the charitable organization or sponsor for whom the solicitation is made.

Section 25. Paragraph (a) of subsection (2) and subsection (6) of section 496.425, Florida Statutes, are amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(2) Any person desiring to solicit funds within a facility shall first obtain a written permit therefor from the authority responsible for the administration of the facility.

(a) An application in writing for such permit must ~~shall~~ be submitted to the authority and must state ~~shall set forth~~:

1. The full name, street ~~mailing~~ address, and telephone number of the person or organization sponsoring, promoting, or

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conducting the proposed activities;

2. The full name, street ~~mailing~~ address, and telephone number of each person who will participate in such activities and of the person who will have supervision of and responsibility for the proposed activities;

3. A description of the proposed activities indicating the type of communication to be involved;

4. The dates on and the hours during which the activities are proposed to be carried out and the expected duration of the proposed activities; and

5. The number of persons to be engaged in such activities.

(6) Each individual solicitor shall display prominently on her or his person a badge or insignia, provided by the solicitor and approved by the authority, bearing the signature of a responsible officer of the authority and that of the solicitor and describing the solicitor by name, age, height, weight, eye color, hair color, street address, and principal occupation and indicating the name of the organization for which funds are solicited.

Section 26. Effective upon this act becoming a law, present paragraphs (k) through (y) of subsection (1) of section 500.03, Florida Statutes, are redesignated as paragraphs (l) through (z), respectively, and a new paragraph (k) is added to that subsection, to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(k) "Cultivated meat" means any meat or food product produced from cultured animal cells.

Section 27. Effective upon this act becoming a law, section

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500.452, Florida Statutes, is created to read:

500.452 Cultivated meat; prohibition; penalties.—

(1) It is unlawful for any person to manufacture, sell, hold or offer for sale, or distribute cultivated meat in this state.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A food establishment that manufactures, distributes, or sells cultivated meat in violation of this section is subject to disciplinary action pursuant to s. 500.121.

(4) In addition to the penalties provided in this section, the license of any restaurant, store, or other business may be suspended as provided in the applicable licensing law upon the conviction of an owner or employee of that business for a violation of this section in connection with that business.

(5) A product found to be in violation of this section is subject to s. 500.172 and an immediate stop-sale order.

(6) The department may adopt rules to implement this section.

Section 28. Subsection (10) is added to section 507.07, Florida Statutes, to read:

507.07 Violations.—It is a violation of this chapter:

(10) For a mover to place a shipper’s goods in a self-service storage unit or self-contained storage unit owned by anyone other than the mover unless those goods are stored in the name of the shipper and the shipper contracts directly with the owner of the self-service storage unit or self-contained storage unit.

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Section 29. Section 531.67, Florida Statutes, is repealed.

Section 30. Paragraphs (d) and (e) of subsection (1) and paragraph (a) of subsection (3) of section 559.904, Florida Statutes, are amended to read:

559.904 Motor vehicle repair shop registration; application; exemption.—

(1) Each motor vehicle repair shop engaged or attempting to engage in the business of motor vehicle repair work must register with the department prior to doing business in this state. The application for registration must be on a form provided by the department and must include at least the following information:

(d) ~~Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant.~~

~~(e)~~ Number of employees who perform repairs at each location or whom ~~which~~ the applicant intends to employ ~~or which are currently employed~~.

(3)(a) Each application for registration must be accompanied by a registration fee for each location calculated on a per-year basis as follows:

1. If the place of business has 1 to 5 employees who perform repairs: $50.

2. If the place of business has 6 to 10 employees who perform repairs: $150.

3. If the place of business has 11 or more employees who perform repairs: $300.

Section 31. Subsections (1) and (2) of section 559.905, Florida Statutes, are amended to read:

559.905 Written motor vehicle repair estimate and

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disclosure statement required.—

(1) When any customer requests a motor vehicle repair shop to perform repair work on a motor vehicle, the cost of which repair work will exceed $150 ~~$100~~ to the customer, the shop shall prepare a written repair estimate, which is a form setting forth the estimated cost of repair work, including diagnostic work, before effecting any diagnostic work or repair. The written repair estimate must ~~shall~~ also include all of the following items:

(a) The name, address, and telephone number of the motor vehicle repair shop.

(b) The name, address, and telephone number of the customer.

(c) The date and time of the written repair estimate.

(d) The year, make, model, odometer reading, and license tag number of the motor vehicle.

(e) The proposed work completion date.

(f) A general description of the customer's problem or request for repair work or service relating to the motor vehicle.

(g) A statement as to whether the customer is being charged according to a flat rate or an hourly rate, or both.

(h) The estimated cost of repair which must ~~shall~~ include any charge for shop supplies or for hazardous or other waste removal and, if a charge is included, the estimate must ~~shall~~ include the following statement:

"This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop

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supplies or waste disposal.”

If a charge is mandated by state or federal law, the estimate must ~~shall~~ contain a statement identifying the law and the specific amount charged under the law.

(i) The charge for making a repair price estimate or, if the charge cannot be predetermined, the basis on which the charge will be calculated.

(j) The customer’s intended method of payment.

(k) The name and telephone number of another person who may authorize repair work, if the customer desires to designate such person.

(l) A statement indicating what, if anything, is guaranteed in connection with the repair work and the time and mileage period for which the guarantee is effective.

(m) A statement allowing the customer to indicate whether replaced parts should be saved for inspection or return.

(n) A statement indicating the daily charge for storing the customer’s motor vehicle after the customer has been notified that the repair work has been completed. However, ~~no~~ storage charges may not ~~shall~~ accrue or be due and payable for a period of 3 working days from the date after ~~of~~ such notification.

(2) If the cost of repair work will exceed $150 ~~$100~~, the shop must ~~shall~~ present to the customer a written notice conspicuously disclosing, in a separate, blocked section, only the following statement, in capital letters of at least 12-point type:

PLEASE READ CAREFULLY, CHECK ONE OF THE STATEMENTS BELOW, AND

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SIGN:

I UNDERSTAND THAT, UNDER STATE LAW, I AM ENTITLED TO A WRITTEN ESTIMATE IF MY FINAL BILL WILL EXCEED $150 ~~$100~~.

.... I REQUEST A WRITTEN ESTIMATE.

.... I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE REPAIR COSTS DO NOT EXCEED $..... THE SHOP MAY NOT EXCEED THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

.... I DO NOT REQUEST A WRITTEN ESTIMATE.

SIGNED ..... DATE ....

Section 32. Subsection (38), of section 570.07, Florida Statutes, is amended to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(38) To repair or build structures, from existing appropriations authority, notwithstanding chapters 216 and 255, not to exceed a cost of $500,000 ~~$250,000~~ per structure. These structures must meet all applicable building codes.

Section 33. Section 570.69, Florida Statutes, is amended to read:

570.69 Definitions; ss. 570.69 and 570.691.—For the purpose of this section and s. 570.691:

(1) "Center" means the Florida Agricultural Legacy Learning Center.

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(2) "Designated program" means the departmental program that ~~which~~ a direct-support organization has been created to support.

(3) ~~(2)~~ "Direct-support organization" or "organization" means an organization that ~~which~~ is a Florida corporation not for profit incorporated under chapter 617 and approved by the department to operate for the benefit of a museum or a designated program.

~~(3) "Museum" means the Florida Agricultural Museum, which is designated as the museum for agriculture and rural history of the State of Florida.~~

Section 34. Subsections (1), (2), (4), (5), and (7) of section 570.691, Florida Statutes, are amended to read:

570.691 Direct-support organization.—

(1) The department may authorize the establishment of direct-support organizations to provide assistance, funding, and promotional support for ~~the museums and other~~ programs of the department. The following provisions ~~shall~~ govern the creation, use, powers, and duties of the direct-support organizations:

(a) The department shall enter into a memorandum or letter of agreement with the direct-support organization, which must ~~shall~~ specify the approval of the department, the powers and duties of the direct-support organization, and rules with which the direct-support organization must comply.

(b) The department may authorize, without charge, appropriate use of property, facilities, and personnel of the department by the direct-support organization. The use must ~~shall~~ be for the approved purposes of the direct-support organization and may not be made at times or places that would

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unreasonably interfere with opportunities for the general public to use department facilities.

(c) The department shall prescribe by agreement conditions with which the direct-support organization must comply in order to use property, facilities, or personnel of the department. Such conditions must ~~shall~~ provide for budget and audit review and oversight by the department.

(d) The department may not authorize the use of property, facilities, or personnel of the center ~~museum~~, department, or designated program by the direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(2)(a) The direct-support organization may conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the center ~~museum~~ or designated program.

(b) Notwithstanding ~~the provisions of~~ s. 287.025(1)(e), the direct-support organization may enter into contracts to insure property of the center ~~museum~~ or designated programs and may insure objects or collections on loan from others in satisfying security terms of the lender.

(4) A department employee, direct-support organization or center ~~museum~~ employee, volunteer, or director, or designated program may not do either of the following:

(a) Receive a commission, fee, or financial benefit in

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connection with the sale or exchange of real or personal property or historical objects to the direct-support organization, the center ~~museum~~, or the designated program.~~; or~~

(b) Be a business associate of any individual, firm, or organization involved in the sale or exchange of real or personal property to the direct-support organization, the center ~~museum~~, or the designated program.

(5) All moneys received by the direct-support organization shall be deposited into an account of the direct-support organization and must ~~shall~~ be used by the organization in a manner consistent with the goals of the center ~~museum~~ or designated program.

(7) The Commissioner of Agriculture, or the commissioner's designee, may serve on the board of trustees and the executive committee of any direct-support organization established to benefit the center ~~museum~~ or any designated program.

Section 35. Section 570.692, Florida Statutes, is amended to read:

570.692 Florida Agricultural Legacy Learning Center ~~Museum~~.—The Florida Agricultural Legacy Learning Center ~~Museum~~ is designated as the legacy learning center for ~~museum of~~ agriculture and rural history of this ~~the~~ state ~~of Florida~~ and is ~~hereby~~ established within the department.

Section 36. Section 581.189, Florida Statutes, is created to read:

581.189 Dealing in, buying, transporting, and processing saw palmetto berries.—

(1) As used in this section, the term:

(a) "Harvest" or "harvesting" means to dig up, remove, or

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cut and remove saw palmetto berries from the place where they are grown.

(b) "Harvester" means a person, firm, or corporation that takes, harvests, or attempts to take or harvest saw palmetto berries.

(c) "Landowner" means:

1. The public agency administering any public lands; or

2. The person who holds legal title to the real property from which saw palmetto berries are harvested or the person having possession, control, or use of that land which has lawful authority to grant permission to harvest saw palmetto berries from the land.

(d) "Person" means an individual, a partnership, a corporation, an association, or any other legal entity.

(e) "Saw palmetto berries" means the fruit of the plant *Serenoa repens*, commonly known as the saw palmetto.

(f) "Saw palmetto berry dealer" means a person that purchases or otherwise obtains saw palmetto berries from a seller for the purpose of selling the saw palmetto berries at retail or for the purpose of selling the saw palmetto berries to another saw palmetto berry dealer or for both such purposes. This term also includes a person who purchases saw palmetto berries directly from a landowner for the purpose of selling the saw palmetto berries at retail.

(g) "Seller" means a person that exchanges or offers to exchange saw palmetto berries for money or for any other valuable consideration.

(2) It is unlawful for any person to willfully destroy, harvest, or sell saw palmetto berries on the private land of

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another or on any public land without first obtaining written permission from the landowner or legal representative of the landowner and a permit from the department as provided in s. 581.185. The landowner's written permission must include all of the following information:

(a) The name, address, and telephone number of the landowner.

(b) The start date, end date, and location, including county, of the harvest.

(c) The landowner's actual or electronic signature.

(3)(a) A saw palmetto berry dealer that purchases saw palmetto berries from a landowner or a person harvesting saw palmetto berries from another's property shall:

1. Maintain a bill of lading, a copy of the harvester's entire permit, as provided in s. 581.185, a copy of the landowner's written permission to harvest, and all of the following:

a. The name, address, and telephone number of the seller.

b. The date or dates of harvesting.

c. The weight, quantity, or volume and a description of the type of saw palmetto berries harvested.

d. A scan or photocopy of a valid government-issued photo identification card of such person.

(b) A person required to maintain the information under paragraph (a) shall retain such records for at least 2 years from the date the harvest ends.

(4)(a) When any law enforcement officer or any authorized employee of the department finds that any saw palmetto berries are being harvested, offered for sale, or exposed for sale in

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violation of this section, the law enforcement officer or authorized department employee may seize or order such saw palmetto berries be held at a designated location until the individual:

1. Provides the officer or employee with the required permit and landowner's written permission to harvest, within 7 calendar days following the seizure; or

2. Legally disposes of the saw palmetto berries in accordance with this section.

(b) A law enforcement officer or authorized department employee shall release the saw palmetto berries when the requirements of this section are met.

(5) Unlawfully harvested saw palmetto berries constitute contraband and are subject to seizure and disposal by the seizing law enforcement agency or the department.

(a) Notwithstanding any other provision of law, a law enforcement agency that seizes saw palmetto berries harvested or possessed in violation of this section or unlawfully harvested in violation of s. 581.185, or in violation of any other state or federal law, may sell such saw palmetto berries and retain the proceeds of the sale for the enforcement of this section. Law enforcement agencies selling contraband saw palmetto berries are exempt from s. 581.185.

(b) Law enforcement agencies that seize unlawfully harvested saw palmetto berries shall submit annually to the department, in the manner prescribed by department rule:

1. The quantity and a description of the saw palmetto berries seized; and

2. The location from which the saw palmetto berries were

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harvested, if known.

(6)(a) A harvester that exchanges or offers to exchange saw palmetto berries with a saw palmetto dealer, seller, or processor for money or any other valuable consideration without first presenting to the saw palmetto berry dealer, seller, processor the person's entire permit, as provided in s. 581.185, or the landowner's written permission commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person required to maintain records as required in this section that fails to maintain such record for the time period specified in paragraph (3)(b) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person that willfully destroys or harvests saw palmetto berries without first obtaining the landowner's written permission to harvest as required by subsection (2) or a permit as required by s. 581.185 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A saw palmetto berry dealer, buyer, processor, harvester, or seller that presents a false, forged, or altered document purporting to be a landowner's written permission or the permit required by s. 581.185 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) A saw palmetto berry dealer, transporter, or processor that exchanges, offers to exchange for money or any other valuable consideration, or possesses unlawfully harvested saw palmetto berries commits a felony of the third degree,

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punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)(a) A person convicted of a violation of this section is responsible for:

1. All reasonable costs incurred by the responding law enforcement agencies and the department, including, but not limited to, investigative costs; and

2. Restitution to the landowner in an amount equal to the fair market value of the saw palmetto berries unlawfully harvested.

(b) For the purposes of this subsection, the term "convicted" means that there has been a determination of guilt as a result of trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(8) This section does not affect any other person that legally harvests or handles saw palmetto berries from up to two plants for home or personal use.

(9) The department shall adopt rules to administer this section.

Section 37. Subsection (13) of section 585.01, Florida Statutes, is amended to read:

585.01 Definitions.—In construing this part, where the context permits, the word, phrase, or term:

(13) "Livestock" means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, poultry, ostriches, emus, and rheas, which are raised for private use or commercial purposes.

Section 38. Subsections (5) and (8) of section 790.0625, Florida Statutes, are amended, and subsections (9) and (10) are added to that section, to read:

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790.0625 Appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties.—

(5) A tax collector appointed under this section may collect and retain a convenience fee of $22 for each new application, ~~and~~ $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photographing services associated with the completion of an application submitted online or by mail, and shall remit weekly to the department the license fees pursuant to s. 790.06 for deposit in the Division of Licensing Trust Fund.

(8) Upon receipt of a completed renewal application, a new color photograph, and ~~appropriate~~ payment of required fees, a tax collector authorized to accept renewal applications for concealed weapon or firearm licenses under this section may, upon approval and confirmation of license issuance by the department, print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.

(9) Upon receipt of a statement under oath to the department and payment of required fees, a tax collector authorized to accept an application for a concealed weapon or firearm license under this section may, upon approval and confirmation from the department that a license is in good standing, print and deliver a concealed weapon or firearm license to a licensee whose license has been lost or destroyed.

(10) Tax collectors authorized to accept an application for

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a concealed weapon or firearm license under this section may provide fingerprinting and photographing services to aid concealed weapon and firearm applicants and licensees with initial and renewal applications submitted online or by mail.

Section 39. Paragraph (a) of subsection (5) of section 810.011, Florida Statutes, is amended to read:

810.011 Definitions.—As used in this chapter:

(5)(a) "Posted land" is land upon which any of the following are placed:

1. Signs placed not more than 500 feet apart along and at each corner of the boundaries of the land or, for land owned by a water control district that exists pursuant to chapter 298 or was created by special act of the Legislature, signs placed at or near the intersection of any district canal right-of-way and a road right-of-way or, for land classified as agricultural pursuant to s. 193.461, signs placed at each point of ingress and at each corner of the boundaries of the agricultural land, which prominently display in letters of not less than 2 inches in height the words "no trespassing" and the name of the owner, lessee, or occupant of the land. The signs must be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line; or

2.a. A conspicuous no trespassing notice is painted on trees or posts on the property, provided that the notice is:

(I) Painted in an international orange color and displaying the stenciled words "No Trespassing" in letters no less than 2 inches high and 1 inch wide either vertically or horizontally;

(II) Placed so that the bottom of the painted notice is not

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less than 3 feet from the ground or more than 5 feet from the ground; and

(III) Placed at locations that are readily visible to any person approaching the property and no more than 500 feet apart on agricultural land.

b. When a landowner uses the painted no trespassing posting to identify a no trespassing area, those painted notices must be accompanied by signs complying with subparagraph 1. and must be placed conspicuously at all places where entry to the property is normally expected or known to occur.

Section 40. Subsection (2) of section 810.09, Florida Statutes, is amended to read:

810.09 Trespass on property other than structure or conveyance.—

(2) ~~(a)~~ Except as provided in this subsection, trespass on property other than a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(a) ~~(b)~~ If the offender defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) ~~(c)~~ If the offender is armed with a firearm or other dangerous weapon during the commission of the offense of

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trespass on property other than a structure or conveyance, he or she commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he or she reasonably believes that a violation of this paragraph has been or is being committed, and that the person to be taken into custody and detained has committed or is committing the violation. If a person is taken into custody, a law enforcement officer must ~~shall~~ be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention in compliance with the requirements of this paragraph does not result in criminal or civil liability for false arrest, false imprisonment, or unlawful detention.

(c) ~~(d)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed is a construction site that is:

1. Greater than 1 acre in area and is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."; or

2. One acre or less in area and is identified as such with a sign that appears prominently, in letters of not less than 2 inches in height, and reads in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY." The sign must ~~shall~~ be placed at the location on the property where the permits for construction are located. For construction sites of

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1 acre or less as provided in this subparagraph, it may ~~shall~~ not be necessary to give notice by posting as defined in s. 810.011(5).

(d) ~~(c)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: "THIS AREA IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(e) ~~(f)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(f) ~~(g)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is a domestic violence center certified under s. 39.905 which is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED RESTRICTED SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(g) ~~(h)~~ Any person who in taking or attempting to take any animal described in s. 379.101(19) or (20), or in killing, attempting to kill, or endangering any animal described in s. 585.01(13) knowingly propels or causes to be propelled any potentially lethal projectile over or across private land

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without authorization commits trespass, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term "potentially lethal projectile" includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This section does not apply to any governmental agent or employee acting within the scope of his or her official duties.

(h) ~~(i)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural chemicals manufacturing facility that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(i)1. ~~(j)1.~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offender trespasses with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway, taxiway, ramp, or apron area, and the property trespassed upon is the operational area of an airport that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

2. For purposes of this paragraph, the term "operational area of an airport" means any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas,

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maintenance areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

(j) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offender trespasses with the intent to commit a crime on commercial agricultural property that is legally posted and identified by signs in letters of at least 2 inches at each pedestrian and vehicle entrance in substantially the following manner: "THIS AREA IS A DESIGNATED COMMERCIAL AGRICULTURAL PROPERTY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

1. A first-time offender who is under 18 years of age at the time he or she commits the crime specified in this paragraph must be given the option of participating in a diversion program described in s. 958.12, s. 985.125, s. 985.155, or s. 985.16 or a program to which a referral is made by a state attorney under s. 985.15.

2. For the purpose of this paragraph, the term "commercial agricultural property" means property cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, raising, producing, or storing plant or animal commercial commodities.

Section 41. Subsection (5) is added to section 1003.24, Florida Statutes, to read:

1003.24 Parents responsible for attendance of children; attendance policy.—Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law. The absence of a student from school is

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prima facie evidence of a violation of this section; however, criminal prosecution under this chapter may not be brought against a parent until the provisions of s. 1003.26 have been complied with. A parent of a student is not responsible for the student's nonattendance at school under any of the following conditions:

(5) AGRICULTURAL SCHOOL ACTIVITIES.—

(a) A student who participates in an activity or program sponsored by 4-H or Future Farmers of America (FFA) must be credited with an excused absence by the school in which he or she is enrolled in the same manner as any other excused absence is credited. Any such participation in an activity or program sponsored by 4-H or FFA may not be counted as an unexcused absence, for any day, portion of a day, or days missed from school.

(b) Upon request from a school principal or the principal's designee, a 4-H or FFA representative shall provide documentation as proof of a student's participation in an activity or program sponsored by 4-H or FFA.

(c) As used in this subsection, the term "4-H representative" means an individual officially recognized or designated by the Florida Cooperative Extension Service 4-H Program as a 4-H professional or a 4-H adult volunteer.

Each district school board shall establish an attendance policy that includes, but is not limited to, the required number of days each school year that a student must be in attendance and the number of absences and tardinesses after which a statement explaining such absences and tardinesses must be on file at the

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school. Each school in the district must determine if an absence or tardiness is excused or unexcused according to criteria established by the district school board.

Section 42. Paragraph (b) of subsection (2) of section 379.3004, Florida Statutes, is amended to read:

379.3004 Voluntary Authorized Hunter Identification Program.—

(2) Any person hunting on private land enrolled in the Voluntary Authorized Hunter Identification Program shall have readily available on the land at all times when hunting on the property written authorization from the owner or his or her authorized representative to be on the land for the purpose of hunting. The written authorization shall be presented on demand to any law enforcement officer, the owner, or the authorized agent of the owner.

(b) Failure by any person hunting on private land enrolled in the program to present written authorization to hunt on that ~~said~~ land to any law enforcement officer or the owner or representative thereof within 7 days after ~~of~~ demand shall be prima facie evidence of violation of s. 810.09(2)(b) ~~s. 810.09(2)(c)~~, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, such evidence may be contradicted or rebutted by other evidence.

Section 43. Paragraph (c) of subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s.

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775.083, or s. 775.084, if the property stolen is:

1. Valued at $750 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm, except as provided in paragraph (f).

6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is a commercially farmed animal, including an animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; or an aquaculture species raised at a certified aquaculture facility, a $10,000 fine shall be imposed.

8. Any fire extinguisher that, at the time of the taking, was installed in any building for the purpose of fire prevention and control. This subparagraph does not apply to a fire extinguisher taken from the inventory at a point-of-sale business.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(c) ~~s. 810.09(2)(d)~~.

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s.

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893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at $5,000 or more, but less than $10,000, as provided under subparagraph 2., or if the property is valued at $10,000 or more, but less than $20,000, as provided under subparagraph 3. As used in this paragraph, the terms “conditions arising from a riot” and “conditions arising from the emergency” have the same meanings as provided in paragraph (b). A person arrested for committing a theft during a riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one

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level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 44. Paragraphs (b) and (c) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous

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		waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.

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806.13(3)	3rd	Criminal mischief; damage of $200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(d) ~~810.09(2)(c)~~	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $750, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.

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817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.

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826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.

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832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.
843.08	3rd	False personation.
843.19(3)	3rd	Touch or strike police, fire, SAR canine or police horse.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(c) LEVEL 3

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Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.

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319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431	3rd	Taking, disturbing,

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	(1)(e)5.		mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
1667			
	379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
1668			
	379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
1669			
	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
1670			

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400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.

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697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(b) ~~810.09(2)(c)~~	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more

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			but less than $10,000.
1683			
	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
1684			
	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
1685			
	812.081(2)	3rd	Theft of a trade secret.
1686			
	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
1687			
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
1688			
	817.233	3rd	Burning to defraud insurer.
1689			
	817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
1690			
	817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.

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817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification

			cards.
1697			
	836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
1698			
	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
1699			
	860.15(3)	3rd	Overcharging for repairs and parts.
1700			
	870.01(2)	3rd	Riot.
1701			
	870.01(4)	3rd	Inciting a riot.
1702			
	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
1703			
	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2.,

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			(2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
1704			
	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
1705			
	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
1706			
	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
1707			
	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a

			controlled substance.
1708			
	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
1709			
	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
1710			
	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
1711			
	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner’s practice.
1712			
	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner’s practice to assist a patient, other

			person, or owner of an animal in obtaining a controlled substance.
1713			
	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
1714			
	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
1715			
	918.13(1)	3rd	Tampering with or fabricating physical evidence.
1716			
	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
1717			
	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
1718			

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985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

Section 45. For the purpose of incorporating the amendment made by this act to section 493.6113, Florida Statutes, in a reference thereto, subsection (6) of section 493.6115, Florida Statutes, is reenacted to read:

493.6115 Weapons and firearms.—

(6) In addition to any other firearm approved by the department, a licensee who has been issued a Class "G" license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a .357 caliber revolver with .38 caliber ammunition only; or a .40 caliber handgun; or a .45 ACP handgun while performing duties authorized under this chapter. A licensee may not carry more than two firearms upon her or his person when performing her or his duties. A licensee may only carry a firearm of the specific type and caliber with which she or he is qualified pursuant to the firearms training referenced in subsection (8) or s. 493.6113(3)(b).

Section 46. For the purpose of incorporating the amendment made by this act to section 496.405, Florida Statutes, in references thereto, subsection (2) of section 496.4055, Florida Statutes, is reenacted to read:

496.4055 Charitable organization or sponsor board duties.—

(2) The board of directors, or an authorized committee thereof, of a charitable organization or sponsor required to

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register with the department under s. 496.405 shall adopt a policy regarding conflict of interest transactions. The policy shall require annual certification of compliance with the policy by all directors, officers, and trustees of the charitable organization. A copy of the annual certification shall be submitted to the department with the annual registration statement required by s. 496.405.

Section 47. For the purpose of incorporating the amendment made by this act to section 559.905, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 559.907, Florida Statutes, is reenacted to read:

559.907 Charges for motor vehicle repair estimate; requirement of waiver of rights prohibited.—

(1) No motor vehicle repair shop shall charge for making a repair price estimate unless, prior to making the price estimate, the shop:

(b) Obtains authorization on the written repair estimate, in accordance with s. 559.905, to prepare an estimate. No motor vehicle repair shop shall impose or threaten to impose any such charge which is clearly excessive in relation to the work involved in making the price estimate.

Section 48. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, subsection (6) of section 468.382, Florida Statutes, is reenacted to read:

468.382 Definitions.—As used in this act, the term:

(6) "Livestock" means any animal included in the definition of "livestock" by s. 585.01 or s. 588.13.

Section 49. For the purpose of incorporating the amendment

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made by this act to section 585.01, Florida Statutes, in a reference thereto, subsection (3) of section 534.47, Florida Statutes, is reenacted to read:

534.47 Definitions.—As used in ss. 534.48-534.54, the term:

(3) "Livestock" has the same meaning as in s. 585.01(13).

Section 50. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, section 767.01, Florida Statutes, is reenacted to read:

767.01 Dog owner's liability for damages to persons, domestic animals, or livestock.—Owners of dogs shall be liable for any damage done by their dogs to a person or to any animal included in the definitions of "domestic animal" and "livestock" as provided by s. 585.01.

Section 51. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, section 767.03, Florida Statutes, is reenacted to read:

767.03 Good defense for killing dog.—In any action for damages or of a criminal prosecution against any person for killing or injuring a dog, satisfactory proof that said dog had been or was killing any animal included in the definitions of "domestic animal" and "livestock" as provided by s. 585.01 shall constitute a good defense to either of such actions.

Section 52. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2024.

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1802 ================ T I T L E A M E N D M E N T ================
1803 And the title is amended as follows:
1804 Delete everything before the enacting clause
1805 and insert:
1806 A bill to be entitled
1807 An act relating to the Department of Agriculture and
1808 Consumer Services; amending s. 253.0341, F.S.;
1809 requiring the Acquisition and Restoration Council to
1810 determine whether certain lands are within a Florida
1811 wildlife corridor opportunity area; prohibiting local
1812 governmental entities from transferring future
1813 development rights for such lands; authorizing the
1814 Department of Environmental Protection to surplus
1815 certain lands within the Florida wildlife corridor;
1816 requiring the department to retain certain easements
1817 and deposit certain proceeds into the Department of
1818 Agriculture and Consumer Services' Incidental Trust
1819 Fund for a specified purpose; requiring the Department
1820 of Environmental Protection to provide an annual
1821 report of surplused conservation lands to the Board of
1822 Trustees of the Internal Improvement Trust Fund by a
1823 specified date; amending s. 366.94, F.S.; preempting
1824 the regulation of electric vehicle charging stations
1825 to the state; prohibiting local governmental entities
1826 from enacting or enforcing such regulations; amending
1827 s. 373.089, F.S.; requiring certain documentation by
1828 water management districts for surplus lands;
1829 prohibiting future development rights from being
1830 attached to such lands; amending ss. 482.111, 482.151,

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and 482.155, F.S.; providing that a pest control operator's certificate, a special identification card, and certain limited certifications for pesticide applicators, respectively, expire a specified length of time after issuance; revising renewal requirements for such certificates and cards; amending s. 482.156, F.S.; revising the tasks, pesticides, and equipment that individual commercial landscape maintenance personnel with limited certifications may perform and use; revising the initial and renewal certification requirements for such personnel; amending s. 482.157, F.S.; providing that a limited certification for commercial wildlife management personnel expires a specified length of time after issuance; revising renewal certification requirements for such personnel; amending s. 482.161, F.S.; authorizing the department to take disciplinary action against a person who swears to or affirms a false statement on certain applications, cheats on a required examination, or violates certain procedures under certain circumstances; amending s. 482.191, F.S.; providing penalties for a person who swears to or affirms a false statement on certain applications; providing that cheating on certain examinations or violating certain examination procedures voids an examinee's exam attempt; authorizing the department to adopt rules establishing penalties for such a violation; authorizing the department to exercise discretion in assessing penalties in certain circumstances; amending

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s. 482.226, F.S.; requiring pest control licensees to provide property owners or their agents with a signed report that meets certain requirements after each inspection; amending s. 487.031, F.S.; prohibiting a person from swearing to or affirming a false statement on certain pesticide applicator license applications, cheating on a required examination, or violating certain procedures; making technical changes; amending s. 487.175, F.S.; providing penalties for a person who swears to or affirms a false statement on certain applications; providing that cheating on certain examinations or violating certain examination procedures voids an examinee's exam attempt; requiring the department to adopt rules establishing penalties for such a violation; authorizing the department to exercise discretion in assessing penalties in certain circumstances; amending s. 493.6113, F.S.; authorizing Class "G" licensees to qualify for multiple calibers of firearms in one requalification class under certain circumstances; creating s. 493.6127, F.S.; authorizing the department to appoint tax collectors to accept new, renewal, and replacement license applications under certain circumstances; requiring the department to establish by rule the types of licenses the tax collectors may accept; providing an application process for tax collectors who wish to perform such functions; providing that certain confidential information contained in the records of an appointed tax collector retains its confidentiality; prohibiting

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any person not appointed to do so from accepting an application for a license for a fee or compensation; authorizing tax collectors to collect and retain certain convenience fees; requiring the tax collectors to remit certain fees to the department for deposit in the Division of Licensing Trust Fund; providing penalties; amending s. 496.404, F.S.; defining the term "street address"; amending s. 496.405, F.S.; revising the information that charitable organizations and sponsors must provide to the department in an initial registration statement; deleting certain fees; amending s. 496.406, F.S.; revising the circumstances under which charitable organizations or sponsors are exempt from specified provisions; revising the information that charitable organizations and sponsors must provide to the department when claiming certain exemptions; amending s. 496.407, F.S.; revising the information charitable organizations or sponsors are required to provide to the department when initially registering or annually renewing a registration; revising circumstances under which the department may extend the time for filing a required final statement; amending ss. 496.409, 496.410, 496.4101, 496.411, 496.4121, and 496.425, F.S.; revising the information that professional fundraising consultants must include in applications for registration or renewals of registration, that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to the

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department, that professional solicitors are required to maintain in their records, that must be included in certain solicitor license applications, that disclosures of charitable organizations or sponsors soliciting in this state must include, that must be displayed on certain collection receptacles, and that a person desiring to solicit funds within a facility must provide in an application to the department and must display prominently on his or her badge or insignia, respectively, to include street addresses; amending s. 500.03, F.S.; defining the term "cultivated meat"; creating s. 500.452, F.S.; prohibiting the manufacture, sale, holding or offering for sale, or distribution of cultivated meat in this state; providing criminal penalties; providing for disciplinary action and additional licensing penalties; providing that such products are subject to certain actions and orders; authorizing the department to adopt rules; amending s. 507.07, F.S.; prohibiting a mover from placing a shipper's goods in a self-service storage unit or self-contained unit not owned by the mover unless certain conditions are met; repealing s. 531.67, F.S., relating to the scheduled expiration of certain provisions related to weights, measurements, and standards; amending s. 559.904, F.S.; revising the information that must be provided to the department on a motor vehicle repair shop registration application; providing that the registration fee must be calculated for each location;

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amending s. 559.905, F.S.; revising the cost of repair work which requires a motor vehicle repair shop to provide a customer with a written repair estimate; amending s. 570.07, F.S.; revising the amount up to which the department is authorized to use to repair or build structures; amending s. 570.69, F.S.; defining the term "center"; deleting the definition of the term "museum"; amending s. 570.691, F.S.; conforming provisions to changes made by the act; amending s. 570.692, F.S.; renaming the Florida Agricultural Museum as the Florida Agricultural Legacy Learning Center; creating s. 581.189, F.S.; defining terms; prohibiting the willful destruction, harvest, or sale of saw palmetto berries without first obtaining written permission from the landowner or legal representative and a permit from the department; specifying the information that the landowner's written permission must include; requiring an authorized saw palmetto berry dealer to maintain certain information for a specified timeframe; authorizing law enforcement officers or authorized employees of the department to seize or order to be held for a specified timeframe saw palmetto berries harvested, sold, or exposed for sale in violation of specified provisions; declaring that unlawfully harvested saw palmetto berries constitute contraband and are subject to seizure and disposal; authorizing law enforcement agencies that seize such saw palmetto berries to sell the berries and retain the proceeds to

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implement certain provisions; providing that such law enforcement agencies are exempt from certain provisions; requiring the law enforcement agencies to submit certain information annually to the department; providing criminal penalties; providing that individuals convicted of such violations are responsible for specified costs; defining the term "convicted"; providing construction; requiring the department to adopt rules; amending s. 585.01, F.S.; revising the definition of the term "livestock" to include poultry; amending s. 790.0625, F.S.; authorizing certain tax collectors to collect and retain certain convenience fees for certain concealed weapon or firearm license applications; authorizing such tax collectors to print and deliver replacement licenses to licensees under certain circumstances; authorizing such tax collectors to provide fingerprinting and photography services; amending s. 810.011, F.S.; revising the definition of the term "posted land" to include land classified as agricultural which has specified signs placed at specified points; amending s. 810.09, F.S.; providing criminal penalties for trespassing with the intent to commit a crime on commercial agricultural property under certain circumstances; defining the term "commercial agricultural property"; amending s. 1003.24, F.S.; providing that a student's participation in a 4-H or Future Farmers of America activity is an excused absence from school; defining

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the term "4-H representative"; amending ss. 379.3004, 812.014, and 921.0022, F.S.; conforming cross-references; reenacting s. 493.6115(6), F.S., relating to weapons and firearms, to incorporate the amendment made to s. 493.6113, F.S., in a reference thereto; reenacting s. 496.4055(2), F.S., relating to charitable organization or sponsor board duties, to incorporate the amendment made to s. 496.405, F.S., in references thereto; reenacting s. 559.907(1)(b), F.S., relating to the charges for motor vehicle repair estimates, to incorporate the amendment made to s. 559.905, F.S., in a reference thereto; reenacting ss. 468.382(6), 534.47(3), 767.01, and 767.03, F.S., relating to the definition of the term "livestock" for auctions, livestock markets, dog owner's liability for damages to livestock, and defenses for killing dogs, respectively, to incorporate the amendment made to s. 585.01, F.S., in references thereto; providing effective dates.

509132

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Collins) recommended the following:

Senate Amendment to Amendment (549006) (with title amendment)

Delete lines 5 - 60
and insert:
Section 1. Subsection (2) of section 366.94, Florida Statutes, is amended to read:
366.94 Electric vehicle charging stations.—
(2) The regulation of electric vehicle charging stations is preempted to the state.

509132

(a) A local governmental entity may not enact or enforce an ordinance or regulation related to electric vehicle charging stations.

(b) The Department of Agriculture and Consumer Services shall adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for electric vehicle charging stations to allow for consistency for consumers and the industry.

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

And the title is amended as follows:

Delete lines 1808 - 1830

and insert:

Consumer Services; amending s. 366.94, F.S.; preempting the regulation of electric vehicle charging stations to the state; prohibiting local governmental entities from enacting or enforcing such regulations; amending ss. 482.111, 482.151,

396656

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/09/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Berman) recommended the following:

Senate Amendment to Amendment (549006) (with directory and title amendments)

Delete lines 15 - 26.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:
Delete line 5
and insert:
Section 1. Subsection (19) is added to section

396656

11
12 ================ T I T L E A M E N D M E N T ================
13 And the title is amended as follows:
14 Delete lines 1813 - 1823
15 and insert:
16 development rights for such lands; amending s. 366.94,
17 F.S.; preempting

By Senator Collins

14-00529E-24 20241084__

A bill to be entitled

An act relating to the Department of Agriculture and Consumer Services; amending s. 366.94, F.S.; preempting the regulation of electric vehicle charging stations to the state; prohibiting local governmental entities from enacting or enforcing such regulations; amending ss. 482.111, 482.151, and 482.155, F.S.; providing that a pest control operator's certificate, a special identification card, and certain limited certifications for pesticide applicators, respectively, expire a specified length of time after issuance; revising renewal requirements for such certificates and cards; amending s. 482.156, F.S.; revising the tasks, pesticides, and equipment that individual commercial landscape maintenance personnel with limited certifications may perform and use; revising the initial and renewal certification requirements for such personnel; deleting a requirement that certificateholders maintain certain records; amending s. 482.157, F.S.; providing that a limited certification for commercial wildlife management personnel expires a specified length of time after issuance; revising renewal certification requirements for such personnel; amending s. 482.161, F.S.; authorizing the department to take disciplinary action against a person who swears to or affirms a false statement on certain applications, cheats on a required examination, or violates certain procedures under certain circumstances; amending s. 482.191,

14-00529E-24 20241084__

F.S.; providing penalties for a person who swears to or affirms a false statement on certain applications; providing that cheating on certain examinations or violating certain examination procedures voids an examinee's exam attempt; authorizing the department to adopt rules establishing penalties for such a violation; authorizing the department to exercise discretion in assessing penalties in certain circumstances; amending s. 482.226, F.S.; requiring pest control licensees to provide property owners or their agents with a signed report that meets certain requirements after each inspection or treatment; amending s. 487.031, F.S.; prohibiting a person from swearing to or affirming a false statement on certain pesticide applicator license applications, cheating on a required examination, or violating certain procedures; making technical changes; amending s. 487.175, F.S.; providing penalties for a person who swears to or affirms a false statement on certain applications; providing that cheating on certain examinations or violating certain examination procedures voids an examinee's exam attempt; requiring the department to adopt rules establishing penalties for such a violation; authorizing the department to exercise discretion in assessing penalties in certain circumstances; amending s. 493.6113, F.S.; authorizing Class "G" licensees to qualify for multiple calibers of firearms in one requalification class under certain circumstances; creating s. 493.6127, F.S.; authorizing

the department to appoint tax collectors to accept new, renewal, and replacement license applications under certain circumstances; requiring the department to establish by rule the types of licenses the tax collectors may accept; providing an application process for tax collectors who wish to perform such functions; providing that certain confidential information contained in the records of an appointed tax collector retains its confidentiality; prohibiting any person not appointed to do so from accepting an application for a license for a fee or compensation; authorizing tax collectors to collect and retain certain convenience fees; requiring the tax collectors to remit certain fees to the department for deposit in the Division of Licensing Trust Fund; providing penalties; amending s. 496.404, F.S.; defining the term "street address"; amending ss. 496.405 and 496.406, F.S.; revising the information that charitable organizations and sponsors must provide to the department in an initial registration statement and when claiming certain exemptions, respectively, to include certain street addresses; amending s. 496.407, F.S.; revising the information charitable organizations or sponsors are required to provide to the department when initially registering or annually renewing a registration; revising circumstances under which the department may extend the time for filing a required final statement; amending ss. 496.409, 496.410, 496.4101, 496.411, 496.4121, and 496.425,

F.S.; revising the information that professional fundraising consultants must include in applications for registration or renewals of registration, that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to the department, that professional solicitors are required to maintain in their records, that must be included in certain solicitor license applications, that disclosures of charitable organizations or sponsors soliciting in this state must include, that must be displayed on certain collection receptacles, and that a person desiring to solicit funds within a facility must provide in an application to the department and must display prominently on his or her badge or insignia, respectively, to include street addresses; amending s. 500.03, F.S.; defining the term "cultivated meat"; creating s. 500.452, F.S.; prohibiting the manufacture, sale, holding or offering for sale, or distribution of cultivated meat in this state; providing criminal penalties; providing for disciplinary action and additional licensing penalties; providing that such products are subject to certain actions and orders; authorizing the department to adopt rules; amending s. 507.07, F.S.; prohibiting a mover from placing a shipper's goods in a self-service storage unit or self-contained unit not owned by the mover unless certain conditions are met; repealing s. 531.67, F.S., relating to the scheduled

expiration of certain statute sections related to weights, measurements, and standards; amending s. 559.904, F.S.; revising the information that must be provided to the department on a motor vehicle repair shop registration application; providing that the registration fee must be calculated for each location; amending s. 559.905, F.S.; revising the cost of repair work which requires a motor vehicle repair shop to provide a customer with a written repair estimate; amending s. 570.69, F.S.; defining the term "center"; deleting the definition of the term "museum"; amending s. 570.691, F.S.; conforming provisions to changes made by the act; amending s. 570.692, F.S.; renaming the Florida Agricultural Museum as the Florida Agricultural Legacy Learning Center; creating s. 581.189, F.S.; defining terms; prohibiting the willful destruction, harvest, or sale of saw palmetto berries without first obtaining written permission from the landowner or legal representative and a permit from the department; specifying the information that the landowner's written permission must include; requiring an authorized saw palmetto berry dealer to maintain certain information for a specified timeframe; authorizing law enforcement officers or authorized employees of the department to seize or order to be held for a specified timeframe saw palmetto berries harvested, sold, or exposed for sale in violation of specified provisions; declaring that unlawfully harvested saw palmetto berries constitute contraband

and are subject to seizure and disposal; authorizing law enforcement agencies that seize such saw palmetto berries to sell the berries and retain the proceeds to implement certain provisions; providing that such law enforcement agencies are exempt from certain provisions; requiring the law enforcement agencies to submit certain information annually to the department; providing criminal penalties; providing that individuals convicted of such violations are responsible for specified costs; defining the term "convicted"; providing construction; requiring the department to adopt rules; amending s. 585.01, F.S.; revising the definition of the term "livestock" to include poultry; amending s. 790.0625, F.S.; authorizing certain tax collectors to collect and retain certain convenience fees for certain concealed weapon or firearm license applications; authorizing such tax collectors to print and deliver replacement licenses to licensees under certain circumstances; authorizing such tax collectors to provide fingerprinting and photographing services; amending s. 810.011, F.S.; revising the definition of the term "posted land" to include land classified as agricultural which has specified signs placed at specified points; amending s. 810.09, F.S.; providing criminal penalties for trespassing with the intent to commit a crime on commercial agricultural property under certain circumstances; defining the term "commercial agricultural property"; amending s.

1003.24, F.S.; providing that a student's participation in a 4-H or Future Farmers of America activity is an excused absence from school; defining the term "4-H representative"; amending ss. 379.3004, 812.014, and 921.0022, F.S.; conforming cross-references; reenacting s. 493.6115(6), F.S., relating to weapons and firearms, to incorporate the amendment made to s. 493.6113, F.S., in a reference thereto; reenacting s. 496.4055(2), F.S., relating to charitable organization or sponsor board duties, to incorporate the amendment made to s. 496.405, F.S., in references thereto; reenacting s. 559.907(1)(b), F.S., relating to the charges for motor vehicle repair estimates, to incorporate the amendment made to s. 559.905, F.S., in a reference thereto; reenacting ss. 468.382(6), 534.47(3), 767.01, and 767.03, F.S., relating to the definition of the term "livestock" for auctions, livestock markets, dog owner's liability for damages to livestock, and defenses for killing dogs, respectively, to incorporate the amendment made to s. 585.01, F.S., in references thereto; providing effective dates.

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

Section 1. Subsection (2) of section 366.94, Florida Statutes, is amended to read:

366.94 Electric vehicle charging stations.—

(2) The regulation of electric vehicle charging stations is

preempted to the state.

(a) A local governmental entity may not enact or enforce an ordinance or regulation related to electric vehicle charging stations.

(b) The Department of Agriculture and Consumer Services shall adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for electric vehicle charging stations to allow for consistency for consumers and the industry.

Section 2. Subsections (3), (4), and (10) of section 482.111, Florida Statutes, are amended to read:

482.111 Pest control operator's certificate.—

(3) A certificate expires 1 year after the date of issuance. Annually, on or before the 1-year ~~an~~ anniversary of the date of issuance ~~set by the department~~, an individual ~~so~~ issued a pest control operator's certificate must apply to the department on a form prescribed by the department to renew the ~~for renewal of such~~ certificate. After a grace period not exceeding 60 ~~30~~ calendar days following such renewal date, the department shall assess a late renewal charge of $50 ~~shall be assessed~~ and the certificateholder must pay the late renewal charge ~~be paid~~ in addition to the renewal fee.

(4) If a certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education units under subsection (10) within 60 days after the certificate's expiration date, the certificateholder may be recertified only after reexamination ~~Unless timely renewed, a certificate automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such~~

~~expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination and issuance fees due~~.

(10) In order to renew ~~Prior to the expiration date of~~ a certificate, the certificateholder must complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate or must pass an examination given by the department. The department may not renew a certificate if the continuing education or examination requirement is not met.

(a) Courses or programs, to be considered for credit, must include one or more of the following topics:

1. The law and rules of this state pertaining to pest control.

2. Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application of pesticides.

3. Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.

4. Current accepted industry practices in the conducting of fumigation, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and household pest control.

5. How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels used in pest control.

6. Integrated pest management.

(b) The certificateholder must submit with her or his

application for renewal a statement certifying that she or he has completed the required number of hours of continuing education. The statement must be on a form prescribed by the department and must identify at least the date, location, provider, and subject of the training and must provide such other information as required by the department.

(c) The department shall charge the same fee for examination as provided in s. 482.141(2).

Section 3. Subsections (6), (7), and (8) of section 482.151, Florida Statutes, are amended to read:

482.151 Special identification card for performance of fumigation.—

(6) A special identification card expires 1 year after the date of issuance. A cardholder must apply ~~An application~~ to the department to renew his or her ~~for renewal of a~~ special identification card ~~must be made~~ on or before the 1-year ~~an~~ anniversary of the date of issuance ~~set by the department~~. The department shall set the fee for renewal of a special identification card ~~shall be set by the department~~ but the fee may not be more than $100 or less than $50; however, until a rule setting this fee is adopted by the department, the renewal fee is ~~shall be~~ $50. After a grace period not exceeding 60 ~~30~~ calendar days following such renewal date, the department shall assess a late renewal charge of $25, which the cardholder must pay ~~be paid~~ in addition to the renewal fee.

(7) If a cardholder fails to renew his or her card and provide proof of completion of the continuing education units required by subsection (8) within 60 days after the expiration date, the cardholder may be reissued a special identification

card only after reexamination ~~Unless timely renewed, a special identification card automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a special identification card may be issued only upon successful reexamination and upon payment of examination and issuance fees due, as provided in this section~~.

(8) In order to renew ~~Prior to the expiration date of~~ a special identification card, the cardholder must do at least one of the following:

(a) Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category.~~; or~~

(b) Pass an examination in fumigation given by the department.

Section 4. Paragraph (b) of subsection (1) of section 482.155, Florida Statutes, is amended to read:

482.155 Limited certification for governmental pesticide applicators or private applicators.—

(1)

(b) A person seeking limited certification under this subsection must pass an examination given or approved by the department. Each application for examination must be accompanied by an examination fee set by the department, in an amount of not more than $150 or less than $50; and a recertification fee of $25 every 4 years. Until rules setting these fees are adopted by the department, the examination fee is $50. Application for recertification must be accompanied by proof of having completed 4 classroom hours of acceptable continuing education. The limited certificate expires 4 years after the date of issuance.

If the certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination. The department shall provide the appropriate reference material and make the examination readily accessible and available to all applicants at least quarterly or as necessary in each county.

Section 5. Subsections (1), (2), (3), and (5) of section 482.156, Florida Statutes, are amended to read:

482.156 Limited certification for commercial landscape maintenance personnel.—

(1) The department shall establish a limited certification category for individual commercial landscape maintenance personnel to authorize them to apply herbicides for controlling weeds in plant beds, driveways, sidewalks, and patios and to perform integrated pest management on ornamental plants using pesticides that do not have a ~~insecticides and fungicides having the~~ signal word or that have the signal word "caution" but do not have ~~having~~ the signal word "warning" or "danger" on the label. The application equipment that may be used by a person certified pursuant to this section is limited to portable, handheld application equipment and ~~3-gallon compressed air sprayers or~~ backpack sprayers but ~~having no more than a 5-gallon capacity and~~ does not include any type of power equipment.

(2)~~(a)~~ A person seeking limited certification under this section must pass an examination given by the department. Each application for examination must be accompanied by an examination fee set by rule of the department, in an amount of not more than $150 or less than $50. Before the department

issues ~~Prior to the department's issuing~~ a limited certification under this section, each person applying for the certification must furnish proof of having a certificate of insurance which states that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage required by s. 482.071(4).

~~(b) To be eligible to take the examination, an applicant must have completed 6 classroom hours of plant bed and ornamental continuing education training approved by the department and provide sufficient proof, according to criteria established by department rule.~~ The department shall provide the appropriate reference materials for the examination and make the examination readily accessible and available to applicants at least quarterly or as necessary in each county.

(3) A certificate expires 1 year after the date of issuance. A certificateholder must apply to the department to renew his or her certificate on or before the 1-year anniversary of the date of issuance. The ~~An~~ application ~~for recertification under this section~~ must ~~be made annually and~~ be accompanied by a recertification fee set by rule of the department, in an amount of not more than $75 or less than $25. The application must also be accompanied by proof of having completed 4 classroom hours of acceptable continuing education and the same proof of having a certificate of insurance as is required for issuance of this certification. After a grace period not exceeding 60 ~~30~~ calendar days following the annual date that recertification is due, a late renewal charge of $50 shall be assessed and must be paid in addition to the renewal fee. If a certificateholder fails to renew his or her certificate and provide proof of completing the

required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination ~~Unless timely recertified, a certificate automatically expires 180 calendar days after the anniversary recertification date~~. ~~Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination fees due.~~

~~(5) A person certified under this section shall maintain records documenting the pests and areas treated, plus the methods and materials applied for control of such pests, which records must be available for review by the department upon request.~~

Section 6. Subsection (3) of section 482.157, Florida Statutes, is amended to read:

482.157 Limited certification for commercial wildlife management personnel.—

(3) A certificate expires 1 year after the date of issuance. A certificateholder must apply to the department to renew his or her certificate on or before the 1-year anniversary of the date of issuance. The ~~An~~ application ~~for recertification~~ must ~~be made annually and~~ be accompanied by a recertification fee of at least $75, but not more than $150, as prescribed by the department by rule. The application must also be accompanied by proof of completion of the required 4 classroom hours of acceptable continuing education and the required proof of insurance. After a grace period not exceeding 60 ~~30~~ calendar days after the recertification renewal date, the department shall assess a late fee of $50 in addition to the renewal fee. If a certificateholder fails to renew his or her certificate and

provide proof of completing the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination ~~A certificate automatically expires 180 days after the recertification date if the renewal fee has not been paid. After expiration, the department shall issue a new certificate only if the applicant successfully passes a reexamination and pays the examination fee and late fee.~~

Section 7. Paragraphs (k) and (l) are added to subsection (1) of section 482.161, Florida Statutes, to read:

482.161 Disciplinary grounds and actions; reinstatement.—

(1) The department may issue a written warning to or impose a fine against, or deny the application for licensure or licensure renewal of, a licensee, certified operator, limited certificateholder, identification cardholder, or special identification cardholder or any other person, or may suspend, revoke, or deny the issuance or renewal of any license, certificate, limited certificate, identification card, or special identification card that is within the scope of this chapter, in accordance with chapter 120, upon any of the following grounds:

(k) Swearing to or affirming any false statement in an application for a license issued pursuant to this chapter.

(l) Cheating on an examination required for licensure under this chapter or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee.

Section 8. Section 482.191, Florida Statutes, is amended to read:

482.191 Violation and penalty.—

(1) It is unlawful to do any of the following:

(a) Solicit, practice, perform, or advertise in pest control except as provided by this chapter.

(b) Swear to or affirm a false statement in an application for a license or certificate issued pursuant to this chapter. A false statement contained in an application for such license or certificate renders the application, license, or certificate void.

(c) Cheat on an examination required for licensure under this chapter or violate a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by an examinee. Violating this paragraph renders the examinee's exam attempt void. The department shall adopt rules establishing penalties for examinees who violate this subsection. The department may exercise discretion in assessing penalties based on the nature and frequency of the violation.

(2) Except as provided in paragraph (1)(c), a person who violates ~~any provision of~~ this chapter commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A ~~Any~~ person who violates any rule of the department relative to pest control commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Subsection (3) of section 482.226, Florida Statutes, is amended to read:

482.226 Wood-destroying organism inspection report; notice

of inspection or treatment; financial responsibility.—

(3) A ~~If periodic reinspections or retreatments are specified in wood-destroying organisms preventive or control contracts, the~~ licensee shall furnish a ~~the~~ property owner or the property owner's authorized agent, after each inspection ~~such reinspection~~ or treatment ~~retreatment~~, with a signed report indicating the presence or absence of wood-destroying organisms covered by the wood-destroying organism preventive or control contract, whether treatment ~~retreatment~~ was made, and the common or brand name of the pesticide used. Such report need not be on a form prescribed by the department. A person may not perform inspections ~~periodic reinspections~~ or treatments ~~retreatments~~ unless she or he has an identification card issued under s. 482.091(9).

Section 10. Subsection (13) of section 487.031, Florida Statutes, is amended to read:

487.031 Prohibited acts.—It is unlawful:

(13) For any person to do any of the following:

(a) Make a false or fraudulent claim through any medium, misrepresenting the effect of materials or methods used.~~;~~

(b) Make a pesticide recommendation or application not in accordance with the label, except as provided in this section, or not in accordance with recommendations of the United States Environmental Protection Agency or not in accordance with the specifications of a special local need registration.~~;~~

(c) Operate faulty or unsafe equipment.~~;~~

(d) Operate in a faulty, careless, or negligent manner.~~;~~

(e) Apply any pesticide directly to, or in any manner cause any pesticide to drift onto, any person or area not intended to

receive the pesticide.~~;~~

(f) Fail to disclose to an agricultural crop grower, before ~~prior to the time~~ pesticides are applied to a crop, full information regarding the possible harmful effects to human beings or animals and the earliest safe time for workers or animals to reenter the treated field.~~;~~

(g) Refuse or, after notice, neglect to comply with ~~the provisions of~~ this part, the rules adopted under this part, or any lawful order of the department.~~;~~

(h) Refuse or neglect to keep and maintain the records required by this part or to submit reports when and as required.~~;~~

(i) Make false or fraudulent records, invoices, or reports.~~;~~

(j) Use fraud or misrepresentation in making an application for a license or license renewal.~~;~~

(k) Swear to or affirm a false statement in an application for a license issued pursuant to this chapter.

(l) Cheat on an examination required for licensure under this chapter or violate a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee.

(m) Refuse or neglect to comply with any limitations or restrictions on or in a duly issued license.~~;~~

(n) ~~(l)~~ Aid or abet a licensed or unlicensed person to evade ~~the provisions of~~ this part, or combine or conspire with a licensed or unlicensed person to evade ~~the provisions of~~ this part, or allow a license to be used by an unlicensed person.~~;~~

(o) ~~(m)~~ Make false or misleading statements during or after

an inspection concerning any infestation or infection of pests found on land.~~;~~

(p)~~(n)~~ Make false or misleading statements, or fail to report, pursuant to this part, any suspected or known damage to property or illness or injury to persons caused by the application of pesticides.~~;~~

(q)~~(o)~~ Impersonate any state, county, or city inspector or official.~~;~~

(r)~~(p)~~ Fail to maintain a current liability insurance policy or surety bond required by ~~as provided for in~~ this part.~~;~~

(s)~~(q)~~ Fail to adequately train, as required by ~~provided for in~~ this part, unlicensed applicators or mixer-loaders applying restricted-use pesticides under the direct supervision of a licensed applicator.~~; or~~

(t)~~(r)~~ Fail to provide authorized representatives of the department with records required by this part or with free access for inspection and sampling of any pesticide, areas treated with or impacted by these materials, and equipment used in their application.

Section 11. Section 487.175, Florida Statutes, is amended to read:

487.175 Penalties; administrative fine; injunction.—

(1) In addition to any other penalty provided in this part, when the department finds any person, applicant, or licensee has violated any provision of this part or rule adopted under this part, it may enter an order imposing any one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Issuance of a warning letter.

(d) Placement of the licensee on probation for a specified period of time and subject to conditions the department may specify by rule, including requiring the licensee to attend continuing education courses, to demonstrate competency through a written or practical examination, or to work under the direct supervision of another licensee.

(e) Imposition of an administrative fine in the Class III category pursuant to s. 570.971 for each violation. When imposing a fine under this paragraph, the department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator benefited from by noncompliance, whether the violation was committed willfully, and the compliance record of the violator.

(2) It is unlawful for a person to swear to or affirm a false statement in an application for a license or certificate issued pursuant to this chapter. A false statement contained in an application for such license or certificate renders the application, license, or certificate void.

(3) Cheating on an examination required for licensure under this chapter or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee renders the examinee's exam attempt void. The department shall adopt rules establishing penalties for examinees who violate this section. The department may exercise discretion in assessing penalties based on the nature and frequency of the violation.

(4) Except as provided under subsection (3), a ~~Any~~ person

who violates ~~any provision of~~ this part or rules adopted pursuant thereto commits a misdemeanor of the second degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083. For a subsequent violation, such person commits a misdemeanor of the first degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083.

(5) ~~(3)~~ In addition to the remedies provided in this part and notwithstanding the existence of any adequate remedy at law, the department may bring an action to enjoin the violation or threatened violation of ~~any provision of~~ this part, or rule adopted under this part, in the circuit court of the county in which the violation occurred or is about to occur. Upon the department's presentation of competent and substantial evidence to the court of the violation or threatened violation, the court shall immediately issue the temporary or permanent injunction sought by the department. The injunction shall be issued without bond. A single act in violation of ~~any provision of~~ this part is ~~shall be~~ sufficient to authorize the issuance of an injunction.

Section 12. Paragraph (b) of subsection (3) of section 493.6113, Florida Statutes, is amended to read:

493.6113 Renewal application for licensure.—

(3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the renewal fee and the fingerprint retention fee to cover the cost of ongoing retention in the statewide automated biometric identification system established in s. 943.05(2)(b). Upon the first renewal of a license issued under this chapter before January 1, 2017, the licensee shall submit a full set of

fingerprints and fingerprint processing fees to cover the cost of entering the fingerprints into the statewide automated biometric identification system pursuant to s. 493.6108(4)(a) and the cost of enrollment in the Federal Bureau of Investigation's national retained print arrest notification program. Subsequent renewals may be completed without submission of a new set of fingerprints.

(b) Each Class "G" licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms requalification training taught by a Class "K" licensee and has complied with such other health and training requirements that the department shall adopt by rule. Proof of completion of firearms requalification training shall be submitted to the department upon completion of the training. A Class "G" licensee must successfully complete this requalification training for each type and caliber of firearm carried in the course of performing his or her regulated duties. At the discretion of a Class "K" instructor, a Class "G" licensee may qualify for up to two calibers of firearms in one 4-hour firearm requalification class if the licensee successfully completes training for each firearm, including a separate course of fire for each caliber of firearm. If the licensee fails to complete the required 4 hours of annual training during the first year of the 2-year term of the license, the license is ~~shall be~~ automatically suspended. The licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be reinstated. If the licensee fails to

complete the required 4 hours of annual training during the second year of the 2-year term of the license, the licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be renewed. The department may waive the firearms training requirement if:

1. The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous 2 years of the licensure period;

2. The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous 2 years of the licensure period;

3. The applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a) and provides proof of having completed requalification training during the previous 2 years of the licensure period; or

4. The applicant provides proof that he or she has completed annual firearms training in accordance with the requirements of the federal Law Enforcement Officers Safety Act under 18 U.S.C. ss. 926B-926C.

Section 13. Section 493.6127, Florida Statutes, is created to read:

493.6127 Appointment of tax collectors to accept applications and renewals for licenses; fees; penalties.—

(1) The department may appoint a tax collector, a county officer as described in s. 1(d), Art. VIII of the State Constitution, to accept new, renewal, and replacement license applications on behalf of the department for licenses issued under this chapter. Such appointment shall be for specified locations that will best serve the public interest and convenience in persons applying for these licenses. The department shall establish by rule the type of new, renewal, or replacement licenses a tax collector appointed under this section is authorized to accept.

(2) A tax collector seeking to be appointed to accept applications for new, renewal, or replacement licenses must submit a written request to the department stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the department.

(a) Upon receipt of a written request, the department shall review it and may decline to enter into a memorandum of understanding or, if approved, may enter into a memorandum of understanding with the tax collector to accept applications for new or renewal licenses on behalf of the department.

(b) The department may rescind a memorandum of understanding for any reason at any time.

(3) All information provided pursuant to s. 493.6105 or s. 493.6113 and contained in the records of a tax collector appointed under this section which is confidential pursuant to s. 493.6122, or any other state or federal law, retains its confidentiality.

(4) A person may not handle an application for a license

issued pursuant to this chapter for a fee or compensation of any kind unless he or she has been appointed by the department to do so.

(5) A tax collector appointed under this section may collect and retain a convenience fee of $22 for each new application, $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photographing services associated with the completion of an application submitted online or by mail, and shall remit weekly to the department the license fees pursuant to s. 790.06 for deposit in the Division of Licensing Trust Fund.

(6) A person who willfully violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) Upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, a tax collector authorized to accept renewal or replacement applications for licenses under this section may, upon approval and confirmation of license issuance by the department, print and deliver a license to a licensee renewing or replacing his or her license at the tax collector's office.

Section 14. Subsection (28) is added to section 496.404, Florida Statutes, to read:

496.404 Definitions.—As used in ss. 496.401-496.424, the term:

(28) "Street address" means the physical location where activities subject to regulation under this chapter are

conducted or where an applicant, licensee, or other referenced individual actually resides. The term does not include a virtual office, a post office box, or a mail drop.

Section 15. Present paragraphs (d) through (g) of subsection (2) of section 496.405, Florida Statutes, are redesignated as paragraphs (e) through (h), respectively, a new paragraph (d) is added to that subsection, and paragraphs (b) and (d) of subsection (1), subsection (3), and paragraph (b) of subsection (7) of that section are amended, to read:

496.405 Registration statements by charitable organizations and sponsors.—

(1) A charitable organization or sponsor, unless exempted pursuant to s. 496.406, which intends to solicit contributions in or from this state by any means or have funds solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor, or that participates in a charitable sales promotion or sponsor sales promotion, must, before engaging in any of these activities, file an initial registration statement, and a renewal statement annually thereafter, with the department.

(b) Any changes to the information submitted to the department pursuant to paragraph (2)(d) or paragraph (2)(e) on the initial registration statement or the last renewal statement must be reported to the department on a form prescribed by the department within 10 days after the change occurs.

(d) The registration of a charitable organization or sponsor may not continue in effect and shall expire without further action of the department under either of the following circumstances:

1. After the date the charitable organization or sponsor should have filed, but failed to file, its renewal statement in accordance with this section.

2. For failure to provide a financial statement within any extension period provided under s. 496.407.

(2) The initial registration statement must be submitted on a form prescribed by the department, signed by an authorized official of the charitable organization or sponsor who shall certify that the registration statement is true and correct, and include the following information or material:

(d) The name and street address of each institution where banking or similar monetary transactions are done by the charitable organization or sponsor, as well as the account numbers associated with all transactions.

(3) Each chapter, branch, or affiliate of a parent organization ~~that is~~ required to register under this section must file a separate registration statement and financial statement or report the required information to its parent organization, which shall then file, on a form prescribed by the department, a consolidated registration statement for the parent organization and its Florida chapters, branches, and affiliates. A consolidated registration statement filed by a parent organization must include or be accompanied by financial statements as specified in s. 496.407 for the parent organization and each of its Florida chapters, branches, and affiliates that solicited or received contributions during the preceding fiscal year. However, if all contributions received by chapters, branches, or affiliates are remitted directly into a depository account that feeds directly into the parent

organization's centralized accounting system from which all disbursements are made, the parent organization may submit one consolidated financial statement on a form prescribed by the department. The consolidated financial statement must comply with s. 496.407 and must reflect the activities of each chapter, branch, or affiliate of the parent organization, including all contributions received in the name of each chapter, branch, or affiliate; all payments made to each chapter, branch, or affiliate; and all administrative fees assessed to each chapter, branch, or affiliate. A copy of Internal Revenue Service Form 990 and all attached schedules filed for the preceding fiscal year, or a copy of Internal Revenue Service Form 990-EZ and Schedule O for the preceding fiscal year, for the parent organization and each Florida chapter, branch, or affiliate ~~that is~~ required to file such forms must be attached to the consolidated financial statement.

(7)

(b) If a charitable organization or sponsor discloses information specified in subparagraphs (2)(e)2.-7. ~~subparagraphs (2)(d)2.-7.~~ in the initial registration statement or annual renewal statement, the time limits set forth in paragraph (a) are waived, and the department must ~~shall~~ process such initial registration statement or annual renewal statement in accordance with the time limits set forth in chapter 120. The registration of a charitable organization or sponsor shall be automatically suspended for failure to disclose any information specified in subparagraphs (2)(e)2.-7. ~~subparagraphs (2)(d)2.-7.~~ until such time as the required information is submitted to the department.

Section 16. Paragraph (a) of subsection (2) of section

496.406, Florida Statutes, is amended to read:

496.406 Exemption from registration.—

(2) Before soliciting contributions, a charitable organization or sponsor claiming to be exempt from the registration requirements of s. 496.405 under paragraph (1)(d) must submit annually to the department, on forms prescribed by the department:

(a) The name, street address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose or purposes for which the contributions to be solicited will be used.

Section 17. Paragraph (a) of subsection (1) and subsection (3) of section 496.407, Florida Statutes, are amended to read:

496.407 Financial statement.—

(1) A charitable organization or sponsor that is required to initially register or annually renew registration must file an annual financial statement for the immediately preceding fiscal year on a form prescribed by the department.

(a) The statement must include the following:

1. A balance sheet.

2. A statement of support, revenue and expenses, and any change in the fund balance.

3. The names and street addresses of the charitable organizations or sponsors, professional fundraising consultant, professional solicitors, and commercial co-venturers used, if any, and the amounts received therefrom, if any.

4. A statement of functional expenses that must include, but is not limited to, expenses in the following categories:

a. Program service costs.

b. Management and general costs.

c. Fundraising costs.

(3) ~~Upon a showing of good cause by a charitable organization or sponsor,~~ The department may extend the time for the filing of a financial statement required under this section ~~by up to 180 days~~, during which time the previous registration shall remain active. The registration must ~~shall~~ be automatically suspended for failure to file the financial statement within the extension period.

Section 18. Paragraph (c) of subsection (2) of section 496.409, Florida Statutes, is amended to read:

496.409 Registration and duties of professional fundraising consultant.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by the department, signed by an authorized official of the professional fundraising consultant who shall certify that the report is true and correct, and must include the following information:

(c) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

Section 19. Paragraphs (d) and (j) of subsection (2), paragraph (c) of subsection (6), paragraphs (a), (b), and (h) of subsection (10), and subsection (11) of section 496.410, Florida Statutes, are amended to read:

496.410 Registration and duties of professional solicitors.—

(2) Applications for registration or renewal of

registration must be submitted on a form prescribed by rule of the department, signed by an authorized official of the professional solicitor who shall certify that the report is true and correct, and must include the following information:

(d) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

(j) A list of all telephone numbers the applicant will use to solicit contributions as well as the actual street ~~physical~~ address associated with each telephone number and any fictitious names associated with such address.

(6) No less than 15 days before commencing any solicitation campaign or event, the professional solicitor must file with the department a solicitation notice on a form prescribed by the department. The notice must be signed and sworn to by the contracting officer of the professional solicitor and must include:

(c) The legal name and street ~~residence~~ address of each person responsible for directing and supervising the conduct of the campaign.

(10) During each solicitation campaign, and for not less than 3 years after its completion, the professional solicitor shall maintain the following records:

(a) The date and amount of each contribution received and the name, street address, and telephone number of each contributor.

(b) The name and ~~residence~~ street address of each employee, agent, and any other person, however designated, who is involved in the solicitation, the amount of compensation paid to each,

and the dates on which the payments were made.

(h) If a refund of a contribution has been requested, the name and street address of each person requesting the refund, and, if a refund was made, its amount and the date it was made.

(11) If the professional solicitor sells tickets to any event and represents that the tickets will be donated for use by another person, the professional solicitor also must ~~shall~~ maintain for the same period as specified in subsection (10) the following records:

(a) The name and street address of each contributor who purchases or donates tickets and the number of tickets purchased or donated by the contributor.

(b) The name and street address of each organization that receives the donated tickets for the use of others, and the number of tickets received by the organization.

Section 20. Paragraph (a) of subsection (2) of section 496.4101, Florida Statutes, is amended to read:

496.4101 Licensure of professional solicitors and certain employees thereof.—

(2) Persons required to obtain a solicitor license under subsection (1) shall submit to the department, in such form as the department prescribes, an application for a solicitor license. The application must include the following information:

(a) The true name, date of birth, unique identification number of a driver license or other valid form of identification, and street ~~home~~ address of the applicant.

Section 21. Paragraph (c) of subsection (2) of section 496.411, Florida Statutes, is amended, and paragraph (e) of that subsection is reenacted, to read:

496.411 Disclosure requirements and duties of charitable organizations and sponsors.—

(2) A charitable organization or sponsor soliciting in this state must include all of the following disclosures at the point of solicitation:

(c) Upon request, the name and either the street address or telephone number of a representative to whom inquiries may be addressed.

(e) Upon request, the source from which a written financial statement may be obtained. Such financial statement must be for the immediate preceding fiscal year and must be consistent with the annual financial statement filed under s. 496.407. The written financial statement must be provided within 14 days after the request and must state the purpose for which funds are raised, the total amount of all contributions raised, the total costs and expenses incurred in raising contributions, the total amount of contributions dedicated to the stated purpose or disbursed for the stated purpose, and whether the services of another person or organization have been contracted to conduct solicitation activities.

Section 22. Paragraph (a) of subsection (2) of section 496.4121, Florida Statutes, is amended to read:

496.4121 Collection receptacles used for donations.—

(2) A collection receptacle must display a permanent sign or label on each side which contains the following information printed in letters that are at least 3 inches in height and no less than one-half inch in width, in a color that contrasts with the color of the collection receptacle:

(a) For a collection receptacle used by a person required

to register under this chapter, the name, street ~~business~~ address, telephone number, and registration number of the charitable organization or sponsor for whom the solicitation is made.

Section 23. Paragraph (a) of subsection (2) and subsection (6) of section 496.425, Florida Statutes, are amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(2) Any person desiring to solicit funds within a facility shall first obtain a written permit therefor from the authority responsible for the administration of the facility.

(a) An application in writing for such permit must ~~shall~~ be submitted to the authority and must state ~~shall set forth~~:

1. The full name, street ~~mailing~~ address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activities;

2. The full name, street ~~mailing~~ address, and telephone number of each person who will participate in such activities and of the person who will have supervision of and responsibility for the proposed activities;

3. A description of the proposed activities indicating the type of communication to be involved;

4. The dates on and the hours during which the activities are proposed to be carried out and the expected duration of the proposed activities; and

5. The number of persons to be engaged in such activities.

(6) Each individual solicitor shall display prominently on her or his person a badge or insignia, provided by the solicitor and approved by the authority, bearing the signature of a

responsible officer of the authority and that of the solicitor and describing the solicitor by name, age, height, weight, eye color, hair color, street address, and principal occupation and indicating the name of the organization for which funds are solicited.

Section 24. Effective upon this act becoming a law, present paragraphs (k) through (y) of subsection (1) of section 500.03, Florida Statutes, are redesignated as paragraphs (l) through (z), respectively, and a new paragraph (k) is added to that subsection, to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(k) "Cultivated meat" means any meat or food product produced from cultured animal cells.

Section 25. Effective upon this act becoming a law, section 500.452, Florida Statutes, is created to read:

500.452 Cultivated meat; prohibition; penalties.—

(1) It is unlawful for any person to manufacture, sell, hold or offer for sale, or distribute cultivated meat in this state.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A food establishment that manufactures, distributes, or sells cultivated meat in violation of this section is subject to disciplinary action pursuant to s. 500.121.

(4) In addition to the penalties provided in this section, the license of any restaurant, store, or other business may be suspended as provided in the applicable licensing law upon the

conviction of an owner or employee of that business for a violation of this section in connection with that business.

(5) A product found to be in violation of this section is subject to s. 500.172 and an immediate stop-sale order.

(6) The department may adopt rules to implement this section.

Section 26. Subsection (10) is added to section 507.07, Florida Statutes, to read:

507.07 Violations.—It is a violation of this chapter:

(10) For a mover to place a shipper's goods in a self-service storage unit or self-contained storage unit owned by anyone other than the mover unless those goods are stored in the name of the shipper and the shipper contracts directly with the owner of the self-service storage unit or self-contained storage unit.

Section 27. Section 531.67, Florida Statutes, is repealed.

Section 28. Paragraphs (d) and (e) of subsection (1) and paragraph (a) of subsection (3) of section 559.904, Florida Statutes, are amended to read:

559.904 Motor vehicle repair shop registration; application; exemption.—

(1) Each motor vehicle repair shop engaged or attempting to engage in the business of motor vehicle repair work must register with the department prior to doing business in this state. The application for registration must be on a form provided by the department and must include at least the following information:

(d) ~~Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant.~~

~~(c)~~ Number of employees who perform repairs at each location or whom ~~which~~ the applicant intends to employ ~~or which are currently employed~~.

(3)(a) Each application for registration must be accompanied by a registration fee for each location calculated on a per-year basis as follows:

1. If the place of business has 1 to 5 employees who perform repairs: $50.

2. If the place of business has 6 to 10 employees who perform repairs: $150.

3. If the place of business has 11 or more employees who perform repairs: $300.

Section 29. Subsections (1) and (2) of section 559.905, Florida Statutes, are amended to read:

559.905 Written motor vehicle repair estimate and disclosure statement required.—

(1) When any customer requests a motor vehicle repair shop to perform repair work on a motor vehicle, the cost of which repair work will exceed $150 ~~$100~~ to the customer, the shop shall prepare a written repair estimate, which is a form setting forth the estimated cost of repair work, including diagnostic work, before effecting any diagnostic work or repair. The written repair estimate must ~~shall~~ also include all of the following items:

(a) The name, address, and telephone number of the motor vehicle repair shop.

(b) The name, address, and telephone number of the customer.

(c) The date and time of the written repair estimate.

(d) The year, make, model, odometer reading, and license tag number of the motor vehicle.

(e) The proposed work completion date.

(f) A general description of the customer's problem or request for repair work or service relating to the motor vehicle.

(g) A statement as to whether the customer is being charged according to a flat rate or an hourly rate, or both.

(h) The estimated cost of repair which must ~~shall~~ include any charge for shop supplies or for hazardous or other waste removal and, if a charge is included, the estimate must ~~shall~~ include the following statement:

"This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal."

If a charge is mandated by state or federal law, the estimate must ~~shall~~ contain a statement identifying the law and the specific amount charged under the law.

(i) The charge for making a repair price estimate or, if the charge cannot be predetermined, the basis on which the charge will be calculated.

(j) The customer's intended method of payment.

(k) The name and telephone number of another person who may authorize repair work, if the customer desires to designate such person.

(l) A statement indicating what, if anything, is guaranteed in connection with the repair work and the time and mileage

period for which the guarantee is effective.

(m) A statement allowing the customer to indicate whether replaced parts should be saved for inspection or return.

(n) A statement indicating the daily charge for storing the customer's motor vehicle after the customer has been notified that the repair work has been completed. However, ~~no~~ storage charges may not ~~shall~~ accrue or be due and payable for a period of 3 working days from the date after ~~of~~ such notification.

(2) If the cost of repair work will exceed $150 ~~$100~~, the shop must ~~shall~~ present to the customer a written notice conspicuously disclosing, in a separate, blocked section, only the following statement, in capital letters of at least 12-point type:

PLEASE READ CAREFULLY, CHECK ONE OF THE STATEMENTS BELOW, AND SIGN:

I UNDERSTAND THAT, UNDER STATE LAW, I AM ENTITLED TO A WRITTEN ESTIMATE IF MY FINAL BILL WILL EXCEED $150 ~~$100~~.

.... I REQUEST A WRITTEN ESTIMATE.

.... I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE REPAIR COSTS DO NOT EXCEED $..... THE SHOP MAY NOT EXCEED THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

.... I DO NOT REQUEST A WRITTEN ESTIMATE.

SIGNED ..... DATE ....

Section 30. Section 570.69, Florida Statutes, is amended to read:

570.69 Definitions; ss. 570.69 and 570.691.—For the purpose of this section and s. 570.691:

(1) "Center" means the Florida Agricultural Legacy Learning Center.

(2) "Designated program" means the departmental program that ~~which~~ a direct-support organization has been created to support.

(3)~~(2)~~ "Direct-support organization" or "organization" means an organization that ~~which~~ is a Florida corporation not for profit incorporated under chapter 617 and approved by the department to operate for the benefit of a museum or a designated program.

~~(3) "Museum" means the Florida Agricultural Museum, which is designated as the museum for agriculture and rural history of the State of Florida.~~

Section 31. Subsections (1), (2), (4), (5), and (7) of section 570.691, Florida Statutes, are amended to read:

570.691 Direct-support organization.—

(1) The department may authorize the establishment of direct-support organizations to provide assistance, funding, and promotional support for ~~the museums and other~~ programs of the department. The following provisions ~~shall~~ govern the creation, use, powers, and duties of the direct-support organizations:

(a) The department shall enter into a memorandum or letter of agreement with the direct-support organization, which must ~~shall~~ specify the approval of the department, the powers and duties of the direct-support organization, and rules with which

the direct-support organization must comply.

(b) The department may authorize, without charge, appropriate use of property, facilities, and personnel of the department by the direct-support organization. The use must ~~shall~~ be for the approved purposes of the direct-support organization and may not be made at times or places that would unreasonably interfere with opportunities for the general public to use department facilities.

(c) The department shall prescribe by agreement conditions with which the direct-support organization must comply in order to use property, facilities, or personnel of the department. Such conditions must ~~shall~~ provide for budget and audit review and oversight by the department.

(d) The department may not authorize the use of property, facilities, or personnel of the center ~~museum~~, department, or designated program by the direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(2)(a) The direct-support organization may conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the center ~~museum~~ or designated program.

(b) Notwithstanding ~~the provisions of~~ s. 287.025(1)(e), the direct-support organization may enter into contracts to insure property of the center ~~museum~~ or designated programs and may

insure objects or collections on loan from others in satisfying security terms of the lender.

(4) A department employee, direct-support organization or center ~~museum~~ employee, volunteer, or director, or designated program may not do either of the following:

(a) Receive a commission, fee, or financial benefit in connection with the sale or exchange of real or personal property or historical objects to the direct-support organization, the center ~~museum~~, or the designated program.~~; or~~

(b) Be a business associate of any individual, firm, or organization involved in the sale or exchange of real or personal property to the direct-support organization, the center ~~museum~~, or the designated program.

(5) All moneys received by the direct-support organization shall be deposited into an account of the direct-support organization and must ~~shall~~ be used by the organization in a manner consistent with the goals of the center ~~museum~~ or designated program.

(7) The Commissioner of Agriculture, or the commissioner's designee, may serve on the board of trustees and the executive committee of any direct-support organization established to benefit the center ~~museum~~ or any designated program.

Section 32. Section 570.692, Florida Statutes, is amended to read:

570.692 Florida Agricultural Legacy Learning Center ~~Museum~~.—The Florida Agricultural Legacy Learning Center ~~Museum~~ is designated as the legacy learning center for ~~museum of~~ agriculture and rural history of this ~~the~~ state ~~of Florida~~ and is ~~hereby~~ established within the department.

Section 33. Section 581.189, Florida Statutes, is created to read:

581.189 Dealing in, buying, transporting, and processing saw palmetto berries.—

(1) As used in this section, the term:

(a) "Harvest" or "harvesting" means to dig up, remove, or cut and remove saw palmetto berries from the place where they are grown.

(b) "Harvester" means a person, firm, or corporation that takes, harvests, or attempts to take or harvest saw palmetto berries.

(c) "Landowner" means:

1. The public agency administering any public lands; or

2. The person who holds legal title to the real property from which saw palmetto berries are harvested or the person having possession, control, or use of that land which has lawful authority to grant permission to harvest saw palmetto berries from the land.

(d) "Person" means an individual, a partnership, a corporation, an association, or any other legal entity.

(e) "Saw palmetto berries" means the fruit of the plant *Serenoa repens*, commonly known as the saw palmetto.

(f) "Saw palmetto berry dealer" means a person that purchases or otherwise obtains saw palmetto berries from a seller for the purpose of selling the saw palmetto berries at retail or for the purpose of selling the saw palmetto berries to another saw palmetto berry dealer or for both such purposes. This term also includes a person who purchases saw palmetto berries directly from a landowner for the purpose of selling the

saw palmetto berries at retail.

(g) "Seller" means a person that exchanges or offers to exchange saw palmetto berries for money or for any other valuable consideration.

(2) It is unlawful for any person to willfully destroy, harvest, or sell saw palmetto berries on the private land of another or on any public land without first obtaining written permission from the landowner or legal representative of the landowner and a permit from the department as provided in s. 581.185. The landowner's written permission must include all of the following information:

(a) The name, address, and telephone number of the landowner.

(b) The start date, end date, and location, including county, of the harvest.

(c) The landowner's actual or electronic signature.

(3)(a) A saw palmetto berry dealer that purchases saw palmetto berries from a landowner or a person harvesting saw palmetto berries from another's property shall:

1. Maintain a bill of lading, a copy of the harvester's entire permit, as provided in s. 581.185, a copy of the landowner's written permission to harvest, and all of the following:

a. The name, address, and telephone number of the seller.

b. The date or dates of harvesting.

c. The weight, quantity, or volume and a description of the type of saw palmetto berries harvested.

d. A scan or photocopy of a valid government-issued photo identification card of such person.

(b) A person required to maintain the information under paragraph (a) shall retain such records for at least 2 years from the date the harvest ends.

(4)(a) When any law enforcement officer or any authorized employee of the department finds that any saw palmetto berries are being harvested, offered for sale, or exposed for sale in violation of this section, the law enforcement officer or authorized department employee may seize or order such saw palmetto berries be held at a designated location until the individual:

1. Provides the officer or employee with the required permit and landowner's written permission to harvest, within 7 calendar days following the seizure; or

2. Legally disposes of the saw palmetto berries in accordance with this section.

(b) A law enforcement officer or authorized department employee shall release the saw palmetto berries when the requirements of this section are met.

(5) Unlawfully harvested saw palmetto berries constitute contraband and are subject to seizure and disposal by the seizing law enforcement agency or the department.

(a) Notwithstanding any other provision of law, a law enforcement agency that seizes saw palmetto berries harvested or possessed in violation of this section or unlawfully harvested in violation of s. 581.185, or in violation of any other state or federal law, may sell such saw palmetto berries and retain the proceeds of the sale for the enforcement of this section. Law enforcement agencies selling contraband saw palmetto berries are exempt from s. 581.185.

(b) Law enforcement agencies that seize unlawfully harvested saw palmetto berries shall submit annually to the department, in the manner prescribed by department rule:

1. The quantity and a description of the saw palmetto berries seized; and

2. The location from which the saw palmetto berries were harvested, if known.

(6)(a) A harvester that exchanges or offers to exchange saw palmetto berries with a saw palmetto dealer, seller, or processor for money or any other valuable consideration without first presenting to the saw palmetto berry dealer, seller, processor the person's entire permit, as provided in s. 581.185, or the landowner's written permission commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person required to maintain records as required in this section that fails to maintain such record for the time period specified in paragraph (3)(b) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person that willfully destroys or harvests saw palmetto berries without first obtaining the landowner's written permission to harvest as required by subsection (2) or a permit as required by s. 581.185 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A saw palmetto berry dealer, buyer, processor, harvester, or seller that presents a false, forged, or altered document purporting to be a landowner's written permission or the permit required by s. 581.185 commits a felony of the third

degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) A saw palmetto berry dealer, transporter, or processor that exchanges, offers to exchange for money or any other valuable consideration, or possesses unlawfully harvested saw palmetto berries commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)(a) A person convicted of a violation of this section is responsible for:

1. All reasonable costs incurred by the responding law enforcement agencies and the department, including, but not limited to, investigative costs; and

2. Restitution to the landowner in an amount equal to the fair market value of the saw palmetto berries unlawfully harvested.

(b) For the purposes of this subsection, the term "convicted" means that there has been a determination of guilt as a result of trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(8) This section does not affect any other person that legally harvests or handles saw palmetto berries from up to two plants for home or personal use.

(9) The department shall adopt rules to administer this section.

Section 34. Subsection (13) of section 585.01, Florida Statutes, is amended to read:

585.01 Definitions.—In construing this part, where the context permits, the word, phrase, or term:

(13) "Livestock" means grazing animals, such as cattle,

horses, sheep, swine, goats, other hoofed animals, poultry, ostriches, emus, and rheas, which are raised for private use or commercial purposes.

Section 35. Subsections (5) and (8) of section 790.0625, Florida Statutes, are amended, and subsections (9) and (10) are added to that section, to read:

790.0625 Appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties.—

(5) A tax collector appointed under this section may collect and retain a convenience fee of $22 for each new application, ~~and~~ $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photographing services associated with the completion of an application submitted online or by mail, and shall remit weekly to the department the license fees pursuant to s. 790.06 for deposit in the Division of Licensing Trust Fund.

(8) Upon receipt of a completed renewal application, a new color photograph, and ~~appropriate~~ payment of required fees, a tax collector authorized to accept renewal applications for concealed weapon or firearm licenses under this section may, upon approval and confirmation of license issuance by the department, print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.

(9) Upon receipt of a statement under oath to the department and payment of required fees, a tax collector

authorized to accept an application for a concealed weapon or firearm license under this section may, upon approval and confirmation from the department that a license is in good standing, print and deliver a concealed weapon or firearm license to a licensee whose license has been lost or destroyed.

(10) Tax collectors authorized to accept an application for a concealed weapon or firearm license under this section may provide fingerprinting and photographing services to aid concealed weapon and firearm applicants and licensees with initial and renewal applications submitted online or by mail.

Section 36. Paragraph (a) of subsection (5) of section 810.011, Florida Statutes, is amended to read:

810.011 Definitions.—As used in this chapter:

(5)(a) "Posted land" is land upon which any of the following are placed:

1. Signs placed not more than 500 feet apart along and at each corner of the boundaries of the land or, for land owned by a water control district that exists pursuant to chapter 298 or was created by special act of the Legislature, signs placed at or near the intersection of any district canal right-of-way and a road right-of-way or, for land classified as agricultural pursuant to s. 193.461, signs placed at each point of ingress and at each corner of the boundaries of the agricultural land, which prominently display in letters of not less than 2 inches in height the words "no trespassing" and the name of the owner, lessee, or occupant of the land. The signs must be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line; or

2.a. A conspicuous no trespassing notice is painted on trees or posts on the property, provided that the notice is:

(I) Painted in an international orange color and displaying the stenciled words "No Trespassing" in letters no less than 2 inches high and 1 inch wide either vertically or horizontally;

(II) Placed so that the bottom of the painted notice is not less than 3 feet from the ground or more than 5 feet from the ground; and

(III) Placed at locations that are readily visible to any person approaching the property and no more than 500 feet apart on agricultural land.

b. When a landowner uses the painted no trespassing posting to identify a no trespassing area, those painted notices must be accompanied by signs complying with subparagraph 1. and must be placed conspicuously at all places where entry to the property is normally expected or known to occur.

Section 37. Subsection (2) of section 810.09, Florida Statutes, is amended to read:

810.09 Trespass on property other than structure or conveyance.—

(2) ~~(a)~~ Except as provided in this subsection, trespass on property other than a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(a) ~~(b)~~ If the offender defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom;

unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) ~~(c)~~ If the offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance, he or she commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he or she reasonably believes that a violation of this paragraph has been or is being committed, and that the person to be taken into custody and detained has committed or is committing the violation. If a person is taken into custody, a law enforcement officer must ~~shall~~ be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention in compliance with the requirements of this paragraph does not result in criminal or civil liability for false arrest, false imprisonment, or unlawful detention.

(c) ~~(d)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed is a construction site that is:

1. Greater than 1 acre in area and is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."; or

2. One acre or less in area and is identified as such with

a sign that appears prominently, in letters of not less than 2 inches in height, and reads in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY." The sign must ~~shall~~ be placed at the location on the property where the permits for construction are located. For construction sites of 1 acre or less as provided in this subparagraph, it may ~~shall~~ not be necessary to give notice by posting as defined in s. 810.011(5).

(d) ~~(e)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: "THIS AREA IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(e) ~~(f)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(f) ~~(g)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is a domestic violence center certified under s. 39.905 which is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED RESTRICTED SITE, AND ANYONE WHO TRESPASSES ON THIS

PROPERTY COMMITS A FELONY."

(g) ~~(h)~~ Any person who in taking or attempting to take any animal described in s. 379.101(19) or (20), or in killing, attempting to kill, or endangering any animal described in s. 585.01(13) knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term "potentially lethal projectile" includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This section does not apply to any governmental agent or employee acting within the scope of his or her official duties.

(h) ~~(i)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural chemicals manufacturing facility that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(i)1. ~~(j)1.~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offender trespasses with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway, taxiway, ramp, or apron area, and the property trespassed upon is the operational area of an airport that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A

FELONY."

2. For purposes of this paragraph, the term "operational area of an airport" means any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

(j) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offender trespasses with the intent to commit a crime on commercial agricultural property that is legally posted and identified by signs in letters of at least 2 inches at each pedestrian and vehicle entrance in substantially the following manner: "THIS AREA IS A DESIGNATED COMMERCIAL AGRICULTURAL PROPERTY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

1. A first-time offender who is under 18 years of age at the time he or she commits the crime specified in this paragraph must be given the option of participating in a diversion program described in s. 958.12, s. 985.125, s. 985.155, or s. 985.16 or a program to which a referral is made by a state attorney under s. 985.15.

2. For the purpose of this paragraph, the term "commercial agricultural property" means property cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, raising, producing, or storing plant or animal commercial commodities.

Section 38. Subsection (5) is added to section 1003.24, Florida Statutes, to read:

1003.24 Parents responsible for attendance of children; attendance policy.—Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law. The absence of a student from school is prima facie evidence of a violation of this section; however, criminal prosecution under this chapter may not be brought against a parent until the provisions of s. 1003.26 have been complied with. A parent of a student is not responsible for the student's nonattendance at school under any of the following conditions:

(5) AGRICULTURAL SCHOOL ACTIVITIES.—

(a) A student who participates in an activity or program sponsored by 4-H or Future Farmers of America (FFA) must be credited with an excused absence by the school in which he or she is enrolled in the same manner as any other excused absence is credited. Any such participation in an activity or program sponsored by 4-H or FFA may not be counted as an unexcused absence, for any day, portion of a day, or days missed from school.

(b) Upon request from a school principal or the principal's designee, a 4-H or FFA representative shall provide documentation as proof of a student's participation in an activity or program sponsored by 4-H or FFA.

(c) As used in this subsection, the term "4-H representative" means an individual officially recognized or designated by the Florida Cooperative Extension Service 4-H Program as a 4-H professional or a 4-H adult volunteer.

Each district school board shall establish an attendance policy that includes, but is not limited to, the required number of days each school year that a student must be in attendance and the number of absences and tardinesses after which a statement explaining such absences and tardinesses must be on file at the school. Each school in the district must determine if an absence or tardiness is excused or unexcused according to criteria established by the district school board.

Section 39. Paragraph (b) of subsection (2) of section 379.3004, Florida Statutes, is amended to read:

379.3004 Voluntary Authorized Hunter Identification Program.—

(2) Any person hunting on private land enrolled in the Voluntary Authorized Hunter Identification Program shall have readily available on the land at all times when hunting on the property written authorization from the owner or his or her authorized representative to be on the land for the purpose of hunting. The written authorization shall be presented on demand to any law enforcement officer, the owner, or the authorized agent of the owner.

(b) Failure by any person hunting on private land enrolled in the program to present written authorization to hunt on that ~~said~~ land to any law enforcement officer or the owner or representative thereof within 7 days after ~~of~~ demand shall be prima facie evidence of violation of s. 810.09(2)(b) ~~s. 810.09(2)(c)~~, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, such evidence may be contradicted or rebutted by other evidence.

Section 40. Paragraph (c) of subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $750 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm, except as provided in paragraph (f).

6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is a commercially farmed animal, including an animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; or an aquaculture species raised at a certified aquaculture facility, a $10,000 fine shall be imposed.

8. Any fire extinguisher that, at the time of the taking, was installed in any building for the purpose of fire prevention and control. This subparagraph does not apply to a fire extinguisher taken from the inventory at a point-of-sale business.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(c) ~~s. 810.09(2)(d)~~.

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at $5,000 or more, but less than $10,000, as provided under subparagraph 2., or if the property is valued at $10,000 or more, but less than $20,000, as provided under subparagraph 3. As used in this paragraph, the terms “conditions arising from a riot” and “conditions arising from the emergency” have the same meanings as provided in

paragraph (b). A person arrested for committing a theft during a riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 41. Paragraphs (b) and (c) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.

403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.

806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
806.13(3)	3rd	Criminal mischief; damage of $200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(d) ~~810.09(2)(e)~~	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $750, taken from unenclosed curtilage of dwelling.

812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods,

		services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.

831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.
843.08	3rd	False personation.
843.19(3)	3rd	Touch or strike police, fire, SAR canine or police horse.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.

893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.

319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to

		reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.

400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium

		collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(b) ~~810.09(2)(c)~~	3rd	Trespass on property other than structure or

		conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
812.081(2)	3rd	Theft of a trade secret.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234	3rd	Unlawful solicitation of

(8)(b) & (c)		persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to

		defraud.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4)

drugs).

893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.

893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the

practitioner's practice.

893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)	3rd	Tampering with or fabricating physical evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.

944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

Section 42. For the purpose of incorporating the amendment made by this act to section 493.6113, Florida Statutes, in a reference thereto, subsection (6) of section 493.6115, Florida Statutes, is reenacted, to read:

493.6115 Weapons and firearms.—

(6) In addition to any other firearm approved by the department, a licensee who has been issued a Class "G" license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a .357 caliber revolver with .38 caliber ammunition only; or a .40 caliber handgun; or a .45 ACP handgun while performing duties authorized under this chapter. A licensee may not carry more than two firearms upon her or his person when performing her or his duties. A licensee may only carry a firearm of the specific type and caliber with which she or he is qualified pursuant to the firearms training referenced in subsection (8) or s. 493.6113(3)(b).

Section 43. For the purpose of incorporating the amendment made by this act to section 496.405, Florida Statutes, in

references thereto, subsection (2) of section 496.4055, Florida Statutes, is reenacted, to read:

496.4055 Charitable organization or sponsor board duties.—

(2) The board of directors, or an authorized committee thereof, of a charitable organization or sponsor required to register with the department under s. 496.405 shall adopt a policy regarding conflict of interest transactions. The policy shall require annual certification of compliance with the policy by all directors, officers, and trustees of the charitable organization. A copy of the annual certification shall be submitted to the department with the annual registration statement required by s. 496.405.

Section 44. For the purpose of incorporating the amendment made by this act to section 559.905, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 559.907, Florida Statutes, is reenacted to read:

559.907 Charges for motor vehicle repair estimate; requirement of waiver of rights prohibited.—

(1) No motor vehicle repair shop shall charge for making a repair price estimate unless, prior to making the price estimate, the shop:

(b) Obtains authorization on the written repair estimate, in accordance with s. 559.905, to prepare an estimate. No motor vehicle repair shop shall impose or threaten to impose any such charge which is clearly excessive in relation to the work involved in making the price estimate.

Section 45. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, subsection (6) of section 468.382, Florida

Statutes, is reenacted to read:

468.382 Definitions.—As used in this act, the term:

(6) "Livestock" means any animal included in the definition of "livestock" by s. 585.01 or s. 588.13.

Section 46. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, subsection (3) of section 534.47, Florida Statutes, is reenacted to read:

534.47 Definitions.—As used in ss. 534.48-534.54, the term:

(3) "Livestock" has the same meaning as in s. 585.01(13).

Section 47. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, section 767.01, Florida Statutes, is reenacted to read:

767.01 Dog owner's liability for damages to persons, domestic animals, or livestock.—Owners of dogs shall be liable for any damage done by their dogs to a person or to any animal included in the definitions of "domestic animal" and "livestock" as provided by s. 585.01.

Section 48. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, section 767.03, Florida Statutes, is reenacted to read:

767.03 Good defense for killing dog.—In any action for damages or of a criminal prosecution against any person for killing or injuring a dog, satisfactory proof that said dog had been or was killing any animal included in the definitions of "domestic animal" and "livestock" as provided by s. 585.01 shall constitute a good defense to either of such actions.

Section 49. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2024.

The Florida Senate

Committee Agenda Request

To: Senator Jason Brodeur, Chair
Appropriations Committee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: January 17, 2024

I respectfully request that **Senate Bill #1084**, relating to Department of Agriculture and Consumer Services, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Jay Collins
Florida Senate, District 14

File signed original with committee office

S-020 (03/2004)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/8/24
Meeting Date

Approp of Ag
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Theresa King

Phone 850-228-8940

Address PO Box 10888
Street

Email tking@fbctc.org

Tallahassee FL 32302
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: FL Building & Construction Trades

☐ 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

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2/8/2024
Meeting Date

Approps. Ag., Enviornment, & Gen. Gov.
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Izzy Garbarino

Phone 850-617-7700

Address
Street

Email

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 Dept. of Agriculture and Consumer Services

☐ 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

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Meeting Date

AG Approps
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kathy Mears

Phone

Address PL-10
Street

Email kathy.mears@FDACS.GOV

Tall 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: FDACS

☐ 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)

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Meeting Date

S. Ag App
Committee

The Florida Senate
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1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sam Ard

Phone 850.591.2731

Address PO Box 10406
Street

Email sard@asrlegal.com

TLH FL 32302
City *State* *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

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

Fla. Cattlemen's Assn and Certified Pest Control Operators

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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2/8/24
Meeting Date

1084
Bill Number or Topic

Approps Ag, Environment & General Government
Committee

Amendment Barcode (if applicable)

Name Nancy Stewart

Phone 850 385 7805

Address 1400 Village Square Blvd Ste 3-156
Street

Email nancy.stewart@nancyblackstewart.com

Tallahassee FL 32312
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Florida Poultry Federation

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/8/24
Meeting Date

Environment & Natural Resources Approps
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jim Spratt

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Address 119 S Monroe St
Street

Email jim@magnoliastrategiesllc.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: Florida Forestry 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

APPEARANCE RECORD

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2/8/24
Meeting Date

Approps on Ag, EnV.
Committee

SB 1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Andrew Walmsley

Phone 202-430-0188

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Street

Email andrew.walmsley@ffbf.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 Farm Bureau Federation

☐ 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

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2/8/24
Meeting Date

Appropriations Committee on AG
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tripp Hunter

Phone 850.464.6411

Address 119 S Monroe St
Street

Email Tripp.Hunter@FFVA.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:
Florida Fruit & Vegetable Assn.

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

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SB1084
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Samuel Dohler

Phone 410-440-7976

Address 1767 Heritage Blvd
Street

Email samdohler@gmail.com

Tallahassee FL 32304
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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Meeting Date	Bill Number or Topic
2/8/24	SB 1084
Committee	**Amendment Barcode (if applicable)**
Approp. on Agriculture, Environ & gen. gov	

Name Samantha Kadlis Phone 7727420579

Address 1767 Hermitage blvd - Ste 9204 Email skadlis@cleoninstitute.org
Street

Tallahassee FL 32308
City *State* *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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Meeting Date

Appropriations Committee or
Committee

1084 FDACS
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bill Helmich

Phone 8502513126

Address 303 Johns Drive
Street

Email bill@helmichconsulting.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:
Food Solutions Action / Good Food Institute

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

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2/8/24	1084 FDACS
Meeting Date	Bill Number or Topic
Appropriations Committee or	
Committee	Amendment Barcode (if applicable)

Name Marc Shelley

Phone 816-328-8078

Address 171 N. Aberdeen St., Suite 400
Street

Email marc.shelley@believermeats.co

Chicago IL 60607
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:

Believer Meats

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

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Meeting Date	Bill Number or Topic
Appropriations Committee or	
Committee	Amendment Barcode (if applicable)

Name Lou Cooperhouse

Phone 732-266-3977

Address PO Box 8105
Street

Email lcooperhouse@bluenalu.com

Rancho Santa Fe CA 92067
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:
BlueNalu, Inc.

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

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Appropriations Committee or
Committee

1084 FDACS
Bill Number or Topic

Amendment Barcode (if applicable)

Name René Viñas

Phone 202-873-0973

Address 804 Heinz Ave
Street

Email rvinas@upsidefoods.com

Berkeley CA 94710
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:
UPSIDE Foods

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

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Approps. Ag., Enviornment, & Gen. Gov.
Committee

1084
Bill Number or Topic

549006
Amendment Barcode (if applicable)

Name Izzy Garbarino

Phone 850-617-7700

Address
Street

Email

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 Dept. of Agriculture and Consumer Services

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

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AEG 110sob
Committee

1084
Bill Number or Topic

~~549038~~ 574132
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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Meeting Date

Approp Committee on AG
Committee

1084
Bill Number or Topic

509132
Amendment Barcode (if applicable)

Name Theresa King

Phone 850-228-8940

Address 4025 Tanner Rd
Street

Email tking@fbctc.org

Tallahassee FL 32302
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida State Building Trades

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

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Aggregs Ag, Env. & Gen Gov
Committee

1084
Bill Number or Topic

509132
Amendment Barcode (if applicable)

Name Ryan Smart

Phone 561-358-7191

Address 209 Tallwood Rd
Street

Email Smart@floridaspringscouncil.org

Jay Beach FL 32550
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 Springs Council

☐ 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	SB 1210
INTRODUCER:	Senator Martin
SUBJECT:	Estero Bay Aquatic Preserve
DATE:	February 7, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	**Favorable**
2.	Reagan	Betta	AEG	**Favorable**
3.			RC	

I. Summary:

SB 1210 revises the boundaries of the Estero Bay Aquatic Preserve.

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

The bill takes effect July 1, 2024.

II. Present Situation:

Aquatic Preserves

The State of Florida passed the Aquatic Preserve Act in 1975 to ensure that the state-owned submerged lands in areas with exceptional biological, aesthetic, and scientific value were set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.[1] There are currently 42 aquatic preserves encompassing about 2.2 million acres.[2] All but four are located along Florida's 8,400 miles of coastline.[3]

Aquatic preserves only include lands or water bottoms owned by the state. The Aquatic Preserve Act excludes any privately owned lands or water bottoms, or any publicly owned and maintained navigation channel or other public works project authorized by the U.S. Congress designed to

[1] Section 258.36, F.S.; DEP, *Aquatic Preserve Program*, https://floridadep.gov/rcp/aquatic-preserve (last visited Jan. 18, 2024).
[2] DEP, *Aquatic Preserve Program*; DEP, Geospatial Open Data, *Florida Aquatic Preserves*, https://geodata.dep.state.fl.us/datasets/FDEP::florida-aquatic-preserves/explore?location=27.492338%2C-83.860873%2C5.95 (last visited Jan. 18, 2024); DEP, Office of Resilience and Coastal Protection, *Aquatic Preserve Program*, https://floridaapdata.org/about_FCO.php (last visited Jan. 18, 2024).
[3] DEP ORCP, *Aquatic Preserve Program*.

improve or maintain commerce and navigation.[4] Further, the Aquatic Preserve Act excludes all lands lost by avulsion or artificially induced erosion.[5]

The Board of Trustees of the Internal Improvement Trust Fund (Board) may establish additional aquatic preserves, subject to confirmation by the Legislature.[6] Following public notice and public hearing in the county or counties in which the proposed preserve is to be located, the Board may adopt a resolution formally setting aside such areas. The resolution must include:

- A legal description of the area to be included;
- The designation of the type of aquatic preserve being set aside;
- A general statement of what is sought to be preserved; and
- A clear statement of the management responsibilities for the area.[7]

Except for the termination of a lease, no aquatic preserve or any part thereof shall be withdrawn from the state aquatic preserve system except by an act of the Legislature. Notice of such proposed legislation shall be published in each county in which the affected area is located, in the manner prescribed by law relating to local legislation.[8] The Board published a notice of legislation regarding the Estero Bay Aquatic Preserve boundary change in the News-Press on November 9, 2023.[9]

Current law restricts certain activities in aquatic preserves, including the construction of utility cables and pipes and spoil disposal.[10] Further, the Board may not:

- Sell, lease, or transfer sovereign submerged lands[11] unless it is in the public interest.
- Approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve, except when public road and bridge construction projects have no reasonable alternative and it is not contrary to the public interest.
- Approve further dredging or filling of submerged lands, except for certain activities that must be authorized pursuant to a permit.[12]

Only minimal or maintenance dredging is permitted in an aquatic preserve, and any alteration of the preserves' physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally.[13] Oil and gas well drilling is prohibited, however, the state is not prohibited from leasing the oil and gas rights and permitting drilling from outside

[4] Section 258.40, F.S.
[5] *Id.*
[6] Section 258.41, F.S.
[7] *Id.*
[8] *Id.*
[9] Board of Trustees of the Internal Improvement Trust Fund, News-Press, *Notice of Legislation* (Nov. 9, 2023), *available at* https://www.news-press.com/public notices
[10] Section 258.42, F.S.
[11] Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally influenced waters. The Board holds title to sovereign submerged lands. The DEP, *Submerged Lands Management*, https://floridadep.gov/lands/bureau-public-land-administration (last visited Jan 18, 2024).
[12] Section 258.42, F.S.
[13] Fla. Admin. Code R. 18-20.004. Note that every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code and/or ch. 258, F.S.

the preserve to explore for oil and gas if approved by the Board. Docking facilities and structures for shore protection are restricted as to size and location.[14]

No wastes or effluents may be discharged into an aquatic preserve if they substantially inhibit the accomplishment of the purposes of the Aquatic Preserve Act. Riparian owners may selectively trim or alter mangroves on adjacent publicly owned submerged lands, provided that the selective trimming or alteration is in compliance with the requirements of state law including permit requirements for mangrove trimming.[15]

Leases of sovereign submerged lands are significantly higher within aquatic preserves. A rate of two times the existing rate is applied to aquatic preserve leases if 75 percent or more of the lease shoreline and the adjacent 1000 feet on either side of the leased area is in a natural, unbulkheaded, non-seawalled or non-riprapped condition.[16]

The Board has a duty to conserve and improve state-owned lands and the products thereof, which includes the preservation and regeneration of seagrass.[17] A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction. The Nature Coast Aquatic Preserve is also not included. The penalties are as follows:

- $100 for a first offense;
- $250 for a second offense occurring within 12 months of a prior conviction;
- $500 for a third offense occurring within 36 months of a prior conviction; and
- $1,000 for a fourth or subsequent offense occurring within 72 months of a prior conviction.[18]

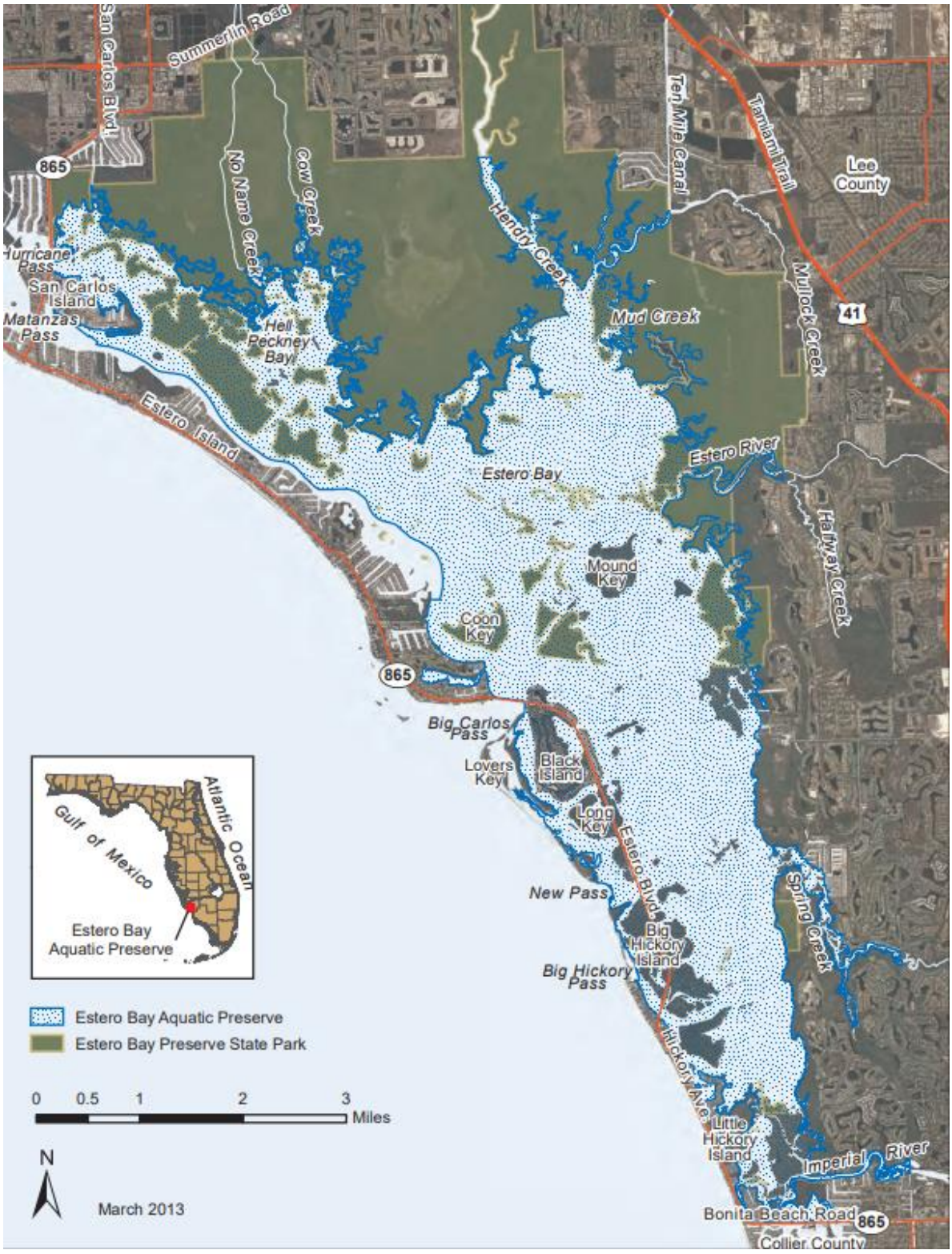
Estero Bay Aquatic Preserve

The Estero Bay Aquatic Preserve was Florida's first aquatic preserve and was dedicated in December 1966.[19] At that time, the preserve encompassed only the northern half of Estero Bay. In 1983, the Legislature added the southern half of Estero Bay down to the Lee County line.[20] Today the preserve covers a total of 13,829 acres and nearly 11,000 acres of state-owned sovereign submerged lands occurring below the mean high water line to which the state holds title.[21]

The area around the preserve has experienced heavy development, however the preserve is surrounded by state parks and other recreational sites, which offer access to the bay for boating, kayaking, fishing, and more. These include Estero Bay Preserve State Park, Koreshan State Park,

[14] Section 258.42, F.S. Administrative rules applicable to aquatic preserves generally may be found in Chapters 18-20, F.A.C., Management Policies, Standards and Criteria.
[15] Section 258.42, F.S.
[16] Fla. Admin. Code Rule 18-21.011(1)(b)5.
[17] Section 253.04(3), F.S.
[18] Section 327.73(x), F.S.
[19] DEP, *Estero Bay Aquatic Preserve*, https://floridadep.gov/rcp/aquatic-preserve/locations/estero-bay-aquatic-preserve (last visited Jan. 18, 2024).
[20] *Id*.
[21] DEP, *Estero Bay Aquatic Preserve Management Plan* (2015), 15, *available at* https://publicfiles.dep.state.fl.us/cama/plans/aquatic/Estero-Bay-AP-Management-Plan.pdf.

Lovers Key State Park, Matanzas Pass Preserve, Mound Key Archaeological State Park, and the Mound House.[22]



[22] DEP, *Estero Bay Aquatic Preserve*.

The waters of Estero Bay were found to be worthy of special protection, in part because of their exceptional ecological significance.[23] The bay contains several distinct natural community types. The dominant community is mangrove forest, but seagrass beds, salt marshes, tidal flats, oyster bars, and others are also present. The combination of subtropical climate, the lagoon configuration, and vegetation make the Estero Bay estuarine complex one of the most productive in the state.[24] The bay is home to approximately 40 percent of the state's endangered and threatened species, and is an important home for bird nesting colonies and provides a valuable resting area for migrating birds. The bay also supports a variety of commercial and sport fisheries by providing nursery area, which supports the local economy.[25]

Shrimping Industry

Southwest Florida's commercial seafood has been vitally important to its economic based for decades.[26] The waters off the coast of Lee County provide the necessary conditions for shrimp to thrive because shrimp rely on nearshore waters and use estuaries like Estero Bay for their nursery grounds. There are three commercially important shrimp species caught along Florida's coastlines and off Lee County: brown shrimp (*Farfantepenaeus aztecus*), white shrimp, (*Litopenaeus setiferus*), and pink shrimp (*Farfantepenaeus duorarum*). [27]

San Carlos Island, which is located on the northern side of Matanzas Pass and can be seen in the map on the previous page, is home to a large fleet of shrimping vessels that operate in the Gulf of Mexico.[28] The island is one of the most important off-loading sites for shrimp trawlers because of its proximity to fishing grounds, the presence of several processing and packing firms, the availability of a wide range of repair and maintenance services, the availability of fuel and ice, and room for off-loading and mooring.[29] Because Hurricane Bay and Matanzas Pass are heavily used by shrimp trawlers and other commercial and recreational vessels and are adjacent to commercial and residential locations, this section of the aquatic preserve is heavily disturbed.[30] This area is referred to as "ruderal"[31] because it is an anthropogenic "altered" community.[32] Most ruderal locations contain seawalls or docks.[33]

Boundaries of Estero Bay Aquatic Preserve

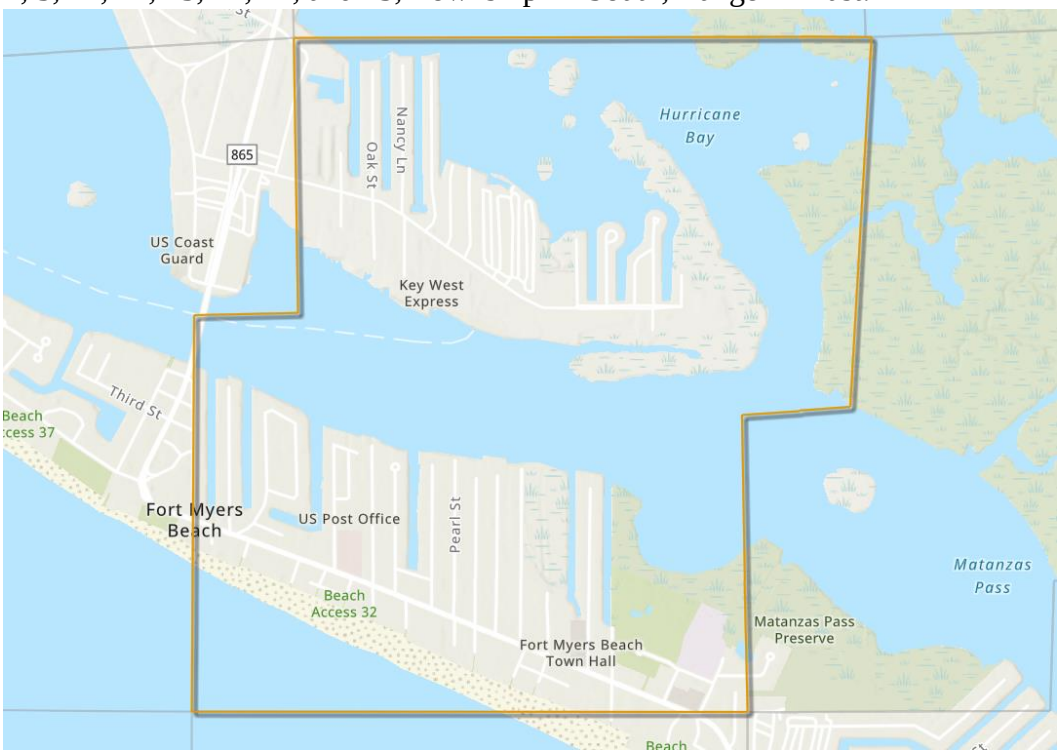
The Estero Bay Aquatic Preserve is in Lee County and includes all of those sovereign submerged lands located bayward of the mean high-water line in:

---

[23] DEP, *Estero Bay Aquatic Preserve Management Plan* at 13. The image of Estero Bay can be found in the Estero Bay Aquatic Preserve Management Plan. DEP, *Estero Bay Aquatic Preserve Management Plan* at 14.
[24] DEP, *Estero Bay Aquatic Preserve*.
[25] *Id.*
[26] *Id*. at 41.
[27] *Id*.
[28] *Id*. at 14.
[29] *Id*. at 41.
[30] *Id*. at 32.
[31] The term "ruderal" means pertaining to or living amongst rubbish or debris, or inhabiting disturbed sites. The Florida Natural Areas Inventory describes ruderal as areas impacted by development measures such as roadways, drainage ditches, navigation channels. *Id*. at 148.
[32] *Id*. at 29.
[33] *Id*. at 32.

- Sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35, and 36, Township 46 South, Range 24 East;
- Sections 19, 20, 28, 29, and 34, Township 46 South, Range 24 East, lying north and east of Matanzas Pass Channel;
- Sections 19, 30, and 31, Township 46 South, Range 25 East;
- Sections 6, 7, 17, 18, 19, 20, 29, 30, 31, and 32, Township 47 South, Range 25 East;
- Sections 1, 2, 3, 11, 12, 13, 14, 24, and 25, Township 47 South, Range 24 East.[34]

The map on the right shows Section 19, Township 46 South, Range 24 East.[35]



[34] Section 258.39(28), F.S.
[35] Lee County Maps and Apps, ArcGIS Map Viewer, *Section-Township-Range Untitled Map*, https://www.arcgis.com/apps/mapviewer/index.html?panel=gallery&layers=ade8d7ba1a7345808b44df1b90e0681c (last visited Jan. 18, 2024).

The map to the right shows where the boundary of the Estero Bay Aquatic Preserve currently lies in the area affected by the bill.[36]

III. Effect of Proposed Changes:

Section 1 amends s. 258.39, F.S., to revise the boundaries of the Estero Bay Aquatic Preserve. Specifically, the bill removes from the preserve all sovereign submerged lands located bayward of the mean high-water line in Section 19, Township 46 South, Range 24 East, lying north and east of Matanzas Pass Channel.

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.

[36] DEP, *Estero Bay Aquatic Preserve Management Plan* at 20.

E. Other Constitutional Issues:

Article III, s. 10 of the Florida Constitution prohibits the Legislature from enacting any special act or local bill unless notice is first published or a referendum is conducted in the area effected or if the purpose of the bill is one of statewide importance and impact.[37] A special or local law does not apply with geographic uniformity across the state; it operates only upon designated persons or discrete regions; and it bears no reasonable relationship to differences in population or other legitimate criteria.[38] This legislation seems to have complied with the noticing requirements and is of statewide importance.[39]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 258.39 of the Florida Statutes.

IX. Additional Information:

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

None.

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[37] FLA. CONST. art. III, s. 10; *see Schrader v. Fla. Keys Aqueduct Auth.*, 840 So. 2d 1050 (Fla. 2003).

[38] *See State ex rel. City of Pompano Beach v. Lewis*, 368 So. 2d 1298 (Fla. 1979) (statute relating to particular persons or things or other particular subjects of a class is a special law); *Hous. Auth. v. City of St. Petersburg*, 287 So. 2d 307 (Fla. 1973) (defining a special law).

[39] Board of Trustees of the Internal Improvement Trust Fund, News-Press, *Notice of Legislation* (Nov. 9, 2023), *available at* https://www.news-press.com/public-notices.

B. Amendments:

None.

By Senator Martin

33-01374-24 20241210__

A bill to be entitled

An act relating to the Estero Bay Aquatic Preserve; amending s. 258.39, F.S.; revising the boundaries of the Estero Bay Aquatic Preserve; providing an effective date.

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

Section 1. Subsection (28) of section 258.39, Florida Statutes, is amended to read:

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(28) Estero Bay Aquatic Preserve, the boundaries of which are generally: All of those sovereignty submerged lands located bayward of the mean high-water line being in Sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35, and 36, Township 46 South, Range 24 East; and in Sections ~~19,~~ 20, 28, 29, and 34, Township 46 South, Range 24 East, lying north and east of Matanzas Pass Channel; and in Sections 19, 30, and 31, Township 46 South, Range 25 East; and in Sections 6, 7, 17, 18, 19, 20, 29, 30, 31, and 32, Township 47 South, Range 25 East; and in Sections 1, 2, 3, 11, 12, 13, 14, 24, and 25, Township 47 South, Range 24 East, in Lee County, Florida. Any and all submerged lands conveyed by the Trustees of the Internal Improvement Trust Fund prior to October 12, 1966, and any and all uplands now in private ownership are specifically exempted from this preserve.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

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

The Florida Senate

APPEARANCE RECORD

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2/8/24
Meeting Date

Ag Envnl + Gen Gov
Committee

1210
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kim Dinkins 1000 Friends of FL Phone 850-273-5055

Address 308 N Monroe
Street

Tallahassee FL
City State Zip

Email kdinkins@1000fof.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: 1000 Friends 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

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2/10/24
Meeting Date

1210
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Ryan Matthews

Phone 850 577 9070

Address 301 S. Bronough St Suite 600
Street

Email Ryan.Matthews@gray-robinson.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: San Carlos Island Redevelopment Corp.

☐ 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

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2/8/23
Meeting Date

Sub approps gov
Committee

1622
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kevin Jacobs

Phone (850) 413-5011

Address 200 E Gaines St
Street

Email Kevin.Jacobs@flair.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: OIR

☐ 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 1386
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government and Senator Calatayud
SUBJECT:	Department of Environmental Protection
DATE:	February 15, 2024 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1386 amends provisions relating to aquatic preserves, resilience, onsite sewage treatment and disposal systems (OSTDSs, otherwise known as septic systems), and wastewater treatment facilities.

The bill provides that a representative of the Department of Environmental Protection (DEP) may at any reasonable time enter and inspect any property, except a building which is used exclusively for a private residence, that has an OSTDS to ascertain compliance with applicable law, rules, and regulations. Under current law, DEP personnel must have reason to believe noncompliance exists and must first obtain permission from the owner or occupant of a residence of private building to secure an inspection warrant.

The bill requires all applicants for permits to construct and operate a domestic wastewater treatment facility to prepare a reuse feasibility study. Domestic treatment facilities that dispose of effluent by certain means must implement reuse to the extent feasible and consider the ecological or public water supply benefits afforded by any disposal.

The bill makes revisions to facilitate the transfer of the OSTDS program including:

- Creating new procedures for the DEP regarding the processing and enforcement of septic tank requirements.

- Directing the DEP to adopt rules for a general permit for projects which have, individually or cumulatively, a minimal adverse impact on public health or the environment.
- Directing the DEP to establish an enhanced nutrient-reducing OSTDS approval program.

Regarding domestic wastewater treatment facilities and wastewater treatment plans, the bill:
- Requires certain public and private facilities to participate in developing the domestic wastewater treatment plan including providing certain information to the applicable local government.
- Requires certain wastewater treatment facilities that provide reclaimed water within a basin management action plan or reasonable assurance plan area to meet advanced waste treatment standards.

Regarding reclaimed water, the bill:
- Directs the water management districts and the DEP to develop rules to promote reclaimed water and encourage potable water offsets that produce significant water savings.
- Authorizes extended permits for those applicants or permittees that propose a development or water resource development project using reclaimed water.

Regarding the Resilient Florida Grant Program, the bill:
- Authorizes the DEP to provide grants to counties or municipalities to fund:
  - An update of their inventory of critical assets, including those that are currently or reasonably expected to be impacted by flooding and sea level rise;
  - Development of strategies to enhance community preparations for threats from flooding and sea level rise, including adaptation plans; and
  - Permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.
- Requires vulnerability assessments to use data from the Florida Flood Hub that is certified by the Chief Resilience Officer.
- Requires certain data and planning horizons to be used in the assessment.

The bill requires the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment to include the 20- and 50-year projected sea level rise at each active National Oceanic and Atmospheric Administration tidal gauge off the Florida coast as derived from statewide sea level rise projections.

Regarding the Statewide Flooding and Sea Level Rise Resilience Plan, the bill:
- Authorizes the plan to include projects not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment at the DEP and the Chief Resilience Officer's discretion.
- Expands the types of projects that can be submitted by local or regional entities.

The bill requires the DEP to include the projects funded under the water quality grant program on a user-friendly website or dashboard.

The bill requires the Office of Economic and Demographic Research to provide a publicly-accessible data visualization tool on its website related to its statewide wastewater and stormwater needs analysis.

Regarding aquatic preserves, the bill:

- Provides that it is a noncriminal infraction to operate a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within the Nature Coast Aquatic Preserve.

Declares the Kristin Jacobs Coral Reef Ecosystem Conservation Area to be an aquatic preserve.

The bill may have a positive, yet indeterminate, fiscal impact on state government, because the DEP is directed to deposit certain damages, costs, or penalties it collects relating to onsite sewage treatment and disposal systems regulations into the Water Quality Assurance Trust Fund.

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

II. Present Situation:

Water Quality and Nutrients

Nutrient pollution and the excessive accumulation of nitrogen and phosphorus in water is one of the most widespread, costly, and challenging environmental problems.[1] In Florida, 35 percent of waterbodies are impaired for nutrients and 87 percent of counties have nutrient impaired waters within their boundaries.[2]

Phosphorus and nitrogen are derived from natural and human-made sources.[3] Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.[4]

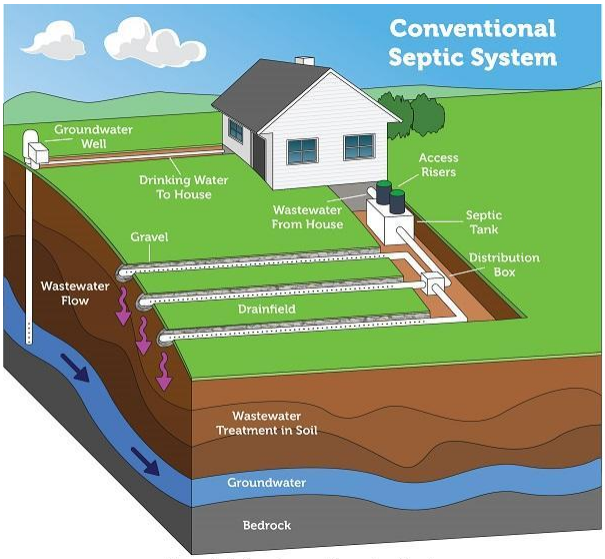
[1] U.S. Environmental Protection Agency (EPA), *Nutrient Pollution: The Problem*, https://www.epa.gov/nutrientpollution/problem (last visited Jan. 18, 2024).
[2] DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources).
[3] *Id.*
[4] U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, https://www.epa.gov/nutrientpollution/sources-and-solutions (last visited Jan. 18, 2024).

Onsite Sewage Treatment and Disposal Systems

Onsite Sewage Treatment and Disposal Systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.[5] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.[6]

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.[7] In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.[8] For example, in rural areas and low-density developments, central sewer systems are not cost-effective.[9]

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.[10] This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.[11]



Please note: Septic systems vary. Diagram is not to scale.

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).[12] The

[5] DOH, *Septic System Information and Care*, http://columbia.floridahealth health/onsite-sewage-disposal/septic-information-and-care.html (last visited Jan. 9, 2024); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited Jan. 18, 2024) (showing the graphic provided in the analysis).
[6] *Id.*
[7] DEP, *Onsite Sewage Program*, https://floridadep.gov/water/onsite-sewage#:~:text=Onsite%20sewage%20treatment%20and%20disposal%20systems%20%28OSTDS%29%2C%20commonly,represents%2012%25%20of%20the%20United%20States%E2%80%99%20septic%20systems (last visited Jan. 18, 2024).
[8] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/costs-implement-mandatory-statewide-inspection.pdf.
[9] *Id*.
[10] DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study*, *Final Report 2008-2015*, 21 (Dec. 2015), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf; *See* Fla. Admin. Code R. 64E-6.006(2).
[11] University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Oct. 2020), *available at* http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf.
[12] DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (updated May 2021), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf.

Department of Environmental Protection (DEP) publishes on its website approved products and resources on advanced systems.[13] Determining which advanced system is the best option can depend on site-specific conditions.

In 2023, the Florida Legislature passed a law requiring enhanced nutrient-reducing OSTDSs in places where waterbodies do not meet water quality standards and there is a plan in place, such as a basin management action plan (BMAP) or alternative restoration plan, to address water quality issues.[14] Enhanced nutrient-reducing OSTDSs are required for new systems on lots of one acre or less within all BMAP areas, reasonable assurance plan areas, and pollution reduction plan areas when sewer is not available.[15] Within the Banana River Lagoon BMAP, the Central Indian River Lagoon BMAP, the North Indian River Lagoon BMAP, and the Mosquito Lagoon reasonable assurance plan area, all new OSTDSs are prohibited unless central sewerage is not available, in which case only enhanced nutrient-reducing OSTDSs are authorized.[16]

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.[17] Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DEP.[18]

In 2020, the Clean Waterways Act provided for the transfer of the Onsite Sewage Program from the Department of Health (DOH) to the DEP.[19] The Onsite Sewage Program will be transferred over a period of five years, and guidelines for the transfer are provided by an interagency agreement.[20] Per the agreement, the DEP has the primary powers and duties of the Onsite Sewage Program, meaning that the county departments of health will implement the OSTDS program under the direction of the DEP instead of the DOH.[21] The county departments of health still handle permitting and inspection of OSTDS.[22] In the event of an alleged violation of OSTDS laws, county departments of health are responsible for conducting an inspection to gather information regarding the allegations.[23]

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[13] DEP, *Onsite Sewage Program, Product Listings and Approval Requirements*, https://floridadep.gov/water/onsite-sewage/content/product-listings-and-approval-requirements.
[14] DEP, *Permitting of Enhanced Nutrient Reducing Onsite Sewage Treatment and Disposal Systems*, https://floridadep.gov/water/onsite-sewage/content/permitting-enhanced-nutrient-reducing-onsite-sewage-treatment-and (last visited Jan. 18, 2024); No. 2023-169, Laws of Fla.; Sections 373.811 and 403.067(7)(a)10., F.S.
[15] Section 403.067(7)(a)10., F.S.
[16] Section 373.469, F.S.
[17] Section 381.00655, F.S.
[18] *Id*.
[19] DEP, *Program Transfer*, https://floridadep.gov/water/onsite-sewage/content/program-transfer (last visited Jan. 18, 2024).
[20] DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program*, 5 (June 30, 2021), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/interagency-agreement-between-fdoh-fdep-onsite-signed-06302021.pdf.
[21] *Id.* at 14.
[22] *Id.* at 11; and DEP, *Onsite Sewage Program*, https://floridadep.gov/water/onsite-sewage (last visited Jan. 18, 2024).
[23] DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program* at 11.

In 2008, less than one percent of OSTDSs in Florida were actively managed under operating permits and maintenance agreements.[24] The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[25] Current law directs the DEP to administer permits, site evaluations, and inspections associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an OSTDS.[26] Although this statutory authority is broad, inspections for traditional OSTDS generally occur during OSTDS construction, repair, or abandonment.[27] Buildings that use an aerobic treatment unit or generate commercial waste must by inspected by the DEP at least annually to assure compliance with the operating permit.[28]

Under s. 381.0065(5), F.S., DEP personnel who have reason to believe noncompliance exists, may at any reasonable time, enter a premises with an OSTDS permit or the business premises of any septic tank contractor to ascertain compliance with applicable statutes and rule. The term "premises" does not include a residence or private building. To gain entry to a residence or private building, the DEP must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction. The DEP may issue citations that may contain an order of correction or an order to pay a fine, or both when a violation of applicable laws or rules is enforceable by an administrative, civil remedy, or is a misdemeanor of the second degree.[29] The fines imposed by citation may not exceed $500 per violation. Each day the violation exists constitutes a separate violation.[30] The department may reduce or waive the fine imposed by the citation. Fines are deposited into the county health department trust fund.[31]

The DEP is also required by law to make rules to relating to the location of OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rules must consider:

- Conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs,
- Impaired or degraded water bodies,
- Domestic wastewater and drinking water infrastructure,
- Potable water sources,
- Nonpotable wells,
- Stormwater infrastructure,
- The onsite sewage treatment and disposal system remediation plans developed for purposes of a BMAP,
- Nutrient pollution, and

[24] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/costs-implement-mandatory-statewide-inspection.pdf.
[25] *Id*.
[26] Section 381.0065(3)(b); Fla. Admin. Code 62-6.003.
[27] *See* Fla. Admin. Code 62-6.003, 62-6.011.
[28] Section 381.0065(4), F.S.
[29] Section 381.0065(5), F.S.
[30] *Id*.
[31] *Id*.

- The recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to former s. 381.00652, F.S.[32]

The rules are required to allow a variance from a rule requirement upon demonstration that the requirement would cause an undue hardship and granting the variance would not cause or contribute to the exceedance of a total maximum daily load.[33] The DEP updated Chapter 62-6 of the Florida Administrative Code in 2022 to address these requirements.

A county or municipality that contains a first magnitude spring must, and any county or municipality that does not contain a first magnitude spring may, develop and adopt by local ordinance an OSTDS evaluation and assessment program meeting the requirements of state law.[34] If adopted, the OSTDS evaluation and assessment program requires that each OSTDS within all or part of the county's or municipality's jurisdiction be evaluated once every five years to assess the fundamental operational condition of the system and to identify system failures.

The following table includes administrative and judicial remedies available pursuant to part I of ch. 403 for violations of OSTDSs regulations, part I of ch. 386, relating to sanitary nuisances involving OSTDSs, or part III of ch. 489.

Statute	Administrative Remedies	Judicial Remedies
Part I, ch. 403, F.S.	• Institute an administrative proceeding to establish liability and recover damages for any injury to air, waters, or property of the state caused by any violation; the department may order the violator to pay damages to the state. • Institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the	• Institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant and aquatic life, of the state caused by any violation. • Institute a civil action in a court of competent jurisdiction to impose and to recover a

[32] Section 381.0065(4)(e), F.S.
[33] *Id*.
[34] Section 381.00651(2), F.S. There are exceptions. If a county or municipality that contains a first magnitude spring has already adopted an OSTDS evaluation and assessment program, and it meets the grandfathering provisions of the statute, it is exempt from the requirement. The governing body of a local government can also choose to opt out of the requirement by adopting a resolution by a 60 percent vote that indicates an intent to not adopt an OSTDS evaluation and assessment program.

	department shall proceed administratively when penalties sought do not exceed $50,000 per assessment. • Institute an administrative proceeding by serving a written notice of violation upon the alleged violator by certified mail. • In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided by law. • For a drinking water contamination violation, a penalty of $3,000 for a maximum containment level violation; plus $1,500 if the violation is for a primary inorganic, organic, or radiological maximum contaminant level or it is a fecal coliform bacteria violation. • For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, a penalty of $2,000. • For failure to install, maintain, or use a required pollution control system or device, $6,000. • For failure to obtain a required permit before construction or modification, $4,500. • For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, $3,000.[35]	civil penalty for each violation in an amount of not more than $15,000 per offense.[36] • Institute a civil action in a court of competent jurisdiction to seek injunctive relief.[37]
Part I, ch. 386, F.S.	• Undertake required correctional procedures regarding sanitary nuisances, the cost or expense of which must be paid by the person(s) committing, creating, keeping, or maintaining such nuisance; institute a civil action if the cost and expense is not paid within 10 days of removal. • Institute administrative proceedings authorized pursuant to s. 381.0061, F.S., (DEP may impose a fine, which may not exceed $500 for each violation of regulations relating to OSTDSs, septic tank contracting, and sanitary nuisances).[38]	• Institute criminal proceedings in the county court in the jurisdiction of which the condition exists against all persons failing to comply with notices to correct sanitary nuisance conditions. • Institute legal proceedings authorized pursuant to s. 381.0012, F.S., (DEP may apply for an injunction in the proper circuit court; DEP may receive a warrant from a trial court judge to carry out the purpose and intent of ch. 381,

[35] Section 403.121, F.S.
[36] *Id*.
[37] Section 403.131, F.S.
[38] Section 386.03, F.S.

		F.S., relating to public health).[39]
Part III, ch. 489, F.S.	• Revoke or suspend a certificate of registration for certain violations.[40] • Deny a registration if the department determines that an applicant does not meet all requirements of this part or has violated any provisions of this part.[41]	• None.

Impaired Waters

Under section 303(d) of the federal Clean Water Act, states must establish water quality standards for waters within their borders and develop a list of impaired waters that do not meet the established water quality standards.[42] States must also develop a list of threatened waters that may not meet water quality standards in the following reporting cycle.[43]

The DEP sorted those waters into 29 major watersheds, or basins, and further organized them into five basin groups for assessment purposes.[44] If the DEP determines that any waters are impaired, the waterbody must be placed on the verified list of impaired waters and a total maximum daily load (TMDL) must be calculated.[45] A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.[46] A waterbody may be removed from the verified list at any time during the TMDL process if it attains water quality standards.[47]

Basin Management Action Plans

BMAPs are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,[48] for a watershed.

[39] *Id*.
[40] Section 489.556, F.S.
[41] Section 489.558, F.S.
[42] EPA, *Overview of Identifying and Restoring Impaired Waters under Section 303(d) of the CWA*, https://www.epa.gov/tmdl/overview-identifying-and-restoring-impaired-waters-under-section-303d-cwa (last visited Jan. 18, 2024); 40 C.F.R. 130.7. Following the development of the list of impaired waters, states must develop a total maximum daily load for every pollutant/waterbody combination on the list. A total maximum daily load is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards. DEP, *Watershed Evaluation and Total Maximum Daily Loads (TMDL) Section*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Jan. 18, 2024).
[43] *Id*.
[44] DEP, *Assessment Lists*, https://floridadep.gov/dear/watershed-assessment-section/content/assessment-lists (last visited Jan. 18, 2024).
[45] *Id.*; DEP, *Verified List Waterbody Ids (WBIDs)*, https://geodata.dep.state.fl.us/datasets/FDEP::verified-list-waterbody-ids-wbids/about (last visited Jan. 18, 2024); section 403.067(4), F.S.
[46] Section 403.067(6)(a), F.S. *See also* 33 U.S.C. § 1251, s. 303(d) (the Clean Water Act).
[47] Section 403.067(5), F.S.
[48] "Point source" is defined as any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are sources of pollution that are not point sources. Fla. Admin. Code R. 62-620.200(37).

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by implementing appropriate best management practices (BMPs) or conducting water quality monitoring.[49] A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district for failure to implement these requirements.[50]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.[51] Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations.[52]

BMAPs must include five-year milestones for implementation and water quality improvement and an associated water quality monitoring component to evaluate the progress of pollutant load reductions.[53] Every five years an assessment of progress toward these milestones must be conducted and revisions to the plan made as appropriate.[54]

Each BMAP must also include:

- The management strategies available through existing water quality protection programs to achieve TMDLs;
- A description of BMPs adopted by rule;
- For the applicable five-year implementation milestones, a list of projects that will achieve the pollutant load reductions needed to meet a TMDL or other established load allocations, including a planning-level cost estimate and an estimated date of completion;
- A list of regional nutrient reduction projects submitted by the Department of Agriculture and Consumer Services which will achieve pollutant load reductions established for agricultural nonpoint sources;[55]
- The source and amount of financial assistance to be made available; and
- A planning-level estimate of each project's expected load reduction, if applicable.[56]

[49] Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[50] Section 403.067(7)(b)2.h., F.S.
[51] *Id.*
[52] *Id.*
[53] Section 403.067(7)(a)6., F.S.
[54] *Id.*
[55] This is required only where agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges or DEP determines that additional measures are necessary to achieve a TMDL. Section 403.067(7)(e)1., F.S.
[56] Section 403.067(7)(a)4., F.S.

Flooding and Sea Level Rise

Given Florida's flat topography[57] and extreme rainfall events, flooding has been an issue throughout the state's history.[58] The effects of climate change—including sea level rise, increased storm intensity, and increased frequency and severity of extreme rainfall events—have increased flooding in inland and coastal areas.[59]

Sea level rise is a direct effect of climate change, resulting from a combination of thermal expansion of warming ocean waters and the addition of water mass into the ocean, largely associated with the loss of ice from glaciers and ice sheets.[60] The global mean sea level has risen about 8–9 inches since 1880, and the rate of rise is accelerating: 0.06 inches per year throughout most of the twentieth century, 0.14 inches per year from 2006–2015, and 0.24 inches per year from 2018–2019.[61] In 2021, global sea levels set a new record high—3.8 inches above 1993 levels.[62]

The latest projections from the National Oceanic and Atmospheric Administration (NOAA) estimate that an average of two feet sea level rise can be expected over the next 50 years.[63] All coastal areas of Florida will be affected under this scenario.[64]

[57] The Florida coastline has an average elevation of approximately 15 to 20 feet above mean sea level (MSL) with barrier islands typically at elevation zero to five feet above MSL. The southern portion of the state (south of Lake Okeechobee) is typically lower than 15 feet MSL. U.S. Army Corps of Engineers, *South Atlantic Coastal Study: Florida Appendix*, 3-26 (2022), *available at* https://www.sad.usace.army.mil/Portals/60/siteimages/SACS/SACS_FL_Appendix_508_20220812.pdf?ver=XGRM8v-69_bdLAFPXEmlOg%3d%3d.

[58] Florida Office of Economic and Demographic Research (EDR), *Annual Assessment of Flooding and Sea Level Rise*, 2 (2023), *available at* http://edr.state.fl.us/Content/natural-resources/2023_AnnualAssessmentFloodingandSeaLevelRise_Chapter6.pdf.

[59] National Aeronautics and Space Administration (NASA), *The Effects of Climate Change*, https://climate.nasa.gov/effects/ (last visited Jan. 18, 2024).

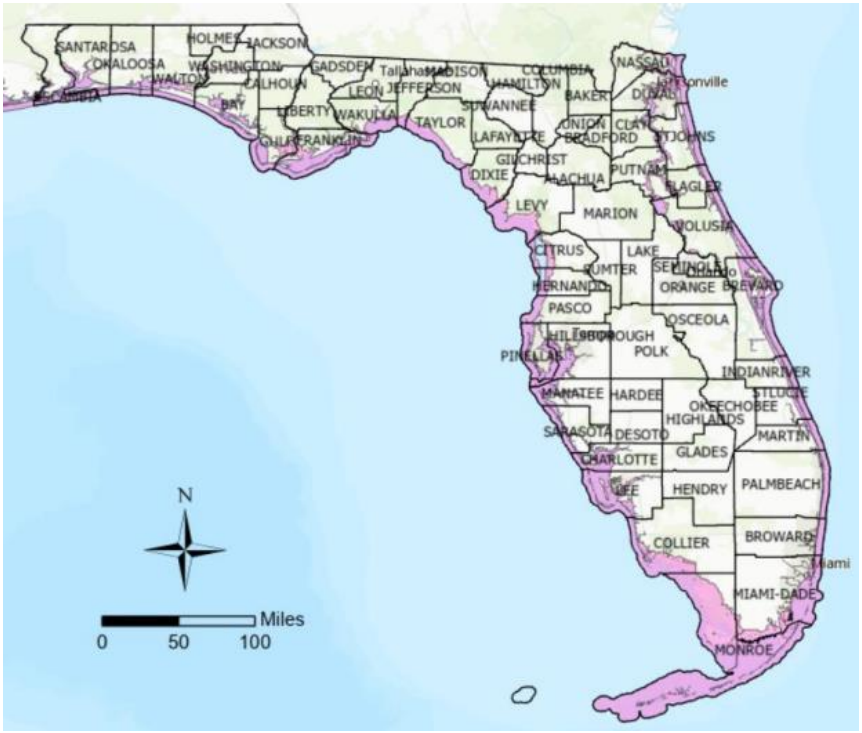
[60] National Oceanic and Atmospheric Administration (NOAA) et al., *Global and Regional Sea Level Rise Scenarios for the U.S.*, (2022) *available at* https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report.html.

[61] NOAA, *Climate Change: Global Sea Level*, https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level (last visited Jan. 18, 2024).

[62] *Id.*

[63] EDR, *Annual Assessment of Flooding and Sea Level Rise* at 20; NOAA, *Global and Regional Sea Level Rise Scenarios for the U.S.*, (2022) *available at* https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report.html.

[64] EDR, *Annual Assessment of Flooding and Sea Level Rise* at 21.



Projection of 2 ft. Sea Level Rise[65]

Over five million structures are estimated to be affected by flooding under a two-foot sea level rise scenario. The estimated value of these at-risk properties exceeds $576 billion.[66]

Due to its porous geology, economic and property value, and the potential impact of various flooding hazards, southeast Florida is the area most at risk from sea level rise.[67] The effects of sea level rise are already apparent in this region and pose a threat to lives, livelihoods, economies, and the environment.[68] Physical impacts of sea level rise include coastal inundation and erosion, increased frequency of flooding in vulnerable coastal and inland areas due to impairment of the region's largely gravity-driven stormwater infrastructure system, reduced soil infiltration capacity, and saltwater intrusion of drinking-water supply. Moreover, the impacts of surge from tropical storms or hurricanes are exacerbated by sea level rise. Increased pollution and contamination from flooding degrades natural resources critical to the region's economy. Sea level rise can also result in displacement, decrease in property values and tax base, increases in insurance costs, loss of services, and impairment of infrastructure such as roads and septic systems.[69]

[65] *Id.* at 21.
[66] *Id.* at 24, 25.
[67] EDR, *Annual Assessment of Flooding and Sea Level Rise* at 2.
[68] Sea Level Rise Ad Hoc Work Group, Southeast Florida Regional Climate Change Compact (SFRCCC), *Unified Sea Level Rise Projection: Southeast Florida*, 5 (2019), *available at* https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf.
[69] Sea Level Rise Ad Hoc Work Group, Southeast Florida Regional Climate Change Compact (SFRCCC), *Unified Sea Level Rise Projection: Southeast Florida* at 5.

Sea Level Rise Projections

Entities from the international to the local level use scientific data and modeling to create projections of future sea level rise for planning and decision-making. The NOAA operates tide gauges along the nation's coasts and satellites that measure changes in sea level. In 2017 and 2022, the NOAA published sea level rise projections for the U.S.[70] The NOAA's projections include observation-based extrapolations and five scenarios ranging from "low" to "high."[71] Interactive maps have been developed to depict local conditions under each NOAA scenario.[72]

Resilience and Nature-Based Solutions

Resilience is the ability of a community to prepare for anticipated natural hazards, adapt to changing conditions, and withstand and recover rapidly from disruptions.[73] Resilience planning includes preparing for hazard events, risk mitigation, and post-event recovery and should be proactive, continuous, and integrated into other community goals and plans.[74]

Nature-based solutions are an important part of resilience planning. Nature-based solutions use natural features and processes to combat climate change, reduce flood risks, improve water quality, protect coastal property, restore and protect wetlands, and stabilize shorelines.[75] Examples of nature-based solutions include:

- Living shorelines, which stabilize a shore by combining living components, such as plants, with structural elements, such as rock or sand. Living shorelines can slow waves, reduce erosion, and protect coastal property.
- Oyster reefs. Oysters are often referred to as "ecosystem engineers" because of their tendency to attach to hard surfaces and create large reefs made of thousands of individuals. In addition to offering shelter and food to coastal species, oyster reefs buffer coasts from waves and filter surrounding waters.
- Dunes, which often have dune grasses or other vegetation and serve as a barrier between the water's edge and inland areas.[76]

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[70] NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, (2017), *available at* https://tidesandcurrents.noaa.gov/publications/techrpt83_Global_and_Regional_SLR_Scenarios_for_the_US_final.pdf; NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, (2022), *available at* https://aambpublicoceanservice.blob.core.windows.net/oceanserviceprod/hazards/sealevelrise/noaa-nos-techrpt01-global-regional-SLR-scenarios-US.pdf.

[71] NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 15 (2022). The 2017 projections also included an "extreme" scenario, which has been removed from the 2022 report. *See* NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 23 (2017).

[72] University of Florida, *Florida Sea Level Scenario Sketch Planning Tool*, https://sls.geoplan.ufl.edu/viewer/ (last visited Jan. 18, 2024).

[73] Federal Emergency Management Agency (FEMA), *National Risk Index: Community Resilience*, https://hazards.fema.gov/nri/community-resilience (last visited Jan. 18, 2024).

[74] National Institute of Standards and Technology, U.S. Dep't of Commerce, *Community Resilience Planning Guide for Buildings and Infrastructure Systems*, 1 (2016), *available at* https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1190v1.pdf.

[75] FEMA, *FEMA Resources for Climate Resilience*, 5 (2021), *available at* https://www.fema.gov/sites/default/files/documents/fema_resources-climate-resilience.pdf.

[76] FEMA, *Types of Nature-Based Solutions*, https://www.fema.gov/emergency-managers/risk-management/nature-based-solutions/types (last visited Jan. 18, 2024).

The Resilient Florida Grant Program

The Florida Legislature has established several statewide resilience programs, including the Resilient Florida Grant Program, the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set, and the Statewide Flooding and Sea Level Rise Resilience Plan.

The Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, including vulnerability assessments, plan development, and projects to adapt critical assets.[77] In the program's first two years, 263 implementation projects were awarded a total of nearly $954 million.[78] Vulnerability assessments funded through this program must encompass the entire county or municipality; use the most recent publicly available Digital Elevation Model and dynamic modeling techniques, if available; and analyze the vulnerability of and risks to critical assets,[79] including regionally significant assets.[80] In addition, vulnerability assessments must include, where applicable:

- Peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), F.S.,[81] if the county or municipality is subject to, but has not complied with, such requirements;
- The depth of tidal flooding, current and future storm surge flooding, rainfall-induced flooding (including for a 100-year and 500-year storm), and compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding; and
- The following scenarios and standards:
  - All analyses in the North American Vertical Datum of 1988;[82]
  - At least two local sea level rise scenarios, which must include the 2017 NOAA intermediate-low and intermediate-high sea level rise projections;
  - At least two planning horizons that include planning horizons for the years 2040 and 2070; and

[77] Section 380.093(2)(a), F.S. "Critical asset" is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.
[78] This figure includes $270 million of state funding for the Statewide Flooding and Sea Level Resilience Plan. DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources* (Feb. 23, 2023), *available at* https://www.flsenate.gov/Committees/Show/SSHR/MeetingPacket/5700/10150_MeetingPacket_5700_2.23.23.pdf.
[79] Critical assets include transportation assets and evacuation routes (airports, bridges, bus terminals, major roadways, etc.), critical infrastructure (wastewater and stormwater treatment facilities, drinking water facilities, solid and hazardous waste facilities, etc.), critical community and emergency facilities (schools, correctional facilities, fire stations, hospitals, etc.), and natural, cultural, and historical resources (conservation lands, parks, shorelines, wetlands, etc.). Section 380.093(2)(a), F.S.
[80] Section 380.093(3)(c), F.S. Regionally significant assets are critical assets that support the needs of communities spanning multiple geopolitical jurisdictions. Section 380.093(2)(d), F.S.
[81] This section provides that, in communities abutting the Gulf of Mexico or Atlantic Ocean or other coastal areas defined by statute, a local government's comprehensive plan must include a coastal management element. Sections 163.3178(2) and 163.3177(6)(g), F.S. This element must contain a redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. Section 163.3178(2)(f), F.S.
[82] A vertical datum is a surface of zero elevation to which heights of various points are referenced. Traditionally, vertical datums have used classical survey methods to measure height differences (i.e. geodetic leveling) to best fit the surface of the earth. The current vertical datum for the contiguous United States and Alaska is the North American Vertical Datum of 1988. NOAA, *National Geodetic Survey: Vertical Datums*, https://www.ngs.noaa.gov/datums/vertical/#:~:text=TABLE%201%3A%20Current%20Vertical%20Datums%20for%20United%20States,%20%202002-present%20%201%20more%20rows%20 (last visited Jan. 18, 2024).

- Local sea level data that has been interpolated between the two closest NOAA tide gauges.[83]

The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment will provide information necessary to determine the risks to inland and coastal communities.[84] By July 1, 2023, the DEP must develop a data set providing statewide sea level rise projections and information necessary to determine the risks of flooding and sea level rise to inland and coastal communities. By July 1, 2024, the DEP must develop a statewide assessment (using the statewide data set) identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets and be updated every five years.[85]

The Statewide Flooding and Sea Level Rise Resilience Plan consists of ranked projects that address risks of flooding and sea level rise to coastal and inland communities.[86] Examples of projects include construction of living shorelines, seawalls, and pump stations, elevation projects, and infrastructure hardening.[87] Counties, municipalities, water management districts, regional water supply authorities, and other entities may submit to the DEP an annual list of proposed projects. Each project must have a minimum 50 percent cost share, unless the project assists or is within a financially disadvantaged community.[88] The DEP ranks the projects using a four-tier scoring system.[89] The DEP has adopted rules to implement s. 380.093, F.S., relating to the Statewide Flooding and Sea Level Rise Resilience Plan and project submittal requirements. These rules can be found in Chapter 62S-8 of the Florida Administrative Code.[90] In December 2022, the DEP submitted the FY 23-24 Statewide Flooding and Sea Level Rise Resilience Plan totaling nearly $408 million over the next three years.[91]

The DEP may also provide funding for regional resilience entities to assist local governments with planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise.[92] As of February 2023, $4 million had been appropriated to regional resilience entities.[93]

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[83] Section 380.093(3)(d)
[84] Section 380.093(4), F.S.; DEP, *Resilient Florida Program – Statewide Assessment*, https://floridadep.gov/rcp/resilient-florida-program/content/resilient-florida-program-statewide-assessment (last visited Jan. 18, 2024).
[85] *Id. See also* DEP, *Resilient Florida Program – Statewide Assessment*.
[86] Section 380.093(5), F.S.
[87] DEP, *2023-2024 Statewide Flooding and Sea Level Rise Resilience Plan*, *available at* https://floridadep.gov/sites/default/files/2023-24%20Statewide%20Flooding%20and%20Sea%20Level%20Rise%20Resilience%20Plan_0.pdf.
[88] Section 380.093(5)(e), F.S. A financially disadvantaged small community is a municipality with a population of 10,000 or fewer, or a county with a population of 50,000 or fewer, where the per capita annual income is less than the state's per capita annual income. *Id.*
[89] Section 380.093(5)(h), F.S.
[90] Fla. Admin. Code Chapter 62S-8, *available at* https://floridadep.gov/sites/default/files/Final%20Rule%20Language_0.pdf.
[91] DEP and Florida Statewide Office of Resilience, *2022 Flood Resilience and Mitigation Efforts Across Florida*, 9, *available at* https://floridadep.gov/sites/default/files/2022%20Flood%20Resilience%20and%20Mitigation%20Efforts%20Report%20Only_0.pdf
[92] Section 380.093(6), F.S.
[93] DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 18 (Feb. 23, 2023), *available at* https://www.flsenate.gov/Committees/Show/SSHR/MeetingPacket/5700/10150_MeetingPacket_5700_2.23.23.pdf.

In 2022, the Statewide Office of Resilience was created within the Executive Office of the Governor for the purpose of reviewing all flood resilience and mitigation activities in the state and coordinating flood resilience and mitigation efforts with federal, state, and local governmental entities and other stakeholders. The office's Chief Resilience Officer and the DEP worked together to provide the Governor and the Legislature with a report on flood resilience and mitigation efforts across Florida.[94]

Florida Flood Hub for Applied Research and Innovation

The Florida Flood Hub for Applied Research and Innovation was established within the University of South Florida College of Marine Science to coordinate efforts between the academic and research institutions of the state.[95] The Florida Flood Hub is tasked with, among other things, organizing existing data needs for a comprehensive statewide flood vulnerability and sea level rise analysis and performing gap analyses to determine data needs; developing statewide open source hydrologic models for physically based flood frequency estimation and real-time forecasting of flood; establishing community-based programs to improve flood monitoring and prediction along major waterways; and providing tidal and storm surge flooding data to counties and municipalities for vulnerability assessments.[96]

Water Reuse

Water reuse is an important component of both wastewater management and water resource management in Florida. Reuse is defined as the deliberate application of reclaimed water for a beneficial purpose.[97] Whereas, reclaimed water is defined as water from a domestic wastewater[98] treatment facility that has received at least secondary treatment[99] and basic disinfection[100] for reuse.[101]

Florida has approximately 2,000 permitted domestic wastewater treatment facilities.[102] These facilities may require state and federal permits for discharges to surface waters.[103] Federal

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[94] DEP and Florida Statewide Office of Resilience, *2022 Flood Resilience and Mitigation Efforts Across Florida*, 2, *available at* https://floridadep.gov/sites/default/files/2022%20Flood%20Resilience%20and%20Mitigation%20Efforts%20Report%20Only_0.pdf; Letter from Department of Economic Opportunity to DEP, 1-2 (Nov. 9, 2022), *available at* https://floridadep.gov/DEO_PoF_Letter2022.

[95] Section 380.0933(1), F.S.

[96] Section 380.0933(2) and (3), F.S.

[97] Fla. Admin. Code R. 62-610.200(52).

[98] Section 367.021(5), F.S., defines the term "domestic wastewater" to mean wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.

[99] Fla. Admin. Code R. 62-610.200(54) defines the term "secondary treatment" to mean "wastewater treatment to a level that will achieve the effluent limitations specified in paragraph 62-600.420(1)(a), F.A.C."

[100] Fla. Admin. Code R. 62-600.440(5) provides the requirements for basic disinfection.

[101] Section 373.019(17), F.S.; Fla. Admin. Code R. 62-610.200(48).

[102] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Jan. 18, 2024).

[103] For required state permits, *see* Section 403.087, F.S.; *see also* DEP, *Wastewater Permitting*, available at https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting (last visited Jan. 18, 2024). For federal permits, *see* 33 U.S.C. s. 1342.

requirements for most facilities or activities are generally incorporated into a state-issued permit.[104] The DEP also regulates the construction and operation of domestic wastewater treatment facilities and establishes disinfection requirements for the reuse of reclaimed water.[105]

Reusing water helps conserve drinking water supplies by replacing the use of drinking quality water for non-drinking water purposes, such as irrigation, industrial cooling, groundwater recharge, and prevention of saltwater intrusion in coastal groundwater aquifers.[106] Water reuse also provides environmental benefits, including reduced groundwater withdrawals, reduced needs for new drinking water supplies and infrastructure, and improved water quality of the natural environment by reducing the amount of nutrients that are discharged directly to surface water and groundwater by wastewater treatment facilities.[107] The use of reclaimed water also provides for the recovery of water that would otherwise be lost to tide and evaporation.

In its rules, the DEP requires promotion of reuse of reclaimed water, recycling of stormwater for irrigation and other beneficial uses, recycling of industrial wastewater, and encourages local governments to create programs for reuse.[108] Water conservation and the promotion of water reuse have also been established as formal state objectives by the Legislature.[109] State law further provides that the use of reclaimed water provided by wastewater treatment plants permitted and operated under a reuse program by the DEP are considered environmentally acceptable and are not a threat to public health and safety.[110]

Florida tracks its reuse inventory in an annual report compiled by the DEP.[111] In 2021, a total of 455 domestic wastewater treatment facilities reported making reclaimed water available for reuse.[112] Approximately 908 million gallons per day (mgd) of reclaimed water were used for beneficial purposes in 2021,[113] which represents approximately 53 percent of the total domestic wastewater flow in the state.[114] The total reuse flow associated with reuse systems was 1,701 mgd,[115] which represents approximately 61 percent of the total domestic wastewater treatment flow in the state.[116]

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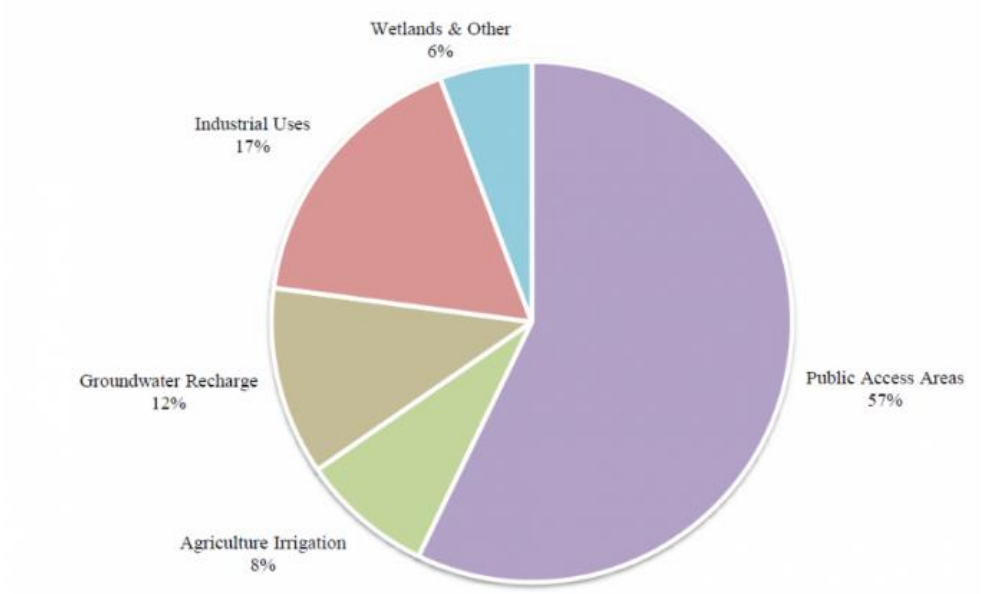
[104] Sections 403.061 and 403.087, F.S.
[105] Fla. Admin. Code R. 62-600.
[106] Martinez, Christopher J. and Clark, Mark W., *Reclaimed Water and Florida's Water Reuse Program*, UF/IFAS Agricultural and Biological Engineering Department (rev. 07/2012), *available at* https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.590.5063&rep=rep1&type=pdf.
[107] *Id*.
[108] Fla. Admin. Code R. 62-40.416.
[109] Sections 403.064(1) and 373.250(1), F.S.
[110] *Id*.
[111] *See* DEP, *2021 Reuse Inventory Report* (2022), *available at* https://floridadep.gov/sites/default/files/2021%20Reuse%20Inventory.pdf; compiled from reports collected pursuant to chapter 62-610 of the Florida Administrative Code.
[112] DEP, *2019 Reuse Inventory Report* at 2.
[113] This represents an average per capita reuse of 38.66 gallons per day per person. DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Jan. 18, 2024).
[114] DEP, *2019 Reuse Inventory Report* at 2, 3.
[115] *Id*. at 2.
[116] *Id*. at 3.

The chart below shows the percentage of reclaimed water utilization by flow.[117]



Note: Agriculture irrigation includes edible crops (e.g., citrus) as well as feed and fodder crops (e.g., spray fields).

In 2021, the Legislature passed SB 64, which required domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge to submit a plan for eliminating non-beneficial surface water discharge by January 2032.[118] The plan must include the average gallons per day that discharges are reduced, the average gallons per day of discharges that will continue, the level of treatment discharged water receives, and any modified or new plans submitted by a utility since the last report.[119]

SB 64 authorized discharges that are being beneficially used or otherwise regulated, including discharges associated with an indirect potable reuse project; permitted wet weather discharge; discharges into a stormwater management system, which are subsequently withdrawn for irrigation purposes; utilities that operate domestic wastewater treatment facilities with reuse systems that reuse at least 90 percent of a facility's annual average flow; or discharges that provide direct ecological or public water supply benefits.[120] The bill further specified that potable reuse is an alternative water supply and made reuse projects eligible for alternative water supply funding and incentivized the development of potable reuse projects.[121]

Reclaimed Water as Alternative Water Supply

When traditional water supplies are constrained, alternative water supplies must be developed in addition to water conservation efforts. Alternative water supply can include reclaimed water,

[117] DEP, *Florida's Reuse Activities*.
[118] Chapter 2021-168, Laws of Fla.; s. 403.064(17), F.S.
[119] *Id*.
[120] *Id*.
[121] *Id*.

brackish groundwater, surface water, and excess surface water captured and stored in reservoirs or aquifer storage and recovery wells.[122]

Reclaimed water is a type of alternative water supply and is eligible to receive alternative water supply funding.[123] Reclaimed water can be used for many purposes to meet water demand, including:

- Irrigation of golf courses, parks, residential properties, and landscaped areas;
- Urban uses, such as toilet flushing, car washing, and aesthetic purposes;
- Agricultural uses, such as irrigation of food crops, pasture lands, and at nurseries;
- Wetlands creation, restoration, and enhancement;
- Recharging groundwater through rapid infiltration basins, absorption fields, and direct injection;
- Augmentation of surface waters used for drinking water supplies; and
- Industrial uses such as processing and cooling water.[124]

Regulation of Reclaimed Water

Both the DEP and the water management districts (districts) play a regulatory role in the use of reclaimed water. The DEP regulations focus on water quality and ensure that reclaimed water is appropriately treated for its intended use to ensure protection of public health and the environment. The districts work with local utilities and water users to maximize the beneficial use of reclaimed water as an alternative water supply. The districts include alternative water supply projects in their regional water supply plans[125] and implement cost-share programs to assist communities in developing reclaimed water systems.[126]

In its rules, the DEP provides detailed reclaimed water treatment requirements depending upon how the reclaimed water will be used, including for groundwater recharge, surface water discharge, or to protect water quality.[127] In order to be reused as reclaimed water, domestic wastewater must meet, at minimum, a treatment standard of secondary treatment, basic disinfection, and pH control.[128] The regulations also include requirements for groundwater monitoring at reuse and land application sites.[129]

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[122] DEP, *Alternative Water Supply*, https://floridadep.gov/water-policy/water-policy/content/alternative-water-supply#Alternative%20Water%20Supplie (last visited Jan. 18, 2024).
[123] Section 373.250(2), F.S.
[124] DEP, *Uses of Reclaimed Water*, https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water (last visited Jan. 18, 2024).
[125] Section 373.036(2), F.S.
[126] DEP, *Water Management District Reuse Programs*, https://floridadep.gov/water/domestic-wastewater/content/water-management-district-reuse-programs (last visited Jan. 18, 2024).
[127] Fla. Admin. Code R. 62-610.
[128] DEP, *Applicable Rules for Reuse Projects*, https://floridadep.gov/water/domestic-wastewater/content/applicable-rules-reuse-projects#:~:text=Treatment%20and%20disinfection%20requirements%20for%20reuse%20of%20reclaimed,in%20order%20to%20be%20reused%20as%20reclaimed%20water (last visited Jan. 18, 2024).
[129] Fla. Admin. Code R. 62-610.412.

The districts are responsible for the administration of water resources at a regional level, including programs to protect water supply, water quality, and natural systems.[130] The districts issue consumptive use permits (CUPs) to manage the use of water. A CUP allows the holder to withdraw a specified amount of water from surface water and groundwater sources for reasonable and beneficial use.[131] CUPs require water conservation to prevent wasteful uses, require the reuse of reclaimed water instead of higher-quality groundwater where appropriate, and set limits on the amount of water that can be withdrawn.[132] The districts may not require CUPs for reclaimed water.[133]

The districts also implement minimum flows and minimum water levels (MFLs) to balance public water supply needs with protection of the state's natural systems.[134] For water bodies that are below or projected to fall below their MFL, the districts are required to implement a recovery or prevention strategy to ensure the MFL is maintained.[135]

[130] DEP, *Water Management Districts*, https://floridadep.gov/water-policy/water-policy/content/water-management-districts (last visited Jan. 18, 2024).
[131] South Florida Water Management District, *Consumptive Water Use Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/water-use-permits (last visited Jan. 18, 2024).
[132] *Id.*
[133] Section 373.250, F.S.
[134] DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations (last visited Jan. 18, 2024); *see also* section 373.042(1), F.S. Minimum flows and minimum water levels are the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.
[135] *Id*.

Class I Injection Wells

Class I injections wells are used to inject hazardous and non-hazardous wastes into deep, confined rock formations (see the image to the right).[136] Class I wells are typically drilled thousands of feet below the lowermost underground source of drinking water.[137] There are more than 180 active Class I wells in Florida, the majority of which dispose of non-hazardous, secondary-treated effluent from domestic wastewater treatment plants.[138] New hazardous waste wells were banned in Florida in 1983.[139]

Class I injections wells are required to be constructed, maintained, and operated so that the injection fluid remains in the injection zone, and the unapproved interchange of water between aquifers is prohibited. The wells are monitored so that any migration of injection fluids would be detected before reaching the underground source of drinking water.[140]

Aquatic Preserves

The State of Florida passed the Aquatic Preserve Act in 1975 to ensure that the state-owned submerged lands in areas with exceptional biological, aesthetic, and scientific value were set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.[141] There are currently 42 aquatic preserves encompassing about 2.2 million acres.[142] All but four are located along Florida's 8,400 miles of coastline.[143]

Aquatic preserves only include lands or water bottoms owned by the state. The Aquatic Preserve Act excludes any privately owned lands or water bottoms, or any publicly owned and maintained navigation channel or other public works project authorized by the U.S. Congress designed to improve or maintain commerce and

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[136] U.S. Environmental Protection Agency, *Underground Injection Control, Class I Industrial and Municipal Waste Disposal Wells*, https://www.epa.gov/uic/class-i-industrial-and-municipal-waste-disposal-wells (last visited Jan. 18, 2024).
[137] *Id*.
[138] DEP, *UIC Wells Classification*, https://floridadep.gov/water/aquifer-protection/content/uic-wells-classification#:~:text=In%20Florida%2C%20there%20are%20six%20classes%20of%20injection,than%20180%20active%20Class%20I%20wells%20in%20Florida (last visited Jan., 18, 2024).
[139] *Id*.
[140] *Id*.
[141] Section 258.36, F.S.; DEP, *Aquatic Preserve Program*, https://floridadep.gov/rcp/aquatic-preserve (last visited Jan. 18, 2024).
[142] DEP, *Aquatic Preserve Program*; DEP, Geospatial Open Data, *Florida Aquatic Preserves*, https://geodata.dep.state.fl.us/datasets/FDEP::florida-aquatic-preserves/explore?location=27.492338%2C-83.860873%2C5.95 (last visited Jan. 18, 2024); DEP, Office of Resilience and Coastal Protection, *Aquatic Preserve Program*, https://floridaapdata.org/about_FCO.php (last visited Jan. 18, 2024).
[143] DEP ORCP, *Aquatic Preserve Program*.

navigation.[144] Further, the Aquatic Preserve Act excludes all lands lost by avulsion or artificially induced erosion.[145]

The Board of Trustees of the Internal Improvement Trust Fund (Board) may establish additional aquatic preserves, subject to confirmation by the Legislature.[146] Following public notice and public hearing in the county or counties in which the proposed preserve is to be located, the Board may adopt a resolution formally setting aside such areas. The resolution must include:

- A legal description of the area to be included;
- The designation of the type of aquatic preserve being set aside;
- A general statement of what is sought to be preserved; and
- A clear statement of the management responsibilities for the area.[147]

Privately-owned lands and water bottoms may be included in an aquatic preserve upon specific authorization from the owner as a dedication in perpetuity or a lease.[148]

Current law restricts certain activities in aquatic preserves, including the construction of utility cables and pipes and spoil disposal.[149] Further, the Board may not:

- Sell, lease, or transfer sovereign submerged lands[150] unless it is in the public interest.
- Approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve, except when public road and bridge construction projects have no reasonable alternative and it is not contrary to the public interest.
- Approve further dredging or filling of submerged lands, except for certain activities that must be authorized pursuant to a permit.[151]

Only minimal or maintenance dredging is permitted in an aquatic preserve and any alteration of the preserves' physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally.[152] Oil and gas well drilling is prohibited within the aquatic preserve. Docking facilities and structures for shore protection are restricted as to size and location.[153]

No wastes or effluents may be discharged into an aquatic preserve if they substantially inhibit the accomplishment of the purposes of the Aquatic Preserve Act. Riparian owners may selectively trim or alter mangroves on adjacent publicly owned submerged lands, provided that the selective

[144] Section 258.40, F.S.
[145] *Id.*
[146] Section 258.41, F.S.
[147] *Id.*
[148] *Id.*
[149] Section 258.42, F.S.
[150] Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally influenced waters. The Board holds title to sovereign submerged lands. DEP, *Submerged Lands Management*, https://floridadep.gov/lands/bureau-public-land-administration/content/submerged-lands-management (last visited Jan 18, 2024).
[151] Section 258.42, F.S.
[152] Fla. Admin. Code R. 18-20.004. Note that every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code and/or ch. 258, F.S.
[153] Section 258.42, F.S. Administrative rules applicable to aquatic preserves generally may be found in Chapters 18-20, F.A.C., Management Policies, Standards and Criteria.

trimming or alteration is in compliance with the requirements of state law including permit requirements for mangrove trimming.[154]

Leases of sovereign submerged lands are more costly within aquatic preserves. A rate of two times the existing rate is applied to aquatic preserve leases if 75 percent or more of the lease shoreline and the adjacent 1000 feet on either side of the leased area is in a natural, unbulkheaded, non-seawalled or non-riprapped condition.[155]

The Board has a duty to conserve and improve state-owned lands and the products thereof, which includes the preservation and regeneration of seagrass.[156] A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction. The Nature Coast Aquatic Preserve is also not included. The penalties are as follows:

- $100 for a first offense;
- $250 for a second offense occurring within 12 months of a prior conviction;
- $500 for a third offense occurring within 36 months of a prior conviction; and
- $1,000 for a fourth or subsequent offense occurring within 72 months of a prior conviction.[157]

The Nature Coast Aquatic Preserve

The Florida Legislature designated the Nature Coast Aquatic Preserve in 2020[158] and it is the 42nd aquatic preserve.[159] The preserve is the second-largest in Florida. It encompasses 800 square miles of coastal waters, including 625 miles of shoreline along Citrus, Hernando, and Pasco Counties. The preserve is bordered to the north and south by three other aquatic preserves. The combination of all four aquatic preserves protects the largest contiguous seagrass meadow in the Gulf of Mexico and the largest spring-fed seagrass habitat in the world.[160]

The preserve by itself protects nearly 400,000 acres of seagrass that support working waterfront industries, including fisheries, seafood production, and ecotourism. The preserve also includes mangrove islands, saltmarsh, sponge beds, marine springs, oyster reefs, and limestone hardbottom habitats.[161]

Kristin Jacobs Coral Reef Ecosystem Conservation Area

The Kristin Jacobs Coral Reef Ecosystem Conservation Area, formerly known as the Southeast Florida Coral Reef Initiative, was officially established on July 1, 2018.[162] The conservation area

[154] Section 258.42, F.S.
[155] Fla. Admin. Code Rule 18-21.011(1)(b)5.
[156] Section 253.04(3), F.S.
[157] Section 327.73(x), F.S.
[158] Section 258.3991, F.S.
[159] DEP, *Nature Coast Aquatic Preserve*, https://floridadep.gov/NatureCoastAP (last visited Jan. 18, 2024).
[160] *Id.*
[161] *Id.*
[162] Section 253.90, F.S.; DEP, *Coral ECA: Kristin Jacobs Coral Reef Ecosystem Conservation Area*, https://floridadep.gov/rcp/coral/content/coral-eca-kristin-jacobs-coral-reef-ecosystem-conservation-area (last visited Jan. 18, 2024).

is the northernmost section of Florida's coral reef and runs 105 miles from the St. Lucie Inlet to the northern boundary of Biscayne National Park. The conservation area is part of the only barrier reef system in the continental U.S. and is home to more than 6,000 species of marine life including fish, stony corals, gorgonians, sponges, and other marine invertebrates.[163]

III. Effect of Proposed Changes:

Section 1 amends s. 253.04, F.S., to extend the area in which a person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve commits a noncriminal infraction. The area now includes the Nature Coast Aquatic Preserve.

Section 2 amends s. 258.39, F.S., to declare as an aquatic preserve the Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Section 3 amends s. 373.250, F.S., to direct each water management district, in coordination with the Department of Environmental Protection (DEP), to develop rules by December 31, 2025, to promote the use of reclaimed water and encourage potable quantifiable water offsets that produce significant water savings beyond those required in a consumptive use permit.

The bill requires that the rules must provide that if an applicant proposes a water supply development or water resource development project using reclaimed water that meets the advanced wastewater treatment standards for total nitrogen and total phosphorous as part of an application for consumptive use, the applicant is eligible for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. The bill provides that the rules developed pursuant to this paragraph must include, at a minimum:

- A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meet water demands beyond a 20-year permit duration or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy; and
- Guidelines for a district to follow in determining the permit duration based on the project's implementation.

The bill requires that the rules must also provide authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water that meets the advanced wastewater treatment standards for total nitrogen and total phosphorous during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a

[163] DEP, *Coral ECA: Kristin Jacobs Coral Reef Ecosystem Conservation Area*.

recovery or prevention strategy. The bill provides that rules associated with this paragraph must include, at a minimum:

- A requirement that the permittee be in compliance with the permittee's consumptive use permit;
- A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meet water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recover or prevention strategy;
- A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and
- Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

The bill expressly states that these provisions do not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4 amends s. 380.093, F.S., to define the "Florida Flood Hub" as the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933, F.S.

The bill amends the definition of "preconstruction activities" to specify that the activities are those associated with a project that *addresses the risks of flooding and sea level rise* that occur before construction begins.

Resilient Florida Grant Program

The bill provides that the DEP may provide grants to a county or municipality to fund updates to the county's or municipality's inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The bill adds that the updated inventory must be submitted to the DEP and, at the time of submission, must reflect all such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

The bill adds that the DEP may provide grants to a county or municipality to fund the development of strategies, in addition to projects, plans, and policies, that enhance community preparations for threats from flooding and sea level rise, including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

The bill specifies that, under the grant program, the DEP may provide grants to a county or municipality for the cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

The bill requires that, upon completion of a vulnerability assessment, the county or municipality must submit to the DEP an inventory of critical assets, including regionally significant assets that

are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

The bill requires that a vulnerability assessment make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. The bill adds that this includes analyzing impacts related to the depth of tidal flooding, current and future storm surge flooding, and rainfall-induced flooding, which are already listed in statute. With regard to current and future storm surge flooding, the bill removes language directing the use of publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data, unless there is an absence of applicable data from the Florida Flood Hub. Further, the bill adds that higher frequency storm events may be analyzed to understand the exposure of a regionally significant asset. With regard to rainfall-induced flooding, the bill specifies that a spatiotemporal analysis used in the analysis must be GIS-based.

The bill requires that a vulnerability assessment initiated after July 1, 2024, must apply at a minimum the 2022 NOAA intermediate-low and intermediate sea level rise scenarios or the statewide sea level rise projections developed pursuant to the comprehensive statewide flood vulnerability and sea level rise assessment. This replaces language in current law requiring two local sea level rise scenarios that must include the 2017 NOAA intermediate-low and intermediate-high sea level rise scenarios.

The bill adds that a vulnerability assessment apply at least two planning horizons that are identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the DEP, at the time of award, determines such local vulnerability assessment will be incorporated:

Year of assessment	20-year planning horizon	50-year planning horizon
2024	2040	2070
2029	2050	2080
2034	2055	2085
2039	2060	2090
2044	2065	2095
2049	2070	2100

The bill requires that the local sea level data required to be applied in a vulnerability assessment must be the data maintained by the Florida Flood Hub which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, then the bill allows the use of local sea level data that may be interpolated between the two closest NOAA tide gauges.

Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment

The bill updates an out-of-date requirement, to require the DEP to develop and maintain a comprehensive statewide flood vulnerability and sea level rise data set. The bill directs the DEP to develop and maintain the data set in coordination with the Chief Resilience Officer. The bill

requires the compilation, analysis, and incorporation of information related to critical asset inventories. The bill requires the Chief Science Officer to coordinate specifically with the Chief Resilience Officer and the Florida Flood Hub to develop statewide sea level rise projections. The bill updates an out-of-date provision and requires the DEP to coordinate with the Chief Resilience Officer and the Florida Flood Hub, to complete a comprehensive statewide flood vulnerability and sea level rise assessment. The bill requires that the assessment must include the 20- and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections.

The bill requires the DEP to coordinate with the Chief Resilience Officer and the Florida Flood Hub to update the comprehensive statewide flood vulnerability and sea level rise data set using the best available information each year at least every five years. The bill removes language requiring the DEP to update the data set and assessment more frequently than every five years if it determines that updates are necessary to maintain their validity.

Statewide Flooding and Sea Level Rise Resilience Plan

The bill removes an out-of-date requirement regarding a preliminary plan to be submitted by December 1, 2021. The bill requires that each annual plan must *primarily* address risks of flooding and sea level rise, but adds that it may also include, at the DEP's discretion in consultation with the Chief Resilience Officer, certain other projects that address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

The bill specifies that local governments, special districts, and regional resilience entities may submit proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

The bill extends the deadline for counties, municipalities, special districts, and regional resilience entities acting on behalf of one or more member counties or municipalities to submit projects identified in existing vulnerability assessments that do not comply with the requirements of the Resilient Florida Grant Program to December 1, 2024. Such entities may submit those projects only if the entity is actively developing a vulnerability assessment that is either under a signed grant agreement with the DEP pursuant to the grant program or funded by another state or federal agency, or is self-funded and intended to meet the grant program's vulnerability assessment requirements or the existing vulnerability assessment was completed using previously compliant statutory requirements. The bill provides that projects identified from this category of vulnerability assessments are eligible for submittal until the prior vulnerability assessment has been updated to meet the most recent statutory requirements

The bill removes the term "financially disadvantaged community" for purposes of reduced cost share and replaces it with the term "community eligible for reduced cost share" and includes a municipality or county with a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce.

The bill specifies that water management, drainage, erosion control, and flood control districts and regional water supply authorities may submit proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of the Resilient Florida Grant Program.

The bill removes language requiring that for a project to be eligible for inclusion in the plan, it must have been submitted by an authorized entity or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

The bill authorizes the DEP to adopt rules to implement this section.

Regional Resilience Entities

The bill specifically includes regional planning councils and estuary partnerships as regional entities that may receive funding for certain purposes.

The bill specifies that one of the purposes for which the DEP may provide funding to certain regional entities is to coordinate and conduct activities authorized by the Resilient Florida Grant Program with broad regional benefit or on behalf of multiple member counties and municipalities. This replaces language authorizing the DEP to provide funding for the purpose of coordinating multijurisdictional vulnerability assessments.

Section 5 amends s. 381.0061, F.S., to removes an authorization allowing the Department of Health (DOH) to impose a fine for a violation of the laws relating to onsite sewage treatment and disposal systems (OSTDSs) regulations, OSTDS fees, and septic tank contracting.

The bill specifies that the DOH may impose a fine for a violation of any rule adopted by the DOH under ch. 381, F.S., relating to public health, or for a violation of ch. 386, F.S., relating to sanitary nuisances and the Florida Clean Air Act, that does not involve OSTDSs.

Section 6 provides that the Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the DOH to the DEP, as required by the Clean Waterways Act, be completed in a phased approach.

The bill directs that before the phased transfer, the DEP must coordinate with the DOH to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The DOH must transfer the agreed-upon equipment and vehicles to the DEP, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the DOH.

The bill provides that when the DEP begins implementing the program within a county, the DOH may no longer implement or collect fees for the program unless specified by separate delegation or contract with the DEP.

Section 7 amends s. 381.0065, F.S., to specify that the DEP must conduct enforcement activities in accordance with part I of chapter 403, F.S., relating to pollution control, as well as for a violation of any rule adopted by the DEP under laws regulating OSTDSs, sanitary nuisances relating to OSTDSs, or septic tank contracting.

The bill adds that all references in this section (s. 381.0065, F.S.) to part I of chapter 386, regarding sanitary nuisances, relate solely to nuisances that involve improperly built or maintained septic tanks or other OSTDSs and untreated or improperly treated or transported waste from OSTDSs. The bill provides that the DEP shall have all the duties and authorities of the DOH for sanitary nuisances involving OSTDSs. The bill provides that this authority is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section relating to OSTDSs regulations and ch. 403, F.S., relating to pollution control.

The bill directs the DEP to adopt rules establishing and implementing a program of general permits for projects, or categories of projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. The rules must:

- Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and
- Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to the DEP without any agency action by the DEP. Within the 30-day notice period, the DEP shall determine whether the activity qualifies for a general permit. Further, if the activity does not qualify or the notice does not contain all the required information, the DEP must notify the person.

The bill specifies that for DEP personnel to gain entry to a residence or private building, the DEP must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091, F.S., relating to inspections (see Section 13 of the bill). The bill removes language authorizing the DEP to issue citations that may contain an order of correction or an order to pay a fine, or both, and instead provides that the DEP has all the judicial and administrative remedies available to it pursuant to part I of ch. 403, F.S., relating to pollution control.

The bill removes all requirements relating to the DEP issuing citations.

The bill provides that DEP shall deposit any damages, costs, or penalties it collects pursuant to this section on OSTDSs regulations and part I of ch. 403, F.S., relating to pollution control, in the Water Quality Assurance Trust Fund. The bill removes language directing the DEP to deposit money from fines into the county health department trust fund.

Section 8 amends s. 381.0066, F.S., relating to OSTDS fees, to provide that the fee schedule for application review, permit issuance, or system inspection applies when performed by the DEP or a private provider inspector.

The bill removes language providing that fees collected with respect to OSTDS must be deposited in a trust fund administered by the DEP, to be used for purposes stated in the OSTDS fees and regulations laws. The bill directs that funds collected for the implementation of OSTDS

regulation, connection of existing OSTDSs to central sewerage systems, and corrective orders relating to OSTDSs and private and certain public water systems, subsequent to any phased transfer of implementation from the DOH to the DEP within any county, must be deposited in the Florida Permit Fee Trust Fund, to be administered by the DEP.

Section 9 amends s. 403.061, F.S., to direct that, upon direction of the DEP, all counties must make available necessary scientific, technical, research, administrative, and operational services and facilities. Current law only requires all state agencies to make these services and facilities available.

Section 10 amends s. 403.064, F.S., to provide a Legislative finding that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use.

Therefore, the bill would require *all* applicants for permits to construct and operate a domestic wastewater treatment facility to prepare a reuse feasibility study. Currently, this requirement is limited to wastewater treatment facilities discharging to a water resource caution area.

The bill makes the following changes to the content requirements of reuse feasibility studies:
- A reuse feasibility study must include an evaluation of the estimated water savings resulting from different types of reuse, if implemented;
- A reuse feasibility study must include an evaluation of environmental and water resource benefits associated with different types of reuse;
- A reuse feasibility study must include an evaluation of economic, environmental, and technical constraints associate with the different types of reuse, including any constraints caused by potential water quality impacts.

The bill requires that a domestic wastewater treatment facility that disposes of effluent or a portion thereof by Class I deep well injection, surface water discharge, land application, or other method to dispose of effluent or a portion thereof must give consideration to direct ecological or public water supply benefits afforded by any disposal and implement reuse to the degree that it is feasible.

Section 11 amends s. 403.067, F.S., to specify that if a local government is required to develop a wastewater treatment plan as part of a basin management action plan (BMAP), that plan is a *domestic* wastewater treatment plan. The bill adds that public and private domestic wastewater treatment facilities that specifically provide services or are located within the jurisdiction of the local government must participate in developing the domestic wastewater treatment plan.

The bill adds that private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments.

Section 12 amends s. 403.0673, F.S., which creates the water quality improvement grant program to require the DEP in the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on projects funded in the water quality grant program to include a status report on each project funded since 2021. The status report must, at a

minimum, identify which projects have been completed and, if such information is available, provide nutrient load improvements or water quality testing data for the waterbody. The bill also directs the DEP to include projects funded under the water quality grant program on a user-friendly website or dashboard.

Section 13 amends s. 403.086, F.S., to require that by July 1, 2034, within a BMAP or a reasonable assurance plan area, any wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied must meet the standards for advanced waste treatment for total nitrogen and phosphorous as set in statute,[164] if the DEP has determined in an applicable BMAP or reasonable assurance plan that the use of reclaimed water is contributing to the nutrient impairment being addressed in such plan. The bill provides that for such DEP determinations made in a nutrient BMAP or reasonable assurance plan after July 1, 2024, an applicable wastewater treatment facility must meet the requisite advanced wastewater treatment standards within 10 years after such determination. The DEP is not prevented from requiring an alternative treatment standard, including a more stringent treatment standard, if the DEP determines that alternative standard is necessary to achieve the total maximum daily load or applicable water quality criteria. The bill provides that this criteria does not apply to reclaimed water that is otherwise land applied as part of a water quality restoration project or water resource development project approved by the DEP to meet a total maximum daily load or minimum flow or level and where such reclaimed water will be at or below the advanced wastewater treatment standards before entering groundwater or surface water.

Section 14 amends s. 403.091, F.S., to provide that any duly authorized representative of the DEP may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the DEP, any property, premises, or place, except a building used exclusively for a private residence, on or at which an OSTDS is located or is being constructed or installed or where certain required records are kept.

The bill provides that any authorized representative may at any reasonable times obtain any other information necessary to determine compliance with permit conditions or other requirements of OSTDSs regulations, sanitary nuisances for purposes of OSTDSs only, septic tank contracting, or rules of standards adopted pursuant thereto. The bill adds that an inspection warrant may be issued:

- When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the laws listed above.
- When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the DEP to ensure compliance with the law listed above.

Section 15 amends s. 403.121, F.S., to provide that the DEP shall have certain judicial and administrative remedies available to it for violations of statutes relating to:

- General requirements for OSTDSs (ss. 381.0065-381.0067, F.S.);
- Sanitary nuisances for purposes of OSTDSs only (part I of ch. 386, F.S.);
- Septic tank contracting (part III of ch. 489, F.S., or any rule promulgated thereunder).

[164] Section 403.086(4), F.S.

With regard to the schedule for administrative penalties, the DEP shall assess a penalty of $2,000 for the following violations:

- Failure to obtain an OSTDS permit or for another violation of s. 381.0065, F.S., relating to OSTDSs regulations;
- The creation of or maintenance of a nuisance related to an OSTDS under part I of ch. 386, F.S.; or
- For a violation of part III of ch. 489, relating to septic tank contracting, or any rule properly promulgated thereunder.

The bill adds that each day the cause of a sanitary nuisance is not addressed constitutes a separate offense.

Section 16 amends s. 403.9301, F.S., to require the Office of Economic and Demographic Research to provide, beginning July 1, 2024, and annually thereafter, a publicly-accessible data visualization tool on its website related to its statewide wastewater services projections.

Section 17 amends s. 403.9302, F.S., to require the Office of Economic and Demographic Research to provide, beginning July 1, 2024, and annually thereafter, a publicly accessible data visualization tool on its website related to its statewide stormwater services projections.

Section 18amends s. 403.0671, F.S., to clarify that BMAP wastewater reports must include projects to construct, upgrade, or expand domestic wastewater treatment facilities to meet the *domestic* wastewater treatment plan. This change conforms to amendments made in Section 11 of the bill.

Sections 19 reenacts s. 327.73(1)(x), F.S., relating to noncriminal infractions, to incorporate the amendment made by this bill in a reference to the amended section.

Section 20 reenacts s. 381.0072(4)(a) and (6)(a), F.S., relating to food service protection, to incorporate the amendment made by this bill in a reference to the amended section.

Section 21 reenacts s. 381.0086(4), F.S., relating to public health rules, variances, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 22 reenacts s. 381.0098(7), F.S., relating to biomedical waste, to incorporate the amendment made by this bill in a reference to the amended section.

Section 23 reenacts s. 513.10(2), F.S., relating to operating a mobile home or recreational vehicle park without a permit, enforcement, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 24 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution prohibits a general law that requires a county or municipality to spend funds to take an action requiring the expenditure of funds, unless the law fulfills an important state interest and unless an exception applies. This bill may contain a local mandate because it requires all counties, at the direction of the Department of Environmental Protection, to make available necessary scientific, technical, research, administrative, and operational services and facilities. Because these are services and facilities that the local government would already have available, the exemption for insignificant fiscal impacts may apply.

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 Department of Environmental Protection (DEP) shall assess a penalty of $2,000 for the following violations:

- Failure to obtain an OSTDS permit or for another violation of s. 381.0065, F.S., relating to OSTDSs regulations;
- The creation of or maintenance of a nuisance related to an OSTDS under part I of ch. 386, F.S.; or
- For a violation of part III of ch. 489, relating to septic tank contracting, or any rule properly promulgated thereunder.

C. Government Sector Impact:

This bill may have a positive fiscal impact on certain local governments, because opportunities for reduced cost share now includes a municipality or county with a per capita annual income that is equal or less than 75 percent of the state's per capita annual income as shown in the most recent census for the Resilient Florida Grant Program. With more counties and municipalities available for reduced cost share and a finite amount of funds, some counties and municipalities may not receive grants that they may otherwise have.

This bill may have a negative fiscal impact on local governments due to the requirement that all counties must make available necessary scientific, technical, research, administrative, and operational services and facilities. Further, county health departments will lose revenue and staffing that is being taken over by the DEP, but they will also no longer have to provide those services.

This bill may have a positive fiscal impact on state government, because the DEP is directed to deposit certain damages, costs, or penalties it collects relating to onsite sewage treatment and disposal systems regulations into the Water Quality Assurance Trust Fund. Local governments may experience a negative fiscal impact, because the bill removes language directed the DEP to deposit funds from fines into the county health department trust fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.04, 258.39, 373.250, 380.093, 381.0061, 381.0065, 381.0066, 403.061, 403.064, 403.067, 403.0673, 403.086, 403.091, 403.9301, 403.9302, 403.121, and 403.0671,.

This bill reenacts the following sections of the Florida Statutes: 327.73(1)(x), 381.0072(4)(a) and (6)(a), 381.0086(4), 381.0098(7), and 513.10(2).

IX. Additional Information:

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

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:
The committee substitute:

- Clarifies that resiliency projects identified in a previously completed vulnerability assessment remain eligible for funding in the state resilience plan and project applications may be submitted to the department any time prior to September 1 of each year.
- Specifies that the requirement to treat reclaimed water used for irrigation to advanced waste treatment standards only applies to the nitrogen and phosphorous criteria and if within a nutrient basin management action plan where the department has determined that the use of reclaimed water is causing or contributing to the nutrient impairment.
- Directs the Office of Economic and Demographic Research to provide a publicly-accessible data visualization tool related to its statewide wastewater and stormwater needs analysis.
- Directs the DEP to include the Water Quality Grant Program projects funded under the water quality grant program on a user-friendly website or dashboard.
- Specifies that a consumptive use permit extension authorized in the bill only applies if the reclaimed water meets the advanced treatment standards for total nitrogen and phosphorous.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Calatayud) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (3) of section 253.04, Florida Statutes, is amended to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(3)(a) The duty to conserve and improve state-owned lands and the products thereof <u>includes</u> ~~shall include~~ the preservation

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and regeneration of seagrass, which is deemed essential to the oceans, gulfs, estuaries, and shorelines of the state. A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve established in ss. 258.39-258.3991 ~~ss. 258.39-258.399~~, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction, punishable as provided in s. 327.73. Each violation is a separate offense. As used in this subsection, the term:

1. "Seagrass" means Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson's seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*).

2. "Seagrass scarring" means destruction of seagrass roots, shoots, or stems that results in tracks on the substrate commonly referred to as prop scars or propeller scars caused by the operation of a motorized vessel in waters supporting seagrasses.

Section 2. Subsection (33) is added to section 258.39, Florida Statutes, to read:

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward

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of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(33) Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

Section 3. Subsection (9) is added to section 373.250, Florida Statutes, to read:

373.250 Reuse of reclaimed water.—

(9) To promote the use of reclaimed water and encourage quantifiable potable water offsets that produce significant water savings beyond those required in a consumptive use permit, each water management district, in coordination with the department, shall develop rules by December 31, 2025, which provide all of the following:

(a) If an applicant proposes a water supply development or water resource development project using reclaimed water that meets the advanced waste treatment standards for total nitrogen and total phosphorous as defined in s. 403.086(4)(a), as part of an application for consumptive use, the applicant is eligible

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for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Rules developed pursuant to this paragraph must include, at a minimum:

1. A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project either meets water demands beyond a 20-year permit duration or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy; and

2. Guidelines for a district to follow in determining the permit duration based on the project's implementation.

This paragraph does not limit the existing authority of a water management district to issue a shorter duration permit to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

(b) Authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water that meets the advanced waste treatment standards for total nitrogen and total phosphorous as defined in s. 403.086(4)(a) during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy. Rules

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associated with this paragraph must include, at a minimum:

1. A requirement that the permittee be in compliance with the permittee's consumptive use permit;

2. A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project either meets water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy;

3. A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and

4. Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

This paragraph does not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4. Present paragraphs (c) and (d) of subsection (2) of section 380.093, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and present paragraph (c) of subsection (2), paragraphs (b), (c), and (d) of subsection (3), and subsections (4), (5), and (6) of that section are amended, to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and

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assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

(2) DEFINITIONS.—As used in this section, the term:

(c) "Florida Flood Hub" means the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933.

(d) ~~(c)~~ "Preconstruction activities" means activities associated with a project that addresses the risks of flooding and sea level rise that occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys and data collection, site development, solicitation, public hearings, local code or comprehensive plan amendments, establishing local funding sources, and easement acquisition.

(3) RESILIENT FLORIDA GRANT PROGRAM.—

(b) Subject to appropriation, the department may provide grants to each of the following entities:

1. A county or municipality to fund:

a. The costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address the requirements of s. 163.3178(2)(f).

b. Vulnerability assessments that identify or address risks of inland or coastal flooding and sea level rise.

c. Updates to the county's or municipality's inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The updated inventory must be submitted to the department and, at the time of submission, must reflect all

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such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

d. The development of projects, plans, strategies, and policies that enhance community preparations ~~allow communities to prepare~~ for threats from flooding and sea level rise, including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

e.~~d.~~ Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan. Only a county or municipality eligible for a reduced cost share as defined in paragraph (5)(e) is eligible for such preconstruction activities ~~that are located in a municipality that has a population of 10,000 or fewer or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website~~.

f.~~e.~~ Feasibility studies ~~and the cost of permitting~~ for nature-based solutions that reduce the impact of flooding and sea level rise.

g. The cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

2. A water management district identified in s. 373.069 to support local government adaptation planning, which may be conducted by the water management district or by a third party on behalf of the water management district. Such grants must be

used for the express purpose of supporting the Florida Flood Hub ~~for Applied Research and Innovation~~ and the department in implementing this section through data creation and collection, modeling, and the implementation of statewide standards. Priority must be given to filling critical data gaps identified by the Florida Flood Hub ~~for Applied Research and Innovation~~ under s. 380.0933(2)(a).

(c) A vulnerability assessment conducted pursuant to paragraph (b) must encompass the entire county or municipality; include all critical assets owned or maintained by the grant applicant; and use the most recent publicly available Digital Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department all of the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

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(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system (GIS) data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. An inventory ~~A list~~ of critical assets, including regionally significant assets, that are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must do ~~include~~ all of the following:

1. Include peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Commerce ~~Economic Opportunity~~.

2. Make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer, including, as ~~If~~ applicable, analyzing impacts related to the depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding ~~using publicly available National Oceanic and Atmospheric Administration or~~

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~~Federal Emergency Management Agency storm surge data~~. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset or regionally significant asset. Publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data may be used in the absence of applicable data from the Florida Flood Hub.

c. To the extent practicable, rainfall-induced flooding using a GIS-based spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea level rise and high tide conditions. Vulnerability assessments for rainfall-induced flooding must include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Future rainfall conditions should be used, if available. Noncoastal communities must perform a rainfall-induced flooding assessment.

d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. Apply the following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. For a vulnerability assessment initiated after July 1, 2024, at a minimum ~~least two local sea level rise scenarios~~, ~~which must include~~ the 2022 NOAA ~~2017 National Oceanic and Atmospheric Administration~~ intermediate-low and intermediate

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~~intermediate-high~~ sea level rise scenarios or the statewide sea level rise projections developed pursuant to paragraph (4)(a) ~~projections~~.

c. At least two planning horizons identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the department, at the time of award, determines such local vulnerability assessment will be incorporated:

Year of assessment	20-year planning horizon	50-year planning horizon
2024	2040	2070
2029	2050	2080
2034	2055	2085
2039	2060	2090
2044	2065	2095
2049	2070	2100

~~that include planning horizons for the years 2040 and 2070.~~

d. Local sea level data maintained by the Florida Flood Hub

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which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, local sea level data may be ~~that has been~~ interpolated between the two closest NOAA ~~National Oceanic and Atmospheric Administration~~ tide gauges; however, such~~. Local sea level~~ data may be taken from only one of the two closest NOAA tide gauges ~~such gauge~~ if the gauge has a higher mean sea level or may be~~. Data~~ taken from an alternate tide gauge ~~may be used~~ with appropriate rationale and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA LEVEL RISE DATA SET AND ASSESSMENT.—

(a) ~~By July 1, 2023,~~ The department shall develop and maintain ~~complete the development of~~ a comprehensive statewide flood vulnerability and sea level rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea level rise assessment. In developing and maintaining the data set, the department shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~for Applied Research and Innovation~~, compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments and critical asset inventories submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~necessary experts and resources~~, develop statewide sea level rise projections that incorporate temporal and spatial variability,

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to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) ~~By July 1, 2024,~~ The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall complete a comprehensive statewide flood vulnerability and sea level rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in this ~~the~~ state which ~~that~~ are vulnerable to flooding and sea level rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea level rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical

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assets identified by local governments and submitted to the department pursuant to subsection (3).

4. The assessment must include the 20-year and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections developed pursuant to paragraph (a).

(c) The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall update the comprehensive statewide flood vulnerability and sea level rise data set with the best available information each year and shall update the assessment at least every 5 years. ~~The department may update the data set and assessment more frequently if it determines that updates are necessary to maintain the validity of the data set and assessment.~~

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(a) By December 1 of~~, 2021, and~~ each year ~~December 1 thereafter~~, the department shall develop a Statewide Flooding and Sea Level Rise Resilience Plan on a 3-year planning horizon and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must consist of ranked projects that address risks of flooding and sea level rise to coastal and inland communities in the state. All eligible projects submitted to the department pursuant to this section must be ranked and included in the plan. Each plan must include a detailed narrative overview describing how the plan was developed, including a description of the methodology used by the department to determine project eligibility, a description of the methodology used to rank projects, the specific scoring system used, the project proposal application

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form, a copy of each submitted project proposal application form separated by eligible projects and ineligible projects, the total number of project proposals received and deemed eligible, the total funding requested, and the total funding requested for eligible projects.

(b) ~~The plan submitted by December 1, 2021, before the comprehensive statewide flood vulnerability and sea level rise assessment is completed, will be a preliminary plan that includes projects that address risks of flooding and sea level rise identified in available local government vulnerability assessments and projects submitted by water management districts that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state. The plan submitted by December 1, 2022, and the plan submitted by December 1, 2023, will be updates to the preliminary plan.~~ The plan submitted by December 1, 2024, and each plan submitted by December 1 thereafter:~~,~~

1. Shall primarily address risks of flooding and sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment; and

2. May include, at the discretion of the department in consultation with the Chief Resilience Officer, other projects submitted pursuant to paragraph (d) which address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include all of the following information for each recommended project:

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1. A description of the project.

2. The location of the project.

3. An estimate of how long the project will take to complete.

4. An estimate of the cost of the project.

5. The cost-share percentage available for the project.

6. A summary of the priority score assigned to the project.

7. The project sponsor.

(d)1. By September 1 of~~, 2021, and~~ each year ~~September 1 thereafter~~, all of the following entities may submit to the department a list of proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3):

a. Counties.

b. Municipalities.

c. Special districts as defined in s. 189.012 which ~~that~~ are responsible for the management and maintenance of inlets and intracoastal waterways or for the operation and maintenance of a potable water facility, a wastewater facility, an airport, or a seaport facility.

d. Regional resilience entities acting on behalf of one or more member counties or municipalities.

For the plans submitted by December 1, 2024, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3) only if the entity is actively developing a vulnerability assessment that is either

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under a signed grant agreement with the department pursuant to subsection (3) or funded by another state or federal agency, or is self-funded and intended to meet the requirements of paragraph (3)(d) or the existing vulnerability assessment was completed using previously compliant statutory requirements. Projects identified from this category of vulnerability assessments are eligible for submittal until the prior vulnerability assessment has been updated to meet most recent statutory requirements ~~2021; December 1, 2022; and December 1, 2023, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3). A regional resilience entity may also submit proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities~~.

2. By September 1 of~~, 2021, and~~ each year ~~September 1 thereafter~~, all of the following entities may submit to the department a list of any proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3), or that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project:

a. Water management districts.

b. Drainage districts.

c. Erosion control districts.

d. Flood control districts.

e. Regional water supply authorities.

3. Each project submitted to the department pursuant to

this paragraph for consideration by the department for inclusion in the plan must include all of the following information:

a. A description of the project.

b. The location of the project.

c. An estimate of how long the project will take to complete.

d. An estimate of the cost of the project.

e. The cost-share percentage available for the project.

f. The project sponsor.

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a ~~financially disadvantaged small~~ community eligible for a reduced cost share. For purposes of this section, the term "community eligible for a reduced cost share" ~~"financially disadvantaged small community"~~ means:

1. A municipality that has a population of 10,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; ~~or~~

2. A county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; or

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3. A municipality or a county with a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce.

(f) ~~To be eligible for inclusion in the plan, a project must have been submitted pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.~~

~~(g)~~ Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with any of the following:

1. Aesthetic vegetation.

2. Recreational structures such as piers, docks, and boardwalks.

3. Water quality components of stormwater and wastewater management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.

4. Maintenance and repair of over-walks.

5. Park activities and facilities, except expenses to control flooding or erosion.

6. Navigation construction, operation, and maintenance activities.

7. Projects that provide only recreational benefits.

(g) ~~(h)~~ The department shall implement a scoring system for assessing each project eligible for inclusion in the plan pursuant to this subsection. The scoring system must include the

following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:

a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

b. The overall readiness of the project to proceed in a timely manner, considering the project’s readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.

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d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(h) ~~(i)~~ The total amount of funding proposed for each year of the plan may not be less than $100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.

(i) ~~(j)~~ The department shall adopt rules ~~initiate rulemaking by August 1, 2021,~~ to implement this section.

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(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for all of the following purposes to regional entities, including regional planning councils and estuary partnerships, that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating and conducting activities authorized by subsection (3) with broad regional benefit or on behalf of multiple member counties and municipalities ~~multijurisdictional vulnerability assessments~~.

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan.

Section 5. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may not exceed $500 for each violation, for a violation of s. 381.006(15) or~~, s. 381.0065, s. 381.0066,~~ s. 381.0072, ~~or part III of chapter 489,~~ for a violation of any rule adopted by the department under this chapter, or for a violation of chapter 386 not involving onsite sewage treatment and disposal systems. The department shall give an alleged violator a notice of intent to impose such fine ~~shall be given by the department to the~~

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~~alleged violator~~. Each day that a violation continues may constitute a separate violation.

Section 6. The Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection, as required by the Clean Waterways Act, chapter 2020-150, Laws of Florida, be completed in a phased approach.

(1) Before the phased transfer, the Department of Environmental Protection shall coordinate with the Department of Health to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The Department of Health shall transfer the agreed-upon equipment and vehicles to the Department of Environmental Protection, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the Department of Health.

(2) When the Department of Environmental Protection begins implementing the program within a county, the Department of Health may no longer implement or collect fees for the program unless specified by separate delegation or contract with the Department of Environmental Protection.

Section 7. Paragraph (h) of subsection (3) and subsections (5) and (7) of section 381.0065, Florida Statutes, are amended, paragraph (o) is added to subsection (3) of that section, and subsection (9) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The department shall:

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(h) Conduct enforcement activities in accordance with part I of chapter 403, ~~including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders~~ for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted by the department under this section, part I of chapter 386, or part III of chapter 489. All references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal systems, and untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems. The department shall have all the duties and authorities of the Department of Health in part I of chapter 386 for nuisances involving onsite sewage treatment and disposal systems. The department's authority under part I of chapter 386 is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section and chapter 403.

(o) Adopt rules establishing and implementing a program of general permits for this section for projects, or categories of projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. Such rules must:

1. Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and

2. Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to the department without any agency action by the


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department. Within the 30-day notice period, the department shall determine whether the activity qualifies for a general permit. If the activity does not qualify or the notice does not contain all the required information, the department must notify the person.

(5) ENFORCEMENT; RIGHT OF ENTRY~~; CITATIONS~~.—

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091.

(b)~~1.~~ The department has all of the judicial and administrative remedies available to it pursuant to part I of chapter 403 ~~may issue citations that may contain an order of correction or an order to pay a fine, or both,~~ for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department~~, when a violation of these sections or rules is enforceable by an~~

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~~administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action~~.

~~2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.~~

~~3. The fines imposed by a citation issued by the department may not exceed $500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.~~

~~4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.~~

~~5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.~~

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~~6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~7.~~ The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any damages, costs, or penalties ~~fines~~ it collects pursuant to this section and part I of chapter 403 in the Water Quality Assurance Trust Fund ~~county health department trust fund for use in providing services specified in those sections~~.

~~8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.~~

(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process of no longer than 6 months for the determination of the use of American National Standards Institute 245 systems approved by NSF International before July 1, 2020. The department shall also establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program that will expeditiously evaluate and approve such systems for use in this state to comply with ss. 403.067(7)(a)10. and 373.469(3)(d).

(9) CONTRACT OR DELEGATION AUTHORITY.—The department may

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contract with or delegate its powers and duties under this section to a county as provided in s. 403.061 or s. 403.182.

Section 8. Subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(a) Application review, permit issuance, or system inspection, when performed by the department or a private provider inspector, including repair of a subsurface, mound, filled, or other alternative system or permitting of an abandoned system: a fee of not less than $25, or more than $125.

(b) Site evaluation, site reevaluation, evaluation of a system previously in use, or a per annum septage disposal site evaluation: a fee of not less than $40, or more than $115.

(c) Biennial operating permit for aerobic treatment units or performance-based treatment systems: a fee of not more than $100.

(d) Annual operating permit for systems located in areas zoned for industrial manufacturing or equivalent uses or where the system is expected to receive wastewater which is not domestic in nature: a fee of not less than $150, or more than $300.

(e) Innovative technology: a fee not to exceed $25,000.

(f) Septage disposal service, septage stabilization facility, portable or temporary toilet service, tank manufacturer inspection: a fee of not less than $25, or more

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than $200, per year.

(g) Application for variance: a fee of not less than $150, or more than $300.

(h) Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than $15, or more than $30.

(i) Aerobic treatment unit or performance-based treatment system maintenance entity permit: a fee of not less than $25, or more than $150, per year.

(j) Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than $25, or more than $100.

(k) Research: An additional $5 fee shall be added to each new system construction permit issued to be used to fund onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

(l) Annual operating permit, including annual inspection and any required sampling and laboratory analysis of effluent, for an engineer-designed performance-based system: a fee of not less than $150, or more than $300.

The funds collected pursuant to this subsection for the implementation of onsite sewage treatment and disposal system regulation and for the purposes of ss. 381.00655 and 381.0067, subsequent to any phased transfer of implementation from the Department of Health to the department within any county

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pursuant to s. 381.0065, must be deposited in the Florida Permit Fee Trust Fund under s. 403.0871, to be administered by the department ~~a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655~~.

Section 9. Subsection (4) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies and counties, upon direction of the department, shall make these services and facilities available.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 10. Subsections (1), (2), (14), and (15) of section 403.064, Florida Statutes, are amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state’s existing

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and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use. The Legislature further finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety. The Legislature encourages the development of incentive-based programs for reuse implementation.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility ~~located within, serving a population located within, or discharging within a water resource caution area~~ shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies must ~~shall~~ be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of the estimated water savings resulting from different types of ~~if~~ reuse, if ~~is~~ implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with the different types of reuse.

(e) Evaluation of economic, environmental, and technical constraints associated with the different types of reuse, including any constraints caused by potential water quality impacts.

(f) A schedule for implementation of reuse. The schedule

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must ~~shall~~ consider phased implementation.

(14) After conducting a feasibility study under subsection (2), a domestic wastewater treatment facility ~~facilities~~ that disposes ~~dispose~~ of effluent by Class I deep well injection~~,~~ as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or other method to dispose of effluent or a portion thereof must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study, with consideration given to direct ecological or public water supply benefits afforded by any disposal. Applicable permits issued by the department must ~~shall~~ be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or another method to dispose of effluent or a portion thereof for backup use only ~~facility as backup for a reclaimed water reuse system~~.

(b) ~~This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

~~(15) After conducting a feasibility study under subsection (2), domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study.~~ This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. ~~Applicable permits issued by the~~

~~department shall be consistent with the requirements of this subsection.~~

~~(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.~~

~~(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

Section 11. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for

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implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process.

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The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made

available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action

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plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department’s rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily

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load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which ~~that~~ addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to

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develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and

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disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

11. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the

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original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.

Section 12. Paragraph (f) of subsection (2) and subsection (7) of section 403.0673, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

403.0673 Water quality improvement grant program.—A grant program is established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to surface water or groundwater.

(2) The department may provide grants for all of the following types of projects that reduce the amount of nutrients entering those waterbodies identified in subsection (1):

(f) Projects identified in a domestic wastewater treatment plan or an onsite sewage treatment and disposal system remediation plan developed pursuant to s. 403.067(7)(a)9.a. and b.

(7) Beginning January 15, 2024, and each January 15 thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(a) The report must include a list of those projects receiving funding and the following information for each project:

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1. ~~(a)~~ A description of the project;
2. ~~(b)~~ The cost of the project;
3. ~~(c)~~ The estimated nutrient load reduction of the project;
4. ~~(d)~~ The location of the project;
5. ~~(e)~~ The waterbody or waterbodies where the project will reduce nutrients; and
6. ~~(f)~~ The total cost share being provided for the project.

(b) The report must also include a status report on each project funded since 2021. The status report must, at a minimum, identify which projects have been completed and, if such information is available, provide nutrient load improvements or water quality testing data for the waterbody.

(8) By July 1, 2025, the department must include the projects funded pursuant to this section on a user-friendly website or dashboard. The website or dashboard must allow the user to see the information provided in subsection (7) and must be updated at least annually.

Section 13. Paragraph (c) of subsection (1) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c)1. Notwithstanding this chapter or chapter 373, sewage disposal facilities may not dispose any wastes into the following waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department or a more stringent treatment standard if the department determines the more stringent standard is necessary to achieve the total maximum daily load or applicable water quality criteria:

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a. Old Tampa Bay; Tampa Bay; Hillsborough Bay; Boca Ciega Bay; St. Joseph Sound; Clearwater Bay; Sarasota Bay; Little Sarasota Bay; Roberts Bay; Lemon Bay; Charlotte Harbor Bay; Biscayne Bay; or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

b. Beginning July 1, 2025, Indian River Lagoon, or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

c. By January 1, 2033, waterbodies that are currently not attaining nutrient or nutrient-related standards or that are subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan.

2. For any waterbody determined not to be attaining nutrient or nutrient-related standards after July 1, 2023, or subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan after July 1, 2023, sewage disposal facilities are prohibited from disposing any wastes into such waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department within 10 years after such determination or adoption.

3. By July 1, 2034, a wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied within a nutrient basin management action plan or reasonable assurance plan area must meet the advanced waste treatment standards for total nitrogen and total phosphorous as defined in paragraph (4)(a) if the department has determined in an applicable basin

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management action plan or reasonable assurance plan that the use of reclaimed water as described in this subparagraph is causing or contributing to the nutrient impairment being addressed in such plan. For such department determinations made in a nutrient basin management action plan or reasonable assurance plan after July 1, 2024, an applicable wastewater treatment facility must meet the requisite advanced waste treatment standards described in this subparagraph within 10 years after such determination. This subparagraph does not prevent the department from requiring an alternative treatment standard, including a more stringent treatment standard, if the department determines that the alternative standard is necessary to achieve the total maximum daily load or applicable water quality criteria. This subparagraph does not apply to reclaimed water that is otherwise land applied as part of a water quality restoration project or water resource development project approved by the department to meet a total maximum daily load or minimum flow or level and where such reclaimed water will be at or below the advanced waste treatment standards described above before entering groundwater or surface water.

Section 14. Paragraphs (a) and (b) of subsection (1) and paragraph (b) of subsection (3) of section 403.091, Florida Statutes, are amended to read:

403.091 Inspections.—

(1)(a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private

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residence, on or at which:

1. A hazardous waste generator, transporter, or facility or other air or water contaminant source;

2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works;

3. An onsite sewage treatment and disposal system as defined in s. 381.0065(2)(m);

4. Any facility, as defined in s. 376.301; or

5.~~4.~~ A resource recovery and management facility

is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.317, or department rule are kept.

(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.317; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489, or department rules.

(3)

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(b) Upon proper affidavit being made, an inspection warrant may be issued under ~~the provisions of~~ this chapter or ss. 376.30-376.317:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of ~~any of the provisions of~~ this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 and any rules adopted thereunder.

Section 15. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1), ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part

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III of chapter 489, or any rule promulgated thereunder.

(1) Judicial Remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $15,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is not a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing before the institution of a civil action.

(2) Administrative Remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has

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occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $50,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 may not be less than $1,000 per day per violation. The department may not impose administrative penalties in excess of $50,000 in a notice of violation. The department may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department’s serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is

seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an order is not effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period constitutes a waiver thereof, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent’s decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. Administrative penalties should not be imposed unless the department satisfies

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that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at $150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the

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department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An award of attorney fees as provided by this subsection may not exceed $15,000.

(g) This section does not prevent any other legal or administrative action in accordance with law and does not limit the department’s authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $50,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $50,000. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into

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a settlement, before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 in penalties may be settled in the court action for less than $50,000.

(h) Chapter 120 applies to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $3,000 for a Maximum Containment Level (MCL) violation; plus $1,500 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,500 if the violation occurs at a community water system; and plus $1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter before placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of $4,500.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, or obtain an onsite sewage treatment and disposal system permit, or for a violation of s. 381.0065, or the creation of or maintenance of a nuisance related to an onsite sewage treatment and disposal system under part I of chapter 386, or for a

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violation of part III of chapter 489, or any rule properly promulgated thereunder, the department shall assess a penalty of $2,000. For a domestic or industrial wastewater violation, not involving a surface water or groundwater quality violation, the department shall assess a penalty of $4,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or for failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $10,000. Each day the cause of an unauthorized discharge of domestic wastewater or sanitary nuisance is not addressed constitutes a separate offense.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,500 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus $3,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus $1,500 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus $1,500 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill

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violations involving more than one acre. The department shall assess a penalty of $4,500 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of $3,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $7,500 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $7,500 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of $3,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is

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Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus $1,500 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus $1,500 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $4,500 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of $3,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,500 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus $4,500 if the emission was from a major source and the source was major for the pollutant in violation; plus $1,500 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $7,500 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities

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until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $4,500 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $3,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,500 for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $7,500.

(b) For failure to install, maintain, or use a required pollution control system or device, $6,000.

(c) For failure to obtain a required permit before construction or modification, $4,500.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, $3,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required

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notification to the department, $1,500.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, $750.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $1,000.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections (3)-(5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of $3,000 or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years before the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years before the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years before the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative

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penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, must be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may not exceed $15,000.

(9) The administrative penalties assessed for any particular violation may not exceed $10,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $10,000, or there are multiday violations. The total administrative penalties may not exceed $50,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections (3)-(5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply before or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent’s due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section must ~~shall~~ be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the

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state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 16. Subsection (5) of section 403.9301, Florida Statutes, is amended to read:

403.9301 Wastewater services projections.—

(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January 1~~, 2023~~, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

Section 17. Subsection (5) of section 403.9302, Florida Statutes, is amended to read:

403.9302 Stormwater management projections.—

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(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January 1~~, 2023~~, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

Section 18. Subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include all of the following:

(a) Projects to:

1. Replace onsite sewage treatment and disposal systems with enhanced nutrient-reducing onsite sewage treatment and disposal systems.

2. Install or retrofit onsite sewage treatment and disposal

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systems with enhanced nutrient-reducing technologies.

3. Construct, upgrade, or expand domestic wastewater treatment facilities to meet the domestic wastewater treatment plan required under s. 403.067(7)(a)9.

4. Connect onsite sewage treatment and disposal systems to domestic wastewater treatment facilities.~~;~~

(b) The estimated costs, nutrient load reduction estimates, and other benefits of each project.~~;~~

(c) The estimated implementation timeline for each project.~~;~~

(d) A proposed 5-year funding plan for each project and the source and amount of financial assistance the department, a water management district, or other project partner will make available to fund the project.~~; and~~

(e) The projected costs of installing enhanced nutrient-reducing onsite sewage treatment and disposal systems on buildable lots in priority focus areas to comply with s. 373.811.

Section 19. For the purpose of incorporating the amendment made by this act to section 253.04, Florida Statutes, in a reference thereto, paragraph (x) of subsection (1) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(x) Section 253.04(3)(a), relating to carelessly causing seagrass scarring, for which the civil penalty upon conviction is:

1. For a first offense, $100.

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2. For a second offense occurring within 12 months after a prior conviction, $250.

3. For a third offense occurring within 36 months after a prior conviction, $500.

4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, $1,000.

Any person cited for a violation of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is $100, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation, in addition to the charge relating to the violation of the boating laws of this state, must be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 20. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in references thereto, paragraph (a) of subsection (4) and paragraph (a) of subsection (6) of section 381.0072, Florida Statutes, are reenacted to read:

381.0072 Food service protection.—

(4) LICENSES REQUIRED.—

(a) *Licenses; annual renewals.*—Each food service establishment regulated under this section shall obtain a

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license from the department annually. Food service establishment licenses shall expire annually and are not transferable from one place or individual to another. However, those facilities licensed by the department's Office of Licensure and Certification, the Child Care Services Program Office, or the Agency for Persons with Disabilities are exempt from this subsection. It shall be a misdemeanor of the second degree, punishable as provided in s. 381.0061, s. 775.082, or s. 775.083, for such an establishment to operate without this license. The department may refuse a license, or a renewal thereof, to any establishment that is not constructed or maintained in accordance with law and with the rules of the department. Annual application for renewal is not required.

(6) FINES; SUSPENSION OR REVOCATION OF LICENSES; PROCEDURE.—

(a) The department may impose fines against the establishment or operator regulated under this section for violations of sanitary standards, in accordance with s. 381.0061. All amounts collected shall be deposited to the credit of the County Health Department Trust Fund administered by the department.

Section 21. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (4) of section 381.0086, Florida Statutes, is reenacted to read:

381.0086 Rules; variances; penalties.—

(4) A person who violates any provision of ss. 381.008-381.00895 or rules adopted under such sections is subject either to the penalties provided in ss. 381.0012 and 381.0061 or to the

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penalties provided in s. 381.0087.

Section 22. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (7) of section 381.0098, Florida Statutes, is reenacted to read:

381.0098 Biomedical waste.—

(7) ENFORCEMENT AND PENALTIES.—Any person or public body in violation of this section or rules adopted under this section is subject to penalties provided in ss. 381.0012 and 381.0061. However, an administrative fine not to exceed $2,500 may be imposed for each day such person or public body is in violation of this section. The department may deny, suspend, or revoke any biomedical waste permit or registration if the permittee violates this section, any rule adopted under this section, or any lawful order of the department.

Section 23. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (2) of section 513.10, Florida Statutes, is reenacted to read:

513.10 Operating without permit; enforcement of chapter; penalties.—

(2) This chapter or rules adopted under this chapter may be enforced in the manner provided in s. 381.0012 and as provided in this chapter. Violations of this chapter and the rules adopted under this chapter are subject to the penalties provided in this chapter and in s. 381.0061.

Section 24. This act shall take effect July 1, 2024.

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

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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 Department of Environmental Protection; amending s. 253.04, F.S.; revising the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; amending s. 258.39, F.S.; declaring the Kristin Jacobs Coral Reef Ecosystem Conservation Area an aquatic preserve area; amending s. 373.250, F.S.; requiring each water management district, in coordination with the department, to develop rules that promote the use of reclaimed water and encourage quantifiable potable water offsets; providing requirements for such rules; providing construction; amending s. 380.093, F.S.; defining the term "Florida Flood Hub"; revising the definition of the term "preconstruction activities"; revising the purposes for which counties and municipalities may use Resilient Florida Grant Program funds; revising vulnerability assessment requirements; revising requirements for the development and maintenance of the comprehensive statewide flood vulnerability and sea level rise data set and assessment; requiring the department to coordinate with the Chief Resilience Officer and the Florida Flood Hub to update the data set and assessment at specified intervals; revising requirements for the Statewide Flooding and Sea Level

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Rise Resilience Plan; revising the purposes of the funding for regional resilience entities; making technical changes; amending s. 381.0061, F.S.; revising the violations for which the department may impose a specified fine; providing legislative intent regarding a phased transfer of the Department of Health's Onsite Sewage Program to the Department of Environmental Protection; requiring the Department of Environmental Protection to coordinate with the Department of Health regarding the identification and transfer of certain equipment and vehicles under certain circumstances; prohibiting the Department of Health from implementing or collecting fees for the program when the Department of Environmental Protection begins implementing the program; providing exceptions; amending s. 381.0065, F.S.; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; specifying the department's authority with respect to specific provisions; requiring the department to adopt rules for a program for general permits for certain projects; providing requirements for such rules; revising department enforcement provisions; deleting certain criminal penalties; requiring the damages, costs, or penalties collected to be deposited into the Water Quality Assurance Trust Fund rather than the relevant county health department trust fund;

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requiring the department to establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program; authorizing the department to contract with or delegate certain powers and duties to a county; amending s. 381.0066, F.S.; requiring certain fees to be deposited into the Florida Permit Fee Trust Fund after a specified timeframe; amending s. 403.061, F.S.; requiring counties to make certain services and facilities available upon the direction of the department; amending s. 403.064, F.S.; revising legislative findings; revising the domestic wastewater treatment facilities required to submit a reuse feasibility study as part of a permit application; revising the contents of a required reuse feasibility study; revising the domestic wastewater facilities required to implement reuse under certain circumstances; revising applicability; revising construction; amending s. 403.067, F.S.; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily loads; amending s. 403.0673, F.S.; revising the information to be included in the water quality improvement grant program annual report; requiring the department to include specified information on a user-friendly website or dashboard by a specified date; providing requirements for the website or dashboard; amending s. 403.086, F.S.; requiring wastewater treatment facilities within a basin management action

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plan or reasonable assurance plan area which provide reclaimed water for specified purposes to meet advanced waste treatment or a more stringent treatment standard under certain circumstances; providing applicability; amending s. 403.091, F.S.; authorizing certain department representatives to enter and inspect premises on which an onsite sewage treatment and disposal system is located or being constructed or installed or where certain records are kept; revising requirements for such access; revising the circumstances under which an inspection warrant may be issued; amending s. 403.121, F.S.; revising department enforcement provisions; revising administrative penalty calculations for failure to obtain certain required permits and for certain violations; amending ss. 403.9301 and 403.9302, F.S.; requiring the Office of Economic and Demographic Research to provide a publicly accessible data visualization tool on its website for comparative analyses of key information; amending s. 403.0671, F.S.; conforming provisions to changes made by the act; reenacting s. 327.73(1)(x), F.S., relating to noncriminal infractions, to incorporate the amendment made to s. 253.04, F.S., in a reference thereto; reenacting ss. 381.0072(4)(a) and (6)(a), 381.0086(4), 381.0098(7), and 513.10(2), F.S., relating to food service protection, penalties, biomedical waste, and operating without a permit, respectively, to incorporate the amendment made to s. 381.0061, F.S., in references thereto; providing an

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1945 effective date.

By Senator Calatayud

38-00749A-24 20241386__

A bill to be entitled

An act relating to the Department of Environmental Protection; amending s. 253.04, F.S.; revising the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; amending s. 258.39, F.S.; declaring the Kristin Jacobs Coral Reef Ecosystem Conservation Area an aquatic preserve area; amending s. 373.250, F.S.; requiring each water management district, in coordination with the department, to develop rules that promote the use of reclaimed water and encourage potable water offsets; providing requirements for such rules; providing construction; amending s. 380.093, F.S.; defining the term "Florida Flood Hub"; revising the definition of the term "preconstruction activities"; revising the purposes for which counties and municipalities may use Resilient Florida Grant Program funds; revising vulnerability assessment requirements; revising requirements for the development and maintenance of the comprehensive statewide flood vulnerability and sea level rise data set and assessment; requiring the department to coordinate with the Chief Resilience Officer and the Florida Flood Hub to update the data set and assessment at specified intervals; revising requirements for the Statewide Flooding and Sea Level Rise Resilience Plan; revising the purposes of the funding for regional resilience entities; making technical changes; amending s. 381.0061, F.S.;

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revising the violations for which the department may impose a specified fine; providing legislative intent regarding a phased transfer of the Department of Health's Onsite Sewage Program to the Department of Environmental Protection; requiring the Department of Environmental Protection to coordinate with the Department of Health regarding the identification and transfer of certain equipment and vehicles under certain circumstances; prohibiting the Department of Health from implementing or collecting fees for the program when the Department of Environmental Protection begins implementing the program; providing exceptions; amending s. 381.0065, F.S.; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; specifying the department's authority with respect to specific provisions; requiring the department to adopt rules for a program for general permits for certain projects; providing requirements for such rules; revising department enforcement provisions; deleting certain criminal penalties; requiring the damages, costs, or penalties collected to be deposited into the Water Quality Assurance Trust Fund rather than the relevant county health department trust fund; requiring the department to establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program; authorizing the department to

contract with or delegate certain powers and duties to a county; amending s. 381.0066, F.S.; requiring certain fees to be deposited into the Florida Permit Fee Trust Fund after a specified timeframe; amending s. 403.061, F.S.; requiring counties to make certain services and facilities available upon the direction of the department; amending s. 403.064, F.S.; revising legislative findings; revising the domestic wastewater treatment facilities required to submit a reuse feasibility study as part of a permit application; revising the contents of a required reuse feasibility study; revising the domestic wastewater facilities required to implement reuse under certain circumstances; revising applicability; revising construction; amending s. 403.067, F.S.; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily loads; amending s. 403.086, F.S.; requiring wastewater treatment facilities within a basin management action plan or reasonable assurance plan area which provide reclaimed water for specified purposes to meet advanced waste treatment or a more stringent treatment standard under certain circumstances; amending s. 403.091, F.S.; authorizing certain department representatives to enter and inspect premises on which an onsite sewage treatment and disposal system is located or being constructed or installed or where certain records are kept; revising

requirements for such access; revising the circumstances under which an inspection warrant may be issued; amending s. 403.121, F.S.; revising department enforcement provisions; revising administrative penalty calculations for failure to obtain certain required permits and for certain violations; amending ss. 403.0671 and 403.0673, F.S.; conforming provisions to changes made by the act; reenacting s. 327.73(1)(x), F.S., relating to noncriminal infractions, to incorporate the amendment made to s. 253.04, F.S., in a reference thereto; reenacting ss. 381.0072(4)(a) and (6)(a), 381.0086(4), 381.0098(7), and 513.10(2), F.S., relating to food service protection, penalties, biomedical waste, and operating without a permit, respectively, to incorporate the amendment made to s. 381.0061, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 253.04, Florida Statutes, is amended to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(3)(a) The duty to conserve and improve state-owned lands and the products thereof includes ~~shall include~~ the preservation and regeneration of seagrass, which is deemed essential to the oceans, gulfs, estuaries, and shorelines of the state. A person operating a vessel outside a lawfully marked channel in a

careless manner that causes seagrass scarring within an aquatic preserve established in ss. 258.39-258.3991 ~~ss. 258.39-258.399~~, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction, punishable as provided in s. 327.73. Each violation is a separate offense. As used in this subsection, the term:

1. "Seagrass" means Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson's seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*).

2. "Seagrass scarring" means destruction of seagrass roots, shoots, or stems that results in tracks on the substrate commonly referred to as prop scars or propeller scars caused by the operation of a motorized vessel in waters supporting seagrasses.

Section 2. Subsection (33) is added to section 258.39, Florida Statutes, to read:

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves.

Such aquatic preserve areas include:

(33) Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

Section 3. Subsection (9) is added to section 373.250, Florida Statutes, to read:

373.250 Reuse of reclaimed water.—

(9) To promote the use of reclaimed water and encourage potable water offsets that produce significant water savings beyond those required in a consumptive use permit, each water management district, in coordination with the department, shall develop rules by December 31, 2025, which provide all of the following:

(a) If an applicant proposes a water supply development or water resource development project using reclaimed water as part of an application for consumptive use, the applicant is eligible for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Rules developed pursuant to this paragraph must include, at a minimum:

1. A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meets water demands beyond a 20-year permit duration or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy; and

2. Guidelines for a district to follow in determining the permit duration based on the project's implementation.

This paragraph does not limit the existing authority of a water management district to issue a shorter duration permit to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

(b) Authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy. Rules associated with this paragraph must include, at a minimum:

1. A requirement that the permittee be in compliance with the permittee's consumptive use permit;

2. A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource

development project helps meet water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy;

3. A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and

4. Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

This paragraph does not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4. Present paragraphs (c) and (d) of subsection (2) of section 380.093, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and present paragraph (c) of subsection (2), paragraphs (b), (c), and (d) of subsection (3), and subsections (4), (5), and (6) of that section are amended, to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

(2) DEFINITIONS.—As used in this section, the term:

(c) "Florida Flood Hub" means the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933.

(d) ~~(c)~~ "Preconstruction activities" means activities associated with a project that addresses the risks of flooding and sea level rise that occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys and data collection, site development, solicitation, public hearings, local code or comprehensive plan amendments, establishing local funding sources, and easement acquisition.

(3) RESILIENT FLORIDA GRANT PROGRAM.—

(b) Subject to appropriation, the department may provide grants to each of the following entities:

1. A county or municipality to fund:

a. The costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address the requirements of s. 163.3178(2)(f).

b. Vulnerability assessments that identify or address risks of inland or coastal flooding and sea level rise.

c. Updates to the county's or municipality's inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The updated inventory must be submitted to the department and, at the time of submission, must reflect all such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

d. The development of projects, plans, strategies, and policies that enhance community preparations ~~allow communities to prepare~~ for threats from flooding and sea level rise,

including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

e. ~~d.~~ Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan which ~~that~~ are located in a municipality that has a population of 10,000 or fewer or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website.

f. ~~e.~~ Feasibility studies ~~and the cost of permitting~~ for nature-based solutions that reduce the impact of flooding and sea level rise.

g. The cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

2. A water management district identified in s. 373.069 to support local government adaptation planning, which may be conducted by the water management district or by a third party on behalf of the water management district. Such grants must be used for the express purpose of supporting the Florida Flood Hub ~~for Applied Research and Innovation~~ and the department in implementing this section through data creation and collection, modeling, and the implementation of statewide standards. Priority must be given to filling critical data gaps identified by the Florida Flood Hub ~~for Applied Research and Innovation~~ under s. 380.0933(2)(a).

(c) A vulnerability assessment conducted pursuant to

paragraph (b) must encompass the entire county or municipality; include all critical assets owned or maintained by the grant applicant; and use the most recent publicly available Digital Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department all of the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system (GIS) data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. An inventory ~~A list~~ of critical assets, including

regionally significant assets, that are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must do ~~include~~ all of the following:

1. Include peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Commerce ~~Economic Opportunity~~.

2. Make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer, including, as ~~If~~ applicable, analyzing impacts related to the depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding ~~using publicly available National Oceanic and Atmospheric Administration or Federal Emergency Management Agency storm surge data~~. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset or regionally significant asset. Publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data may be used in the absence of applicable data from the Florida Flood Hub.

c. To the extent practicable, rainfall-induced flooding using a GIS-based spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea level rise and high tide conditions. Vulnerability assessments for rainfall-induced flooding must include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Future rainfall conditions should be used, if available. Noncoastal communities must perform a rainfall-induced flooding assessment.

d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. Apply the following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. For a vulnerability assessment initiated after July 1, 2024, at a minimum ~~least two local sea level rise scenarios~~, ~~which must include~~ the 2022 NOAA ~~2017 National Oceanic and Atmospheric Administration~~ intermediate-low and intermediate ~~intermediate-high~~ sea level rise scenarios or the statewide sea level rise projections developed pursuant to paragraph (4)(a) ~~projections~~.

c. At least two planning horizons identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the department, at the time of award, determines such local vulnerability assessment will be

incorporated:

Year of assessment	20-year planning horizon	50-year planning horizon
2024	2040	2070
2029	2050	2080
2034	2055	2085
2039	2060	2090
2044	2065	2095
2049	2070	2100

~~that include planning horizons for the years 2040 and 2070.~~

d. Local sea level data maintained by the Florida Flood Hub which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, local sea level data may be ~~that has been~~ interpolated between the two closest NOAA ~~National Oceanic and Atmospheric Administration~~ tide gauges; however, such~~. Local sea level~~ data may be taken from only one of the two closest NOAA tide gauges ~~such gauge~~ if the gauge has a higher mean sea level or may be~~. Data~~ taken from an alternate tide gauge ~~may be used~~ with appropriate rationale

and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA LEVEL RISE DATA SET AND ASSESSMENT.—

(a) ~~By July 1, 2023,~~ The department shall develop and maintain ~~complete the development of~~ a comprehensive statewide flood vulnerability and sea level rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea level rise assessment. In developing and maintaining the data set, the department shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~for Applied Research and Innovation~~, compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments and critical asset inventories submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~necessary experts and resources~~, develop statewide sea level rise projections that incorporate temporal and spatial variability, to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) ~~By July 1, 2024,~~ The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall complete a comprehensive statewide flood vulnerability and sea

level rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in this ~~the~~ state which ~~that~~ are vulnerable to flooding and sea level rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea level rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical assets identified by local governments and submitted to the department pursuant to subsection (3).

4. The assessment must include the 20-year and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections developed pursuant to paragraph (a).

(c) The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall update the comprehensive statewide flood vulnerability and sea level rise

data set with the best available information each year and shall update the assessment at least every 5 years. ~~The department may update the data set and assessment more frequently if it determines that updates are necessary to maintain the validity of the data set and assessment.~~

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(a) ~~By December 1, 2021, and~~ Each December 1 ~~thereafter~~, the department shall develop a Statewide Flooding and Sea Level Rise Resilience Plan on a 3-year planning horizon and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must consist of ranked projects that address risks of flooding and sea level rise to coastal and inland communities in the state. All eligible projects submitted to the department pursuant to this section must be ranked and included in the plan. Each plan must include a detailed narrative overview describing how the plan was developed, including a description of the methodology used by the department to determine project eligibility, a description of the methodology used to rank projects, the specific scoring system used, the project proposal application form, a copy of each submitted project proposal application form separated by eligible projects and ineligible projects, the total number of project proposals received and deemed eligible, the total funding requested, and the total funding requested for eligible projects.

(b) ~~The plan submitted by December 1, 2021, before the comprehensive statewide flood vulnerability and sea level rise assessment is completed, will be a preliminary plan that includes projects that address risks of flooding and sea level~~

~~rise identified in available local government vulnerability assessments and projects submitted by water management districts that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state. The plan submitted by December 1, 2022, and the plan submitted by December 1, 2023, will be updates to the preliminary plan.~~ The plan submitted by December 1, 2024, and each plan submitted by December 1 thereafter:~~,~~

1. Shall primarily address risks of flooding and sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment; and

2. May include, at the discretion of the department in consultation with the Chief Resilience Officer, other projects submitted pursuant to paragraph (d) which address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include all of the following information for each recommended project:

1. A description of the project.

2. The location of the project.

3. An estimate of how long the project will take to complete.

4. An estimate of the cost of the project.

5. The cost-share percentage available for the project.

6. A summary of the priority score assigned to the project.

7. The project sponsor.

(d)1. ~~By September 1, 2021, and~~ Each September 1

~~thereafter~~, all of the following entities may submit to the department a list of proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3):

a. Counties.

b. Municipalities.

c. Special districts as defined in s. 189.012 which ~~that~~ are responsible for the management and maintenance of inlets and intracoastal waterways or for the operation and maintenance of a potable water facility, a wastewater facility, an airport, or a seaport facility.

d. Regional resilience entities acting on behalf of one or more member counties or municipalities.

For the plans submitted by December 1, 2024, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3) only if the entity is actively developing a vulnerability assessment that is either under a signed grant agreement with the department pursuant to subsection (3) or funded by another state or federal agency, or is self-funded and intended to meet the requirements of paragraph (3)(d) ~~2021; December 1, 2022; and December 1, 2023, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3). A regional resilience entity may also submit proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities~~.

2. ~~By September 1, 2021, and~~ Each September 1 ~~thereafter~~, all of the following entities may submit to the department a list of any proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3), or that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project:

a. Water management districts.

b. Drainage districts.

c. Erosion control districts.

d. Flood control districts.

e. Regional water supply authorities.

3. Each project submitted to the department pursuant to this paragraph for consideration by the department for inclusion in the plan must include all of the following information:

a. A description of the project.

b. The location of the project.

c. An estimate of how long the project will take to complete.

d. An estimate of the cost of the project.

e. The cost-share percentage available for the project.

f. The project sponsor.

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a financially disadvantaged small community. For purposes of this section, the term "financially disadvantaged small community" means:

1. A municipality that has a population of 10,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; or

2. A county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements.

(f) ~~To be eligible for inclusion in the plan, a project must have been submitted pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.~~

~~(g)~~ Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with any of the following:

1. Aesthetic vegetation.

2. Recreational structures such as piers, docks, and boardwalks.

3. Water quality components of stormwater and wastewater management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.

4. Maintenance and repair of over-walks.

5. Park activities and facilities, except expenses to control flooding or erosion.

6. Navigation construction, operation, and maintenance activities.

7. Projects that provide only recreational benefits.

(g) ~~(h)~~ The department shall implement a scoring system for assessing each project eligible for inclusion in the plan pursuant to this subsection. The scoring system must include the following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:

a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

b. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.

d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(h) ~~(i)~~ The total amount of funding proposed for each year

of the plan may not be less than $100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.

(i) ~~(j)~~ The department shall adopt rules ~~initiate rulemaking by August 1, 2021,~~ to implement this section.

(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for all of the following purposes to regional entities, including regional planning councils and estuary partnerships, that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating and conducting activities authorized by subsection (3) with broad regional benefit or on behalf of multiple member counties and municipalities ~~multijurisdictional vulnerability assessments~~.

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan.

Section 5. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may not exceed $500 for each violation, for a violation of s. 381.006(15) or~~, s. 381.0065, s. 381.0066,~~ s. 381.0072, ~~or part III of chapter 489,~~ for a violation of any rule adopted by the department under this chapter, or for a violation of chapter 386 not involving onsite sewage treatment and disposal systems. The department shall give an alleged violator a notice of intent to impose such fine ~~shall be given by the department to the alleged violator~~. Each day that a violation continues may constitute a separate violation.

Section 6. The Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection, as required by the Clean Waterways Act, chapter 2020-150, Laws of Florida, be completed in a phased approach.

(1) Before the phased transfer, the Department of Environmental Protection shall coordinate with the Department of Health to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The Department of Health shall transfer the agreed-upon equipment and vehicles to the Department of Environmental Protection, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the Department of Health.

(2) When the Department of Environmental Protection begins implementing the program within a county, the Department of Health may no longer implement or collect fees for the program unless specified by separate delegation or contract with the

Department of Environmental Protection.

Section 7. Paragraph (h) of subsection (3) and subsections (5) and (7) of section 381.0065, Florida Statutes, are amended, paragraph (o) is added to subsection (3) of that section, and subsection (9) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The department shall:

(h) Conduct enforcement activities in accordance with part I of chapter 403, ~~including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders~~ for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted by the department under this section, part I of chapter 386, or part III of chapter 489. All references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal systems, and untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems. The department shall have all the duties and authorities of the Department of Health in part I of chapter 386 for nuisances involving onsite sewage treatment and disposal systems. The department's authority under part I of chapter 386 is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section and chapter 403.

(o) Adopt rules establishing and implementing a program of general permits for this section for projects, or categories of

projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. Such rules must:

1. Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and

2. Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to the department without any agency action by the department. Within the 30-day notice period, the department shall determine whether the activity qualifies for a general permit. If the activity does not qualify or the notice does not contain all the required information, the department must notify the person.

(5) ENFORCEMENT; RIGHT OF ENTRY~~; CITATIONS~~.—

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an

inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091.

(b)~~1.~~ The department has all of the judicial and administrative remedies available to it pursuant to part I of chapter 403 ~~may issue citations that may contain an order of correction or an order to pay a fine, or both,~~ for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department~~, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action~~.

~~2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.~~

~~3. The fines imposed by a citation issued by the department may not exceed $500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.~~

~~4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the~~

~~citation and must pay an amount up to the maximum fine.~~

~~5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.~~

~~6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~7.~~ The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any damages, costs, or penalties ~~fines~~ it collects pursuant to this section and part I of chapter 403 in the Water Quality Assurance Trust Fund ~~county health department trust fund for use in providing services specified in those sections~~.

~~8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.~~

(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-

track approval process of no longer than 6 months for the determination of the use of American National Standards Institute 245 systems approved by NSF International before July 1, 2020. The department shall also establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program that will expeditiously evaluate and approve such systems for use in this state to comply with ss. 403.067(7)(a)10. and 373.469(3)(d).

(9) CONTRACT OR DELEGATION AUTHORITY.—The department may contract with or delegate its powers and duties under this section to a county as provided in s. 403.061 or s. 403.182.

Section 8. Subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(a) Application review, permit issuance, or system inspection, when performed by the department or a private provider inspector, including repair of a subsurface, mound, filled, or other alternative system or permitting of an abandoned system: a fee of not less than $25, or more than $125.

(b) Site evaluation, site reevaluation, evaluation of a system previously in use, or a per annum septage disposal site evaluation: a fee of not less than $40, or more than $115.

(c) Biennial operating permit for aerobic treatment units or performance-based treatment systems: a fee of not more than $100.

(d) Annual operating permit for systems located in areas zoned for industrial manufacturing or equivalent uses or where the system is expected to receive wastewater which is not domestic in nature: a fee of not less than $150, or more than $300.

(e) Innovative technology: a fee not to exceed $25,000.

(f) Septage disposal service, septage stabilization facility, portable or temporary toilet service, tank manufacturer inspection: a fee of not less than $25, or more than $200, per year.

(g) Application for variance: a fee of not less than $150, or more than $300.

(h) Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than $15, or more than $30.

(i) Aerobic treatment unit or performance-based treatment system maintenance entity permit: a fee of not less than $25, or more than $150, per year.

(j) Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than $25, or more than $100.

(k) Research: An additional $5 fee shall be added to each new system construction permit issued to be used to fund onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

(l) Annual operating permit, including annual inspection

and any required sampling and laboratory analysis of effluent, for an engineer-designed performance-based system: a fee of not less than $150, or more than $300.

The funds collected pursuant to this subsection for the implementation of onsite sewage treatment and disposal system regulation and for the purposes of ss. 381.00655 and 381.0067, subsequent to any phased transfer of implementation from the Department of Health to the department within any county pursuant to s. 381.0065, must be deposited in the Florida Permit Fee Trust Fund under s. 403.0871, to be administered by the department ~~a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655~~.

Section 9. Subsection (4) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies and counties, upon direction of the department, shall make these services and facilities available.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to

humans, animals or plants, or to the environment.

Section 10. Subsections (1), (2), (14), and (15) of section 403.064, Florida Statutes, are amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use. The Legislature further finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety. The Legislature encourages the development of incentive-based programs for reuse implementation.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility ~~located within, serving a population located within, or discharging within a water resource caution area~~ shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies must ~~shall~~ be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of the estimated water savings resulting from different types of ~~if~~ reuse, if ~~is~~ implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with the different types of reuse.

(e) Evaluation of economic, environmental, and technical constraints associated with the different types of reuse, including any constraints caused by potential water quality impacts.

(f) A schedule for implementation of reuse. The schedule must ~~shall~~ consider phased implementation.

(14) After conducting a feasibility study under subsection (2), a domestic wastewater treatment facility ~~facilities~~ that disposes ~~dispose~~ of effluent by Class I deep well injection~~,~~ as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or other method to dispose of effluent or a portion thereof must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study, with consideration given to direct ecological or public water supply benefits afforded by any disposal. Applicable permits issued by the department must ~~shall~~ be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or another method to dispose of effluent or a portion thereof for backup use only ~~facility as backup for a reclaimed water reuse system~~.

(b) ~~This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution~~

~~area.~~

~~(15) After conducting a feasibility study under subsection (2), domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study.~~ This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. ~~Applicable permits issued by the department shall be consistent with the requirements of this subsection.~~

~~(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.~~

~~(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

Section 11. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the

watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties,

with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action

plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to

water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which ~~that~~ addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility

improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater

treatment systems that achieve at least 65 percent nitrogen reduction is required.

11. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.

Section 12. Paragraph (c) of subsection (1) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c)1. Notwithstanding this chapter or chapter 373, sewage disposal facilities may not dispose any wastes into the following waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department or a more stringent treatment standard if the department determines the more stringent standard is necessary to achieve the total maximum daily load or applicable water quality criteria:

a. Old Tampa Bay; Tampa Bay; Hillsborough Bay; Boca Ciega

Bay; St. Joseph Sound; Clearwater Bay; Sarasota Bay; Little Sarasota Bay; Roberts Bay; Lemon Bay; Charlotte Harbor Bay; Biscayne Bay; or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

b. Beginning July 1, 2025, Indian River Lagoon, or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

c. By January 1, 2033, waterbodies that are currently not attaining nutrient or nutrient-related standards or that are subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan.

2. For any waterbody determined not to be attaining nutrient or nutrient-related standards after July 1, 2023, or subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan after July 1, 2023, sewage disposal facilities are prohibited from disposing any wastes into such waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department within 10 years after such determination or adoption.

3. By July 1, 2034, within a basin management action plan or a reasonable assurance plan area, any wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied must meet the standards for advanced waste treatment as defined in subsection (4), as approved by the department, or a more stringent treatment standard if the department determines the more stringent standard is necessary to achieve the total

maximum daily load or applicable water quality criteria.

Section 13. Paragraphs (a) and (b) of subsection (1) and paragraph (b) of subsection (3) of section 403.091, Florida Statutes, are amended to read:

403.091 Inspections.—

(1)(a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which:

1. A hazardous waste generator, transporter, or facility or other air or water contaminant source;

2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works;

3. An onsite sewage treatment and disposal system as defined in s. 381.0065(2)(m);

4. Any facility, as defined in s. 376.301; or

5.~~4.~~ A resource recovery and management facility

is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.317, or department rule are kept.

(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.317; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or

underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489, or department rules.

(3)

(b) Upon proper affidavit being made, an inspection warrant may be issued under ~~the provisions of~~ this chapter or ss. 376.30-376.317:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of ~~any of the provisions of~~ this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted

under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 and any rules adopted thereunder.

Section 14. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1), ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or any rule promulgated thereunder.

(1) Judicial Remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $15,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is not a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing before the institution of a civil action.

(2) Administrative Remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $50,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 may not be less than $1,000 per day per violation. The department may not impose administrative penalties in excess of $50,000 in a notice of violation. The department may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an order is not effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period constitutes a waiver thereof, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial

imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. Administrative penalties should not be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at $150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall

provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An award of attorney fees as provided by this subsection may not exceed $15,000.

(g) This section does not prevent any other legal or administrative action in accordance with law and does not limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the

state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $50,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $50,000. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 in penalties may be settled in the court action for less than $50,000.

(h) Chapter 120 applies to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $3,000 for a Maximum Containment Level (MCL) violation; plus $1,500 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,500 if the violation occurs at a community water system; and plus $1,500 if any Maximum Contaminant Level is exceeded by

more than 100 percent. For failure to obtain a clearance letter before placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of $4,500.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, or obtain an onsite sewage treatment and disposal system permit, or for a violation of s. 381.0065, or the creation of or maintenance of a nuisance related to an onsite sewage treatment and disposal system under part I of chapter 386, or for a violation of part III of chapter 489, or any rule properly promulgated thereunder, the department shall assess a penalty of $2,000. For a domestic or industrial wastewater violation, not involving a surface water or groundwater quality violation, the department shall assess a penalty of $4,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or for failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $10,000. Each day the cause of an unauthorized discharge of domestic wastewater or sanitary nuisance is not addressed constitutes a separate offense.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,500 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus $3,000 if

the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus $1,500 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus $1,500 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $4,500 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of $3,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $7,500 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $7,500 per violation

against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of $3,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus $1,500 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus $1,500 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $4,500 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of $3,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,500 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus $4,500

if the emission was from a major source and the source was major for the pollutant in violation; plus $1,500 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $7,500 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $4,500 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $3,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,500 for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $7,500.

(b) For failure to install, maintain, or use a required pollution control system or device, $6,000.

(c) For failure to obtain a required permit before construction or modification, $4,500.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, $3,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, $1,500.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, $750.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $1,000.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections (3)-(5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of $3,000 or more in penalties shall be taken into consideration in the

following manner:

(a) One previous such violation within 5 years before the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years before the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years before the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, must be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may not exceed $15,000.

(9) The administrative penalties assessed for any particular violation may not exceed $10,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $10,000, or there are multiday violations. The total administrative penalties may not exceed $50,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections (3)-(5) may be reduced up to 50 percent by the administrative law judge for

mitigating circumstances, including good faith efforts to comply before or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section must ~~shall~~ be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the

Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include all of the following:

(a) Projects to:

1. Replace onsite sewage treatment and disposal systems with enhanced nutrient-reducing onsite sewage treatment and disposal systems.

2. Install or retrofit onsite sewage treatment and disposal systems with enhanced nutrient-reducing technologies.

3. Construct, upgrade, or expand domestic wastewater treatment facilities to meet the domestic wastewater treatment plan required under s. 403.067(7)(a)9.

4. Connect onsite sewage treatment and disposal systems to domestic wastewater treatment facilities.~~;~~

(b) The estimated costs, nutrient load reduction estimates, and other benefits of each project.~~;~~

(c) The estimated implementation timeline for each project.~~;~~

(d) A proposed 5-year funding plan for each project and the source and amount of financial assistance the department, a water management district, or other project partner will make available to fund the project.~~; and~~

(e) The projected costs of installing enhanced nutrient-reducing onsite sewage treatment and disposal systems on

buildable lots in priority focus areas to comply with s. 373.811.

Section 16. Paragraph (f) of subsection (2) of section 403.0673, Florida Statutes, is amended to read:

403.0673 Water quality improvement grant program.—A grant program is established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to surface water or groundwater.

(2) The department may provide grants for all of the following types of projects that reduce the amount of nutrients entering those waterbodies identified in subsection (1):

(f) Projects identified in a domestic wastewater treatment plan or an onsite sewage treatment and disposal system remediation plan developed pursuant to s. 403.067(7)(a)9.a. and b.

Section 17. For the purpose of incorporating the amendment made by this act to section 253.04, Florida Statutes, in a reference thereto, paragraph (x) of subsection (1) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(x) Section 253.04(3)(a), relating to carelessly causing seagrass scarring, for which the civil penalty upon conviction is:

1. For a first offense, $100.

2. For a second offense occurring within 12 months after a prior conviction, $250.

3. For a third offense occurring within 36 months after a

prior conviction, $500.

4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, $1,000.

Any person cited for a violation of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is $100, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation, in addition to the charge relating to the violation of the boating laws of this state, must be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 18. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in references thereto, paragraph (a) of subsection (4) and paragraph (a) of subsection (6) of section 381.0072, Florida Statutes, are reenacted to read:

381.0072 Food service protection.—

(4) LICENSES REQUIRED.—

(a) *Licenses; annual renewals.*—Each food service establishment regulated under this section shall obtain a license from the department annually. Food service establishment licenses shall expire annually and are not transferable from one place or individual to another. However, those facilities

licensed by the department's Office of Licensure and Certification, the Child Care Services Program Office, or the Agency for Persons with Disabilities are exempt from this subsection. It shall be a misdemeanor of the second degree, punishable as provided in s. 381.0061, s. 775.082, or s. 775.083, for such an establishment to operate without this license. The department may refuse a license, or a renewal thereof, to any establishment that is not constructed or maintained in accordance with law and with the rules of the department. Annual application for renewal is not required.

(6) FINES; SUSPENSION OR REVOCATION OF LICENSES; PROCEDURE.—

(a) The department may impose fines against the establishment or operator regulated under this section for violations of sanitary standards, in accordance with s. 381.0061. All amounts collected shall be deposited to the credit of the County Health Department Trust Fund administered by the department.

Section 19. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (4) of section 381.0086, Florida Statutes, is reenacted to read:

381.0086 Rules; variances; penalties.—

(4) A person who violates any provision of ss. 381.008-381.00895 or rules adopted under such sections is subject either to the penalties provided in ss. 381.0012 and 381.0061 or to the penalties provided in s. 381.0087.

Section 20. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a

reference thereto, subsection (7) of section 381.0098, Florida Statutes, is reenacted to read:

381.0098 Biomedical waste.—

(7) ENFORCEMENT AND PENALTIES.—Any person or public body in violation of this section or rules adopted under this section is subject to penalties provided in ss. 381.0012 and 381.0061. However, an administrative fine not to exceed $2,500 may be imposed for each day such person or public body is in violation of this section. The department may deny, suspend, or revoke any biomedical waste permit or registration if the permittee violates this section, any rule adopted under this section, or any lawful order of the department.

Section 21. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (2) of section 513.10, Florida Statutes, is reenacted to read:

513.10 Operating without permit; enforcement of chapter; penalties.—

(2) This chapter or rules adopted under this chapter may be enforced in the manner provided in s. 381.0012 and as provided in this chapter. Violations of this chapter and the rules adopted under this chapter are subject to the penalties provided in this chapter and in s. 381.0061.

Section 22. This act shall take effect July 1, 2024.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, Chair
Appropriations Committee on Education
Education Pre-K 12
Fiscal Policy
Health Policy
Select Committee on Resiliency

SENATOR Alexis Calatayud
38th District

January 19, 2024

Honorable Senator Jason Brodeur
Chair – Appropriations Committee on Agriculture, Environment,
& General Government
Honorable Chair Brodeur,

I respectfully request that **SB- 1386 Department of Environmental Protection** be placed on the next committee agenda.

This bill revises the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; defining the term "Florida Flood Hub"; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily load.

Sincerely,

Alexis M. Calatayud

_____

Senator Alexis M. Calatayud
Florida Senate, District 38

CC: Giovanni Betta, Staff Director
Julie Brass, Committee Administrative Assistant

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 1436
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government and Senator Burton
SUBJECT:	Consumer Finance Loans
DATE:	February 1, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Favorable**
2.	Sanders	Betta	AEG	**Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1436 revises laws governing consumer finance loans, which are loans of $25,000 or less for which a lender charges an interest rate greater than 18 percent per annum. The Florida Consumer Finance Act (Act) in ch. 516, F.S., provides an exemption from Florida's prohibition against usurious contracts, under which any interest rate greater than 18 percent per annum is prohibited.

The bill modifies the limits of consumer finance loan interest rates to no more than 36 percent per annum, computed on the first $10,000 of the principal amount; 30 percent per annum on that part of the principal amount exceeding $10,000 and up to $20,000; and 24 percent per annum on that part of the principal amount exceeding $20,000 and up to $25,000.

The bill increases the number of days a payment must be in default before a delinquency charge may be imposed from 10 days in default to 12 days in default.

The bill revises the licensure process to allow a single licensure application for the principle place of business and all branches. The bill defines a "branch" as any location, other than a licensee's principal place of business, at which a licensee operates or conducts consumer finance loan business or controls for the purpose of conducting consumer finance loan business.

The bill requires consumer finance lenders, in any county designated in a Federal Emergency Management Agency (FEMA) major disaster declaration, to suspend for 90 days after the initial date of such declaration, the following:

- The application of delinquency charges for payments in default for at least 12 days;
- Repossessions of collateral pledged to a consumer finance loan; and
- The filing of civil actions for the collection of amounts owed under a consumer finance loan.

The bill also requires consumer finance lenders to:

- Provide notice to the Office of Financial Regulation (OFR) of any assistance program offered by the lender to borrowers impacted by a disaster subject to a FEMA major disaster declaration;
- Offer a free credit education program or seminar to borrowers at the time a loan is made; and
- Annually report to the OFR information detailing loans issued by the lender during the previous calendar year.

The OFR estimates the bill will result a recurring reduction of $5,000 in revenues per fiscal year but the loss is negligible and would not impact operations. *See* Section V. Fiscal Impact Statement.

The effective date of the bill is July 1, 2024.

II. Present Situation:

The OFR's Division of Consumer Finance (Division) licenses and regulates non-depository financial service entities and individuals, and conducts investigations of licensed entities to determine their compliance with Florida law.[1] One such product regulated by the OFR is consumer finance loans.

A consumer finance loan is a loan of money, credit, goods, or interests valued at $25,000 or less with permitted interest rates between 18 and 30 percent per year.[2] A consumer finance loan is not a traditional loan made by a bank, credit union, or similar institution. The consumer finance lenders do not accept deposits, and earn their revenue from the fees charged on the loans they make.[3]

Licensure

Entities that engage in the business of making consumer finance loans must be licensed by the OFR pursuant to the Florida Consumer Finance Act, ch. 516, F.S. ("the Act"). Each location of a

[1] Fla. Office of Fin. Reg., *Division of Consumer Finance: What We Do*, https://flofr.gov/sitePages/DivisionOfConsumerFinance.htm (last visited January 24, 2024).
[2] Sections 516.01(2) and 516.031(1), F.S. *See also*, Fla. Office of Fin. Reg, *Consumer Finance Companies*, https://flofr.gov/sitePages/ConsumerFinanceCompanies.htm (last visited January 24, 2024).
[3] Naveen Reddy, *What are the Primary Functions of Finance Companies?* (Nov. 9, 2020), https://smallbusiness.chron.com/primary-functions-finance-companies-40480.html (last visited January 24, 2024). Also note, payday lenders are separately regulated pursuant to ch. 560, F.S.

consumer finance lender must be separately licensed, even if the separate locations are operated by the same business entity.[4]

A consumer finance lender applicant must submit an application fee of $625 and an investigation fee of $200 with its application for licensure.[5] Consumer finance lender licenses granted under the Act must be renewed every two years, at which time the licensee must pay a $625 biennial license fee.[6]

The Act does not apply to persons doing business under state or federal laws governing banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies.[7]

Permissible Interest Rates and Fees

Florida's prohibition on usury[8] generally prohibits[9] interest rates in excess of 18 percent per annum simple interest on any loan, advance of money, line of credit, or forbearance.[10] Licensed consumer finance lenders, however, may offer interest rates greater than 18 percent per annum simple interest, up to the following limits, which are based on the amount of the loan's principal:[11]

- 30 percent on the first $3,000 of the principal amount;
- 24 percent on principal above $3,000 and up to $4,000; and
- 18 percent on principal above $4,000 and up to $25,000.

The Act prohibits lenders from directly or indirectly charging borrowers additional fees as a condition to the grant of a loan, except for the following:[12]

- Up to $25 for investigating the credit and character of the borrower;
- A $25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans, title insurance, and appraisals of real property offered as security;
- Intangible personal property tax on the loan note or obligation, if secured by a lien on real property;
- Documentary excise tax and lawful fees for filing, recording, or releasing an instrument securing the loan;

[4] Sections 516.01(6) and 516.05(3), F.S.
[5] Section 516.03(1), F.S. *See also*, Fla. Office of Fin. Reg., *Form OFR-516-01 Application for Consumer Finance Company License*, https://flofr.gov/sitePages/documents/OFR-516-01.pdf (last visited January 24, 2024).
[6] Sections 516.03(1) and 516.05(1) & (2), F.S.
[7] Section 516.02(4), F.S.
[8] Usury is the act of lending money at an interest rate that is considered unreasonably high or that is higher than the rate permitted by law. Julia Kagan, Investopedia, *What is Usury? Definition, How It Works, Legality, and Example* (February 7, 2022), https://www.investopedia.com/terms/u/usury.asp (last visited January 23, 2024). *See* ss. 687.02 and 687.03, F.S.
[9] Various lenders and credits licensed or chartered under the laws of the United States or specified chapters of the Florida Statutes may charge interest at the maximum rate of interest permitted by law for similar loans or extensions of credit. *See* s. 687.12(1), F.S.
[10] Sections 687.02 and 687.12, F.S.
[11] Section 516.031(1), F.S.
[12] Section 516.031(3), F.S.

- The premium for any insurance in lieu of perfecting a security interest otherwise required by the licensee in connection with the loan;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for repossession, storing, repairing and placing in condition for sale, and selling of any property pledged as security;
- A delinquency charge for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed, of up to $15 for payments due monthly, $7.50 for payments due semimonthly or every two weeks, and five dollars if three payments are due in the same calendar month; and
- A bad check charge of up to $20.

A consumer finance lender may offer optional credit property, credit life, and disability insurance at the borrower's expense via a deduction from the principal amount of the loan.[13]

Licensees under ch. 516, F.S., are expressly prohibited from charging prepayment penalties on consumer finance loans.[14]

Federal Emergency Management Agency

Robert T. Stafford Disaster Relief and Emergency Assistance Act[15] (Stafford Act)

Under the Stafford Act, Public Law No. 100-107, the President of the United States (President) is authorized to declare emergency and major disaster declarations. An emergency declaration can be declared for any occasion or instance the President determines federal assistance is needed. Emergency declarations supplement state and local or Indian tribal emergency service efforts, which include protection of lives, property, public health and safety or lessens the threat of a catastrophe in any part of the United States.[16] Assistance provided under an emergency declaration may not exceed five million dollars. The President can declare a major disaster for any natural event[17] which the President has determined has caused severe damage beyond the combined capabilities of state and local governments to respond.[18] Such declaration of a major disaster provides federal assistance programs to individuals and public infrastructure, including emergency and permanent work.[19]

Before such declaration can be determined, the governor of a state or Tribal Chief Executive of the affected Tribe must submit a request, within thirty days of the occurrence, to the President

[13] Section 516.35(2), F.S.
[14] Section 516.031(6), F.S.
[15] The Stafford Act constitutes the statutory authority for most Federal disaster response activities, especially as related to the FEMA and FEMA programs. PL 100-707 (November 23, 1988); amended the Disaster Relief Act of 1974, PL 93-288. https://www.fema.gov/disaster/stafford-act (last visited January 24, 2024).
[16] FEMA, *How a Disaster Gets Declared, Emergency Declarations*, https://www.fema.gov/disaster/how-declared (last visited January 24, 2024).
[17] Natural events include hurricanes, tornadoes, storms, high water, wind-driven water, tidal waves, tsunamis, earthquakes, volcanic eruptions, landslides, snowstorms, mudslides, or drought, or regardless of cause, fire, flood or explosion. FEMA, How a Disaster Gets Declared, *Major Disaster Declarations*, https://www.fema.gov/disaster/how-declared#:~:text=The%20President%20can%20declare%20a,that%20the%20President%20determines%20has (last visited January 24, 2024).
[18] *Id*.
[19] *Id*.

through a FEMA Regional Administrator. Federal assistance is determined by the Governor's or Tribal Chief's request and the needs identified during preliminary damage assessments.[20]

III. Effect of Proposed Changes:

This bill revises laws governing consumer finance loans, which are loans of $25,000 or less for which a lender charges an interest rate greater than 18 percent per annum. The Florida Consumer Finance Act (Act) in ch. 516, F.S., provides an exemption from Florida's prohibition against usurious contracts, under which any interest rate greater than 18 percent per annum is prohibited.

Section 1 amends s. 516.01, F.S., to define the term "branch" to mean any location, other than a licensee's principal place of business, at which a licensee operates or conducts business under this chapter or which the licensee owns or controls for the purpose of conducting consumer finance loan business.

Section 2 amends s. 516.02, F.S., to clarify a person may not engage in the business of making consumer finance loans or operate a branch of such a business unless first authorized to do so.

Section 3 amends s. 516.03, F.S., to revise the licensure process to allow a single licensure application for the principal place of business and all branches. The bill provides applications for a license for the principal place of business to be accompanied by a nonrefundable investigation fee of $200.

Section 4 amends s. 516.031, F.S., to increase the maximum interest rate that may be charged to no more than 36 percent per annum, computed on the first $10,000 of the principal amount; 30 percent per annum on that part of the principal amount exceeding $10,000 and up to $20,000; and 24 percent per annum on that part of the principal amount exceeding $20,000 and up to $25,000.

Section 4 also increases the number of days a payment must be in default before a delinquency charge may be imposed from 10 days in default to 12 days in default.

Section 5 amends s. 516.15, F.S., relating to duties, to require consumer finance licensees to provide written notice to the OFR of any assistance programs offered by the lender to borrowers impacted by a FEMA declared disaster within 10 days of establishment of the program. Assistance programs established by consumer finance licensees may include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification or changing payment due dates.

The bill requires consumer finance licensees, as licensed under s. 516, F.S., to offer borrowers, in writing or electronically, at the time a loan is made, a free credit education program or seminar provided by the licensee or a third party provider. The credit education program may address, but is not limited to the following:

- The importance and methodology of establishing a household budget;
- The impact, value of, and ways to improve a credit score; and

[20] *Id*.

- The importance and methodology of establishing household savings; and
- Ways to obtain a free copy of a credit report; dispute an error in a credit report; and, manage and prevent identity theft.

The bill requires the credit education program or seminar must be offered at no cost to the borrower, and the bill specifies a licensee may not require a borrower to participate in a credit education program or seminar as a condition of receiving a loan.

Section 6 creates s. 516.38, F.S., to require consumer finance licensees to annually report, by March 15, 2025, and by each March 15th thereafter, aggregated and anonymized data that does not reference any borrower's nonpublic personal information to the OFR detailing the loans issued by the lender during the previous calendar year. The report must include:

- The number of locations held by the licensee as of December 31;
- The number of loan originations by the licensee under all licenses;
- The total dollar amount of loans and the number of loans outstanding by the licensee as of December 31;
- The total number of loans in which the licensee holds a security interest in collateral as of December 31;
- The total number of unsecured loans as of December 31;
- The total number of loans, separated by principal amount, in the following ranges as of December 31:
  - Up to and including $5,000;
  - $5,001 to $10,000;
  - $10,001 to $15,000;
  - $15,001 to $20,000; and
  - $20,001 to $25,000;
- The total number and amount of loans charged off as of December 31; and
- The total dollar amount of loans and the number of loans with delinquency status listed as:
  - Current or less than 30 days past due;
  - From 30 to 59 days past due;
  - From 60 to 89 days past due; and
  - At least 90 days past due.

Furthermore, licensees claiming any information submitted in the annual report contains a trade secret must submit to the OFR an affidavit and designate the information claimed to be a trade secret in accordance with s. 655.0591, F.S. The OFR may publish a report using the annual report data, provided all data published in the report is anonymized and aggregated from all licensees.

Section 7 creates s. 516.39, F.S., to require consumer finance lenders, in any county designated in a FEMA major disaster declaration, to suspend the following for 90 days after the initial date of such declaration:

- The application of delinquency charges for payments in default for at least 10 days;
- Repossessions of collateral pledged to a consumer finance loan; and
- The filing of civil actions for the collection of amounts owed under a consumer finance loan.

Section 8 reenacts s. 516.19, F.S., relating to penalties, to incorporate amendments made to ss. 516.02 and 516.031, F.S.

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:

The bill allows the OFR to publish a report of information submitted by consumer finance lenders detailing their lending activities during the prior calendar year, "provided that all data published in the report is anonymized and aggregated from all licensees." However, the lack of a public records exemption related to the reports submitted by insurers may result in the OFR having to provide the reports of individual lenders to a person making such a public records request. The report in each consumer finance lender's report to the OFR could receive trade secret protection to the extent the lender, pursuant to s. 655.0591, F.S., claims a trade secret and is successful in obtaining a declaratory judgment from a circuit court that the documents in question constitute protected trade secrets.

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:

The bill revises the licensure process for consumer finance companies to allow a single licensure application for the principle place of business and all branches, thereby potentially reducing application and investigative fees. A fee bill is not anticipated.

B. Private Sector Impact:

The bill may result in more consumer finance loans being issued by Florida-licensed consumer finance lenders to borrowers who cannot currently qualify for loans given the

current interest rate limits. However, such borrowers will be subject to greater interest payments than are allowed under current law.

Applicants for the new branch office license will no longer be required to pay the $200 background investigation fee for each additional location. This may result in applicants saving up to $5,000 in reduced fees per fiscal year.[21]

Licensees under ch. 516, F.S., may incur costs to establish the credit education program or seminar required under the bill.

C. Government Sector Impact:

The bill proposes to create a branch license in lieu of a full license for each additional location of a licensee, which will not include the $200 background investigation fee, resulting in a fee reduction. The OFR estimates a recurring reduction of $5,000 in revenues but the loss is negligible and would not impact operations. Furthermore, the reduction in staff time reviewing full license applications for each additional location when replaced with a branch office license would likely offset any loss in revenue.[22]

The changes proposed within the bill would require the OFR to update its internal licensing system to create a branch license and annual reporting functionality. The cost of such technology changes would be negligible and can be absorbed within existing resources.[23]

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires consumer finance lender licensees to provide annual reporting information to the OFR by March 15, 2025, and each March 15th thereafter, but does not provide a date for the OFR to aggregate and anonymize such data.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 516.01, 516.02, 516.03, 516.031, and 516.15.

This bill creates the following sections of the Florida Statutes: 516.38 and 516.39.

This bill reenacts section 516.19 of the Florida Statutes.

[21] Office of Financial Regulation, *2024 Agency Legislative Bill Analysis of SB 1436*, at pg. 5, January 17, 2024 (on file with the Senate Committee on Agriculture, Environment, and General Government).
[22] *Id* at pg. 5.
[23] *Id* at pg. 6.

IX. Additional Information:

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

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:
The committee substitute:

- Provides every licensee under s. 516, F.S., has a duty to offer borrowers at the time a loan is made, a free credit education program or seminar provided by the licensee or a third party provider. The credit education program may address, but is not limited to the following:
  - The importance and methodology of establishing a household budget;
  - The impact, value of, and ways to improve a credit score; and
  - The importance and methodology of establishing household savings; and
  - Ways to obtain a free copy of a credit report; dispute an error in a credit report; and, manage and prevent identity theft; and
- Specifies a licensee may not require a borrower to participate in a credit education program or seminar as a condition of receiving a loan.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Burton) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 233 and 234
insert:

(6) Offer the borrower at the time a loan is made a credit education program or seminar provided by the licensee or a third-party provider, either in writing or electronically. The credit education program or seminar may address, but need not be limited to, any of the following topics:

(a) The importance and methodology of establishing a

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household budget.

(b) The impact, value of, and ways to improve a credit score.

(c) The importance and methodology of establishing household savings.

(d) Ways to obtain a free copy of a credit report.

(e) Ways to dispute an error in a credit report.

(f) Ways to manage and prevent identity theft.

A credit education program or seminar offered under this subsection must be offered at no cost to the borrower. A licensee may not require a borrower to participate in a credit education program or seminar as a condition of receiving a loan.

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

And the directory clause is amended as follows:

Delete line 210

and insert:

Section 5. Subsections (5) and (6) are added to section 516.15,

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

And the title is amended as follows:

Delete line 18

and insert:

timeframe; providing construction; requiring licensees to offer borrowers a certain education program or seminar; specifying the topics that such program or seminar may address; requiring that such program or

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seminar be offered at no cost to borrowers; prohibiting licensees from requiring borrowers to participate in such education program or seminar as a condition of a loan; creating s. 516.38,

By Senator Burton

12-01002-24 20241436__

A bill to be entitled

An act relating to consumer finance loans; reordering and amending s. 516.01, F.S.; defining the term "branch"; amending s. 516.02, F.S.; prohibiting a person from operating a branch of a business making consumer finance loans before obtaining a license from the Office of Financial Regulation; amending s. 516.03, F.S.; specifying application fees for branch licenses; revising the applicability of investigation fees; making a technical change; amending s. 516.031, F.S.; revising the maximum interest rate on consumer finance loans; revising the minimum amount of time before which a delinquency charge for each payment in default may be imposed; amending s. 516.15, F.S.; requiring licensees offering an assistance program to borrowers after a federally declared disaster to send a specified notice to the office within a certain timeframe; providing construction; creating s. 516.38, F.S.; requiring licensees to file annual reports with the office; providing for rulemaking by the Financial Services Commission; specifying requirements for the reports; providing requirements for a licensee claiming that submitted information contains a trade secret; authorizing the office to publish a report in a certain manner; creating s. 516.39, F.S.; requiring certain licensees to suspend specified actions for a certain timeframe after a federally declared disaster; reenacting s. 516.19, F.S., relating to penalties, to incorporate the amendments made to ss. 516.02 and

12-01002-24 20241436__

516.031, F.S., in references thereto; providing an effective date.

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

Section 1. Section 516.01, Florida Statutes, is reordered and amended to read:

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

(1) "Branch" means any location, other than a licensee's principal place of business, at which a licensee operates or conducts business under this chapter or which the licensee owns or controls for the purpose of conducting business under this chapter.

(3) "Consumer finance borrower" or "borrower" means a person who has incurred either direct or contingent liability to repay a consumer finance loan.

(4) ~~(2)~~ "Consumer finance loan" means a loan of money, credit, goods, or choses in action, including, except as otherwise specifically indicated, provision of a line of credit, in an amount or to a value of $25,000 or less for which the lender charges, contracts for, collects, or receives interest at a rate greater than 18 percent per annum.

(2) ~~(3)~~ "Commission" means the Financial Services Commission.

(9) ~~(4)~~ "Office" means the Office of Financial Regulation of the commission.

(6) ~~(5)~~ "Interest" means the cost of obtaining a consumer finance loan and includes any profit or advantage of any kind whatsoever that a lender may charge, contract for, collect,

receive, or in anywise obtain, including by means of any collateral sale, purchase, or agreement, as a condition for a consumer finance loan. Charges specifically permitted by this chapter, including commissions received for insurance written as permitted by this chapter, shall not be deemed interest.

(7) ~~(6)~~ "License" means a permit issued under this chapter to make and collect loans in accordance with this chapter at a single place of business.

(8) ~~(7)~~ "Licensee" means a person to whom a license is issued.

(5) ~~(8)~~ "Control person" means an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. A person is presumed to control a company if, with respect to a particular company, that person:

(a) Is a director, general partner, or officer exercising executive responsibility or having similar status or functions;

(b) Directly or indirectly may vote 10 percent or more of a class of a voting security or sell or direct the sale of 10 percent or more of a class of voting securities; or

(c) In the case of a partnership, may receive upon dissolution or has contributed 10 percent or more of the capital.

Section 2. Subsection (1) of section 516.02, Florida Statutes, is amended to read:

516.02 Loans; lines of credit; rate of interest; license.—

(1) A person may ~~must~~ not engage in the business of making consumer finance loans or operate a branch of such business

unless she or he is authorized to do so under this chapter or other statutes and unless the person first obtains a license from the office.

Section 3. Subsection (1) of section 516.03, Florida Statutes, is amended to read:

516.03 Application for license; fees; etc.—

(1) APPLICATION.—Application for a license to make loans under this chapter shall be in the form prescribed by rule of the commission. The commission may require each applicant to provide any information reasonably necessary to determine the applicant's eligibility for licensure. The applicant shall also provide information that the office requires concerning any officer, director, control person, member, partner, or joint venturer of the applicant or any person having the same or substantially similar status or performing substantially similar functions or concerning any individual who is the ultimate equitable owner of a 10-percent or greater interest in the applicant. The office may require information concerning any such applicant or person, including, but not limited to, his or her full name and any other names by which he or she may have been known, age, social security number, residential history, qualifications, educational and business history, and disciplinary and criminal history. The applicant must provide evidence of liquid assets of at least $25,000 or documents satisfying the requirements of s. 516.05(10). At the time of making such application, the applicant shall pay to the office a nonrefundable biennial license fee of $625 for the principal place of business and for each branch application filed. Applications for a license for the principal place of business~~,~~

~~except for applications to renew or reactivate a license,~~ must also be accompanied by a nonrefundable investigation fee of $200. An application is considered received for purposes of s. 120.60 upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of $625, and any other fee prescribed by law. The commission may adopt rules requiring electronic submission of any form, document, or fee required by this chapter ~~act~~ if such rules reasonably accommodate technological or financial hardship. The commission may prescribe by rule requirements and procedures for obtaining an exemption due to a technological or financial hardship.

Section 4. Subsection (1) and paragraph (a) of subsection (3) of section 516.031, Florida Statutes, are amended to read:

516.031 Finance charge; maximum rates.—

(1) INTEREST RATES.—A licensee may lend any sum of money up to $25,000. A licensee may not take a security interest secured by land on any loan less than $1,000. The licensee may charge, contract for, and receive thereon interest charges as provided and authorized by this section. The maximum interest rate shall be 36 ~~30~~ percent per annum, computed on the first $10,000 ~~$3,000~~ of the principal amount; 30 ~~24~~ percent per annum on that part of the principal amount exceeding $10,000 ~~$3,000~~ and up to $20,000 ~~$4,000~~; and 24 ~~18~~ percent per annum on that part of the principal amount exceeding $20,000 ~~$4,000~~ and up to $25,000. The original principal amount as used in this section is the same as the amount financed as defined by the federal Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System. In determining compliance with the statutory

maximum interest and finance charges set forth herein, the computations used shall be simple interest and not add-on interest or any other computations. If two or more interest rates are applied to the principal amount of a loan, the licensee may charge, contract for, and receive interest at that single annual percentage rate which, if applied according to the actuarial method to each of the scheduled periodic balances of principal, would produce at maturity the same total amount of interest as would result from the application of the two or more rates otherwise permitted, based upon the assumption that all payments are made as agreed.

(3) OTHER CHARGES.—

(a) In addition to the interest, delinquency, and insurance charges provided in this section, further or other charges or amount for any examination, service, commission, or other thing or otherwise may not be directly or indirectly charged, contracted for, or received as a condition to the grant of a loan, except:

1. An amount of up to $25 to reimburse a portion of the costs for investigating the character and credit of the person applying for the loan;

2. An annual fee of $25 on the anniversary date of each line-of-credit account;

3. Charges paid for the brokerage fee on a loan or line of credit of more than $10,000, title insurance, and the appraisal of real property offered as security if paid to a third party and supported by an actual expenditure;

4. Intangible personal property tax on the loan note or obligation if secured by a lien on real property;

5. The documentary excise tax and lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which may be collected when the loan is made or at any time thereafter;

6. The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the licensee in connection with the loan if the premium does not exceed the fees which would otherwise be payable, which may be collected when the loan is made or at any time thereafter;

7. Actual and reasonable attorney fees and court costs as determined by the court in which suit is filed;

8. Actual and commercially reasonable expenses for repossession, storing, repairing and placing in condition for sale, and selling of any property pledged as security; or

9. A delinquency charge for each payment in default for at least 12 ~~10~~ days if the charge is agreed upon, in writing, between the parties before imposing the charge. Delinquency charges may be imposed as follows:

a. For payments due monthly, the delinquency charge for a payment in default may not exceed $15.

b. For payments due semimonthly, the delinquency charge for a payment in default may not exceed $7.50.

c. For payments due every 2 weeks, the delinquency charge for a payment in default may not exceed $7.50 if two payments are due within the same calendar month, and may not exceed $5 if three payments are due within the same calendar month.

Any charges, including interest, in excess of the combined total

of all charges authorized and permitted by this chapter constitute a violation of chapter 687 governing interest and usury, and the penalties of that chapter apply. In the event of a bona fide error, the licensee shall refund or credit the borrower with the amount of the overcharge immediately but within 20 days after the discovery of such error.

Section 5. Subsection (5) is added to section 516.15, Florida Statutes, to read:

516.15 Duties of licensee.—Every licensee shall:

(5) In the event of a Federal Emergency Management Agency response to a Presidential Disaster Declaration in the state, if the licensee offers any assistance program to borrowers impacted by the disaster, within 10 days after the licensee's establishment of the program, send written notice to the office in either physical or electronic format and include the following information, subject to change as any additional declarations are issued or declarations are revoked:

(a) The licensed locations affected by the disaster declaration, including physical addresses, if applicable;

(b) The telephone number, e-mail address, or other contact information for the licensee;

(c) A brief description of the assistance program available to borrowers in the affected areas; and

(d) The start date, and end date if known, of the assistance program.

For purposes of this subsection, assistance programs may include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification, or changing payment due

dates.

Section 6. Section 516.38, Florida Statutes, is created to read:

516.38 Annual reports by licensees.—

(1) By March 15, 2025, and each March 15 thereafter, a licensee shall file a report with the office in a form and manner prescribed by commission rule. The report must include each of the items specified in subsection (2) for the preceding calendar year using aggregated and anonymized data and without reference to any borrower's nonpublic personal information.

(2) The report must include the following information for the preceding calendar year:

(a) The number of locations held by the licensee under this chapter as of December 31 of the preceding calendar year.

(b) The number of loan originations by the licensee from all licenses held under this chapter during the preceding calendar year.

(c) The total dollar amount of loans and the number of loans outstanding with the licensee from all licenses held under this chapter as of December 31 of the preceding calendar year.

(d) The total dollar amount of loans and the number of loans in which the licensee holds a security interest in collateral as of December 31 of the preceding calendar year.

(e) The total dollar amount of loans and the number of unsecured loans as of December 31 of the preceding calendar year.

(f) The total number of loans, separated by principal amount, in the following ranges as of December 31 of the preceding calendar year:

1. Up to and including $5,000.

2. Five thousand and one dollars to $10,000.

3. Ten thousand and one dollars to $15,000.

4. Fifteen thousand and one dollars to $20,000.

5. Twenty thousand and one dollars to $25,000.

(g) The total dollar amount of loans and the number of loans charged off as of December 31 of the preceding calendar year.

(h) The total dollar amount of loans and the number of loans with delinquency status listed as:

1. Current or less than 30 days past due.

2. From 30 to 59 days past due.

3. From 60 to 89 days past due.

4. At least 90 days past due.

(3) A licensee claiming that any information submitted in the report contains a trade secret must submit to the office an accompanying affidavit in accordance with s. 655.0591 and designate the information claimed to be a trade secret pursuant to s. 655.0591.

(4) The office may publish a report of information submitted pursuant to this section, provided that all data published in the report is anonymized and aggregated from all licensees.

Section 7. Section 516.39, Florida Statutes, is created to read:

516.39 Suspension of penalties and remedial measures after federal disaster declaration.—In the event of a Federal Emergency Management Agency response to a Presidential Disaster Declaration in the state, a licensee operating in a county

designated in the declaration must suspend for a period of 90 days after the date of the initial declaration the following:

(1) The application of delinquency charges under s. 516.031(3)(a)9.

(2) Repossessions of collateral pledged to loans made under this chapter.

(3) The filing of civil actions for the collection of amounts owed for loans made under this chapter.

Section 8. For the purpose of incorporating the amendments made by this act to sections 516.02 and 516.031, Florida Statutes, in references thereto, section 516.19, Florida Statutes, is reenacted to read:

516.19 Penalties.—Any person who violates any of the provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6), or s. 516.07(1)(e) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 1622
INTRODUCER:	Banking and Insurance Committee and Senator Trumbull
SUBJECT:	Insurance
DATE:	February 7, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.	Sanders	Betta	AEG	**Favorable**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1622 revises provisions relating to the Office of Insurance Regulation (OIR). Specifically, the bill:

- Requires each insurer and insurer group to file the required supplemental reports monthly, rather than quarterly, and to provide such information broken down by zip code;
- Provides the Financial Services Commission authority to adopt rules to administer certain provisions;
- Revises financial requirements for a public housing self-insurance fund;
- Provides that, upon a declaration of an emergency, and the filing of an order by the Commissioner of Insurance Regulation, a surplus lines insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a residential property that has been damaged as a result of a hurricane or wind loss until 90 days after the residential property has been repaired;
- Repeals current law allowing an insurer, with respect to residential property insurance rate filings, to use a modeling indication that is the weighted or straight average of two or more hurricane loss projection models found by the Florida Commission on Hurricane Loss Projection Methodology to be accurate or reliable;
- Repeals provisions providing that certain coverage under the Citizens Property Insurance Corporation is not subject to its rate limitations;
- Amends s. 629.01, F.S., to provide an attorney in fact has a fiduciary duty to the subscribers of the reciprocal insurer; and
- Provides a substantial rewrite of provisions regulating reciprocal insurers.

The bill has an indeterminate impact to state revenues or expenditures. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Regulation of Insurance in Florida

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers and other risk bearing entities in Florida.[1] As part of its regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[2]

Financial Examinations

The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[3] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[4] The OIR is charged with conducting an exam once every three years for high-risk insurers and once every five years for low-risk insurers.[5] However, a domestic insurer that has held a certificate of authority for less than three years must be examined on an annual basis.[6] The OIR is required to examine an insurer applying for an initial certificate of authority prior to issuing the certificate of authority.[7]

Market Conduct Exams

The OIR is authorized, as often as it deems necessary, to perform a market conduct examination of, among other entities, any authorized insurer, to determine compliance with applicable provisions of the workers' compensation law and the Insurance Code.[8] The costs of the examination are to be paid by the subject entity.[9] Section 624.3161, F.S., authorizes the OIR to subject any authorized insurer to a market conduct examination after a hurricane if the insurer, at any time more than 90 days after the end of the hurricane, is among the top 20 percent of insurers based upon a calculation of the ratio of hurricane-related property insurance claims filed to the number of property insurance policies in force.[10]

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[1] Section 20.121(3)(a), F.S. The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the OIR for purposes of rulemaking. Further, the Commission appoints the commissioner of the OIR.
[2] Section 624.418, F.S.
[3] Section 624.316(1)(a), F.S.
[4] Section 624.318(2), F.S.
[5] Section 624.316(2)(a), F.S.
[6] Section 624.316(2)(f), F.S.
[7] Section 624.316(2)(b), F.S.
[8] Section 624.3161(1), F.S.
[9] Section 624.3161(4), F.S.
[10] Section 624.3161(7)(a), F.S.

The OIR must subject any authorized insurer to a market conduct examination after a hurricane if the insurer, at any time more than 90 days after the end of the hurricane:

- Is among the top 20 percent of insurers based upon a calculation of the ratio of consumer complaints made to the DFS to hurricane-related claims;
- Is among the top 20 percent of insurers based upon a calculation of the ratio of hurricane claims closed without payment to the insurer's total number of hurricane claims on policies providing wind or windstorm coverage;
- Has made significant payments to its managing general agent since the hurricane; or
- Is identified by the OIR as necessitating a market conduct exam for any other reason.[11]

The relevant criteria under ss. 624.3161 and 624.316, F.S., are to be applied to the market conduct examination after a hurricane.[12] Such market conduct examination, if any, must be started within 18 months after the landfall of the related hurricane.[13] The insurer's managing general agent must be included in the market conduct examination as if it were the insurer.[14]

If a market conduct examination reveals that the "insurer has exhibited a pattern or practice of willful violations of an unfair insurance trade practice related to claims-handling which caused harm to policyholders," the OIR may order the insurer to file its claims-handling practices and procedures with the OIR for review and inspection.[15] The practices and procedures are to be held by the OIR for 36 months and are considered public records, not trade secrets, during the 36-month period.[16] The term "claims-handling practices and procedures" is defined as "any policies, guidelines, rules, protocols, standard operating procedures, instructions, or directives that govern or guide how and the manner in which an insured's claims for benefits under any policy will be processed."[17]

Annual Statement and Other Information

All insurers with a Florida certificate of authority to transact insurance business must file quarterly and annual reports with the OIR containing various financial data, including audited financial statements, actuarial opinions, and certain claims data.[18] Each year, insurers must file an annual statement covering the preceding calendar year on or before March 1.[19] Quarterly statements covering each period ending on March 31, June 30, and September 30 must be filed within 45 days after each such date.[20]

In 2021, the Legislature enacted legislation[21] to assist the OIR and the Legislature in identifying current and emerging property insurance litigation trends that are cost drivers adversely affecting insurance rates. As of January 1, 2022, each authorized insurer or insurer group issuing personal

[11] Section 624.3161(7)(b), F.S.
[12] Section 624.3161(7), F.S.
[13] *Id.*
[14] *Id.*
[15] Section 624.3161(6), F.S.
[16] *Id.*
[17] *Id.*
[18] Section 624.424, F.S.
[19] Section 624.424(1)(a), F.S.
[20] *Id.*
[21] Chapter 2021-77, L.O.F.

lines or commercial lines residential property insurance policies in this state must provide specific pieces of data regarding closed claims to the OIR on an annual basis.[22] The report must include, excluding liability only claims, the following information on a per claim basis:

- Claim identification number;
- Type of policy;
- Date, location, and type of loss;
- Name and type of vendors utilized for mitigation, repair, or replacement;
- Dates of when the claim was made; initially closed; most recently reopened, if applicable; when a supplemental claim was made, if applicable; and most recently closed, if different from the initial date the claim was closed;
- Name of the public adjuster, if any;
- Name and Florida Bar number of the claimant's attorney, if any;
- Total amounts that the insurer paid for indemnity, loss adjustment expenses,[23] and insured's attorney fees, including any contingency risk multiplier[24] requested by the attorney; and
- Any other information deemed necessary by the Financial Services Commission to provide the OIR with the ability to track litigation and claims trends occurring in the property market.[25]

Section 624.424(10), F.S., requires insurers and insurer groups doing business in Florida to file quarterly reports with the OIR. These reports, also known as QUASR reports, must include the following information for each county in Florida, compiled on a quarterly basis:

- The total number of policies in force at the end of each month;
- The total number of policies canceled;
- The total number of policies nonrenewed;
- The number of policies canceled due to hurricane risk;
- The number of policies nonrenewed due to hurricane risk;
- The number of new policies written;
- The total dollar value of structure exposure under policies that include wind coverage;
- The number of policies that exclude wind coverage;
- Number of claims open each month;
- Number of claims closed each month;
- Number of claims pending each month; and
- Number of claims in which either the insurer or insured invoked any form of alternative dispute resolution, and specifying which form of alternative dispute resolution was used.

The OIR must aggregate on a statewide basis the data submitted and make such data publicly available on the OIR website within one month after each quarterly and annual filing.[26] The information must be published on the OIR website within one month after each quarterly and

[22] Section 624.424(11), F.S.
[23] Loss adjustment expenses are the costs associated with investigating and adjusting losses or insurance claims. IRMI, https://www.irmi.com/term/insurance-definitions/loss-adjustment-expense (last visited January 31, 2024).
[24] A contingency risk multiplier is a multiplier applied to attorney fees that reflects the risk of attorneys accepting, on a contingency fee basis, cases that may be difficult to win. *See e.g., Joyce v. Federated Nat'l Ins. Co.*, 228 So.3d 1122 (Fla. 2017).
[25] Section 624.424(11, F.S.
[26] Section 624.424(10)(b), F.S.

annual filing.[27] This information is not a trade secret as defined in s. 688.002(4), F.S., or s. 812.081, F.S., and is not subject to the public records exemption for trade secrets provided in s. 119.0715, F.S.[28] The OIR uses this data to track market trends and shares it with the Florida Division of Emergency Management after natural disasters to help determine where emergency response is most necessary.[29]

Nonrenewal of Residential Property Insurance Policies

An insurer that plans to nonrenew more than 10,000 residential property insurance policies within a 12-month period must give written notice to the OIR for informational purposes 90 days before the issuance of such notices of nonrenewal.[30] The notice provided to the OIR must set forth the insurer's reasons for such action, the effective dates of nonrenewal, and any arrangements made for other insurers to offer coverage to affected policyholders.[31]

Public Housing Authorities Self-Insurance Funds

Two or more public housing authorities may form a self-insurance fund as to any one or more risks. Such self-insurance fund that is created must:

- Have annual normal premiums in excess of five million dollars;
- Use a qualified actuary to determine rates and annually submit to the OIR a certification by the actuary that the rates are actuarially sound and are not inadequate;
- Use a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submit to the OIR a certification by the actuary that the loss and loss adjustment expense reserves are adequate;
- Maintain a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified and independent actuary. At a minimum, the program must:
  - Purchase excess insurance from authorized insurance carriers or eligible surplus lines insurers;
  - Retain a per-loss occurrence that does not exceed $350,000;
- Submit to the OIR annually an audited fiscal year-end financial statement by an independent certified public accountant;
- Have a governing body which is comprised entirely of commissioners of public housing authorities that are members of the fund or persons appointed by the commissioners;
- Use knowledgeable persons to administer the fund in the areas of claims administration, claims adjusting, underwriting, risk management, loss control, policy administration, financial audit, and legal areas;
- Submit to the OIR copies of contracts used for its members that clearly establish the liability of each member for the obligations of the fund; and
- Annually submit to the OIR a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

[27] *Id.*
[28] *Id.*
[29] Office of Insurance Regulation, *Amended Agency Analysis of SB 1622* (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).
[30] Section 624.4305, F.S.
[31] *Id.*

A business entity in which a public housing authority holds an ownership interest or participates in its governance may join a self-insurance fund solely to insure risks related to public housing.

Surplus Lines Insurance

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.[32] There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not "authorized" insurers as defined in the Florida Insurance Code, which means they do not obtain a certificate of authority from the OIR to transact insurance in Florida.[33] Rather, surplus lines insurers are "unauthorized" insurers,[34] but may transact surplus lines insurance if they are made "eligible" by the OIR. Except as specifically stated as applicable, surplus lines insurers are not subject to regulation under ch. 627, F.S., of the Florida Insurance Code, which includes, in part, provisions related to ratings standard, contracts, and attorney fees for authorized insurers.[35]

Notice of Cancellation, Nonrenewal, or Renewal of Insurance Policies

The requirements for an authorized insurer to provide notice of cancellation, nonrenewal, or renewal premium are set forth in s. 627.4133, F.S. The specific notice depends on the type of insurance provided and the particular circumstances of the subject policy.

For an authorized insurer writing personal lines residential or commercial lines residential property insurance policies are generally subject to the following requirements:

- The insurer must give written notice of cancellation, nonrenewal, or termination at least 120 days prior to the effective date of the cancellation, nonrenewal, or termination and the notice is required to include the reason for nonrenewal, cancellation, or termination;[36] and
- The insurer must give written notice of renewal premium at least 45 days prior to the renewal premium[37] and the notice of renewal premium must specify certain information, including the dollar amount of any premium increase that is due to an approved rate increase and the total dollar amount that is due to coverage changes.[38]

[32] The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. Section 626.921, F.S.
[33] Section 624.09(1), F.S.
[34] Section 624.09(2), F.S.
[35] Section 626.913(4), F.S.
[36] Section 627.4133(2)(b), F.S.
[37] Section 627.4133(2)(a), F.S.
[38] Section 627.4133(7), F.S.

An authorized insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state:

- For a period of 90 days after the property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation;[39] and
- Until the earlier of when property has been repaired or one year after the insurer issues the final claim payment, if such property was damaged by any covered peril, but was not damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation.[40]

The requirements for a surplus lines insurer to provide notice of cancellation, nonrenewal, or renewal premium are set forth in s. 626.9201, F.S. A surplus lines insurer issuing a policy providing coverage for property insurance must give the insured at least 45 days' advance written notice of nonrenewal that includes the reasons why the policy is not to be renewed.[41]

A surplus lines insurer issuing a policy providing coverage for property insurance must give the named insured written notice of cancellation or termination other than nonrenewal at least 45 days before the effective date of the cancellation or termination, including in the written notice the reasons for the cancellation or termination, except that:

- If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation;[42] and
- If cancellation or termination occurs during the first 90 days during which the insurance is in force and if the insurance is canceled or terminated for reasons other than nonpayment, at least 20 days' written notice of cancellation or termination accompanied by the reason for cancellation or termination must be given.[43]

Rate Standards

Part I of ch. 627, F.S., the Rating Law,[44] governs property, casualty, and surety insurance covering the subjects of insurance resident, located, or to be performed in this state.[45] The rating law provides that the rates for all classes of insurance it governs may not be excessive, inadequate, or unfairly discriminatory.[46] Though the terms "rate" and "premium" are often used interchangeably, the rating law specifies that "rate" is the unit charge that is multiplied by the measure of exposure or amount of insurance specified in the policy to determine the premium, which is the consideration paid by the consumer.[47]

[39] Section 627.4133(2)(e)1.a., F.S.
[40] Section 627.4133(2)(e)1.b., F.S.
[41] Section 626.9201(1), F.S.
[42] Section 626.9201(2)(a), F.S.
[43] Section 626.9201(2)(b), F.S.
[44] Section 627.011, F.S.
[45] Section 627.021(1), F.S.
[46] Section 627.062(1), F.S.
[47] Section 627.041, F.S.

All insurers or rating organizations must file rates with the OIR either 90 days before the proposed effective date of a new rate, which is considered a "file and use" rate filing, or within 30 days after the effective date of a new rate, which is considered a "use and file" rate filing.[48] Upon receiving a rate filing, the OIR reviews the filing to determine if the rate is excessive, inadequate, or unfairly discriminatory. The OIR makes that determination in accordance with generally acceptable actuarial techniques and considers the following:

- Past and prospective loss experience;
- Past and prospective expenses;
- The degree of competition among insurers for the risk insured;
- Investment income reasonably expected by the insurer;
- The reasonableness of the judgment reflected in the rate filing;
- Dividends, savings, or unabsorbed premium deposits returned to policyholders;
- The adequacy of loss reserves;
- The cost of reinsurance;
- Trend factors, including trends in actual losses per insured unit for the insurer;
- Conflagration and catastrophe hazards;
- Projected hurricane losses;
- Projected flood losses, if the policy covers the risk of flood;
- The cost of medical services, if applicable;
- A reasonable margin for underwriting profit and contingencies; and
- Other relevant factors that affect the frequency or severity of claims or expenses.[49]

Citizens Property Insurance Corporation

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[50] Citizens is not a private insurance company.[51] Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).[52]

Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by a nine member Board of Governors that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission.[53] The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.[54] The Governor appoints an additional member who serves solely to advocate on behalf of the consumer.[55]

[48] Section 627.062, F.S.
[49] Section 627.062(2)(b), F.S.
[50] The term "admitted market" means insurance companies licensed to transact insurance in Florida.
[51] Section 627.351(6)(a)1., F.S.
[52] Section 2, ch. 2002-240, L.O.F.
[53] Section 627.351(6)(a)2., F.S.
[54] Section 627.351(6)(c)4.a., F.S.
[55] Section 627.351(6)(c)4., F.S.

Citizens "Glidepath" Rates

From 2007 until 2010, Citizens' rates were frozen by statute at the level that had been established in 2006.[56] In 2010, the Legislature established a "glidepath" to impose annual rate increases up to a level that is actuarially sound. Under the original established glidepath, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges.[57] In 2021, the Legislature revised this glidepath to increase it one percent per year to up to 15 percent, as follows:

- 11 percent for 2022;
- 12 percent for 2023;
- 13 percent for 2024;
- 14 percent for 2025; and
- 15 percent for 2026 and all subsequent years. [58]

The implementation of these increases cease when Citizens has achieved actuarially sound rates.[59] In addition to the overall glidepath rate increase, Citizens may increase its rates to recover the additional reimbursement premium it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the Florida Hurricane Catastrophe Fund (FHCF) coverage, pursuant to s. 215.555(5)(b), F.S.[60] The glidepath does not apply to policies written on or after November 1, 2023, that:

- Do not cover a primary residence;
- Are new policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the OIR to be unsound or an insurer placed in receivership under chapter 631; or
- Are subsequent renewals of those policies.[61]

Instead, the rate standard for such policies prohibits a rate lower than the previous year's rate charged by Citizens and allows a rate increase of greater than 50 percent.

Insurance Holding Companies; Registration; Regulation

An authorized insurer that is a member of an insurance holding company must register and file a registration statement with the OIR each year.[62] The Financial Services Commission has authority to adopt rules establishing the information and manner in which such registered insurers and their affiliates are regulated.[63] The rules do not apply to foreign insurers domiciled in states that are currently accredited by the National Association of Insurance Commissioners (NAIC).[64] The rules must include all requirements and standards of ss. 4 and 5 of the Insurance

[56] Section 15, ch. 2006-12, L.O.F.
[57] Section 10, ch. 2009-87, L.O.F.
[58] Section 627.351(6)(n)5., F.S.
[59] Section 627.351(6)(n)7., F.S.
[60] Section 627.351(6)(n)6., F.S.
[61] Section 627.351(6)(n)8., F.S.
[62] Section 628.801(1), F.S.
[63] *Id.*
[64] *Id.*

Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the NAIC, as adopted in December 2010.

NAIC Model Acts

The NAIC is a voluntary association of insurance regulators from all 50 states.[65] The NAIC coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states.[66]

Model Holding Company Act and Regulation

The NAIC has adopted the Insurance Holding Company System Regulatory Model Act[67] and the Insurance Holding Company Model Regulation with Reporting Forms and Instructions.[68] The provisions of the model acts provide insurance regulators access to information of an insurer and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party. The regulator may require any insurer registered as a controlled insurer to produce information not in the possession of the insurer if the insurer can obtain access to such. If the insurer fails to obtain the requested information, the insurer is required to provide an explanation of such failure. If the regulator determines that the explanation is without merit, the regulator may require the insurer to pay a penalty for each day's delay, or may suspend or revoke the insurer's certificate of authority.[69]

Reciprocal Insurers

A reciprocal insurance exchange is a form of insurance organization in which individuals and businesses exchange insurance contracts and spread the risks associated with those contracts among themselves.[70] Policyholders of a reciprocal insurance exchange are referred to as subscribers.[71] In Florida, reciprocal insurers are regulated pursuant to ch. 629, F.S. Florida law provides that a "reciprocal insurer" is "an unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact to provide reciprocal insurance among themselves"[72] and:

> "Reciprocal insurance" is that resulting from an interexchange among persons, known as "subscribers," of reciprocal agreements of indemnity,

[65] National Association of Insurance Commissioners (NAIC), *Frequently Asked Questions*, https://content.naic.org/sites/default/files/about-faq.pdf (last visited Jan. 31, 2024).
[66] *Id.*
[67] NAIC Model Laws, Regulations, Guidelines and Other Resources – Summer 2021, *Insurance Holding Company System Regulatory Act*, https://content.naic.org/sites/default/files/MO440_0.pdf (last visited Jan. 31, 2024).
[68] NAIC Model Laws, Regulations, Guidelines and Other Resources – Summer 2021, *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions*, https://content.naic.org/sites/default/files/MO450_0.pdf (last visited Jan. 31, 2024).
[69] NAIC Model Laws, Regulations, Guidelines and Other Resources – Summer 2021, *Insurance Holding Company System Regulatory Act*, Section 6B, https://content.naic.org/sites/default/files/MO440_0.pdf (last visited Jan. 31, 2024).
[70] *What Is a Reciprocal Insurance Exchange?* Investopedia https://www.investopedia.com/terms/r/reciprocal-insurance-exchange.asp (last visited Jan. 31, 2024).
[71] *Id.*
[72] Section 629.021, F.S.

> the interexchange being effectuated through an "attorney in fact" common to all such persons.[73]

A reciprocal insurer may transact any kind of insurance other than life insurance or title insurance.[74] A domestic reciprocal insurer must maintain surplus funds of not less than $250,000 and must, when first authorized, have an expendable surplus of not less than $750,000.[75] A domestic reciprocal insurer may organize with twenty-five or more persons domiciled in Florida making application to the OIR for a certificate of authority to transact insurance and file a declaration setting forth:

- The name of the insurer;
- The location of the insurer's principal office, which must be the same as that of the attorney and must be maintained within this state;
- The kinds of insurance proposed to be transacted;
- The names and addresses of the original subscribers;
- The designation and appointment of the proposed attorney and a copy of the power of attorney;
- The names and addresses of the officers and directors of the attorney, if a corporation, or of its members, if other than a corporation;
- The powers of the subscribers' advisory committee, and the names and terms of office of its members;
- That all moneys paid to the reciprocal must, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;
- A copy of the subscribers' agreement;
- A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate approved rate;
- A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the required surplus is on hand; and
- A copy of each policy, endorsement, and application form it proposes to use.

When the declaration is filed, the attorney must file a $100,000 bond in favor of the state for the benefit of all persons damaged as a result of a breach by the attorney of the conditions of his or her bond.[76]

Each domestic reciprocal insurer must have a subscribers' advisory committee. The advisory committee exercising the subscribers' rights must be selected under such rules as the subscribers adopt.[77] Not less than two-thirds of such committee must be subscribers other than the attorney,

[73] Section 629.011, F.S.
[74] Section 629.041, F.S.
[75] Section 629.071, F.S.
[76] Section 629.121, F.S.
[77] Section 629.201(1), F.S.

or any person employed by, representing, or having a financial interest in the attorney.[78] The committee must:

- Supervise the finances of the insurer;
- Supervise the insurer's operations to assure conformity with the subscribers' agreement and power of attorney;
- Procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer; and
- Have such additional powers and functions as may be conferred by the subscribers' agreement.[79]

Power of Attorney

The rights and powers of the attorney of a reciprocal insurer are as provided in the power of attorney given to it by the subscribers.[80] Currently, the power of attorney must set forth:

- The powers of the attorney;
- That the attorney is empowered to accept service of process on behalf of the insurer in actions against the insurer upon contracts exchanged;
- The general services to be performed by the attorney;
- The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer; and
- Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount, which amount shall be not less than five times nor more than ten times the premium or premium deposit stated in the policy.[81]

Under current law, the power of attorney may:

- Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;
- Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;
- Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee; and
- Contain other lawful provisions deemed advisable.

The terms of any power of attorney or agreement collateral must be reasonable and equitable, and no such power or agreement may be used or be effective in Florida unless filed with the OIR.[82]

Fiduciary Duty

Under s. 673.3071, F.S., fiduciary means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument. Under Florida's

[78] Section 629.201(2), F.S.
[79] Section 629.201(3), F.S.
[80] Section 629.101(1), F.S.
[81] Section 629.101(2), F.S.
[82] Section 629.101(3), F.S.

Trust Code, a fiduciary means "a person, other than a beneficiary, who holds a power to direct is presumptively a fiduciary, who, as such, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries.[83] Furthermore, the holder of a power to direct is liable for any loss that results from breach of fiduciary duty.[84]

Fiduciary duty is defined as "someone who is required to act for the benefit of another person on all matters within the scope of their relationship; one who owes the duties of good faith, loyalty, due care, confidentiality, prudence and disclosure".[85]

Fiduciary duty is often found in the following relationships: attorney-client; executor-heir; guardian-ward; agent-principal; trustee-beneficiary; corporate officer-shareholder. Depending upon particular facts, lenders, clerics and spouses may share a fiduciary duty.[86] A fiduciary duty may arise expressly or be implied by law.[87]

The Florida Supreme Court (Court), in *Quinn v. Phipps* (1927), held that a fiduciary duty "exists, and that relief is granted, *in all cases* in which influence has been acquired and abused – in which confidence has been reposed and betrayed."[88] In addition, the Court, characterized the fiduciary relationship as follows:

> [T]he relation and duties involved need not be legal; they may be moral, social, domestic, or personal. *If a relation of trust and confidence exists between the parties (that is to say, where confidence is reposed by one party and a trust accepted by the other, or where confidence has been acquired and abused), that is sufficient as a predicate for relief.* The origin of the confidence is immaterial. [italics in original, quoting *Quinn*][89]

The Court further stated: "…as the relationship and duties do not have to be legal, "[A] "fiduciary relationship may be implied by law, and such relationships are 'premised upon the *specific factual situation* surrounding the transaction and the relationship of the parties."[90]

According to the Florida Bar, "[w]hen a fiduciary relationship exists, the fiduciary is under a duty to act for the benefit of the beneficiary only as to matters within the scope of the fiduciary relationship. No duty attaches to matters beyond the scope of the fiduciary relationship."[91]

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[83] Section 736.0808(4), F.S.
[84] *Id*.
[85] Cornell Law School, Legal Information Institute, *Fiduciary Duty, Overview*, https://www.law.cornell.edu/wex/fiduciary_duty (last visited Feb. 1, 2024). See also, Black's Law Dictionary, 2nd Ed., *available at* https://thelawdictionary.org/fiduciary-duty/ (last visited Feb. 1, 2024).
[86] Guffey-Landers, et al., *Understanding Fiduciary Duty*, The Florida Bar, Vol. 84, No. 3 (March 2010), p. 20, https://www.floridabar.org/the-florida-bar-journal/understanding-fiduciary-duty/ (last visited Feb. 1, 2024).
[87] *Id* at *How Fiduciary Duty Arises.*
[88] *Orlinsky v. Patraka*, 971 So. 2d 796 (Fla. Dist. Ct. App. 2008)
[89] Guffey-Landers, et al., *Understanding Fiduciary Duty*, The Florida Bar, Vol. 84, No. 3 (March 2010), p. 20, https://www.floridabar.org/the-florida-bar-journal/understanding-fiduciary-duty/ (last visited Feb. 1, 2024). *See* fn 15: *Doe v. Evans*, 814 So. 2d 370, 374 (Fla. 20002) (emphasis added). *In Quinn v. Phipps*, 113 So. 419, 421, 425-426 (Fla. 1927), the Florida Supreme Court addressed the fiduciary relationship in the context of the development of equity.
[90] *Orlinsky v. Patraka*, 971 So. 2d 796 (Fla. Dist. Ct. App. 2008)
[91] Guffey-Landers, et al., *Understanding Fiduciary Duty*, The Florida Bar, Vol. 84, No. 3 (March 2010), p. 20, https://www.floridabar.org/the-florida-bar-journal/understanding-fiduciary-duty/ (last visited Feb. 1, 2024).

Furthermore, "[w]hile the parameters of the fiduciary relationship may be undefinable, the relationship may arise expressly, through contracts and statutes, or may be implied under the specific circumstances of the parties' relationship, which often requires a factually intensive inquiry."[92]

Power of Attorney and Attorney in Fact

Chapter 709, F.S., relates to the powers of attorney and similar instruments. A durable power of attorney is a written power of attorney by which a principal designates another as the principal's attorney in fact. The durable power of attorney must be in writing, must be executed with the same formalities required for the conveyance of real property by Florida law, and must contain the words: "This durable power of attorney is not affected by subsequent incapacity of the principal except as otherwise provided in s. 708.08, F.S."; or similar words that show the principal's intent that the authority conferred is exercisable notwithstanding the principal's subsequent incapacity. A durable power of attorney is exercisable as of the date of execution. However, if the durable power of attorney is conditioned upon the principal's lack of capacity to manage property as defined in s. 744.102(12)(a), F.S., the durable power of attorney is exercisable upon the delivery of affidavits to the third party.[93]

An attorney in fact is a person who is authorized to represent someone else in business, financial, and private matters, usually through a power of attorney.[94] An attorney in fact is not necessarily an attorney, but they must act in the best interests of the principal and follow any instructions or guidelines set forth in the power of attorney.[95] An attorney in fact is not the same as a lawyer or attorney. A lawyer or attorney is professional who is duly licensed to practice law and offers advice to their client and represents them in a courtroom. While an attorney in fact has been given the authority to act on, often making decisions for, the behalf of another person.[96]

An attorney in fact must be a natural person who is 18 years of age or older, is of sound mind, or a financial institution, as defined in ch. 655, F.S., with trust powers having a place of business in this state and authorized to conduct trust business in this state. A not-for-profit corporation, organized for charitable or religious purposes in this state, which has qualified as a court-appointed guardian prior to January 1, 1996, and which is a tax-exempt organization under 26 U.S.C. s. 501(c)(3), may also act as an attorney in fact. Notwithstanding any contrary clause in the written power of attorney, no assets of the principal may be used for the benefit of the corporate attorney in fact, or its officers or directors.[97]

An attorney in fact is a fiduciary who must observe the standards of care applicable to trustees as described in s. 736.0901, F.S., except as otherwise provided in s. 709.08, F.S.[98]

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[92] *Id.*
[93] Section 709.08(1) and (4)(c) and (d), F.S.
[94] Adam Hayes, Investopedia, *Attorney-in-Fact: Definition, Types, Powers and Duties* (August 2, 2023), https://www.investopedia.com/terms/a/attorneyinfact.asp (last visited Feb. 1, 2024).
[95] *Id.*
[96] *Id.*
[97] Section 709.08, F.S.
[98] Section 709.08(8), F.S.

III. Effect of Proposed Changes:

Market Conduct Examinations

Section 1 amends s. 624.3161, F.S., to authorize the Office of Insurance Regulation (OIR) to conduct market conduct examinations of the attorney in fact of each reciprocal insurer.

Annual Statement and Other Information

Section 2 amends s. 624.424, F.S., to require each insurer and insurer group to file the required supplemental reports on personal lines and commercial lines property insurance monthly, rather than quarterly. Requires such information to be broken down by zip code, rather than by county.

Nonrenewal of Residential Property Insurance Policies

Section 3 amends s. 624.4305. F.S., to provide the Financial Services Commission (Commission) the authority to adopt rules to administer this section. The section requires any insurer planning to nonrenew more than 10,000 residential property insurance policies in this state within a 12-month period to give the OIR at least 90 days written notice before issuing notices of nonrenewal.

Public Housing Authorities Self-Insurance Funds

Section 4 amends s. 624.46226, F.S., to revise financial requirements for a public housing self-insurance fund (fund) to:

- Specify that reinsurance may be used as part of its program to protect the financial stability of the fund;
- Require a net retention in an amount and manner selected by the administrator, ratified by the governing body, and certified by a qualified actuary;
- Require the fund's continuing program of excess insurance coverage and reinsurance be certified by a qualified and independent actuary as to the program's adequacy;
- Include reinsurance or excess insurance from authorized insurance carriers or eligible surplus lines insurers; and
- Eliminate the requirement to retain a per-loss occurrence that does not exceed $350,000.

Notice of cancellation or nonrenewal by Surplus Lines Insurers

Section 5 amends s. 626.9201, F.S., to provide that, upon a declaration of an emergency pursuant to s. 252.36, F.S., and the filing of an order by the Commissioner of Insurance Regulation, a surplus lines insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property which has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency for a period of 90 days after the dwelling or residential property has been repaired. A dwelling or residential property is deemed to be repaired when substantially completed and restored to the extent that the dwelling or residential property is insurable by another insurer that is writing policies in the area.

The bill provides the following exceptions, allowing the surplus lines insurer to cancel the policy:

- Upon 10 days' notice for nonpayment of premium.
- Upon 45 days' notice:
  - For a material misstatement or fraud;
  - If the insurer determines the insured has unreasonably caused a delay in repairs;
  - If the insurer or its agent makes a reasonable written inquiry to the insured as to the status of repairs, and the insured fails within 30 calendar days to provide a response; or
  - If the insurer has paid policy limits.

If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 day notice to the insured that the insurer intends to nonrenew the policy after 90 days after the dwelling or residential property has been repaired.

Other than the specified limitations proscribed within this section, the insurer is not prevented from canceling or nonrenewing the policy 90 days after the repair is completed for the same reasons the insurer would have otherwise canceled or nonrewed.

The bill provides the Commission may adopt rules, and the Commissioner of Insurance Regulation may issue orders, necessary to implement this requirement.

Rate Standards

Section 6 amends s. 627.062, F.S., to repeal current law allowing an insurer, with respect to residential property insurance rate filings, to use a modeling indication that is the weighted or straight average of two or more hurricane loss projection models found by the Florida Commission on Hurricane Loss Projection Methodology to be accurate or reliable.

Citizens Property Insurance Corporation

Section 7 amends s. 627.351, F.S., to repeal provisions adopted last legislative session that allow the Citizens Property Insurance Corporation (Citizens) to apply a different methodology to polices which, immediately prior to being insured by Citizens, were insured by an insurer determined by the OIR to be unsound or that was placed in receivership. Rates for such policies, if they cover a primary residence, will be subject to the Citizens rate "glidepath" which will restrict rate increases to 13 percent for 2024, rather than a prohibition on rate decreases and a limit of 50 percent on rate increases at issuance at renewal. If such policies do not cover a primary residence, the prohibition on rate decreases and the 50 percent limit on rate increases will apply.

Scope of part

Section 8 amends s. 628.011, F.S., to remove the word "stock" from the phrase "domestic stock insurers."

Investigation of Proposed Organizations

Section 9 amends s. 628.061, F.S., to provide the OFR is authorized to conduct an investigation in connection with any proposal to organize or incorporate a domestic insurer. The OFR is required to investigate:

- The character, reputation, financial standing, and motives of the organizers, incorporators, and subscribers organizing the proposed insurer or any attorney in fact;
- The character, financial responsibility, insurance experience, and business qualifications of its proposed officers, members of its subscribers' advisory committee, or officers of its attorney in fact; and
- The character, financial responsibility, business experience, and standing of the proposed stockholders and directors, including the stockholders and directors of any attorney in fact.

Insurance Holding Companies; Registration; Regulation

Section 10 amends s. 628.801, F.S., to provide the Commission may adopt rules for the filing of the annual enterprise risk report in accordance with the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners (NAIC), as adopted in December 2020.

Reciprocal Insurers

Definitions

Section 11 amends s. 629.011, F.S., to add definitions for the terms "affiliated person," "attorney in fact," "controlling company," and "reciprocal insurer."

"Affiliated person" of another person means any of the following:

- The spouse of the other person;
- The parents of the other person, and their lineal descendants, and the parents of the other person's spouse, and their lineal descendants;
- A person who directly or indirectly owns or controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of the other person;
- A person who directly or indirectly owns 10 percent or more of the outstanding voting securities that are directly or indirectly owned or controlled, or held with power to vote, by the other person;
- A person or group of persons who directly or indirectly control, are controlled by, or are under common control with the other person;
- A director, an officer, a trustee, a partner, an owner, a manager, a joint venture, an employee, or other person performing duties similar to those of persons in such positions;
- If the other person is an investment company or any member of an advisory board of such company;
- If the other person is an unincorporated investment company not having a board of directors, the depositor of such company;
- A person who has entered into an agreement, written or unwritten, to act in concert with the other person in acquiring, or limiting the disposition of:
    - Securities of an attorney in fact or controlling company that is a stock corporation; or

- An ownership interest of an attorney in fact or controlling company that is not a stock corporation.

"Attorney in fact" or "attorney" means the attorney in fact of a reciprocal insurer. The attorney in fact may be an individual, a corporation, or another person.

"Controlling company" means a person, a corporation, a trust, a limited liability company, an association, or another entity owning, directly or indirectly, 10 percent or more of the voting securities of one or more attorneys in fact that are stock corporations, or 10 percent or more of the ownership interest of one or more attorneys in fact that are not stock corporations.

"Reciprocal insurer" is defined as an unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact to provide reciprocal insurance among themselves.

The bill retains the current definition of "reciprocal insurance."

"Reciprocal Insurer" Defined

Section 12 repeals s. 629.021, F.S., defining "reciprocal insurer."

Attorney

Section 13 repeals s. 629.061, F.S., providing requirements related to the attorney in fact.

Organization of Reciprocal Insurer

Section 14 amends s. 629.081, F.S., to provide for the permit application by those domiciled in this state who wish to organize as a domestic reciprocal insurer. A domestic reciprocal insurer may not be formed unless the persons so proposing have first received a permit from the OIR.

Reciprocal insurer applicants must apply to the OIR to receive a permit. The permit application must be in writing and in accordance with forms prescribed by the OIR. The reciprocal insurance permit application must include the following:

- The name of the proposed reciprocal insurer, in accordance with s. 629.051, F.S.;
- The location of the insurer's principal office, which shall be the same as that of the proposed attorney in fact and which shall be maintained in Florida;
- The kinds of insurance proposed to be transacted;
- The names and addresses of the original 25 or more subscribers;
- The proposed designation and appointment of the proposed attorney in fact and a copy of the proposed power of attorney;
- The names and addresses of the officers and directors of the proposed attorney in fact, if a corporation, or if other than a corporation, as well as the background information as specified in s. 629.227, F.S., for all officers, directors and in equivalent positions of the proposed attorney in fact, as well as, for any person with an ownership interest of 10 percent or more in the proposed attorney in fact;

- The articles of incorporation and bylaws, or equivalent documents, of the proposed attorney in fact, dated within the last year and appropriately certified;
- The proposed charter powers of the subscribers' advisory committee, and the names and terms of office of the members thereof as well as the background information as specified in s. 629.227, F.S., for each proposed member;
- A copy of the proposed subscribers' agreement; and
- A copy of each policy, endorsement, and application form the insurer proposes to issue or use;

The filing must be accompanied by the application fee required under s. 624.501(11)(a), F.S., and such other pertinent information and documents reasonably requested by the OIR.

The OIR is authorized to evaluate and grant or deny the permit application in accordance with ss. 628.061 and 628.071, F.S. and other relevant provisions of the code.

Reciprocal Certificate of Authority

Section 15 amends s. 629.091, F.S., to provide the application requirements for a certificate of authority as a domestic reciprocal insurer. A domestic reciprocal insurer may seek a certificate of authority only after obtaining a permit. Such application must include:

- Executed copies of any proposed or draft documents required as part of the permit application;
- A statement affirming that all moneys paid to the reciprocal insurer must, after deducting any sum payable to the attorney in fact, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;
- A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at the rate that was filed with and approved by the OIR;
- A copy of the required bond;
- A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the required surplus is on hand; and
- Such other pertinent information or documents as reasonably requested by the OIR.

If the reciprocal insurer intends to issue nonassessable policies under the certificate of authority, and the OIR determines the reciprocal insurer meets the legal requirements to issue such polices, including surplus requirements, the OIR shall grant a certificate of authority to the reciprocal authority. However, if the surplus of the reciprocal insurer becomes impaired, the insurer may no longer issue or renew nonassessable policies or convert assessable policies to nonassessable policies and the provisions of s. 629.301, F.S., apply.

The certificate of authority is issued in the name of the reciprocal insurer to its attorney in fact.

Continued Eligibility for Certificate of Authority

Section 16 creates s. 629.094, F.S., to provide that in order to maintain its eligibility for a certificate of authority, a domestic reciprocal insurer must continue to meet all conditions

required under the chapter and the rules for the initial applications for a permit and certificate of authority.

Power of Attorney

Section 17 amends s. 629.101, F.S., to provide that the attorney in fact has a fiduciary duty to the subscribers of the reciprocal insurer.

Acquisitions

Section 18 creates s. 629.225, F.S., to provide the provisions of this section apply to domestic reciprocal insurers and the attorney in fact of domestic reciprocal insurers.

The bill provides requirements regarding the acquisition of 10 percent or more of a reciprocal insurer. To complete such an acquisition, the person seeking to obtain such ownership interest must provide notice of the attorney in fact of the reciprocal insurer within certain time frames, file an application with the OIR containing detailed information about the offer and the person making the offer which will be reviewed pursuant to ch. 120, F.S., and receive OIR approval of the acquisition. The OIR must approve the acquisition if the applicant proves that the acquisition will not jeopardize the financial stability of the attorney in fact or harm the reciprocal insurer's subscribers or public. The bill provides that:

- A person may not acquire, 10 percent or more of the outstanding voting securities of an attorney in fact unless:
  - The person has filed with the OIR and sent to the principal office of the attorney in fact, and any controlling company of the attorney in fact, the subscribers' advisory committee and the domestic reciprocal insurer a letter of notification regarding the transaction no later than five days after any offer is proposed, or no later than five days after the acquisition of the securities or ownership interest if a tender offer or exchange offer is not involved. Such notification must be on forms prescribed by the OIR and must contain information necessary to understand the transaction and identify all purchasers and owners involved;
  - The subscribers' advisory committee has provided the required notification, on a form prescribed by the OIR, letting the subscribers know of the filing deadlines for objecting to the acquisition;
  - The person has filed with the OIR an application which contains the required information within 30 days after any offer is proposed, or after the acquisition of the securities if a tender offer or exchange offer is not involved; and
  - The office has approved the tender offer or exchange offer, or acquisition if a tender offer or exchange offer is not involved;
- This section does not apply to any acquisition of voting securities or ownership interest of an attorney in fact or of a controlling company by any person who is the owner of a majority of the voting securities or ownership interest with the approval of the OIR;
- The OIR may waive or person filing the notice may request that the OIR waive the requirement that the subscribers' advisory committee provide notice to subscribers of the proposed acquisition, if there is no change in ultimate controlling shareholders and their ownership percentages and no unaffiliated parties acquire any interest in the attorney in fact;
- The application must contain the following information:

  - The identity and background information specified each person on whose behalf the acquisition is to be made and any person who controls such other person;
  - The source and amount of the funds to be used in making the acquisition;
  - Any plans made to liquidate the attorney in fact or controlling company, to sell any of their assets or merge or consolidate them with any person, or to make any other major change in their business or corporate structure or management;
  - The nature and the extent of the controlling interest which the person proposes to acquire, the terms of the proposed acquisition, and the manner in which the controlling interest is to be acquired of an attorney in fact or controlling company which is not a stock corporation;
  - The number of shares or other securities which the person proposes to acquire, the terms of the proposed acquisition, and the manner in which the securities are to be acquired;
  - Information as to any arrangement with any party with respect to any of the securities of the attorney in fact or controlling company; and
  - The required fee;
- An amendment to the application must be filed with the OIR detailing any changes in facts or the background information detailed in the application;
- The acquisition application must be reviewed pursuant to ch. 120, F.S., the Administrative Procedure Act. The OIR may initiate or by written request conduct a proceeding to consider the appropriateness of the proposed filing. Under this review:
  - Time periods are tolled during the pendency of the proceeding;
  - Written request must be filed within 10 days after the date notice of filing is given, or 10 days after notice of the filing is sent to the subscribers by the subscribers' advisory committee, whichever is later;
  - During the review period by the OIR, any person or affiliated person complying with the filing requirements may proceed and take all steps necessary to conclude the acquisition so long as the acquisition becoming final is conditioned upon approval by the OIR;
  - If at any time, the OIR finds an immediate danger to the public health, safety, and welfare of the reciprocal insurer's subscribers exists, the OIR shall immediately order the proposed acquisition disapproved and any further steps to conclude the acquisition ceased;
  - A material change in the operation or management of the attorney in fact or controlling company, unless specifically approved by the OIR, are prohibited;
  - A request for material change may be provided to the OIR by advanced written notice;
  - The OIR may either approve or disapprove a written request for material change, if the request meets or does not meet defined provisions provided in subsection (7);
  - The proceeding must conducted within 60 days after the date of the written request is received by the OIR;
  - The OIR will issue a recommended order within 20 days after the date of the close of the proceedings; and
  - A final order will be issued within 20 days after the date of the recommended order, or if exceptions are filed, within 20 days after the date of the exceptions are filed;
- The OIR may disapprove any acquisition by any person or affiliated person who willfully violates this section or violates the OIR orders related to divestiture or the acquisition of specified additional stock or ownership interest without complying with this section;
- The applicant has the burden of proof;

- The bill provides criteria for the OIR approval of an acquisition, which generally must be given if the OIR finds that the acquisition will not jeopardize the financial stability of the attorney in fact or prejudice the interests of the reciprocal insurer's subscribers or harm the public;
- Any acquisition contrary to this section is void, as is any vote by a stockholder of record or any other person of any security so acquired;
- OIR approval of an offer or acquisition does not constitute a recommendation by the OIR;
- A presumption of control may be rebutted by filing a valid disclaimer of control with the OIR;
- Authorizes the OIR to order divesture by a person who acquires 10 percent or more of voting securities of an attorney in fact or a controlling company without complying with this section; and
- Authorizes the OIR to suspend or revoke the certificate of authority of the reciprocal insurer whose attorney in fact or controlling company is acquired in violation of this section.

A person who violates these provisions commits a third degree felony, punishable as provided in ss. 775.082, 775.083, and 775.084, F.S.[99] The statute of limitations for prosecution of an offense committed under this section is five years.

The term "material change in the operation of the attorney in fact" is defined to mean a transaction that disposes of or obligates five percent or more of the domestic reciprocal insurer.

The term "material change in the management of the attorney in fact" is defined to mean any change in management involving officers or directors of the attorney in fact or any person of the attorney or controlling company having authority to dispose of or obligate five percent or more of the attorney in fact's capital or surplus.

Background Information

Section 19 creates s. 629.227, F.S., to provide the required background information that must be submitted on officers, directors, managers, and those in equivalent positions of the proposed attorney in fact, as well as, for any person with an ownership interest of 10 percent or more. The background information must include a sworn biographical statement providing detailed information of the person's business history over the last 20 years. The information must detail any criminal convictions, license revocation proceedings, bankruptcies, and other specified proceedings that have occurred in the last 10 years. Fingerprints must also be submitted.

Attorney in Fact

Section 20 creates s. 629.2297, F.S., to provide that any person who served as an attorney in fact, or as an officer, director, or manager of an attorney in fact, any member of a subscribers' advisory committee of a reciprocal insurer doing business in this state, or an officer or director of

[99] A third degree felony is punishable by up to five years imprisonment and up to a $5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. Under s. 775.084, violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

any other insurer doing business in this state, and who served in that capacity within the two-year period before the date the insurer or reciprocal insurer became insolvent, for any insolvency that occurs on or after July 1, 2024, may not, unless the individual demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency:

- Serve as an attorney in fact, or as an officer, director, or manager of an attorney in fact, or a member of a subscribers advisory committee of a reciprocal insurer doing business in this state, or an officer or director of any other insurer doing business in this state; or
- Have direct or indirect control over the selection or appointment of an attorney in fact, or of an officer, director, or manager of an attorney in fact, or a member of the subscribers committee of a reciprocal insurer doing business in this state, or an officer or director of any insurer doing business in this state, through contract, trust, or by operation of law, unless the individual demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

Nonassessable Policies

Section 21 amends s. 629.261, F.S., to provide that upon impairment of the surplus of a nonassessable reciprocal insurer, the OIR must revoke its authorization. Such revocation does not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has been paid. After revocation, no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

Merger or conversion

Section 22 amends s. 629.291, F.S., to provide requirements for mergers and conversions. The bill provides that a domestic stock insurer may not be converted to a reciprocal insurer. The bill provides that any plan to merge a reciprocal insurer with another reciprocal insurer or for conversion of the reciprocal insurer to a stock or mutual insurer must be filed with the OIR on forms adopted by the Financial Services Commission and must contain such information as the OIR reasonably requires to evaluate the transaction.

The bill provides that an assessable reciprocal insurer may be converted to a nonassessable reciprocal insurer if the subscriber's advisory committee approves, the attorney in fact submits the required application, and the OIR approves.

If the surplus of the reciprocal insurer becomes impaired, the insurer may no longer issue nonassessable policies or convert assessable policies to nonassessable policies, and the provisions of s. 629.301, F.S., apply.

Rulemaking Authority

Section 23 creates s. 629.525, F.S., to grant rulemaking authority to the Financial Services Commission to adopt, amend, or repeal rules necessary to implement the chapter.

Conforming Changes

Sections 8, 9, 24, and 25 amend ss. 628.011 (Scope of Part), 628.061 (Investigation of Proposed Organization), 163.01 (Florida Interlocal Cooperation Act of 1969), and 626.9531 (Identification of Insurers, Agents, and Insurance Contracts), F.S., respectively, to conform those sections based on changes made by the bill.

Effective Date

Section 26 provides that the bill becomes effective on 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:

Article VII, s. 19 of the Florida Constitution requires that a new state tax or fee must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines "fee" to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service." Section 14 and Section 18 impose an application or filing fee subject to s. 624.501(1)(a), F.S. The bill requires a two-thirds vote of the membership of each house of the Legislature.

B. Private Sector Impact:

The bill is intended to have a positive impact on consumers.

Insurers will need to revise current procedures in order to comply with the provisions of the bill. The cost of such revisions is indeterminate.

Applicants are subject to filing and application fees under s. 624.501(1)(a), F.S.

Applicants may experience out of pocket expenses for any fingerprint or state or federal background check required under the bill. The cost for a state and national criminal history record check is $37.25 per name. In addition, the Florida Department of Law Enforcement (FDLE) reports Livescan Services may assess additional processing fees,[100] which may require an applicant to pay additional fees.[101]

C. Government Sector Impact:

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

The Office of Insurance Regulation may experience an increase in filings and applications, resulting in a positive, yet indeterminate, impact to state revenues. The bill makes numerous changes that will require systems and process changes in the OIR. However, the OIR has indicated any technology updates can be absorbed within existing resources.[102]

The bill may have a positive impact to the Florida Department of Law Enforcement's Operating Trust Fund as the cost for a state and national criminal history record check is $37.25 per name submitted. The Federal Bureau of Investigation (FBI) receives $13.25 and, pursuant to s. 943.053(3)(e), F.S., the FDLE retains $24.[103]

The bill creates a new third degree felony for violation of s. 629.225, F.S., which is punishable by up to five years in prison. The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, has not met to determine the impact of this bill. The bill has a positive/negative indeterminate impact, meaning the final direction of the impact is unknown, at this time.

VI. Technical Deficiencies:

Section 13 repeals s. 629.062, F.S., relating to attorney in fact, eliminating the provision which requires the attorney in fact to maintain an office at the place designated by the subscribers in the power of attorney. This language or similar language could be added to Section 17.

Section 17 amends s. 629.101, F.S., relating to "power of attorney." Specifically the tag line was amended to "power of attorney in fact"; however, the amended language from attorney to attorney in fact is not consistent throughout the section.

[100] *Id.*
[101] *Id.*
[102] Email from Kevin Jacobs, Deputy Chief of Staff, Office of Insurance Regulation to Michelle Sanders, Legislative Analyst, Senate Appropriations Committee on Agriculture, Environment, and General Government (Feb. 1, 2024).
[103] The Florida Department of Law Enforcement, *Senate Bill Analysis 1622* (Jan. 26, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

The section relates to a power of attorney (legal document) and not an attorney in fact. It would appear legislative intent is to allow an attorney in fact, as defined within this act, rather than a duly licensed attorney, to hold the authority placed within a power of attorney. To provide clarification, the section could be amended to read: 629.101 Power of attorney and "power of attorney in fact" could replace every reference to an "attorney" throughout the section.

VII. Related Issues:

Chapter 435, F.S., establishes two levels of background screenings that employees must undergo as a condition of employment. Level 1 is the more basic screening and involves an in-state name-based background check, employment history check, statewide criminal correspondence check through the Florida Department of Law Enforcement (FDLE), a sex offender registry check, local criminal records check, and a domestic violence check.[104] Level 2 screenings are more thorough because they apply to positions of responsibility or trust, often with more vulnerable people, such as children, the elderly, or the disabled. Level 2 screenings require a security background investigation that includes fingerprint-based searches for statewide criminal history records through FDLE, a national criminal history records check through the Federal Bureau of Investigation (FBI), and a domestic violence check. It may also include local criminal records checks. A Level 2 screening disqualifies a person from employment if the person has a conviction or unresolved arrest for any one of more than 50 criminal offenses.[105]

If it is the intent of the bill to require applicants to undergo finger-print based, state and national criminal history record checks (Level 2), during the application process, the FDLE recommends stating so specifically within each applicable section of the bill. To facilitate state and national criminal history record checks, the following language should be included to ensure compliance with federal law and the United States Department of Justice (DOJ)-established criteria for the submission of fingerprints to the FBI's Criminal Justice Information Services (CJIS) Division for a national criminal history background check.[106]

> An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, 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.
>
> Fees for state and federal fingerprint processing shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).[107]

[104] Section 435.03, F.S.
[105] Section 435.04, F.S.
[106] The Florida Department of Law Enforcement, *Senate Bill Analysis 1622* (Jan. 26, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).
[107] *Id.*

The FDLE notes that a statute cannot be approved for access to FBI criminal history record information (CHRI) unless all criterion specified within Public Law 92-544 are satisfied which includes a review of whether the population(s) (i.e., categories of individuals) being screened is clearly defined and the state agency responsible for conducting the fingerprint-based background check and receiving the CHRI from the FBI is identified within the statute(s). As written, the FDLE opines "the FBI will likely deny the request for fingerprint-based access to national criminal history record check information."[108]

The FDLE recommends further defining and clarifying the terms "Affiliated Person" within s. 6239.011, F.S., and "Controlling Company" within s. 629.011, F.S., as the FBI considers the terms overly broad and undefined.[109]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 624.3161, 624.424, 624.4305, 624.46226, 626.9201, 627.062, 627.351, 628.011, 628.061, 628.801, 629.011, 629.081, 629.091, 629.101, 629.261, 629.291, 163.01, and 626.9531.

This bill creates the following sections of the Florida Statutes: 629.094, 629.225, 629.227, 629.229, and 629.525.

This bill repeals the following sections of the Florida Statutes: 629.021 and 629.061.

IX. Additional Information:

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

CS by Banking and Insurance Committee on January 29, 2024:
The committee substitute removed the entire substance of the bill made numerous changes to the wording and organization of the bill and:

- Revised the provision in section 5 of the bill regarding cancellation or nonrenewal by a surplus lines insurer after a hurricane, to include damage that is the result of wind loss;
- Repealed current law allowing an insurer, with respect to residential property insurance rate filings, to use a modeling indication that is the weighted or straight average of two or more hurricane loss projection models found by the Florida Commission on Hurricane Loss Projection Methodology to be accurate or reliable;
- Created a new section of statute, s. 629.229, F.S., providing for regulation of the attorney in fact, officers, and directors;
- Removed sections 13, 14, 15, 17, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 36, 37, 39, 40, 41, 44, 45, and 47 from the bill; and
- Changed the effective date from July 1, 2025 to July 1, 2024.

[108] *Id.*
[109] *Id.*

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Trumbull

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A bill to be entitled

An act relating to insurance; amending s. 624.3161, F.S.; revising the entities for which the Office of Insurance Regulation is required to conduct market conduct examinations; amending s. 624.424, F.S.; requiring insurers and insurer groups to file a specified supplemental report on a monthly basis; requiring that such report include certain information for each zip code; amending s. 624.4305, F.S.; authorizing the Financial Services Commission to adopt rules related to notice of nonrenewal of residential property insurance policies; amending s. 624.46226, F.S.; revising the requirements for public housing authority self-insurance funds; amending s. 626.9201, F.S.; prohibiting insurers from canceling or nonrenewing certain insurance policies under certain circumstances; providing exceptions; providing construction; authorizing the commission to adopt rules and the Commissioner of Insurance Regulation to issue orders; amending s. 627.062, F.S.; specifying requirements for rate filings if certain models are used; amending s. 627.351, F.S.; revising requirements for certain policies that are not subject to certain rate increase limitations; amending s. 628.011, F.S.; conforming provisions to changes made by the act; amending s. 628.061, F.S.; conforming a provision to changes made by the act; revising the persons that the office is required to investigate in connection with a proposal to organize or incorporate a domestic

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insurer; amending s. 628.801, F.S.; revising requirements for rules adopted for insurers that are members of an insurance holding company; deleting an obsolete date; authorizing the commission to adopt rules; amending s. 629.011, F.S.; defining terms; repealing s. 629.021, F.S., relating to the definition of the term "reciprocal insurer"; repealing s. 629.061, F.S., relating to the term "attorney"; amending s. 629.081, F.S.; revising the procedure for persons to organize as a domestic reciprocal insurer; specifying requirements for the permit application; requiring that the application be accompanied by a specified fee and other pertinent information and documents; requiring the office to evaluate and grant or deny the permit application in accordance with specified provisions; amending s. 629.091, F.S.; providing that a domestic reciprocal insurer may seek a certificate of authority only under certain circumstances; providing requirements for an application for a certificate of authority to operate as a domestic reciprocal insurer; requiring the office to grant a certificate of authority under certain circumstances; requiring that such certificate of authority be issued in the name of the reciprocal insurer to its attorney in fact; creating s. 629.094, F.S.; requiring a domestic reciprocal insurer to meet certain requirements to maintain its eligibility for a certificate of authority; amending s. 629.101, F.S.; revising requirements for the power of attorney given

by subscribers of a domestic reciprocal insurer to the attorney in fact; creating s. 629.225, F.S.; providing applicability; prohibiting persons from concluding a tender offer or exchange offer or acquiring securities of certain attorneys in fact and controlling companies of certain attorneys in fact; providing an exception; providing applicability; authorizing certain persons to request that the office waive certain requirements; providing that the office may waive certain requirements if specified determinations are made; specifying the requirements of an application to the office relating to certain acquisitions; requiring that such application be accompanied by a specified fee; requiring that amendments be filed with the office under certain circumstances; specifying the manner in which the acquisition application must be reviewed; authorizing the office, and requiring the office if a request for a proceeding is filed, to conduct a proceeding within a specified timeframe to consider the appropriateness of such application; requiring that certain time periods be tolled; requiring that written requests for a proceeding be filed within a certain timeframe; authorizing certain persons to take all steps to conclude the acquisition during the pendency of the proceeding or review period; requiring the office to order a proposed acquisition disapproved and that actions to conclude the acquisition be ceased under certain circumstances; prohibiting certain persons from making certain

changes during the pendency of the office's review of an acquisition; providing an exception; defining the terms "material change in the operation of the attorney in fact" and "material change in the management of the attorney in fact"; requiring the office to approve or disapprove certain changes upon making certain findings; requiring that a proceeding be conducted within a certain timeframe; requiring that recommended orders and final orders be issued within a certain timeframe; specifying the circumstances under which the office may disapprove an acquisition; specifying that certain persons have the burden of proof; requiring the office to approve an acquisition upon certain findings; specifying that certain votes are not valid and that certain acquisitions are void; specifying that certain provisions may be enforced by an injunction; creating a private right of action in favor of the attorney in fact or the controlling company to enforce certain provisions; providing that a certain demand upon the office is not required before certain legal actions; providing that the office is not a necessary party to certain actions; specifying the persons who are deemed designated for service of process and who have submitted to the administrative jurisdiction of the office; providing that approval by the office does not constitute a certain recommendation; providing that certain actions are unlawful; providing criminal penalties; providing a statute of limitations;

authorizing a person to rebut a presumption of control by filing certain disclaimers; specifying the contents of such disclaimer; specifying that, after a disclaimer is filed, the attorney in fact is relieved of a certain duty; authorizing the office to order certain persons to cease acquisition of the attorney in fact or controlling company and divest themselves of any stock or ownership interest under certain circumstances; requiring the office to suspend or revoke the reciprocal certificate of authority under certain circumstances; creating s. 629.227, F.S.; specifying the information as to the background and identity of certain persons which must be furnished by such persons; creating s. 629.229, F.S.; prohibiting certain persons who served in certain capacities before a specified date from serving in certain other roles or having certain control over certain selections; providing an exception; amending s. 629.261, F.S.; requiring the office to revoke certain authorization under certain circumstances; deleting provisions regarding the office's authority to issue a certificate authoring the insurer to extinguish the contingent liability of subscribers; deleting a prohibition regarding the office's authorization to extinguish the contingent liability of certain subscribers; amending s. 629.291, F.S.; providing that certain insurers that merge are governed by the insurance code; prohibiting domestic stock insurers from being converted to reciprocal insurers; requiring

that specified plans be filed with the office and that such plans contain certain information; deleting a provision regarding a stock or mutual insurer's capital and surplus requirements and rights; authorizing the conversion of assessable reciprocal insurers to nonassessable reciprocal insurers under certain circumstances; creating s. 629.525, F.S.; requiring the commission to adopt, amend, or repeal certain rules; amending ss. 163.01 and 626.9531, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsection (1) of section 624.3161, Florida Statutes, is amended to read:

624.3161 Market conduct examinations.—

(1) As often as it deems necessary, the office shall examine each licensed rating organization, each advisory organization, each group, association, carrier, as defined in s. 440.02, or other organization of insurers which engages in joint underwriting or joint reinsurance, the attorney in fact of each reciprocal insurer, and each authorized insurer transacting in this state any class of insurance to which the provisions of chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters 440, 624, 626, 627, and 635.

Section 2. Paragraph (a) of subsection (10) of section

624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(10)(a) Each insurer or insurer group doing business in this state shall file on a monthly ~~quarterly~~ basis in conjunction with financial reports required by paragraph (1)(a) a supplemental report on an individual and group basis on a form prescribed by the commission with information on personal lines and commercial lines residential property insurance policies in this state. The supplemental report shall include separate information for personal lines property policies and for commercial lines property policies and totals for each item specified, including premiums written for each of the property lines of business as described in ss. 215.555(2)(c) and 627.351(6)(a). The report shall include the following information for each zip code ~~county on a monthly basis~~:

1. Total number of policies in force at the end of each month.

2. Total number of policies canceled.

3. Total number of policies nonrenewed.

4. Number of policies canceled due to hurricane risk.

5. Number of policies nonrenewed due to hurricane risk.

6. Number of new policies written.

7. Total dollar value of structure exposure under policies that include wind coverage.

8. Number of policies that exclude wind coverage.

9. Number of claims open each month.

10. Number of claims closed each month.

11. Number of claims pending each month.

12. Number of claims in which either the insurer or insured

invoked any form of alternative dispute resolution, and specifying which form of alternative dispute resolution was used.

Section 3. Section 624.4305, Florida Statutes, is amended to read:

624.4305 Nonrenewal of residential property insurance policies.—Any insurer planning to nonrenew more than 10,000 residential property insurance policies in this state within a 12-month period shall give notice in writing to the Office of Insurance Regulation for informational purposes 90 days before the issuance of any notices of nonrenewal. The notice provided to the office must set forth the insurer's reasons for such action, the effective dates of nonrenewal, and any arrangements made for other insurers to offer coverage to affected policyholders. The commission may adopt rules to administer this section.

Section 4. Paragraph (d) of subsection (1) of section 624.46226, Florida Statutes, is amended to read:

624.46226 Public housing authorities self-insurance funds; exemption for taxation and assessments.—

(1) Notwithstanding any other provision of law, any two or more public housing authorities in the state as defined in chapter 421 may form a self-insurance fund for the purpose of pooling and spreading liabilities of its members as to any one or combination of casualty risk or real or personal property risk of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage, provided the self-insurance fund that is created:

(d) Maintains a continuing program of excess insurance coverage and reinsurance ~~reserve evaluation~~ to protect the financial stability of the fund ~~in an amount and manner determined by a qualified and independent actuary~~. The program must, at a minimum~~, this program must~~:

1. Include a net retention in an amount and manner selected by the administrator, ratified by the governing body, and certified by an independent qualified actuary;

2. Include reinsurance or ~~Purchase~~ excess insurance from authorized insurance carriers or eligible surplus lines insurers; and~~.~~

3. Be certified by a qualified and independent actuary as to the program's adequacy. This certification must be submitted simultaneously with the certifications required under paragraphs (b) and (c).

~~2. Retain a per-loss occurrence that does not exceed $350,000.~~

A for-profit or not-for-profit corporation, limited liability company, or other similar business entity in which a public housing authority holds an ownership interest or participates in its governance under s. 421.08(8) may join a self-insurance fund formed under this section in which such public housing authority participates. Such for-profit or not-for-profit corporation, limited liability company, or other similar business entity may join the self-insurance fund solely to insure risks related to public housing.

Section 5. Subsection (2) of section 626.9201, Florida Statutes, is amended to read:

626.9201 Notice of cancellation or nonrenewal.—

(2) An insurer issuing a policy providing coverage for property, casualty, surety, or marine insurance must give the named insured written notice of cancellation or termination other than nonrenewal at least 45 days before the effective date of the cancellation or termination, including in the written notice the reasons for the cancellation or termination, except that:

(a) If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason for cancellation must be given. As used in this paragraph, the term "nonpayment of premium" means the failure of the named insured to discharge when due any of his or her obligations in connection with the payment of premiums on a policy or an installment of such a premium, whether the premium or installment is payable directly to the insurer or its agent or indirectly under any plan for financing premiums or extension of credit or the failure of the named insured to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also includes the failure of a financial institution to honor the check of an applicant for insurance which was delivered to a licensed agent for payment of a premium, even if the agent previously delivered or transferred the premium to the insurer. If a correctly dishonored check represents payment of the initial premium, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by

certified mail or registered mail, and, if the contract is void, any premium received by the insurer from a third party must ~~shall~~ be refunded to that party in full; ~~and~~

(b) If cancellation or termination occurs during the first 90 days during which the insurance is in force and if the insurance is canceled or terminated for reasons other than nonpayment, at least 20 days' written notice of cancellation or termination accompanied by the reason for cancellation or termination must be given, except if there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer; and

(c)1. Upon a declaration of an emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation, an insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state which has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency for 90 days after the dwelling or residential property has been repaired. A dwelling or residential property is deemed to be repaired when substantially completed and restored to the extent that the dwelling or residential property is insurable by another insurer that is writing policies in this state.

2. However, an insurer or agent may cancel or nonrenew such a policy before the repair of the dwelling or residential property:

a. Upon 10 days' notice for nonpayment of premium; or

b. Upon 45 days' notice:

(I) For a material misstatement or fraud related to the

claim;

(II) If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling or residential property;

(III) If the insurer or its agent makes a reasonable written inquiry to the insured as to the status of repairs, and the insured fails within 30 calendar days to provide information that is responsive to the inquiry to either the address or e-mail account designated by the insurer; or

(IV) If the insurer has paid policy limits.

3. If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired.

4. This paragraph does not prevent the insurer from canceling or nonrenewing the policy 90 days after the repair is completed for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations of subparagraph 1.

5. The Financial Services Commission may adopt rules, and the Commissioner of Insurance Regulation may issue orders, necessary to implement this paragraph.

Section 6. Paragraph (j) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(j) With respect to residential property insurance rate filings, the rate filing~~:~~

~~1.~~ must account for mitigation measures undertaken by policyholders to reduce hurricane losses and windstorm losses.

~~2. May use a modeling indication that is the weighted or straight average of two or more hurricane loss projection models found by the Florida Commission on Hurricane Loss Projection Methodology to be accurate or reliable pursuant to s. 627.0628.~~

The provisions of this subsection do not apply to workers' compensation, employer's liability insurance, and motor vehicle insurance.

Section 7. Paragraph (n) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(n)1. Rates for coverage provided by the corporation must be actuarially sound pursuant to s. 627.062 and not competitive with approved rates charged in the admitted voluntary market so that the corporation functions as a residual market mechanism to provide insurance only when insurance cannot be procured in the voluntary market, except as otherwise provided in this paragraph. The office shall provide the corporation such information as would be necessary to determine whether rates are competitive. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative

challenge or judicial review of the final order of the office.

2. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided in s. 624.509 to augment the financial resources of the corporation.

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall be considered when establishing the windstorm portion of the corporation's rates. The corporation may use the public model results in combination with the results of private models to calculate rates for the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes.

5. Notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate increase which, except for sinkhole coverage, does not exceed the following for any single policy issued by the corporation, excluding coverage changes and surcharges:

a. Twelve percent for 2023.

b. Thirteen percent for 2024.

c. Fourteen percent for 2025.

d. Fifteen percent for 2026 and all subsequent years.

6. The corporation may also implement an increase to

reflect the effect on the corporation of the cash buildup factor pursuant to s. 215.555(5)(b).

7. The corporation's implementation of rates as prescribed in subparagraphs 5. and 8. shall cease for any line of business written by the corporation upon the corporation's implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing that is not competitive with approved rates in the admitted voluntary market for each commercial and personal line of business the corporation writes.

8. ~~The following~~ New or renewal personal lines policies that do not cover a primary residence ~~written on or after November 1, 2023,~~ are not subject to the rate increase limitations in subparagraph 5., but may not be charged more than 50 percent above, nor less than, the prior year's established rate for the corporation~~:~~

~~a. Policies that do not cover a primary residence;~~

~~b. New policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631; or~~

~~c. Subsequent renewals of those policies, including the new policies in sub-subparagraph b., under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631~~.

9. As used in this paragraph, the term "primary residence"

means the dwelling that is the policyholder's primary home or is a rental property that is the primary home of the tenant, and which the policyholder or tenant occupies for more than 9 months of each year.

Section 8. Section 628.011, Florida Statutes, is amended to read:

628.011 Scope of part.—This part applies only to domestic ~~stock~~ insurers, mutual insurers, and captive insurers, except that s. 628.341(2) applies also as to foreign and alien insurers.

Section 9. Section 628.061, Florida Statutes, is amended to read:

628.061 Investigation of proposed organization.—In connection with any proposal to organize or incorporate a domestic insurer, the office shall make an investigation of:

(1) The character, reputation, financial standing, and motives of the organizers, incorporators, and subscribers organizing the proposed insurer or any attorney in fact.

(2) The character, financial responsibility, insurance experience, and business qualifications of its proposed officers, members of its subscribers' advisory committee, or officers of its attorney in fact.

(3) The character, financial responsibility, business experience, and standing of the proposed stockholders and directors, including the stockholders and directors of any attorney in fact.

Section 10. Subsections (1), (2), and (5) of section 628.801, Florida Statutes, are amended to read:

628.801 Insurance holding companies; registration;

regulation.—

(1) An insurer that is authorized to do business in this state and that is a member of an insurance holding company shall, on or before April 1 of each year, register with the office and file a registration statement and be subject to regulation with respect to its relationship to the holding company as provided by law or rule. The commission shall adopt rules establishing the information and statement form required for registration and the manner in which registered insurers and their affiliates are regulated. The rules apply to domestic insurers, foreign insurers, and commercially domiciled insurers, except for foreign insurers domiciled in states that are currently accredited by the NAIC. Except to the extent of any conflict with this code, the rules must include all requirements and standards of the Insurance Holding Company System Model Regulation and ss. 4 and 5 of the Insurance Holding Company System Regulatory Act ~~and the Insurance Holding Company System Model Regulation~~ of the NAIC, as adopted in December 2020 ~~2010~~. The commission may adopt subsequent amendments thereto if the methodology remains substantially consistent. The rules may include a prohibition on oral contracts between affiliated entities. Material transactions between an insurer and its affiliates must ~~shall~~ be filed with the office as provided by rule.

(2) ~~Effective January 1, 2015,~~ The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report on or before April 1. As used in this subsection, the term "ultimate controlling person" means a person who is not controlled by any other person. The report

must, to the best of the ultimate controlling person's knowledge and belief, ~~must~~ identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report must ~~shall~~ be filed with the lead state office of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC and is confidential and exempt from public disclosure as provided in s. 624.4212.

(a) An insurer may satisfy this requirement by providing the office with the most recently filed parent corporation reports that have been filed with the Securities and Exchange Commission which provide the appropriate enterprise risk information.

(b) The term "enterprise risk" means an activity, a circumstance, an event, or a series of events involving one or more affiliates of an insurer which, if not remedied promptly, are likely to have a materially adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause the insurer's risk-based capital to fall into company action level as set forth in s. 624.4085 or would cause the insurer to be in a hazardous financial condition.

(c) The commission may adopt rules for filing the annual enterprise risk report in accordance with the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the NAIC, as adopted in December 2020.

(5) ~~Effective January 1, 2015,~~ The failure to file a registration statement, or a summary of the registration

statement, or the enterprise risk filing report required by this section within the time specified for filing is a violation of this section.

Section 11. Section 629.011, Florida Statutes, is amended to read:

629.011 Definitions ~~"Reciprocal insurance" defined.~~ As used in this part, the term:

(1) "Affiliated person" of another person means any of the following:

(a) The spouse of the other person.

(b) The parents of the other person, and their lineal descendants, and the parents of the other person's spouse, and their lineal descendants.

(c) A person who directly or indirectly owns or controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of the other person.

(d) A person who directly or indirectly owns 10 percent or more of the outstanding voting securities that are directly or indirectly owned or controlled, or held with power to vote, by the other person.

(e) A person or group of persons who directly or indirectly control, are controlled by, or are under common control with the other person.

(f) A director, an officer, a trustee, a partner, an owner, a manager, a joint venturer, an employee, or other person performing duties similar to those of persons in such positions.

(g) If the other person is an investment company, any investment adviser of such company or any member of an advisory board of such company.

(h) If the other person is an unincorporated investment company not having a board of directors, the depositor of such company.

(i) A person who has entered into an agreement, written or unwritten, to act in concert with the other person in acquiring, or limiting the disposition of:

1. Securities of an attorney in fact or controlling company that is a stock corporation; or

2. An ownership interest of an attorney in fact or controlling company that is not a stock corporation.

(2) "Attorney in fact" or "attorney" means the attorney in fact of a reciprocal insurer. The attorney in fact may be an individual, a corporation, or another person.

(3) "Controlling company" means a person, a corporation, a trust, a limited liability company, an association, or another entity owning, directly or indirectly, 10 percent or more of the voting securities of one or more attorneys in fact that are stock corporations, or 10 percent or more of the ownership interest of one or more attorneys in fact that are not stock corporations.

(4) "Reciprocal insurance" is that resulting from an interexchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the interexchange being effectuated through an "attorney in fact" common to all such persons.

(5) "Reciprocal insurer" means unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact to provide reciprocal insurance among themselves.

Section 12. Section 629.021, Florida Statutes, is repealed.

Section 13. Section 629.061, Florida Statutes, is repealed.

Section 14. Section 629.081, Florida Statutes, is amended to read:

629.081 Organization of reciprocal insurer.—

(1) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer by making application to the office for a permit to do so. A domestic reciprocal insurer may not be formed unless the persons so proposing have first received a permit from the office ~~and make application to the office for a certificate of authority to transact insurance~~.

(2) The permit application, to be filed by the organizers or the proposed attorney in fact, must be in writing and made in accordance with forms prescribed by the commission. In addition to any applicable requirements of s. 628.051 or other relevant statutes, the application must include all of the following ~~shall fulfill the requirements of and shall execute and file with the office, when applying for a certificate of authority, a declaration setting forth~~:

(a) The name of the proposed reciprocal insurer, which shall be in accordance with s. 629.051.~~;~~

(b) The location of the insurer's principal office, which shall be the same as that of the proposed attorney in fact and shall be maintained within this state.~~;~~

(c) The kinds of insurance proposed to be transacted.~~;~~

(d) The names and addresses of the original 25 or more subscribers.~~;~~

(e) The proposed designation and appointment of the proposed attorney in fact and a copy of the proposed power of

attorney.~~;~~

(f) The names and addresses of the officers and directors of the proposed attorney in fact, if a corporation, or of its members, if other than a corporation, as well as the background information as specified in s. 629.227 for all officers, directors, and equivalent positions of the proposed attorney in fact as well as for any person with ownership interests of 10 percent or more in the proposed attorney in fact.~~;~~

(g) The articles of incorporation and bylaws, or equivalent documents, of the proposed attorney in fact, dated within the last year and appropriately certified.

(h) ~~(g)~~ The proposed charter powers of the subscribers' advisory committee, and the names and terms of office of the members thereof as well as the background information as specified in s. 629.227 for each proposed member.~~;~~

~~(h) That all moneys paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;~~

(i) A copy of the proposed subscribers' agreement.~~;~~

~~(j) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than 6 months at an adequate rate theretofore filed with and approved by the office;~~

~~(k) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by s. 629.071 is on hand; and~~

(j) ~~(l)~~ A copy of each policy, endorsement, and application form the insurer ~~it then~~ proposes to issue or use.

(3) The filing must be accompanied by the application fee required under s. 624.501(1)(a)and such other pertinent information and documents as reasonably requested by the office.

(4) The office shall evaluate and grant or deny the permit application in accordance with ss. 628.061, 628.071, and other relevant provisions of the code.

~~Such declaration shall be acknowledged by the attorney before an officer authorized to take acknowledgments.~~

Section 15. Section 629.091, Florida Statutes, is amended to read:

629.091 Reciprocal certificate of authority.—

(1) A domestic reciprocal insurer may seek a certificate of authority only after obtaining a permit.

(2) To apply for a certificate of authority as a domestic reciprocal insurer, the attorney in fact of an applicant who has previously received a permit from the office may file an application for a certificate of authority in accordance with forms prescribed by the commission that, in addition to applicable requirements of ss. 624.404, 624.411, and 624.413 and other relevant statutes, consist of all of the following:

(a) Executed copies of any proposed or draft documents required as part of the permit application.

(b) A statement affirming that all moneys paid to the reciprocal insurer shall, after deducting therefrom any sum payable to the attorney in fact, be held in the name of the insurer and for the purposes specified in the subscribers'

agreement.

(c) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than 6 months at an adequate rate theretofore filed with and approved by the office.

(d) A copy of the bond required under s. 629.121.

(e) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by s. 629.071 is on hand.

(f) Such other pertinent information or documents as reasonably requested by the office.

(3) If the reciprocal insurer intends to issue nonassessable policies upon the receipt of a certificate of authority, and the office determines that the reciprocal insurer meets the legal requirements to issue nonassessable policies, including the surplus requirements, the office shall grant authorization for a certificate of authority. If the surplus of the reciprocal insurer becomes impaired, the insurer may no longer issue or renew nonassessable policies or convert assessable policies to nonassessable policies, and the provisions of s. 629.301 shall apply.

(4) The certificate of authority ~~of a reciprocal insurer~~ shall be issued ~~to its attorney~~ in the name of the reciprocal insurer to its attorney in fact.

Section 16. Section 629.094, Florida Statutes, is created to read:

629.094 Continued eligibility for certificate of

authority.—In order to maintain its eligibility for a certificate of authority, a domestic reciprocal insurer shall continue to meet all applicable conditions required for receiving the initial permit and certificate of authority under this code and the rules adopted thereunder.

Section 17. Section 629.101, Florida Statutes, is amended to read:

629.101 Power of attorney in fact.—

(1) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

(2) The power of attorney must set forth all of the following:

(a) The powers of the attorney.~~;~~

(b) That the attorney is empowered to accept service of process on behalf of the insurer in actions against the insurer upon contracts exchanged.~~;~~

(c) The general services to be performed by the attorney.~~;~~

(d) That the attorney in fact has a fiduciary duty to the subscribers of the reciprocal insurer.

(e)~~(d)~~ The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer.~~; and~~

(f)~~(e)~~ Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount, which amount shall be not less than 5 nor more than 10 times the premium or premium deposit stated in the policy.

(3) The power of attorney may:

(a) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

(b) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(c) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee; and

(d) Contain other lawful provisions deemed advisable.

(4) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement shall be used or be effective in this state unless filed with the office.

Section 18. Section 629.225, Florida Statutes, is created to read:

629.225 Acquisitions.—The provisions of this section apply to domestic reciprocal insurers and the attorney in fact of domestic reciprocal insurers.

(1) A person may not, individually or in conjunction with any affiliated person of such person, directly or indirectly, conclude a tender offer or exchange offer for, enter into any agreement to exchange securities for, or otherwise finally acquire, 10 percent or more of the outstanding voting securities of an attorney in fact which is a stock corporation or of a controlling company of an attorney in fact which is a stock corporation; or conclude an acquisition of, or otherwise finally acquire, 10 percent or more of the ownership interest of an attorney in fact which is not a stock corporation or of a controlling company of an attorney which is not a stock corporation, unless all of the following conditions are met:

(a) The person or affiliated person has filed with the

office and sent to the principal office of the attorney in fact, and any controlling company of the attorney in fact, the subscribers' advisory committee, and the domestic reciprocal insurer a letter of notification regarding the transaction or proposed transaction no later than 5 days after any form of tender offer or exchange offer is proposed, or no later than 5 days after the acquisition of the securities or ownership interest if a tender offer or exchange offer is not involved. The notification must be provided on forms prescribed by the commission containing information determined necessary to understand the transaction and identify all purchasers and owners involved.

(b) The subscribers' advisory committee has provided the notification required under paragraph (a) on a form prescribed by the commission, explaining what the notification is and letting the subscribers know of the filing deadlines for objecting to the acquisition.

(c) The person or affiliated person has filed with the office an application signed under oath and prepared on forms prescribed by the commission which contains the information specified in subsection (4). The application must be completed and filed within 30 days after any form of tender offer or exchange offer is proposed, or after the acquisition of the securities if a tender offer or exchange offer is not involved.

(d) The office has approved the tender offer or exchange offer, or acquisition if a tender offer or exchange offer is not involved.

(2) This section does not apply to any acquisition of voting securities or ownership interest of an attorney in fact

or of a controlling company by any person who is the owner of a majority of the voting securities or ownership interest with the approval of the office under this section or s. 629.091.

(3) The person or affiliated person filing the notice required by paragraph (1)(a) may request that the office waive the requirements of paragraph (1)(b), provided that there is no change in the ultimate controlling shareholders, and no change in the ownership percentages of the ultimate controlling shareholders, and no unaffiliated parties acquire any direct or indirect interest in the attorney in fact. The office may waive the filing required by paragraph (1)(b) if it determines that there is no change in the ultimate controlling shareholders, and no change in the ownership percentages of the ultimate controlling shareholders, and no unaffiliated parties will acquire any direct or indirect interest in the attorney in fact.

(4) The application to be filed with the office and furnished to the attorney in fact must contain the following information and any additional information as the office deems necessary to determine the character, experience, ability, and other qualifications of the person or affiliated person of such person for the protection of the reciprocal insurer's subscribers and of the public:

(a) The identity and background information specified in s. 629.227 of:

1. Each person by whom, or on whose behalf, the acquisition is to be made; and

2. Any person who controls, directly or indirectly, such other person, including each director, officer, trustee, partner, owner, manager, or joint venturer, or other person

performing duties similar to those of persons in such positions, for the person.

(b) The source and amount of the funds or other consideration used, or to be used, in making the acquisition.

(c) Any plans or proposals which such persons may have made to liquidate the attorney in fact or controlling company, to sell any of their assets or merge or consolidate them with any person, or to make any other major change in their business or corporate structure or management.

(d) The nature and the extent of the controlling interest which the person or affiliated person of such person proposes to acquire, the terms of the proposed acquisition, and the manner in which the controlling interest is to be acquired of an attorney in fact or controlling company which is not a stock corporation.

(e) The number of shares or other securities which the person or affiliated person of such person proposes to acquire, the terms of the proposed acquisition, and the manner in which the securities are to be acquired.

(f) Information as to any contract, arrangement, or understanding with any party with respect to any of the securities of the attorney in fact or controlling company, including, but not limited to, information relating to the transfer of any of the securities, option arrangements, puts or calls, or the giving or withholding of proxies, which information names the party with whom the contract, arrangement, or understanding has been entered into and gives the details thereof.

(g) The filing must be accompanied by the fee required

under s. 624.501(1)(a).

(5) If any material change occurs in the facts provided in the application filed with the office pursuant to this section or the background information required under s. 629.227, an amendment specifying such changes must be filed immediately with the office, and a copy of the amendment must be sent to the principal office of the attorney in fact and to the principal office of the controlling company.

(6)(a) The acquisition application must be reviewed in accordance with chapter 120. The office may on its own initiate, or, if requested to do so in writing by a substantially affected person, shall conduct a proceeding to consider the appropriateness of the proposed filing. Time periods for purposes of chapter 120 shall be tolled during the pendency of the proceeding. Any written request for a proceeding must be filed with the office within 10 days after the date notice of the filing is given, or 10 days after notice of the filing is sent to the subscribers by the subscribers advisory committee, whichever is later. During the pendency of the proceeding or review period by the office, any person or affiliated person complying with the filing requirements of this section may proceed and take all steps necessary to conclude the acquisition so long as the acquisition becoming final is conditioned upon obtaining office approval. However, at any time it finds an immediate danger to the public health, safety, and welfare of the reciprocal insurer's subscribers exists, the office shall immediately order, pursuant to s. 120.569(2)(n), the proposed acquisition disapproved and any further steps to conclude the acquisition ceased.

(b) During the pendency of the office's review of any acquisition subject to the provisions of this section, the acquiring person may not make any material change in the operation of the attorney in fact or controlling company unless the office has specifically approved the change, nor shall the acquiring person make any material change in the management of the attorney in fact unless advance written notice of the change in management is furnished to the office. The term "material change in the operation of the attorney in fact" means a transaction that disposes of or obligates 5 percent or more of the capital and surplus of the attorney in fact or of any domestic reciprocal insurer. The term "material change in the management of the attorney in fact" means any change in management involving officers or directors of the attorney in fact or any person of the attorney or controlling company having authority to dispose of or obligate 5 percent or more of the attorney in fact's capital or surplus. The office shall approve a material change in operations if it finds the applicable provisions of subsection (7) have been met. The office may disapprove a material change in management if it finds that the applicable provisions of subsection (7) have not been met and in such case the attorney in fact shall promptly change management as acceptable to the office.

(c) If a request for a proceeding is filed, the proceeding must be conducted within 60 days after the date the written request for a proceeding is received by the office. A recommended order must be issued within 20 days after the date of the close of the proceedings. A final order shall be issued within 20 days after the date of the recommended order or, if

exceptions to the recommended order are filed, within 20 days after the date the exceptions are filed.

(7) The office may disapprove any acquisition subject to this section by any person or any affiliated person of such person who:

(a) Willfully violates this section;

(b) In violation of an order of the office issued pursuant to subsection (11), fails to divest himself or herself of any stock or ownership interest obtained in violation of this section or fails to divest himself or herself of any direct or indirect control of such stock or ownership interest, within 25 days after such order; or

(c) In violation of an order issued by the office pursuant to subsection (12), acquires an additional stock or ownership interest in an attorney in fact or controlling company or direct or indirect control of such stock or ownership interest, without complying with this section.

(8) The person or persons filing the application required by this section have the burden of proof. The office shall approve any such acquisition if it finds, on the basis of the record made during any proceeding or on the basis of the filed application if no proceeding is conducted, that:

(a) The financial condition of the acquiring person or persons will not jeopardize the financial stability of the attorney in fact or prejudice the interests of the reciprocal insurer's subscribers or the public.

(b) Any plan or proposal which the acquiring person has, or acquiring persons have, made:

1. To liquidate the attorney in fact, sell its assets, or

merge or consolidate it with any person, or to make any other major change in its business or corporate structure or management is fair and free of prejudice to the reciprocal insurer's subscribers or to the public; or

2. To liquidate any controlling company, sell its assets, or merge or consolidate it with any person, or to make any major change in its business or corporate structure or management which would have an effect upon the attorney in fact, is fair and free of prejudice to the reciprocal insurer's subscribers or to the public.

(c) The competence, experience, and integrity of those persons who will control directly or indirectly the operation of the attorney in fact indicate that the acquisition is in the best interest of the reciprocal insurer's subscribers and in the public interest.

(d) The natural persons for whom background information is required to be furnished pursuant to this section have such backgrounds as to indicate that it is in the best interests of the reciprocal insurer's subscribers and in the public interest to permit such persons to exercise control over the attorney in fact.

(e) The directors and officers, if such attorney in fact or controlling company is a stock corporation, or the trustees, partners, owners, managers, joint venturers, or other persons performing duties similar to those of persons in such positions, if such attorney in fact or controlling company is not a stock corporation, to be employed after the acquisition have sufficient insurance experience and ability to assure reasonable promise of successful operation.

(f) The management of the attorney in fact after the acquisition will be competent, trustworthy, and will possess sufficient managerial experience so as to make the proposed operation of the attorney in fact not hazardous to the insurance-buying public.

(g) The management of the attorney in fact after the acquisition shall not include any person who has directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations unlawfully manipulated the assets, accounts, finances, or books of any insurer or otherwise acted in bad faith with respect thereto.

(h) The acquisition is not likely to be hazardous or prejudicial to the reciprocal insurer's subscribers or to the public.

(i) The effect of the acquisition would not substantially lessen competition in the line of insurance for which the reciprocal insurer is licensed or certified in this state or would not tend to create a monopoly therein.

(9) A vote by the stockholder of record, or by any other person, of any security acquired in contravention of this section is not valid. Any acquisition contrary to this section is void. Upon the petition of the attorney in fact, any or the controlling company, or the reciprocal insurer the circuit court for the county in which the principal office of the attorney in fact is located may, without limiting the generality of its authority, order the issuance or entry of an injunction or other order to enforce this section. There shall be a private right of action in favor of the attorney in fact, or controlling company, to enforce this section. A demand upon the office that it

performs its functions may not be required as a prerequisite to any suit by the attorney in fact or controlling company against any other person, and in no case shall the office be deemed a necessary party to any action by the attorney in fact or controlling company to enforce this section. Any person who makes or proposes an acquisition requiring the filing of an application pursuant to this section, or who files such an application, shall be deemed to have thereby designated the Chief Financial Officer, or his or her assistant or deputy or another person in charge of his or her office, as such person's agent for service of process under this section and shall thereby be deemed to have submitted himself or herself to the administrative jurisdiction of the office and to the jurisdiction of the circuit court.

(10) Any approval by the office under this section does not constitute a recommendation by the office of the tender offer or exchange offer, or acquisition, if no tender offer or exchange offer is involved. It is unlawful for a person to represent that the office's approval constitutes a recommendation. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The statute of limitations period for the prosecution of an offense committed under this subsection is 5 years.

(11) A person may rebut a presumption of control by filing a disclaimer of control with the office on a form prescribed by the commission. The disclaimer must fully disclose all material relationships and bases for affiliation between the person and the attorney in fact as well as the basis for disclaiming the affiliation. In lieu of such form, a person or acquiring party

may file with the office a copy of a Schedule 13G filed with the Securities and Exchange Commission pursuant to Rule 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act of 1934, as amended. After a disclaimer has been filed, the attorney in fact is relieved of any duty to register or report under this section which may arise out of the attorney in fact's relationship with the person unless the office disallows the disclaimer.

(12) If the office determines that any person or any affiliated person of such person has acquired 10 percent or more of the outstanding voting securities of an attorney in fact or controlling company which is a stock corporation, or 10 percent or more of the ownership interest of an attorney in fact or controlling company which is not a stock corporation, without complying with this section, the office may order that the person and any affiliated person of such person cease acquisition of the attorney in fact or controlling company and, if appropriate, divest itself of any stock or ownership interest acquired in violation of this section.

(13)(a) The office shall, if necessary to protect the public interest, suspend or revoke the certificate of authority of the reciprocal insurer whose attorney in fact or controlling company is acquired in violation of this section.

(b) If any reciprocal insurer is subject to suspension or revocation pursuant to paragraph (a), any other reciprocal insurer using the same attorney in fact shall also be subject to suspension or revocation. In such case, the office may offer any affected reciprocal insurer, through its subscriber representatives, the ability to cure any suspension or

revocation by procuring another attorney in fact acceptable to the office or taking any other action agreed to by the office.

Section 19. Section 629.227, Florida Statutes, is created to read:

629.227 Background information.—The information as to the background and identity of each person about whom information is required to be furnished pursuant to s. 629.081 or s. 629.225 must include, but need not be limited to:

(1) A sworn biographical statement on forms adopted by the commission that shall include, but not be limited to, the following information:

(a) Occupations, positions of employment, and offices held during the past 20 years, including the principal business and address of any business, corporation, or organization where each occupation, position of employment, or office occurred.

(b) Whether the person was, at any time during such 10-year period, convicted of any crime other than a traffic violation.

(c) Whether the person has been, during such 10-year period, the subject of any proceeding for the revocation of any license and, if so, the nature of the proceeding and the disposition of the proceeding.

(d) Whether, during such 10-year period, the person has been the subject of any proceeding under the federal Bankruptcy Act.

(e) Whether, during such 10-year period, any person or other business or organization in which the person was a director, officer, trustee, partner, owner, manager, or other official has been subject of any proceeding under the federal Bankruptcy Act, either during the time of that person's tenure

with the business or organization or within 12 months thereafter.

(f) Whether, during such 10-year period, the person has been enjoined, temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the business of insurance, securities, or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities, or banking, together with details as to any such event.

(g) Whether, during such 20-year period, the person served as the attorney in fact, a subscribers' advisory committee member, or any other manager or officer of a reciprocal insurer or an insurer that became insolvent or had its certificate of authority suspended or revoked.

(2) Fingerprints of each person.

(3) Authority for release of information in regard to the investigation of such person's background.

(4) Any additional information as the office deems necessary to determine the character, experience, ability, and other qualifications of the person or affiliated person of such person for the protection of the reciprocal insurer's subscribers and of the public.

Section 20. Section 629.229, Florida Statutes, is created to read:

629.229 Attorney in fact, officers, and directors of insolvent reciprocal insurers or other insurers.—Any person who served as an attorney in fact, or as an officer, director, or manager of an attorney in fact, any member of a subscribers' advisory committee of a reciprocal insurer doing business in

this state, or an officer or director of any other insurer doing business in this state, and who served in that capacity within the 2-year period before the date the insurer or reciprocal insurer became insolvent, for any insolvency that occurs on or after July 1, 2024, may not thereafter:

(1) Serve as an attorney in fact, or as an officer, director, or manager of an attorney in fact, or a member of a subscribers advisory committee of a reciprocal insurer doing business in this state, or an officer or director of any other insurer doing business in this state; or

(2) Have direct or indirect control over the selection or appointment of an attorney in fact, or of an officer, director, or manager of an attorney in fact, or a member of the subscribers committee of a reciprocal insurer doing business in this state, or an officer or director of any insurer doing business in this state, through contract, trust, or by operation of law,

unless the individual demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

Section 21. Section 629.261, Florida Statutes, is amended to read:

629.261 Nonassessable policies.—Upon impairment of the surplus of a nonassessable reciprocal insurer, the office shall revoke the authorization issued under s. 629.291(5) or s. 629.091(3).

~~(1) If a reciprocal insurer has a surplus as to policyholders required of a domestic stock insurer authorized to~~

~~transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the office shall issue its certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as all such surplus remains unimpaired.~~

~~(2) Upon impairment of such surplus, the office shall forthwith revoke the certificate.~~ Such revocation does ~~shall~~ not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but, after such revocation, no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

~~(3) The office shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it; except that, if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.~~

Section 22. Section 629.291, Florida Statutes, is amended to read:

629.291 Merger or conversion.—

(1) A ~~domestic~~ reciprocal insurer, upon affirmative vote of not less than two-thirds of its subscribers who vote on such merger pursuant to due notice, and subject to ~~the~~ approval by ~~of the~~ office of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer, to be thereafter governed by the applicable sections of the insurance code. However, a domestic stock insurer may not convert to a reciprocal insurer.

(2) A plan to merge a reciprocal insurer with another reciprocal insurer or for conversion of the reciprocal insurer to a stock or mutual insurer shall be filed on forms adopted by the office and contain such information as the office reasonably requires to evaluate the transaction ~~Such a stock or mutual insurer shall be subject to the same capital or surplus requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance~~.

(3) The office may ~~shall~~ not approve any plan for such merger or conversion which is inequitable to subscribers or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his or her interest in the reciprocal insurer, as determined in accordance with s. 629.281, and a reasonable length of time within which to exercise such right.

(4) Reinsurance of all or substantially all of the insurance in force of a ~~domestic~~ reciprocal insurer in another insurer shall be deemed to be a merger for the purposes of this section.

(5)(a) An assessable reciprocal insurer may convert to a

nonassessable reciprocal insurer if:

1. The subscribers' advisory committee approves the conversion;

2. The attorney in fact submits the application for conversion on the required application form; and

3. The office finds that the application for conversion meets the minimum statutory requirements.

(b) If the office approves the application for conversion, the assessable reciprocal insurer may convert to a nonassessable reciprocal insurer by:

1. Extinguishing the contingent liability of subscribers under all policies then in force in this state;

2. Omitting contingent liability provisions in all policies delivered or issued in this state after the conversion; and

3. Otherwise extinguishing the contingent liability of all of its subscribers. However, if the reciprocal insurer is transacting insurance as an authorized insurer in another state and that state's laws require the insurer to issue policies with contingent liability provisions, the insurer may issue contingent liability policies in that other state.

(c) If the surplus of the reciprocal insurer becomes impaired, the insurer may no longer issue nonassessable policies or convert assessable policies to nonassessable policies, and the provisions of s. 629.301 shall apply.

Section 23. Section 629.525, Florida Statutes, is created to read:

629.525 Rulemaking authority.—The commission shall adopt, amend, or repeal rules necessary to implement this chapter.

Section 24. Paragraph (h) of subsection (3) of section

163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(3) As used in this section:

(h) "Local government liability pool" means a reciprocal insurer as defined in s. 629.011 ~~s. 629.021~~ or any self-insurance program created pursuant to s. 768.28(16), formed and controlled by counties or municipalities of this state to provide liability insurance coverage for counties, municipalities, or other public agencies of this state, which pool may contract with other parties for the purpose of providing claims administration, processing, accounting, and other administrative facilities.

Section 25. Subsection (3) of section 626.9531, Florida Statutes, is amended to read:

626.9531 Identification of insurers, agents, and insurance contracts.—

(3) For the purposes of this section, the term "risk bearing entity" means a reciprocal insurer as defined in s. 629.011 ~~s. 629.021~~, a commercial self-insurance fund as defined in s. 624.462, a group self-insurance fund as defined in s. 624.4621, a local government self-insurance fund as defined in s. 624.4622, a self-insured public utility as defined in s. 624.46225, or an independent educational institution self-insurance fund as defined in s. 624.4623. For the purposes of this section, the term "risk bearing entity" does not include an authorized insurer as defined in s. 624.09.

Section 26. This act shall take effect July 1, 2024.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JAY TRUMBULL
2nd District

January 30, 2024

Re: SB 1622

Dear Chair Brodeur,

I am respectfully requesting that Senate Bill 1622, related to Insurance, be placed on the agenda for your next meeting of the Appropriations Committee on Agriculture, Environment, and General Government.

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

Thank you,

Senator Jay Trumbull
District 2

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

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

2024 AGENCY LEGISLATIVE BILL ANALYSIS
Office of Insurance Regulation

BILL INFORMATION	
BILL NUMBER:	1622
BILL TITLE:	Insurance
BILL SPONSOR:	Senator Trumbull
EFFECTIVE DATE:	7/1/2024

COMMITTEES OF REFERENCE
1) Banking and Insurance
2) Appropriations Committee on Agriculture, Environment, and General Government
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	HB 1611
SPONSOR:	Stevenson

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
Yes – Office of Insurance Regulation

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	
LEAD AGENCY ANALYST:	
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	
FISCAL ANALYST:	

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill addresses numerous administrative issues relating to the regulation of insurance by the Office of Insurance Regulation. The bill adds the attorney in fact of a reciprocal insurer to the list of persons subject to market conduct examinations; eliminates quarterly reports by insurers by requiring all information to be provided in existing monthly reports and requires the data to be reported by zip code; provides rulemaking authority for OIR to develop forms and rules regarding notices of intent to cancel or nonrenew residential property insurance policies; requires consistency and justification in the use of averaged hurricane loss projection models to set rates; provides homeowners whose insurer was unsound or sent into receivership the same rate increase protections as other homeowners when joining the citizens property insurance corporation; amends the scope of part I of chapter 628 to cover all domestic insurers; adds the attorney in fact and associated individuals to the list of people examined when investigating a proposed insurer; and updates references to 2010 NAIC model laws to the 2020 versions.

In addition, it amends provisions of chapter 629, F.S., to update the statutes regarding reciprocal insurers and codify current practices. These changes create a single definition section in this chapter; outline application procedures for obtaining a permit, receiving a certificate of authority, and being authorized to issue nonassessable policies, which includes specifying documentation and background information requirements; provides requirements for acquisition of a reciprocal insurer attorney in fact; and grants rulemaking authority to OIR to implement the provisions of this chapter.

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

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 1: Section 624.3161, F.S., authorizes OIR to conduct market conduct examinations of insurers to ensure compliance with Chapters 440, 624, 626, 627, and 635, F.S.

Section 2: Section 624.424, F.S., provides for annual and quarterly reports from insurers. In addition, the insurers must submit a monthly report which includes data regarding:

a. Total number of policies in force at the end of each month.
b. Total number of policies canceled.
c. Total number of policies nonrenewed.
d. Number of policies canceled due to hurricane risk.
e. Number of policies nonrenewed due to hurricane risk.
f. Number of new policies written.
g. Total dollar value of structure exposure under policies that include wind coverage.
h. Number of policies that exclude wind coverage.
i. Number of claims open each month.
j. Number of claims closed each month.
k. Number of claims pending each month.
l. Number of claims in which either the insurer or insured invoked any form of alternative dispute resolution and specifying which form of alternative dispute resolution was used.

While this data is reported to OIR on a county basis, insurers maintain data that would allow it to be provided by zip code.

This data is used by OIR to track market trends and provide publicly available information to consumers, as well as provide reports to the Legislature. This information is shared with the Florida Division of Emergency Management after natural disasters to help determine where the need for emergency response is most necessary.

Section 3: Section 624.4305, F.S. requires that insurers who are planning to nonrenew more than 10,000 residential property insurance policies in this state within a 12-month period must give notice to OIR of the pending nonrenewals. The notice must be received 90 days before any notices of nonrenewal are issued

and must contain the insurer's reasons for such action, the effective dates of nonrenewal, and any arrangements made for other insurers to offer coverage to affected policyholders. However, there is no specific grant of rulemaking authority to allow the commission to adopt rules and forms to administer this statute.

Section 4: Section 627.4133(2)(e), F.S., governs the cancelation or nonrenewal of residential property insurance by most insurers. That section has specific provisions preventing the cancellation or nonrenewal of property insurance covered by a state of emergency due to hurricane and windstorm damage after the filing of an order by the Commissioner of OIR. Section 626.9201, F.S., governs the cancelation or nonrenewal of residential property insurance by a surplus line insurer, and does not include specific language regarding declared states of emergency due to hurricanes and windstorms.

Section 5: In 2022, Section 627.062, F.S., was amended to allow insurers to use a model that is the weighted or straight average of two or more hurricane loss projection models when submitting their rate filing. There are no specific restrictions requiring consistency in the model used or that a weighted average produce a reasonable, adequate, or fair rate.

Section 6: Section 627.351, F.S., outlines the risk apportionment plan for Citizens Property Insurance Corporation. Paragraph 627.351(6)(n), F.S. specifically governs rates and provides for a limitation on rate increase for insurance on a primary residence. This limitation applies to homeowners who have their policies cancelled or nonrenewed by an insurer in good standing, but if the insurer was found to be unsound or placed into receivership, the homeowner is not protected by this provision.

Section 7: Section 628.011, F.S., defines the scope of part I of Chapter 618, which covers organization and corporate procedures of stock and mutual insurers, as applying to “domestic stock insurers, mutual insurers, and captive insurers.” This language can be read as excluding other insurers who do not issue stock such as reciprocal insurers.

***Reciprocal insurance** is a risk-pooling alternative to other forms of insurance. Reciprocal insurance involves an exchange of reciprocal agreements of indemnity among participants who are known as “subscribers.”

Twenty-five or more persons domiciled in Florida may organize a domestic reciprocal insurer and apply to OIR for authority to transact insurance. Reciprocal insurers may transact any kind of insurance other than life or title.

The reciprocal insurer is run by an attorney-in-fact which manages the reciprocal insurer, based on authority granted in the subscriber agreement and power of attorney entered into by each subscriber. There is also a subscriber’s advisory committee which works with the attorney-in-fact to oversee the reciprocal insurer. Because a reciprocal insurer is not incorporated, it does not have directors or board members in the same manner as stock or mutual insurers.

Section 8: Section 628.061, F.S., provides that when investigating a proposed insurer, OIR shall investigate the background of organizers, incorporators, and subscribers of the insurer as well as the proposed officers, stockholders, and directors.

Section 9: Section 628.801, F.S., addresses the registration and regulation of insurance holding companies. This statute incorporates ss. 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation published by the National Association of Insurance Commissioners (NAIC), in 2010.

Section 10, 11, and 12: Currently, section 629.011, F.S., provides the definition of the term “reciprocal insurance”, section 629.021, F.S., defines “reciprocal insurer” and section 629.061 defines “attorney” as the meaning the attorney in fact. The term “affiliated person” is defined in Sections 624.10 and 628.4615(14)(b), F.S., while “controlling company” is defined in 628.4615(14)(c), F.S.

Sections 13, 14, 15, 18, 19, and 20: Currently, the procedures for becoming a reciprocal insurer and receiving a certificate of authority are outlined in Sections 629.081, and 629.091. However, it is difficult to understand the process upon a first reading of the statute because the steps are not clearly articulated or

put in the correct sequence. This hinders parties interested in forming a reciprocal insurer and results in inquiries to OIR staff.

The current process for licensing a reciprocal insurer starts with the issuance of a permit after a review of proposed documents and background check on involved parties. After the permit is issued, the attorney in fact is then able to apply for a certificate of authority on behalf of the reciprocal. Executed and filed documents are required during this step. If the reciprocal insurer intends to issue nonassessable policies, they must meet the requirements of Section 629.261, F.S.

Section 16: Section 629.101(1), F.S., lists what items are required to be included in the power of attorney document that gives the attorney in fact its powers. The document is not required to include any information about whose interests the attorney in fact is supposed to represent and what its obligations are to the subscribers who formed the reciprocal insurer.

Section 17: Currently, section 628.461, F.S. governs the acquisition of a stock insurer and Section 628.4615, F.S., governs the acquisition of a specialty insurer. However, there is no specific statute governing the acquisition of a reciprocal insurer or its attorney in fact.

Section 20: Chapter 629 does not contain a specific grant of rulemaking for the commission to adopt rules and forms to implement the provisions of this chapter as a whole.

2. EFFECT OF THE BILL:

Section 1: Section 624.3161, F.S., is amended to specifically include the attorney in fact of a reciprocal insurer in the list of people who shall be subject to market conduct examinations for the purpose of ensuing compliance with Chapters 440, 624, 626, 627, and 635, F.S.

Section 2: Section 624.4224, F.S., is amended to eliminate quarterly reports by insurance companies. Instead, all information that was provided in quarterly reports shall be included in the monthly reports. In addition, it specifies that the information shall be provided by zip code, rather than county, which will allow OIR to more precisely track the data being reported.

Section 3: Amends section 624.4305, F.S., to provide specific rulemaking authority to the commission to adopt rules and forms to regulate how and in what format insurers will provide the required notice of nonrenewal of residential property insurance to OIR.

Section 4: Amends section 626.9201 to specifically state that surplus line insurers may not cancel residential property insurance policies if an order is issued by the Commissioner of OIR in relation to a declared emergency involving hurricane or windstorm damage.

Section 5: Amends section 627.062, F.S, to specify that when two more hurricane loss projection models are being averaged, the same averaged model must be used throughout the state and, if a weighted average is used, justification must be provided to show that the weighted average results in a rate that is reasonable, adequate, and fair.

Section 6: Amends section 627.351(6)(n)8., F.S., to apply the same rate increase protection to homeowners whose primary residence was insured by an insurer found to be unsound or placed into receivership that applies to any other homeowner insuring a primary residence through Citizens Property Insurance Corporation.

Section 7: Amends section 628.011, F.S., removing the word “stock” to provide for the application of this part to all domestic insurers.

Section 8: Amends section 628.061, F.S., to specifically authorize the investigation of an attorney in fact, the officers, stockholders, and directors of the attorney in fact, and members of a subscribers advisory committee, in the same manner as the subscribers and the managers, stockholders, and directors of other insurers are investigated.

Section 9: Amends section 628.801, F.S., to adopt the 2020 versions of ss. 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation

adopted by the NAIC. It also provides specific rulemaking authority for OIR to adopt rules for filing annual risk reports that are in accordance with the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the NAIC, as adopted in December 2020.

Sections 10, 11, and 12: Section 629.011, F.S., is amended to create a single definition section, which includes the definitions of "Affiliated person," "Attorney" or "Attorney in Fact," "Controlling Company," "Reciprocal Insurance," and "Reciprocal Insurer." Sections 629.021 and 629.061, F.S., are repealed since their definition have been moved to section 629.011, F.S.

Sections 13, 14, 15, 18, 19, and 20: The changes made in these sections clearly outline the application procedures for obtaining a permit, receiving a certificate of authority, and getting authorization to issue nonassessable policies. These revisions clarify the documentation required at each step, specify the background information required, and provide standards of review.

As revised:

- Section 629.081, F.S., outlines the requirements for receiving a permit to begin formation of the reciprocal insurer.
- Section 629.091, F.S., provides for the application for and issuance of the certificate of authority.
- Section 629.094, F.S., is created to specifically require that the reciprocal must continue to meet the requirements of sections 629.081, and 629.091, F.S., to keep its certificate of authority.
- Section 629.227, F.S., is created to specify the required background information for persons involved with creating and managing the reciprocal, including the attorney in fact and members of the subscribers' advisory committee. These provisions are based on those contained in section 628.4615(5), F.S.
- Section 19 amends section 629.061 to remove provisions regarding authorization to issue nonassessable policies. These provisions have been rewritten to improve clarity and moved to section 629.291, F.S., where they logically fit.
- Section 629.291, F.S., is amended to provide clear requirements for a reciprocal insurer that intends to issue nonassessable policies. It also requires a reciprocal insurer to file a plan with OIR before merging with another reciprocal or converting into a stock or mutual insurer along with such information reasonably needed to evaluate the transaction. Finally, it specifically prohibits a domestic stock insurer from converting to a reciprocal.

Section 16: Amends section 629.101(1), F.S., to require that the power of attorney contain a provision stating that the attorney in fact has a fiduciary duty to the subscribers.

Section 17: Creates section 629.225, F.S., to regulate the acquisition of a reciprocal insurer's attorney in fact. This section is substantially similar to sections 628.461, and 628.4615, F.S., and will give reciprocal insurers, attorneys in fact, subscribers, and the public, the same rights, notices, and protection as are required for the acquisition of other types of insurers.

Section 21: Creates section 629.525 to provide a specific grant of rulemaking for the commission to adopt rules and forms to implement the provisions of this chapter as a whole.

Section 22 and 23: Corrects cross references in sections 163.01 and 626.9531, F.S., to conform with the new location for the definition of "reciprocal insurer."

Section 24: Provides that the bill shall have an effective date of July 1, 2024.

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

If yes, explain:	

What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

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

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

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

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

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL?

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

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

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

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

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

Revenues:	
Expenditures:	
Other:	

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

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	
If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

Does the legislation have a federal impact (i.e. federal compliance, federal funding,	

federal agency involvement, etc.)?	
If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	

2024 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB 1622
BILL TITLE:	Insurance
BILL SPONSOR:	Senator Trumbull
EFFECTIVE DATE:	July 1, 2025

COMMITTEES OF REFERENCE
1) Banking and Insurance
2) Appropriations Committee on Agriculture, Environment, and General Government
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE
Banking and Insurance

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	HB 1611
SPONSOR:	Rep. Stevenson

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 19, 2024
LEAD AGENCY ANALYST:	Lucy Saunders
ADDITIONAL ANALYST(S):	Ashley Black, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Jason Harrison
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Revising the entities for which the Office of Insurance Regulation (OIR) is required to conduct market conduct examinations; requiring insurers and insurer groups to file a specified supplemental report on a monthly basis; authorizing the Financial Services Commission to adopt rules related to notice of nonrenewal of residential property insurance policies; revising the requirements for public housing authority self-insurance funds; prohibiting insurers from canceling or nonrenewing certain insurance policies under certain circumstances.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, individuals seeking licensure as Reciprocal Insurer or to request approval for securities acquisitions in the state of Florida are not required to undergo a fingerprint-based, state and national criminal history record check (i.e., Level 2 background check).

2. **EFFECT OF THE BILL:** The bill amends s. 629.011, F.S., by defining affiliated person, attorney, controlling company, reciprocal insurance, and reciprocal insurer. The bill also amends s. 629.081, F.S., by indicating twenty-five or more persons domiciled in Florida may file an application with OIR for approval to organize a domestic reciprocal insurer and make application to the office for a certificate of authority to transact insurance. The bill creates s. 629.225, F.S., providing limitations for acquisitions and to require the person or affiliate person to file with the OIR an application and furnished to the attorney.

   The bill creates s. 629.227, F.S., providing requirements for background information for applications with OIR to organize domestic reciprocal insurers or to request approval for securities acquisitions, for which the information as to the background and identity of each person about whom information is required to be furnished pursuant to ss. 629.081 or 629.225, F.S., must meet certain criteria to include determining whether the person was, at any time during such 10-year period, convicted of any crime other than a traffic violation and fingerprints of each person.

   The bill creates s. 629.628, F.S., requiring the information as to the background and identity of each person about whom information is required to be furnished pursuant to ss. 629.081 and 629.225, F.S., must include whether, at any time during such 10-year period, such person was convicted of any crime other than a traffic violation.

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

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

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

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

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

If yes, provide a description:	
Date Due:	
Bill Section Number:	

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

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☒

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

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐

Revenues:	The Florida Department of Law Enforcement (FDLE) has made inquiry with the Department of Financial Services (DFS) to obtain an estimate of the potential increase (if any) to the number of additional screenings which may be required if the bill should pass. The total fiscal revenue for the state portion of a state and national criminal history record check is $24, which goes into the FDLE's Operating Trust Fund.
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☒ N ☐

Revenues:	
Expenditures:	FDLE has made inquiry with DFS to obtain an estimate of the potential increase (if any) to the number of additional screenings which may be required if the bill should pass. The total fiscal impact to the private sector for a state and national criminal history record check is $37.25. Of this total amount, the cost for the national portion of the criminal history record check is $13.25 and the cost for the state portion is $24, which goes into the FDLE's Operating Trust Fund. **Additional Fees** Livescan Service Providers may assess additional processing fees, in addition to the cost of the criminal history record check fee imposed by FDLE and the Federal Bureau of Investigation (FBI).
Other:	

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

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	Although there is no programing required, if it is decided that the population specified in the bill will submit fingerprints for a state and national criminal history record check and FDLE will retain the fingerprints, this bill combined with other background screening bills adds to the workload on FDLE's Biometric Identification System. FDLE is currently in the process of migrating the current system to the new generation of Biometric Identification Systems. With the state and capacity limitations of the current system, this could cause additional strain.

FEDERAL IMPACT

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

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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	No additional comments or concerns.

ADDITIONAL COMMENTS

- If the intent of the bill is to require applicants to undergo fingerprint-based, state and national criminal history record checks (i.e., Level 2 background checks) during the application process, FDLE recommends stating so specifically within each applicable section of the bill. To facilitate state and national criminal history record checks, the following language should be included to ensure compliance with federal law and the United States Department of Justice (DOJ)-established criteria for the submission of fingerprints to the FBI's Criminal Justice Information Services (CJIS) Division for a national criminal history background check. It should be noted that a statute cannot be approved for access to FBI criminal history record information (CHRI) unless all criterion specified within Public Law 92-544 are satisfied.

  An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, 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.

  Fees for state and federal fingerprint processing shall be borne by the applicant. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e).

  As written on Line 1318: the FBI will deny the request for fingerprint-based access to national criminal history record check information.

- Several categories provided within the current bill language will be considered overly broad by the FBI. FDLE recommends amending the applicable sections within Chapters 624, 626, 627, 629, and 648, F.S., to include approved fingerprint language and to define/clarify the populations within the below categories:

  - Lines 571-595: FDLE recommends further defining and clarifying the overly broad definition of "Affiliated Person" within s. 629.011, F.S. The FBI has found many of the terms listed within the definition to be overly broad and undefined: "director", "officer", "owner", "partner", "directly or indirectly", "officer", "joint venturer", "trustee", "manager", "a person or group of persons who directly or indirectly control, are controlled by, or are under common control with the other person", and "or other person performing duties similar to those of persons in such positions". The FBI has advised that catch-all phrases are considered overly broad; and therefore, make it unclear on who would be the subject of fingerprint-based background checks under this criterion.

  - Lines 609-14: S. 629.011, F.S., is amended to define "Controlling Company" as "any person, corporation, trust, limited liability company, association, or other entity owning, directly or indirectly, 10 percent or more of the voting securities of one or more attorneys in fact that are stock corporations, or 10 percent or more of the ownership interest of one or more attorneys in fact that are not stock corporations. The definition includes the terms, "corporation", trust", "partnership", "directly or indirectly", and "association". The FBI will consider these to be overly broad terms because they are not clearly defined.

  It should be noted that a statute cannot be approved for access to FBI criminal history record information (CHRI) unless all criterion specified within Public Law 92-544 are satisfied, which includes a review of whether the population(s) (i.e., categories of individuals) being screened is clearly defined and the state agency responsible for conducting the fingerprint-based background check and receiving the CHRI from the FBI is identified within the statute(s). As written, the FBI will likely deny the request for fingerprint-based access to national criminal history record check information.

- While the impact of this bill does not necessitate additional FTE or other resources, this bill, in combination with additional criminal history record check bills, could rise to the level requiring additional staffing and other resources.

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 1692
INTRODUCER:	Environment and Natural Resources Committee and Senator Brodeur
SUBJECT:	Preventing Contaminants of Emerging Concern from Discharging Into Wastewater Facilities and Waters of the State
DATE:	February 7, 2024 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1692 creates the Per- and Polyfluoroalkyl Substances (PFAS) and 1,4-Dioxane Pretreatment Initiative within the Department of Environmental Protection (DEP) to prevent contaminants of emerging concern from entering the waters of the state through wastewater facilities. The bill provides:

- By November 1, 2024, the DEP must provide specific guidance to wastewater facilities with an industrial pretreatment program on the types of industrial users to be included in a required inventory of industrial users that are probable sources of 1,4-dioxane or certain types of PFAS;
- By July 1, 2025, each such wastewater facility must submit such an inventory to the DEP, and the DEP must develop its own inventory of major facilities that discharge directly into surface waters that are probable sources of these contaminants;
- The DEP and wastewater facilities must provide written notice to all identified industrial users that they have been identified as a probable source of these contaminants and will be issued permits, orders, or other similar measures to enforce applicable pretreatment standards as early as one year after the written notice is sent; and
- Such permits, orders, or other similar measures must be issued by July 1, 2027.

The bill provides interim discharge limits and surface water quality standards for 1,4-dioxane and certain types of PFAS for industrial users until new specific discharge limits are established.

The interim limits go into effect beginning July 1, 2025. The bill allows a wastewater facility to develop and propose local limits for these contaminants to the DEP.

In order to implement the provisions of this bill, the DEP's Wastewater Management Program would require four new full-time equivalent positions for the additional duties required for implementation. These four positions would be housed within the Wastewater Management Program, Division of Water Resource Management. The total cost to the DEP for the four positions is $507,625 from the Water Quality Assurance Trust Fund.

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

II. Present Situation:

Wastewater Treatment

The proper treatment and disposal or reuse of wastewater is a crucial part of protecting Florida's water resources. The majority of the state's wastewater is controlled and treated by centralized treatment facilities regulated by the Department of Environmental Protection (DEP). There are over 4,100 active wastewater facilities regulated by the DEP.[1] Approximately 2,100 of these facilities are classified as industrial and 2,000 as domestic wastewater.[2]

Under the federal Clean Water Act, any discharge of a pollutant from a point source[3] to surface waters (i.e., the navigable waters of the United States or beyond) must obtain a National Pollution Discharge Elimination System (NPDES) permit.[4] NPDES permit requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.[5] The DEP issues operation permits for a period of five years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities meeting certain statutory requirements.[6]

The DEP oversees the development and implementation of local pretreatment programs in the state.[7] These local pretreatment programs are developed and implemented in accordance with the Clean Water Act, the state NPDES program within s. 403.0885, F.S., and Chapter 62-625 of the Florida Administrative Code. Pretreatment is the removal, reduction or alteration of pollutants in industrial wastewater prior to discharge or introduction into a domestic wastewater treatment facility. Metal finishing and related operations are a common source of industrial

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[1] Dep't of Environmental Protection (DEP), *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Jan. 25, 2023).
[2] *Id.*
[3] "Point source" is defined as any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Fla. Admin. Code R. 62-620.200(37).
[4] 33 U.S.C. s. 1342.
[5] Sections 403.061 and 403.087, F.S.
[6] Section 403.087(3), F.S.
[7] DEP, *Domestic Wastewater Industrial Pretreatment Program*, https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-industrial-pretreatment-program (last visited Jan. 25, 2024).

wastewater in Florida that typically requires treatment prior to discharge to a wastewater treatment facility.[8]

In general, a pretreatment program may be required if a publicly owned wastewater treatment facility receives discharge from significant industrial users and the wastewater treatment facility discharges to either surface waters of the state or various reuse systems. There are currently 67 active pretreatment programs.[9]

Biosolids

When domestic wastewater is treated, solid, semisolid, or liquid residue known as biosolids[10] accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.[11] Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the DEP.[12] The collected residue is high in organic content and contains moderate amounts of nutrients.[13]

According to the DEP's estimates in 2019, wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.[14] Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land application to pasture or agricultural lands.[15] In 2019, about one-third of the total amount of biosolids produced was used for land application[16] and is subject to regulatory requirements established by the DEP to protect public health and the environment.[17]

There is increasing concern over the presence of per- and polyfluoroalkyl substances (PFAS) in biosolids. While many PFASs have been found in biosolids, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) are among the most abundant.[18] PFAS in biosolids is the result of the continued manufacture and use of these compounds throughout society, including by

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[8] *Id.*
[9] *Id.*
[10] Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids. Section 373.4595, F.S.
[11] DEP, *Domestic Wastewater Biosolids*, https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids (last visited Jan. 25, 2024).
[12] Fla. Admin. Code R. 62-640.200(6).
[13] DEP, *Domestic Wastewater Biosolids*.
[14] DEP, *Biosolids in Florida*, 5 (2019), *available at* https://www.florida-stormwater.org/assets/MemberServices/Conference/AC19/02%20-%20Frick%20Tom.pdf#:~:text=Biosolids%20and%20Management%20in%20Florida%20Estimated%20Total%20Production,two-thirds%20are%20beneficially%20used%20and%20onethird%20is%20landfilled.
[15] *Id*. at 4.
[16] *Id*. at 5.
[17] Fla. Admin. Code R. 62-640.
[18] EPA, *EPA Biosolids PFOA & PFOS Problem Formulation Meeting Summary*, 1 (2020), *available at* https://www.epa.gov/sites/default/files/2021-02/documents/biosolids-pfoa-pfos-meeting-summary-nov-2020.pdf.

households, as well as industrial discharges of PFAS to wastewater.[19] The United States Environmental Protection Agency's (EPA) Office of Water, the Environmental Council of the States, and the National Association of State Departments of Agriculture have jointly developed Principles for Preventing and Managing PFAS in Biosolids.[20] The EPA is also currently conducting a risk assessment for PFOA and PFOS in biosolids, which is expected to be completed by December 2024.[21]

Penalties

Section 376.302, F.S., outlines the penalties for specific violations of Chapter 376, F.S., including:

- Discharge of pollutants or hazardous substances into the state's surface or ground waters or onto its lands in violation of any departmental standard;[22]
- Failure to obtain or comply with a permit required by Chapter 376, F.S., or to noncompliance with DEP rules, orders, permits, registrations, or certifications.

Violators are liable to the state for any damage caused and subject to civil penalties of up to $15,000 per offense, with each day during any portion of which such violation occurs constituting a separate offence.[23] There is an exception for discharges that are promptly reported and, where applicable, removed in accordance with the DEP rules and orders when the site has been determined eligible for participation in a program described in s. 376.3078, F.S., (dry-cleaning facility restoration) or s. 376.3079, F.S. (third-party liability insurance for dry-cleaning facilities or wholesale supply facilities).[24]

However, any person who *willfully* commits these violations is guilty of a first-degree misdemeanor, punishable by a fine between $2,500 and $25,000, or one year in jail, or both, for each offense.[25] Each day during any portion of which such violation occurs constitutes a separate offense.[26]

In addition, it is a violation of Chapter 376, F.S., to:

- Knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under Chapter 376, F.S.; or

[19] EPA, *Joint Principles for Preventing and Managing PFAS in Biosolids*, 1 (2023), *available at* https://www.epa.gov/system/files/documents/2023-07/Joint-Principles-Preventing-Managing-PFAS.pdf.
[20] EPA, *Joint Principles for Preventing and Managing PFAS in Biosolids*, https://www.epa.gov/biosolids/joint-principles-preventing-and-managing-pfas-biosolids (last visited Jan. 25, 2024).
[21] EPA, *Risk Assessment of Pollutants in Biosolids*.
[22] "Standard" means any DEP rule relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substation facilities. The term does not include rules which relate exclusively to the internal management of the department, the procedural processing of applications, the administration of rulemaking or adjudicatory proceedings, the publication of notices, the conduct of hearings, or other procedural matters. Section 403.803(13), F.S.
[23] Sections 376.302(2) and 403.141(1), F.S.
[24] Sections 376.302(2) and 376.311, F.S.
[25] Section 376.302(3), F.S.
[26] *Id.*

- Falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under Chapter 376, F.S., or by any permit, registration, rule, or order issued under this chapter.[27]

Any person who commits such violations is guilty of a first-degree misdemeanor, punishable by a fine of not more than $10,000 or by six months in jail, or by both, for each offense.[28]

Contaminants of Emerging Concern

Contaminants of Emerging Concern (CECs) are chemicals that are being discovered in water that previously had not been detected or are being detected at levels that may be different than expected.[29] While there are no regulatory limits, there may be a long-term potential risk to human health or the environment associated with CECs. Additional studies may also bring new or changing health exposure information. The EPA prioritizes CECs for research and data collection. As part of this data collection, all large and selected smaller public water systems across the U.S. are required to monitor for the targeted CECs.[30]

PFAS

PFAS are a large and complex class of synthetic chemicals that are resistant to heat, water, and oil.[31] PFOA and PFOS are two of the most widely used and studied chemicals in the PFAS group.[32] PFOA and PFOS have been replaced in the U.S. with other PFAS in recent years.[33] In chemical and product manufacturing, GenX chemicals are considered a replacement for PFOA, and perfluorobutane sulfonate (PFBS) is considered a replacement for PFOS.[34]

PFAS have been used in a wide variety of consumer products and industrial processes since the 1940s.[35] Most people in the U.S. have been exposed to PFAS, primarily through touching, drinking, eating, or breathing in materials containing these chemicals.[36] PFAS may be present in:

- Drinking water;
- Waste sites, including soil and water at or near landfills, disposal sites, and hazardous waste sites;
- Fire extinguishing foam used in training and emergency response events at airports and firefighting training facilities;

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[27] Section 376.302(4), F.S.
[28] *Id.*
[29] DEP, *Regulated Drinking Water Contaminants and Contaminants of Emerging Concern*, https://floridadep.gov/comm/press-office/content/regulated-drinking-water-contaminants-and-contaminants-emerging-concern (last visited Jan. 25, 2024).
[30] *Id.*
[31] DEP, *PFAS Dynamic Plan*, 3 (2022), *available at* https://floridadep.gov/sites/default/files/Dynamic_Plan_March_2022.pdf.
[32] EPA, *Drinking Water Health Advisories for PFAS: Fact Sheet for Communities*, 2 (2022) *available at* https://www.epa.gov/system/files/documents/2022-06/drinking-water-ha-pfas-factsheet-communities.pdf.
[33] *Id.*
[34] *Id.*
[35] EPA, *PFAS Explained*, 2 (2023), *available at* https://www.epa.gov/system/files/documents/2023-10/final-virtual-pfas-explainer-508.pdf.
[36] *Id.*

- Manufacturing facilities, including chrome plating, electronics, and certain textile and paper manufacturers that produce or use PFAS;
- Consumer products, including stain- or water-repellent, or non-stick products, paints, sealants, and some personal care products;
- Food packaging, including grease-resistant paper, microwave popcorn bags, pizza boxes, and candy wrappers;
- Biosolids, including fertilizer from wastewater treatment plants used on agricultural lands; and
- Food, including fish caught from PFAS-contaminated water and dairy products from livestock exposed to PFAS.[37]

Because PFAS do not break down in the environment—earning them the nickname "Forever Chemicals"—concentrations of PFAS can accumulate in people, wildlife, and the environment over time, infiltrate soils, and contaminate drinking water sources.[38] Even at very low levels, exposure to PFAS can cause serious health problems, including:

- Reproductive effects such as increased high blood pressure in pregnant people;
- Developmental effects or delays in children, including low birth weight, bone variations, or behavioral changes;
- Increased risk of some cancers, including kidney and testicular cancers;
- Reduced ability of the body's immune system to fight infections, including reduced vaccine effectiveness;
- Interference with the body's natural hormones, including thyroid hormones;
- Increased cholesterol levels; and
- Liver damage.[39]

Our understanding of these chemicals and their impact on human health is incomplete, and PFAS regulatory and technical developments are quickly evolving.[40] Currently, technologies capable of reducing PFAS in drinking water include granular activated carbon, anion exchange resins, reverse osmosis, and nanofiltration.[41]

In Florida, widespread use of PFAS has led to contamination of state groundwater resources, including private and public potable supply wells.[42] The DEP has begun investigating potential

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[37] *Id.*
[38] *See* EPA, *Fact Sheet: EPA's Proposal to Limit PFAS in Drinking Water*, 5 (2023), *available at* https://www.epa.gov/system/files/documents/2023-04/Fact%20Sheet_PFAS_NPWDR_Final_4.4.23.pdf; U.S. Centers for Disease Control and Prevention, *Per- and Polyfluorinated Substances (PFAS)*, https://www.cdc.gov/biomonitoring/PFAS_FactSheet.html (last visited Jan. 25, 2024).
[39] EPA, *Fact Sheet: EPA's Proposal to Limit PFAS in Drinking Water*, 5 (2023), *available at* https://www.epa.gov/system/files/documents/2023-04/Fact%20Sheet_PFAS_NPWDR_Final_4.4.23.pdf.
[40] DEP, *PFAS Dynamic Plan*, 3 (2022), *available at* https://floridadep.gov/sites/default/files/Dynamic_Plan_March_2022.pdf.
[41] EPA, *Fact Sheet: EPA's Proposal to Limit PFAS in Drinking Water*, 2 (2023), *available at* https://www.epa.gov/system/files/documents/2023-04/Fact%20Sheet_PFAS_NPWDR_Final_4.4.23.pdf.
[42] DEP, *PFAS Dynamic Plan*, 3 (2022), *available at* https://floridadep.gov/sites/default/files/Dynamic_Plan_March_2022.pdf.

sources of PFAS and has found PFAS at fire training facilities, state funded cleanup sites, and dry-cleaning sites. PFAS contamination has also been identified at federal facilities in Florida.[43]

Regulations and Guidance

The Safe Drinking Water Act gives the EPA the authority to publish health advisories and set enforceable National Primary Drinking Water Regulations for drinking water contaminants.[44] The EPA may also require monitoring of public water systems.[45]

The EPA has proposed enforceable maximum contaminant levels (MCLs) and published interim drinking water health advisories levels (HALs) for several types of PFAS. MCLs are legally enforceable standards that establish the maximum level of a contaminant allowed in drinking water which can be delivered to users of a public water system.[46] HALs are developed when a chemical is found in drinking water but no MCL has been established.[47] HALs are non-enforceable and non-regulatory and provide technical information to state agencies and other public health officials on health effects, analytical methods, and treatment technologies associated with drinking water contamination.[48] Lifetime HALs represent the concentration of a contaminant in drinking water at below which adverse health effects are not anticipated to occur over a lifetime.[49]

In 2016, the EPA published drinking water HALs for PFOA and PFOS of 70 parts per trillion (ppt).[50] In 2022, the EPA released updated HALs based on data indicating that the levels at which negative health effects could occur are much lower than previously understood.[51] The updated HALs included four types of PFAS and are as follows:

- PFOA: 0.004 ppt or nanograms/Liter (ng/L).
- PFOS: 0.02 ppt or ng/L.
- GenX: 10 ppt or ng/L.
- PFBS: 2,000 ppt or ng/L.[52]

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[43] *Id.*; DEP, *DEP's Efforts to Address PFAS in the Environment*, https://floridadep.gov/waste/waste-cleanup/content/dep%E2%80%99s-efforts-address-pfas-environment (last visited Jan. 25, 2024).
[44] EPA, *Fact Sheet: EPA's Proposal to Limit PFAS in Drinking Water*, 2 (2023), *available at* https://www.epa.gov/system/files/documents/2023-04/Fact%20Sheet_PFAS_NPWDR_Final_4.4.23.pdf.
[45] EPA, *Proposed PFAS National Primary Drinking Water Regulation*, https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas (last visited Jan. 25, 2024).
[46] EPA, *Fact Sheet: EPA's Proposal to Limit PFAS in Drinking Water*, 4 (2023), *available at* https://www.epa.gov/system/files/documents/2023-04/Fact%20Sheet_PFAS_NPWDR_Final_4.4.23.pdf.
[47] Florida Dep't of Health (DOH), *Chemical Contaminants–HALs and Chemical Fact Sheets*, https://www.floridahealth.gov/environmental-health/drinking-water/chemicals-hals.html (last visited Jan. 25, 2024).
[48] EPA, *Drinking Water Health Advisories for PFAS: Fact Sheet for Communities*, 2 (2022) *available at* https://www.epa.gov/system/files/documents/2022-06/drinking-water-ha-pfas-factsheet-communities.pdf.
[49] *Id.*
[50] *See* 87 Fed. Reb. 36848, 36849 (June 21, 2022). EPA also published interim recommendations for contaminated groundwater using the HAL of 70 ppt; however, that guidance has been rescinded. *See* EPA, *EPA Releases PFAS Groundwater Guidance for Federal Cleanup Programs, Fulfilling PFAS Action Plan Commitment*, https://www.epa.gov/newsreleases/epa-releases-pfas-groundwater-guidance-federal-cleanup-programs-fulfilling-pfas-action (last visited Jan. 25, 2024); EPA, *Interim Recommendations for Addressing Groundwater Contaminated with PFOA and PFOS*, https://www.epa.gov/pfas/interim-recommendations-addressing-groundwater-contaminated-pfoa-and-pfos (last visited Jan. 25, 2024).
[51] 87 Fed. Reb. 36848, 36849 (June 21, 2022).
[52] *Id.*

The 2022 interim drinking water HALs for PFOA and PFOS will continue to remain available as the EPA finalizes a national primary drinking water regulation for those contaminants.[53] In March 2023, the EPA proposed MCLs for six types of PFAS known to occur in drinking water.[54] The EPA is proposing to regulate PFOA and PFOS at a level they can be reliably measured—4.0 ppt or ng/L.[55] The EPA is also proposing an enforceable MCL on a combination of PFBS, GenX chemicals, and other types of PFAS. For these PFAS, water systems would use an approach called a hazard index[56] to determine if the combined levels of these PFAS pose a potential risk. This approach protects communities from the additive effects of multiple PFAS when they occur together.[57]

The EPA's proposed rule would also require public water systems to:
- Monitor for these types of PFAS;
- Notify the public of PFAS levels; and
- Reduce PFAS levels in drinking water if they exceed the proposed standards.[58]

In Florida, the Department of Health (DOH) has established a lifetime drinking water HAL for PFOA and PFOS of 70 ppt or ng/L, applied to PFOA and PFOS individually or combined.[59] This is consistent with the EPA's initial HAL for these contaminants.

Under s. 376.91, F.S., if the EPA has not finalized its standards for PFAS by January 1, 2025, the DEP must adopt rules providing statewide cleanup target levels (CTLs) for PFAS in drinking water, groundwater, and soil with priority given to PFOA and PFOS. The rules for statewide CTLs for PFOA and PFOS may not take effect until ratified by the Legislature.[60] A CTL is the concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.[61] The DEP establishes by rule CTLs for specific contaminants.[62] These CTLs apply to requirements for site rehabilitation across numerous programs.

The DEP's provisional groundwater and soil CTLs for PFOA and PFOS are as follows:[63]

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[53] EPA, *Drinking Water Health Advisories for PFAS: Fact Sheet for Communities*, 1 (2022) *available at* https://www.epa.gov/system/files/documents/2022-06/drinking-water-ha-pfas-factsheet-communities.pdf.
[54] 88 Fed. Reg. 18638, 18641 (Mar. 29, 2023); EPA, *Proposed PFAS National Primary Drinking Water Regulation*, https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas (last visited Jan. 25, 2024).
[55] *Id.*; 88 Fed. Reg. 18638, 18666.
[56] The Hazard Index is a tool used to evaluate health risks of simultaneous exposure to mixtures of related chemicals. EPA, *Fact Sheet: EPA's Proposal to Limit PFAS in Drinking Water*, 4 (2023), *available at* https://www.epa.gov/system/files/documents/2023-04/Fact%20Sheet_PFAS_NPWDR_Final_4.4.23.pdf.
[57] EPA, *Fact Sheet: EPA's Proposal to Limit PFAS in Drinking Water*, 1-2 (2023), *available at* https://www.epa.gov/system/files/documents/2023-04/Fact%20Sheet_PFAS_NPWDR_Final_4.4.23.pdf.
[58] EPA, *Proposed PFAS National Primary Drinking Water Regulation*, https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas (last visited Jan. 16, 2024).
[59] DEP, *PFAS Dynamic Plan*, 5 (2022), *available at* https://floridadep.gov/sites/default/files/Dynamic_Plan_March_2022.pdf.
[60] Section 376.91(2)(a), F.S.
[61] Section 376.301(8), F.S.
[62] *See generally* Fla. Admin. Code Ch. 62-777.
[63] DEP, *PFAS Dynamic Plan*, 10 (2022), *available at* https://floridadep.gov/sites/default/files/Dynamic_Plan_March_2022.pdf.

Provisional CTLs		
Groundwater	Soil	
	Residential	Commercial/ Industrial
70 ng/L	1.3 mg/kg	25 mg/kg

ng/L = nanograms per liter (parts per trillion)

mg/kg = milligram per kilogram (parts per million)

The DEP has also developed screening levels for irrigation and surface water, which are not considered CTLS and are not enforceable.[64] The screening levels for surface water consider the protection of human health for the consumption of freshwater and estuarine finfish and shellfish.[65]

Provisional Surface Water Screening Levels			
	Human Health*	Ecological	
	Freshwater and Estuarine Finfish and Shellfish	Freshwater	Marine
PFOA	0.5 µg/L	1,300 µg/L	*Not enough data*
PFOS	0.01 µg/L	37 µg/L	13 µg/L

µg/L = microgram per liter (parts per billion)

* Human Health values are based on a Probabilistic Risk Assessment

Provisional Irrigation Water Screening Levels			
	Residential	Commercial/ Industrial	Produce
PFOA	6.7 µg/L	750 µg/L	NA
PFOS	72 µg/L	370 µg/L	0.6 µg/L

µg/L = microgram per liter (parts per billion)

1,4-Dioxane

1,4-dioxane is a man-made chemical widely used in laboratory and manufacturing processes and has been a byproduct of chemicals used in personal care products, laundry detergents, and food.[66] It has also been used as a stabilizer for chlorinated solvents and in the production of

[64] *Id.* at 10-11.
[65] *Id.* at 10.
[66] DOH, *1,4-Dioxane*, 1 (2021), *available at* https://www.floridahealth.gov/environmental-health/hazardous-waste-sites/contaminant-facts/_documents/final-faq-

medicines and glues. 1,4-dioxane is found in paints, lacquers, dyes, waxes, greases, cosmetics, detergents, and other consumer products. It is also found in food from packaging material, in some food supplements, and on crops treated with pesticides containing 1,4-dioxane.[67] 1,4-dioxane is released into the environment in places where it is produced and used, contaminating the air, groundwater, and soil.[68] While 1,4-dioxine does not accumulate in plants or animals over time, it normally does not break down in groundwater.[69]

1,4-dioxane has been identified as a contaminant of emerging concern and as a likely human carcinogen.[70] Exposure to 1,4-dioxane can cause nausea, drowsiness, headache, irritation of the eyes, nose, and throat, liver and kidney damage, and death. People can be exposed to this chemical by:

- Drinking contaminated water sourced from surface water contaminated with 1,4-dioxane discharged from industrial facilities;[71]
- Breathing it in after it has been released into the air during bathing or laundering clothes with contaminated water;
- Getting it on their skin from contaminated soil;
- Eating contaminated foods.[72]

Regulations and Guidance

The DEP has established CTLs for 1,4-dioxane in groundwater, surface water, and soil pursuant to Chapters 62-780 and 62-777 of the Florida Administrative Code as follows:[73]

Groundwater	Surface Water	Soil	
		Residential	Commercial
3.2 µg/L	120 µg/L	23 mg/kg	38 mg/kg

µg/L = microgram per liter (parts per billion)
mg/kg = milligram per kilogram (parts per million)

14dx.pdf#:~:text=The%20current%20EPA%20Health%20Advisory%20Level%20%28HAL%29%20for,added%20to%20approximately%20150%20million%20gallons%20of%20water.
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.*
[71] EPA, *Final Risk Evaluation for 1,4-Dioxane*, https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/final-risk-evaluation-14-dioxane (last visited Jan. 25, 2024).
[72] DOH, *1,4-Dioxane*, 1 (2021), *available at* https://www.floridahealth.gov/environmental-health/hazardous-waste-sites/contaminant-facts/_documents/final-faq-14dx.pdf#:~:text=The%20current%20EPA%20Health%20Advisory%20Level%20%28HAL%29%20for,added%20to%20approximately%20150%20million%20gallons%20of%20water.
[73] *Id.*

The EPA has not established a drinking water MCL for 1,4-dioxane. However, the EPA and the DOH have set a drinking water HAL of 0.35 micrograms per liter (µg/L).[74] There is no required routine sampling of public or private drinking water wells for this chemical.[75]

III. Effect of Proposed Changes:

Section 1 creates s. 376.92, F.S., regarding contaminants of emerging concern. The bill creates the Per- and Polyfluoroalkyl Substances (PFAS) and 1,4-Dioxane Pretreatment Initiative within the Department of Environmental Protection (DEP). The bill defines "PFAS" as per- and polyfluoroalkyl substances, including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). The purpose of the initiative is to prevent contaminants of emerging concern, including PFOS, PFOA, and 1,4-dioxane, from entering the waters of the state through wastewater facilities. The bill requires the DEP to coordinate with wastewater facilities to implement the pretreatment of contaminants of emerging concern pursuant to this bill. The bill defines "pretreatment" as the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or in lieu of discharging or otherwise introducing such pollutants into a wastewater facility. The reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes, or by other means, except as prohibited by rule 62-625.410(5) of the Florida Administrative Code.[76]

The bill defines "wastewater facility" as a facility that discharges waste into waters of the state or which can reasonably be expected to be a source of water pollution and includes any of the following:

- The collection and transmission system.
- The wastewater treatment works.
- The reuse or disposal system.
- The biosolids management facility.

The bill provides that by November 1, 2024, the DEP must provide specific guidance to wastewater facilities with an industrial pretreatment program on the types of industrial users to be included in a required inventory of industrial users that are probable sources of PFOS, PFOA, or 1,4-dioxane. The bill defines "industrial user" as a nondomestic source of a discharge. Upon issuance of the DEP's guidance, each such wastewater facility must conduct such an inventory and submit it to the DEP by July 1, 2025.

Within 30 days after submitting the inventory to the DEP, the wastewater facility must send all industrial users identified in the wastewater facility's inventory a written notice that the industrial user has been identified as a probable source of PFOS, PFOA, or 1,4-dioxane. The notice must:

- Inform the industrial user that it will be issued permits, orders, or similar measures to enforce applicable pretreatment standards for PFOS, PFOA, or 1,4-dioxane, including specific

[74] DOH, *1,4-Dioxane Fact Sheet* 1 (2016), *available at* https://www.floridahealth.gov/environmental-health/drinking-water/_documents/dioxanefs2016updated.pdf.
[75] *Id.*
[76] Rule 62-625.410(5) of the Florida Administrative Code prohibits dilution as a substitute for treatment.

discharge limits, as early as 1 year after the date the written notice has been sent to the user by wastewater facility; and
- Encourage the industrial user to take action to reduce the probability that PFOS, PFOA, or 1,4-dioxane discharges exceed specific discharge limits before permits, orders, or similar measures are issued to enforce applicable pretreatment standards and requirements.

The bill provides that all industrial users identified as probable sources of PFOS, PFOA, or 1,4-dioxane discharges must be issued permits, orders, or similar measures to enforce applicable pretreatment standards and requirements for PFOS, PFOA, or 1,4-dioxane by July 1, 2027. Each permit, order, or similar measure must include monitoring, sampling, reporting, and recordkeeping requirements.

The bill provides that a wastewater facility that begins implementing an industrial pretreatment program after July 1, 2024, must complete an inventory of industrial users to identify probable sources of PFOS, PFOA, or 1,4-dioxane discharges and must issue a permit, an order, or a similar measure to enforce applicable pretreatment standards and requirements consistent with this bill.

The bill allows the DEP to expand the initiative to other wastewater treatment plants to include wastewater facilities permitted under the National Pollutant Discharge Elimination System (NPDES).

The bill also provides that, by July 1, 2025, the DEP must complete an inventory of all industrial users that are major facilities that discharge directly to surface waters to identify probable sources of PFOS, PFOA, or 1,4-dioxane discharges. The bill defines a "major facility" as a facility or an activity permitted under the NPDES which is classified as such by the United States Environmental Protection Agency with the concurrence of the department. The DEP must issue a notice to such a major facility specifying that the facility has been identified as a probable source of PFOS, PFOA, or 1,4-dioxane discharges. The DEP must issue to the major facility a permit, an order, or a similar measure to enforce applicable pretreatment standards and requirements consistent with this bill.

The bill also provides that, beginning July 1, 2025, the following interim specific discharge limits and surface water quality standards for PFOS, PFOA, and 1,4-dioxane are established for industrial users until new specific discharge limits are established:
- For PFOS, 10 nanograms per liter.
- For PFOA, 170 nanograms per liter.
- For 1,4-dioxane, 200,000 nanograms per liter.

The bill allows a wastewater facility to develop and propose local limits for PFOS, PFOA, or 1,4-dioxane to the DEP and may include the local limits in permits, orders, or similar measures once they are approved by the DEP.

In addition, the bill provides that an industrial user is not subject to civil or criminal penalties for violations of applicable pretreatment standards and requirements for PFOS, PFOA, or 1,4-dioxane during the first two years after a permit, an order, or a similar measure is issued to the industrial user. A wastewater facility and the DEP must take into consideration the costs of

implementing best management practices and other corrective actions when taking enforcement action for violations of discharge limits and other applicable pretreatment standards and requirements for PFOS, PFOA, or 1,4-dioxane.

Section 2 provides that the Legislature finds that this act fulfills an important state interest.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. However, an exception to the county/municipality provisions of Article VII, section 18 of the Florida Constitution may apply. The bill is expected to impact wastewater facilities with industrial pretreatment programs, which are programs administered by a public utility.[77] Under current regulations, a public utility is defined as any state, county, or municipality owning, managing, controlling or operating a domestic wastewater treatment facility.[78] Because the bill would have the same impact on state and local wastewater facilities, it likely complies with the constitutional exception for all persons similarly situated, including the state and local governments. Accordingly, the bill may be accepted from the mandate provisions if the Legislature determines that the bill fulfills an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

[77] *See* Fla. Admin. Code R. 62-625.200(18).
[78] Fla. Admin. Code R. 62-625.200(21).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private industrial users may incur costs related to complying with applicable pretreatment standards and requirements.

C. Government Sector Impact:

Public wastewater facilities may incur costs related to fulfilling the requirements under this bill, including identifying and providing notice to industrial users and monitoring and enforcing compliance with the bill's discharge limits. In order to implement the provisions of this bill, the Department of Environmental Protection's (DEP) Wastewater Management Program would require four new full-time equivalent positions for the additional duties required for implementation. These four positions would be housed within the Wastewater Management Program, Division of Water Resource Management. The total cost to the DEP for the four positions is $507,625 from the Water Quality Assurance Trust Fund.
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VI. Technical Deficiencies:

When material other than Florida law is incorporated in a statute by reference, only the version of that material in existence at the time the Legislature made the incorporation will be given effect. Instead of codifying a reference to a rule, staff recommends revising the sentence on lines 73-76 to read, "The reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes, or by other means, except dilution."

In addition, because "wastewater treatment plants" is not defined in the bill, staff recommends removing this language on line 131 of the bill so the sentence reads, "The department may expand the initiative to other wastewater facilities permitted under the National Pollutant Discharge Elimination System."

VII. Related Issues:

The bill does not provide criteria or guidelines on how the Department of Environmental Protection would determine if a proposed local limit should be approved.

VIII. Statutes Affected:

This bill creates section 376.92 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 Environment and Natural Resources on January 23, 2024:
The committee substitute:

- Narrows the definition of "industrial user" to a nondomestic source of a discharge;
- Extends the deadline for the Department of Environmental Protection (DEP) to issue guidance to wastewater facilities from September 1, 2024, to November 1, 2024, and amends other deadlines;
- Changes the date the interim discharge limits go into effect from July 1, 2026, to July 1, 2025;
- Removes the provision allowing recommendations from members of the public on industrial users that should be included in the inventory;
- Removes requirement that wastewater facilities complete a grab sampling at each identified industrial user's facility;
- Requires the DEP to create an inventory of industrial users that are major facilities discharging directly to surface waters (the DEP's inventory is separate from that required of wastewater facilities), provide notice to such facilities if they are identified as a probable source of PFOS, PFOA, and 1,4-dioxane, and issue permits or other enforcement measures accordingly;
- Defines "major facility" as a facility or an activity permitted under the National Pollutant Discharge Elimination System which is classified as such by the United States Environmental Protection Agency with the concurrence of the DEP;
- Allows wastewater facilities to propose local limits for PFOS, PFOA, and 1,4-dioxane, which must be approved by the DEP;
- Amends the penalties provision to provide that an industrial user is not subject to civil or criminal penalties during the first two years after a permit, an order, or similar measures is used to the industrial user (instead of allowing such penalties after July 1, 2027); and
- Provides that this act fulfills an important state interest.

B. Amendments:

None.

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

592-02427-24 20241692c1

A bill to be entitled

An act relating to preventing contaminants of emerging concern from discharging into wastewater facilities and waters of the state; creating s. 376.92, F.S.; defining terms; establishing the PFAS and 1,4-dioxane pretreatment initiative within the Department of Environmental Protection for a specified purpose; requiring the department to coordinate with wastewater facilities in implementing the pretreatment of contaminants of emerging concern; requiring the department, by a specified date, to provide certain guidance to wastewater facilities with an industrial pretreatment program; requiring such wastewater facilities to conduct an inventory of industrial users that are probable sources of specified contaminants and to submit the inventory to the department by a specified date; requiring wastewater facilities to notify identified industrial users; providing requirements for the notice; requiring that industrial users identified as probable sources of the specified contaminants be issued permits, orders, or similar measures to enforce specified pretreatment standards by a specified date; providing requirements for such measures; providing requirements for certain wastewater facilities that have industrial pretreatment programs which begin implementing an industrial treatment program after a specified date; authorizing the department to expand the initiative; requiring the department to conduct an inventory of

592-02427-24 20241692c1

major facilities that discharge directly to surface waters to identify probable sources of the specified contaminants; requiring the department to issue a notice and permits, orders, or similar measures to such a major facility to enforce specified pretreatment standards; providing interim discharge limits for industrial users beginning on a specified date; providing that such limits are effective for a specified timeframe; authorizing wastewater facilities to develop and propose local limits for PFOS, PFOA, or 1,4-dioxane to the department for approval; providing that industrial users are not subject to civil or criminal penalties for violations of certain standards and requirements during a specified period; requiring wastewater facilities and the department to take into consideration specified factors when taking enforcement actions for such violations; providing a declaration of important state interest; providing an effective date.

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

Section 1. Section 376.92, Florida Statutes, is created to read:

376.92 Contaminants of emerging concern; inventory of probable sources of contamination; pretreatment.—

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

(a) "Department" means the Department of Environmental Protection.

(b) "Industrial user" means a nondomestic source of a discharge.

(c) "Major facility" means a facility or an activity permitted under the National Pollutant Discharge Elimination System which is classified as such by the United States Environmental Protection Agency with the concurrence of the department.

(d) "PFAS" means per- and polyfluoroalkyl substances, including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).

(e) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or in lieu of discharging or otherwise introducing such pollutants into a wastewater facility. The reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes, or by other means, except as prohibited by rule 62-625.410(5), Florida Administrative Code.

(f) "Wastewater facility" means a facility that discharges waste into waters of the state or which can reasonably be expected to be a source of water pollution and includes any of the following:

1. The collection and transmission system.

2. The wastewater treatment works.

3. The reuse or disposal system.

4. The biosolids management facility.

(2) PFAS AND 1,4-DIOXANE PRETREATMENT INITIATIVE.—

(a) The PFAS and 1,4-dioxane pretreatment initiative is established within the department. The purpose of the initiative

is to prevent contaminants of emerging concern, including PFOS, PFOA, and 1,4-dioxane, from entering the waters of the state through wastewater facilities. The department shall coordinate with wastewater facilities to implement the pretreatment of contaminants of emerging concern pursuant to this section.

(b) By November 1, 2024, the department shall provide specific guidance to wastewater facilities with an industrial pretreatment program on the types of industrial users to be included in a required inventory of industrial users that are probable sources of PFOS, PFOA, or 1,4-dioxane. Upon issuance of the guidance, each such wastewater facility shall conduct such an inventory and submit it to the department by July 1, 2025.

(c) Within 30 days after submitting the inventory required by paragraph (b), the wastewater facility shall send all industrial users identified in the wastewater facility's inventory a written notice that the industrial user has been identified as a probable source of PFOS, PFOA, or 1,4-dioxane. The notice must:

1. Inform the industrial user that it will be issued permits, orders, or similar measures to enforce applicable pretreatment standards for PFOS, PFOA, or 1,4-dioxane, including specific discharge limits, as early as 1 year after the date the written notice has been sent to the user by wastewater facility.

2. Encourage the industrial user to take action to reduce the probability that PFOS, PFOA, or 1,4-dioxane discharges exceed specific discharge limits before permits, orders, or similar measures are issued to enforce applicable pretreatment standards and requirements.

(d) All industrial users identified as probable sources of

PFOS, PFOA, or 1,4-dioxane discharges must be issued permits, orders, or similar measures to enforce applicable pretreatment standards and requirements for PFOS, PFOA, or 1,4-dioxane by July 1, 2027. Each permit, order, or similar measure must include monitoring, sampling, reporting, and recordkeeping requirements.

(e) A wastewater facility that begins implementing an industrial pretreatment program after July 1, 2024, shall complete an inventory of industrial users to identify probable sources of PFOS, PFOA, or 1,4-dioxane discharges and shall issue a permit, an order, or a similar measure to enforce applicable pretreatment standards and requirements consistent with this section.

(f) The department may expand the initiative to other wastewater treatment plants to include wastewater facilities permitted under the National Pollutant Discharge Elimination System.

(g) By July 1, 2025, the department shall complete an inventory of all industrial users that are major facilities that discharge directly to surface waters to identify probable sources of PFOS, PFOA, or 1,4-dioxane discharges. The department shall issue a notice to such a major facility specifying that the facility has been identified as a probable source of PFOS, PFOA, or 1,4-dioxane discharges, and shall issue to the major facility a permit, an order, or a similar measure to enforce applicable pretreatment standards and requirements consistent with this section.

(3) DISCHARGE LIMITS.—

(a) Beginning July 1, 2025, the following interim specific

discharge limits for PFOS, PFOA, and 1,4-dioxane for industrial users are established until new specific discharge limits are established:

1. For PFOS, 10 nanograms per liter.

2. For PFOA, 170 nanograms per liter.

3. For 1,4-dioxane, 200,000 nanograms per liter.

(b) A wastewater facility may develop and propose local limits for PFOS, PFOA, or 1,4-dioxane to the department and may include the local limits in permits, orders, or similar measures once they are approved by the department.

(4) VIOLATIONS AND ADMINISTRATIVE ACTION.—An industrial user is not subject to civil or criminal penalties for violations of applicable pretreatment standards and requirements for PFOS, PFOA, or 1,4-dioxane during the first 2 years after a permit, an order, or a similar measure is issued to the industrial user. A wastewater facility and the department shall take into consideration the costs of implementing best management practices and other corrective actions when taking enforcement action for violations of discharge limits and other applicable pretreatment standards and requirements for PFOS, PFOA, or 1,4-dioxane.

Section 2. The Legislature finds that this act fulfills an important state interest.

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

The Florida Senate

APPEARANCE RECORD

2/8/24
Meeting Date

SB 1692
Bill Number or Topic

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

Approps - Ag, Environment, General Gov't
Committee

Amendment Barcode (if applicable)

Name Nancy Lawther, Ph.D.

Phone 407 855-7604

Address 1747 Orlando Central Pkwy
Street

Email legislation@floridapta.org

Orlando FL 32809
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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

Approps Ag, Env., Gen. Gov.
Committee

1692
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ryan Smart

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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 Springs Council

☐ 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

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

2-8-24
Meeting Date

Appropriations Committee
Natural Resources
Committee

SB 1692
Bill Number or Topic

Amendment Barcode (if applicable)

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Jacksonville Beach FL 32250
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:
Publix Trust for Conservation

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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Senate professional staff conducting the meeting

2/8/24
Meeting Date

532
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name David Cruz

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Tallahassee FL 32302
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida League of Cities

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/8/24
Meeting Date

SB 532
Bill Number or Topic

Appropriation Committee AEG
Committee

Amendment Barcode (if applicable)

Name Aimee Diaz Lyon

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Email adl@mhdfirm.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:

The Business Law Section of the Florida Bar

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

Deliver both copies of this form to
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February 8, 2024
Meeting Date

Approps Ag, Env, Gen Gov
Committee

SB 532
Bill Number or Topic

Amendment Barcode (if applicable)

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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 Chamber of Commerce

☐ 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

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

02/08/24
Meeting Date

CS/SB 532
Bill Number or Topic

Approp. Ag, Envir. & Gen. Gov.
Committee

Amendment Barcode (if applicable)

Name Ash Mason

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Tally 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: OFFICE OF Financial Regulation

☐ 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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	SB 1786
INTRODUCER:	Senator DiCeglie
SUBJECT:	Professional Licensure and Certification
DATE:	February 7, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	**Favorable**
2.	Blizzard	Betta	AEG	**Favorable**
3.			RC	

I. Summary:

SB 1786 revises the educational and experience requirements to be eligible to take the examination for a surveyor and mapper license issued by the Board of Professional Surveyors and Mappers (board) within the Department of Agriculture and Consumer Services. The bill:

- Allows exiled foreign-trained professionals who have lawfully practiced the profession for three years to substitute their experience for the professional or occupational college degree that is required under current law;
- Specifies that the applicant's degree must be from a college or university accredited by an accrediting body recognized by the United States Department of Education; and
- Removes the requirement that any of the additional 25 semester hours of study completed not as a part of the bachelor's degree be approved at the discretion of the board for applicants who have a bachelor's degree in a course study other than surveying and mapping.

The bill provides additional pathways to qualify to take the licensure examination as follows:

- Allows applicants with a high school diploma or an associate's degree, who complete 25 semester hours of coursework in surveying and mapping or a related field from an accredited college/university, and has six years of experience (five in responsible charge) as a subordinate to a professional surveyor and mapper, to be able to take the licensure examination.
- Allows applicants who have a valid surveyor and mapper license in another jurisdiction and have two years of experience in the active practice of surveying and mapping in responsible charge to be able to take the licensure examination.
- Allows applicants who have a registered apprenticeship certificate in surveying and mapping from a registered apprenticeship program approved by the United States Department of Education and has two years of experience in responsible charge as a subordinate to a professional surveyor and mapper, to be able to take the licensure examination.

The fiscal impact is indeterminate, yet likely positive. There may be increased applicants due to changes in the requirements allowed by the bill for surveyor and mapper licenses. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Land Surveying and Mapping

Chapter 472, F.S., governs the practice of land surveying and mapping in Florida. The Commissioner of the Department of Agriculture and Consumer Services (DACS)[1] appoints the nine members of the Board of Professional Surveyors and Mappers (board), subject to confirmation by the Florida Senate.[2] The DACS approves registrations, certificates, and licenses to those persons and businesses that meet all statutory and administrative requirements for licensure.[3] The board is authorized to adopt administrative rules to implement the act, subject to the prior approval of the DACS.[4]

Licensed professional surveyors and mappers determine and display the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures.[5] Currently, there are 2,457 licensed surveyors and mappers in Florida.[6]

Licensing Examinations

All applicants for licensure must be approved by the board to be eligible to take the licensure examination.[7] An applicant must be of good moral character[8] and satisfy the following educational and experience requirements to be eligible to take the licensure examination:

- A bachelor's degree in surveying and mapping or in a similarly titled program, with four or more years of work experience under a professional surveyor, with the applicant having been in responsible charge of the accuracy and correctness of the surveying work performed; or
- A bachelor's degree in a course of study other than surveying and mapping, with six or more years of work experience under a professional surveyor, and for five of those years, the applicant must have been in responsible charge of the accuracy and correctness of the surveying work performed.[9]

[1] The regulation of professional surveyors and mappers was transferred in 2009 from the Department of Business and Professional Regulation to the DACS. *See* Ch. 2009-66, ss. 1-30, Laws of Fla. (effective October 1, 2009).
[2] Section 472.007, F.S.
[3] Sections 472.006(10) and 472.015, F.S.
[4] Section 472.008, and Fla. Admin. Code R. 5J-17.001 to 17.210
[5] Section 472.005(3), F.S.
[6] Email from DACS (Jan. 29, 2024). On file with the Senate Commerce and Tourism Committee.
[7] Section 472.013, F.S.
[8] The term "good moral character means "a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation." *See* s. 472.013(5)(a), F.S.
[9] Section 472.013(2), F.S.

Applicants whose course of study was other than surveying and mapping, must meet an additional educational requirement of a minimum of 25 semester hours from a college or university approved by the board in surveying and mapping subjects, or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences.[10]

The board, by rule, is authorized to establish fees for examination.[11] The initial application and examination fee must not exceed $125 plus the actual per applicant cost to the DACS to purchase the examination from the National Council of Engineering Examiners or a similar national organization.[12] The examination fee must be sufficient to cover the cost of obtaining and administering the examination and is refundable if the applicant is found ineligible to sit for the examination; the application fee is nonrefundable.[13]

An exiled foreign-trained professional seeking to become a licensed surveyor and mapper is eligible to take the required examination if the exiled professional:

- Immigrated to the United States after leaving their home country because of political reasons, when the home country is located in the Western Hemisphere and does not have diplomatic relations with the United States;
- Applies to the DACS and submits a fee;
- Was a resident of Florida immediately preceding the application;
- Demonstrates through submission of documentation to DACS that is verified by the applicant's respective professional association in exile, that the applicant graduated with an appropriate professional or occupational degree from a college or university, but the DACS may not require documentation from the Republic of Cuba;
- Lawfully practiced land surveying and mapping for at least three years;
- Prior to 1980, successfully completed an approved course of study pursuant to chs. 74-105 and 75-177, Laws of Florida, relating to continuing education; and
- Presents a certificate demonstrating the successful completion of a board-approved continuing education program, which offers a course of study that will prepare the applicant for the examination.[14]

Upon request of a person who meets the requirements for foreign-trained professionals and submits an examination fee, the DACS must conduct a written practical examination, on behalf of the board, that tests the person's current ability to competently practice the profession in accordance with the actual practice of the profession.[15] The fees charged for the examinations must be established by the DACS by rule for the board,[16] and must be sufficient to develop or to

[10] Section 472.013(2)(b), F.S.
[11] *See* s. 472.011, F.S. and Fla. Admin. Code R. 5J-17.070.
[12] *Id*.
[13] *Id*.
[14] Section 472.0101(1), F.S.
[15] Section 472.0101(2), F.S. The DACS must treat documentary evidence submitted by an exiled professional who is eligible to take the examination as evidence of the applicant's preparation in the academic and pre-professional fundamentals, and the DACS may not examine the applicant on such fundamentals. *Id*.
[16] *See* Fla. Admin. Code R. 5J-17.210.

contract for the development of the examination and its administration, grading, and grade reviews.[17]

Licensure by Endorsement

The board is required to certify an applicant as qualified for a license by endorsement if the applicant currently holds a valid license to practice surveying and mapping issued by another state or territory of the United States before July 1, 1999, and the applicant:

- Has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 472.013, F.S.; and has a specific experience record of at least eight years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, six years of which must be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed; or
- Holds a valid license to practice surveying and mapping issued by another state or territory of the United States, if the criteria for issuance were substantially the same as the licensure criteria that existed in Florida at the time the license was issued.[18]

All applicants for licensure by endorsement must pass the Florida law and rules portion of the examination prior to licensure.[19]

III. Effect of Proposed Changes:

Section 1 amends s. 472.0101, F.S., to authorize exiled foreign-trained professionals who have lawfully practiced the profession for three years to substitute their experience for the professional or occupational college degree that is required under current law.

Section 2 amends s. 472.013, F.S., to revise the educational and experience requirements for an applicant to be eligible to take the surveyor and mapper licensure examination. The bill specifies that the applicant's degree must be from a college or university accredited by an accrediting body recognized by the United States Department of Education. The bill also removes the requirement that any of the additional 25 semester hours of study completed, not as a part of the bachelor's degree, be approved at the discretion of the board for applicants who have a bachelor's degree in a course study other than surveying and mapping.

The bill creates additional pathways for becoming eligible to take the surveying and mapping licensure exam for applicants who have received:

- An associate degree, completed 25 semester hours of coursework in surveying and mapping or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences from an accredited college or university, and has six years of experience (five in responsible charge) as a subordinate to a professional surveyor and mapper;
- A high school diploma or its equivalent, completed 25 semester hours in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping,

[17] Section 472.0101(3), F.S.
[18] Section 472.015(5)(a), F.S.
[19] Section 472.015(5)(b), F.S.

mathematics, photogrammetry, forestry, or land law, and the physical sciences from an accredited college or university, and has six years of experience (five in responsible charge) as a subordinate to a professional surveyor and mapper;

- A valid license to practice surveying and mapping in another state, jurisdiction, or territory, and has at least two years of experience in the active practice of surveying and mapping in responsible charge; and
- A registered apprenticeship certificate in surveying and mapping from a registered apprenticeship program approved by the Department of Education and has two years of experience in responsible charge as a subordinate to a professional surveyor and mapper.

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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact to the DACS is indeterminate, yet positive. The DACS could see a positive fiscal impact due to new surveyor and mapper licensure application fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 472.0101 and 472.013.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator DiCeglie

18-01580A-24 20241786__

A bill to be entitled

An act relating to professional licensure and certification; amending s. 472.0101, F.S.; authorizing the practice of a profession as a substitute for certain professional or occupational degrees for certain foreign-trained professionals; amending s. 472.013, F.S.; revising education and work experience requirements for taking the surveyor and mapper licensure examination; providing an effective date.

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

Section 1. Subsection (1) of section 472.0101, Florida Statutes, is amended to read:

472.0101 Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, the department shall by rule provide procedures under which exiled professionals may be examined under this chapter. A person is eligible for the examination if the exiled professional:

(a) Immigrated to the United States after leaving the person's home country because of political reasons, provided the country is located in the Western Hemisphere and does not have diplomatic relations with the United States;

(b) Applies to the department and submits a fee;

(c) Was a resident of this state immediately preceding the person's application;

(d) Demonstrates to the department, through submission of documentation verified by the applicant's respective

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professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university. However, the department may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years. Such practice of the profession may be substituted for the professional or occupational degree requirement under paragraph (d);

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department shall develop rules for the approval of such programs for the board.

Section 2. Subsection (2) of section 472.013, Florida Statutes, is amended to read:

472.013 Examinations, prerequisites.—

(2) An applicant shall be entitled to take the licensure examination to practice in this state as a surveyor and mapper if the applicant is of good moral character and has satisfied one of the following requirements:

(a) The applicant has received a bachelor's degree, its equivalent, or higher in surveying and mapping or a similarly titled program, including, but not limited to, geomatics, geomatics engineering, and land surveying, from a college or university accredited by an accrediting body recognized by the

United States Department of Education ~~board~~ and has a specific experience record of 4 or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(b) The applicant has received a bachelor's degree, its equivalent, or higher in a course of study, other than in surveying and mapping, at a ~~an accredited~~ college or university accredited by an accrediting body recognized by the United States Department of Education and has a specific experience record of 6 or more years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed a minimum of 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education ~~approved by the board~~ in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. ~~Any of the required 25 semester hours of study completed not as a part of the bachelor's degree, its equivalent, or higher may be approved at the discretion of the board.~~ Work experience acquired as a part of the education

requirement may not be construed as experience in responsible charge.

(c) The applicant has received an associate degree and has a specific experience record of at least 6 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, at least 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed at least 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(d) The applicant has received a high school diploma or its equivalent and has a specific experience record of at least 6 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, at least 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed at least 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or

land law and the physical sciences. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(e) The applicant holds a valid license to practice surveying and mapping in another state, jurisdiction, or territory, and has at least 2 years of experience in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.

(f) The applicant has received a registered apprenticeship certificate in surveying and mapping after completing a registered apprenticeship program approved by the Department of Education and has a specified experience record of at least 2 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

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

The Florida Senate

APPEARANCE RECORD

2/8/24
Meeting Date

APPROPS - AEG/GAEN GOV/EN
Committee

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

1786
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sal Nuzzo - THE JAMES MADISON INST. Phone 8503229941

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Tallahassee FL 32301
City *State* *Zip*

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

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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 Appropriations Committee on Agriculture, Environment, and General Government

BILL:	CS/SB 7040
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government and Environment and Natural Resources Committee
SUBJECT:	Ratification of the Department of Environmental Protection's Rules Relating to Stormwater
DATE:	February 12, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Barriero	Rogers		**EN Submitted as Committee Bill**
1.	Reagan	Betta	AEG	**Fav/CS**
2.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7040 ratifies the Department of Environmental Protection's (DEP) revisions to the stormwater rules within Chapter 62-330 of the Florida Administrative Code with several changes, including:

- Clarifying provisions relating to grandfathered projects,
- Providing that entities implementing stormwater best management practices also regulated under different provisions of law are not subject to duplicate inspections for the same practices, and
- Allowing alternative treatment standards for redevelopment projects in areas with impaired waters.
- Providing that a stormwater management system is presumed to not violate state water quality standards if an applicant demonstrates its designs and plans meet performance standards and has met other requirements under the revised rules; and
- Allowing an applicant to demonstrate compliance with the rule's performance standards by providing reasonable assurance through modeling, calculations, and supporting documentation that satisfy the provisions of the revised rules.

As required by the Clean Waterways Act, the DEP and the water management districts initiated rulemaking to update the stormwater design and operation regulations for environmental resource permitting, including updates to the Environmental Resource Permit Applicant's

Handbook. The proposed rules were developed to increase the removal of nutrients from stormwater to protect the state's waterways.

The Statement of Estimated Regulatory Costs developed by the DEP concluded that the proposed rules will likely increase stormwater treatment costs by $1.21 billion (or $2,600 per acre developed) in the aggregate within five years after the rules' implementation. This amount triggers the statutory requirement for the rule to be ratified by the Legislature before it may go into effect.

The bill costs associated with implementing the proposed rule can be absorbed within existing resources. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Legislative Ratification

A rule is subject to legislative ratification if it:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within five years after the implementation of the rule.[1]

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.[2]

Statement of Estimated Regulatory Costs Requirements

A statement of estimated regulatory costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. A SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small businesses; or
- Is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in the state within one year after the implementation of the rule.[3]

A SERC must include:

[1] Section 120.541(2)(a), F.S.
[2] Section 120.541(3), F.S.
[3] Section 120.54(3)(b)1., F.S.

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule, and a general description of the types of individuals likely to be affected by the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.[4]

Statement of Estimated Regulatory Costs for Chapter 62-330, F.A.C.

The DEP determined that a SERC was required for the revisions to the stormwater rules within Chapter 62-330 of the Florida Administrative Code and prepared one in advance of rule adoption.[5] The DEP estimates the revised rules will increase stormwater treatment costs by approximately $1.21 billion[6] (or $2,600 per acre developed) for all expected development projects within a five-year period from implementation.[7] This includes lower cost regulatory alternatives.[8]

Water Quality and Nutrients

Nutrient pollution and the excessive accumulation of nitrogen and phosphorus in water is one of the most widespread, costly, and challenging environmental problems.[9] In Florida, 35 percent of

[4] Section 120.541(2), F.S.
[5] *See* DEP, *SERC: Chapter 62-330, F.A.C.* (2023), *available at* http://publicfiles.dep.state.fl.us/dwrm/draftruledocs/stormwater/noc/serc-template-updated.pdf.
[6] Prior to receipt of lower cost regulatory alternatives (LCRAs), DEP estimated the revised rules would increase stormwater treatment costs by $1.44 billion in the aggregate within five years from the rules' implementation, or $1.486 billion when including additional transactional costs (i.e., new requirements for system design, operation and maintenance, inspections, and reporting) and costs related to the rules' new requirements for dam systems. *Id.* at 2-3. DEP estimates the LCRAs will lower stormwater treatment costs (excluding transactional and dam system costs) by approximately 16 percent from the original estimate. *Id.* at 10. Accordingly, DEP's revised estimate for stormwater treatment costs under the proposed rules is $1.21 billion. DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 13 (Jan. 26, 2024), *available at* https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6001/10561_MeetingPacket_6001.6.23.pdf; DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources).
[7] DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 13 (Jan. 26, 2024), *available at* https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6001/10561_MeetingPacket_6001.6.23.pdf; DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting* at 2 (2023); DEP, *SERC: Chapter 62-330, F.A.C.* at 2, 10.
[8] DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources* at 13.
[9] U.S. Environmental Protection Agency (EPA), *Basic Information on Nutrient Pollution*, https://www.epa.gov/nutrientpollution/problem (last visited Jan. 26, 2024).

waterbodies are impaired for nutrients and 87 percent of counties have nutrient impaired waters within their boundaries.[10]

The nutrients nitrogen and phosphorus are a natural part of aquatic ecosystems.[11] They support the growth of algae and aquatic plants, which provide food and habitat for fish, shellfish, and smaller organisms that live in water. However, the presence of too much nitrogen and phosphorus can cause algae to grow faster than ecosystems can handle. These algal blooms can harm water quality, food resources, and habitats, and decrease the oxygen that fish and other aquatic life need to survive. Algal blooms can also be harmful to humans because they produce elevated toxins and bacterial growth that can make people sick if they come into contact with polluted water, consume tainted fish or shellfish, or drink contaminated water.[12] Nutrient pollution in ground water—used by millions of people in the United States as their drinking water source—can be harmful even at low levels.[13] Infants are especially vulnerable to a nitrogen-based compound called nitrates in drinking water.[14] One of the primary sources of excess nitrogen and phosphorus is stormwater runoff.[15] This runoff typically traverses impervious surfaces, such as concrete and asphalt, flowing directly into waterbodies or storm drains without the benefit of natural filtration through soil and vegetation or processing by a water treatment facility.[16] Human activities frequently exacerbate the problem by introducing nitrogen and phosphorus pollutants derived from fertilizers, yard and pet waste, and certain soaps and detergents.[17]

Impaired Waters

Under section 303(d) of the federal Clean Water Act, states must establish water quality standards for waters within their borders and develop a list of impaired waters that do not meet the established water quality standards.[18] States must also develop a list of threatened waters that may not meet water quality standards in the following reporting cycle.[19]

Due to limited funds and the wide variety of surface waters in Florida, the DEP sorted those waters into 29 major watersheds, or basins, and further organized them into five basin groups for

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[10] DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting* at 2.
[11] EPA, *Nutrient Pollution: The Problem*, https://www.epa.gov/nutrientpollution/problem (last visited Jan. 26, 2024).
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] EPA, *Nutrient Pollution: Sources and Solutions*, https://www.epa.gov/nutrientpollution/sources-and-solutions (last visited Jan. 26, 2024). Other sources of excess nitrogen and phosphorus include agriculture, wastewater, fossil fuels, and fertilizers. *Id.*
[16] *EPA, Nutrient Pollution: Sources and Solutions: Stormwater*, https://www.epa.gov/nutrientpollution/sources-and-solutions-stormwater (last visited Jan. 26, 2024)
[17] *Id.*
[18] EPA, *Overview of Identifying and Restoring Impaired Waters under Section 303(d) of the CWA*, https://www.epa.gov/tmdl/overview-identifying-and-restoring-impaired-waters-under-section-303d-cwa (last visited Jan. 26, 2024); 40 C.F.R. 130.7. Following the development of the list of impaired waters, states must develop a total maximum daily load for every pollutant/waterbody combination on the list. A total maximum daily load is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards. DEP, *Watershed Evaluation and Total Maximum Daily Loads (TMDL) Section*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Jan. 26, 2024).
[19] *Id.*

assessment purposes.[20] If the DEP determines that any waters are impaired, the waterbody must be placed on the verified list of impaired waters and a total maximum daily load (TMDL) must be calculated.[21] A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.[22] A waterbody may be removed from the verified list at any time during the TMDL process if it attains water quality standards.[23] If the DEP determines that a waterbody is impaired but further study is needed to determine the causative pollutants or other factors contributing to impairment before the waterbody is placed on the verified list, the waterbody will be placed on a statewide comprehensive study list.[24]

Basin Management Action Plans (BMAPs)

BMAPs are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,[25] for a watershed. There are currently 34 adopted BMAPs in Florida.[26]

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by implementing appropriate best management practices (BMPs) or conducting water quality monitoring.[27] A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district for failure to implement these requirements.[28]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.[29] Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations.[30]

BMAPs must include five-year milestones for implementation and water quality improvement and an associated water quality monitoring component to evaluate the progress of pollutant load

[20] DEP, *Assessment Lists*, https://floridadep.gov/dear/watershed-assessment-section/content/assessment-lists (last visited Jan. 26, 2024).
[21] *Id.*; DEP, *Verified List Waterbody Ids (WBIDs)*, https://geodata.dep.state.fl.us/datasets/FDEP::verified-list-waterbody-ids-wbids/about (last visited Jan. 26, 2024); section 403.067(4), F.S.
[22] Section 403.067(6)(a), F.S. *See also* 33 U.S.C. § 1251, s. 303(d) (the Clean Water Act).
[23] Section 403.067(5), F.S.
[24] Section 403.067(2), F.S.; ch. 62-303.150, F.A.C.
[25] "Point source" is defined as any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are sources of pollution that are not point sources. Fla. Admin. Code R. 62-620.200(37).
[26] DEP, *Basin Management Action Plans (BMAPs)*, https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps (last visited Jan. 26, 2024).
[27] Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[28] Section 403.067(7)(b)2.h., F.S.
[29] *Id.*
[30] *Id.*

reductions.[31] Every five years an assessment of progress toward these milestones must be conducted and revisions to the plan made as appropriate.[32]

Each BMAP must also include:

- The management strategies available through existing water quality protection programs to achieve TMDLs;
- A description of BMPs adopted by rule;
- For the applicable five-year implementation milestones, a list of projects that will achieve the pollutant load reductions needed to meet a TMDL or other established load allocations, including a planning-level cost estimate and an estimated date of completion;
- A list of regional nutrient reduction projects submitted by the Department of Agriculture and Consumer Services which will achieve pollutant load reductions established for agricultural nonpoint sources;[33]
- The source and amount of financial assistance to be made available; and
- A planning-level estimate of each project's expected load reduction, if applicable.[34]

Stormwater Runoff

Nationwide, polluted stormwater runoff is considered to be the greatest threat to clean water.[35] Over 40 percent of waters assessed by the states are too polluted for fishing or swimming.[36] Nonpoint sources associated with stormwater account for over 40 percent of these polluted waters.[37] Conversely, traditional point sources (i.e., wastewater treatment plants) account for only about 10 percent of these polluted or "impaired" waters.[38] Hundreds of impaired water segments in Florida have lost their designated use due, in part, to stormwater pollution.[39]

Florida averages 40-60 inches of rainfall a year, depending on the location, with about two-thirds falling between June and October.[40] Stormwater runoff generated during these rain events flows over land or impervious surfaces, such as paved streets, parking lots, driveways, sidewalks, and rooftops, and picks up pollutants like trash, chemicals, oils, and sediment along the way. This unfiltered water ends up in streams, ponds, lakes, bays, wetlands, oceans, and groundwater.

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[31] Section 403.067(7)(a)6., F.S.
[32] *Id.*
[33] This is required only where agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges or DEP determines that additional measures are necessary to achieve a TMDL. Section 403.067(7)(e)1., F.S.
[34] Section 403.067(7)(a)4., F.S.
[35] South Florida Water Management District (SFWMD), *Your Impact on the Environment*, https://www.sfwmd.gov/community-residents/what-can-you-do (last visited Jan. 26, 2024).
[36] DEP, *Stormwater Support*, https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support (last visited Jan. 26, 2024). A recent study examining water quality across the U.S. shows Florida ranks first in the nation for total acres of lakes classified as impaired for swimming and aquatic life (873,340 acres), and second for total lake acres listed as impaired for any use (935,808 acres). Environmental Integrity Project, *The Clean Water Act at 50*, 28 (2022), *available at* https://environmentalintegrity.org/wp-content/uploads/2022/03/CWA@50-report-3-17-22.pdf. Florida also has the second most total square miles of impaired estuaries (2,533 square miles). *Id.* at 29.
[37] DEP, *Stormwater Support*, https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support (last visited Jan. 26, 2024).
[38] *Id.*
[39] *Id.*
[40] University of Florida Institute of Food and Agricultural Sciences (UF/IFAS), *Florida Rainfall Data Sources and Types*, 1 (2023), *available at* https://edis.ifas.ufl.edu/publication/AE517.

Construction sites, lawns, improperly stored hazardous wastes, and illegal dumping are all potential sources of stormwater pollutants.[41]

Stormwater runoff can cause a multitude of problems:

- Excess nutrients, primarily nitrogen and phosphorus from lawn fertilizers or natural sources, such as manure, can cause algal and bacterial blooms that proliferate rapidly. Algae will consume oxygen, increase turbidity in the waterbody, and eventually die along with the fish and other aquatic life that need oxygen to live.[42]
- Pathogenic bacteria and microorganisms can be carried by stormwater into a waterbody. This creates health hazards and can cause lakes and beaches to close to the public.[43]
- Sediment can increase the turbidity (a measure of water cloudiness) of a waterbody. Turbidity can block sunlight from reaching aquatic plants, making it impossible for them to grow. Without plants, animals lose a food source, and it is more difficult to filter pollutants from the water. Instead, pollutants collect at the bottom of the waterbody and remain there indefinitely.[44]
- Debris such as plastic bags, bottles, and cigarette butts can wash into a waterbody and interfere with aquatic life[45] and flood prevention and decrease water quality.[46] When a stormwater drain gets clogged with debris, rainwater that normally would be collected cannot enter into the drainage system. Water will accumulate around the drain, causing flooded sidewalks or streets and increasing the chances for flooding buildings.
- Other hazardous wastes, such as insecticides, herbicides, paint, motor oil, and heavy metals, can be carried by stormwater runoff to waterbodies and cause illness to aquatic life and humans alike.[47]

In addition, inadequate stormwater management increases stormwater flows and velocities, contributes to erosion, overtaxes the carrying capacity of streams and other conveyances, reduces ground water recharge, threatens public health and safety, and is the primary source of pollutant loading entering Florida's rivers, lakes, and estuaries.[48]

Best Management Practices for Stormwater Treatment

A BMP is as a practice or combination of practices based on research, field-testing, and expert review to be the most effective and practicable means, including economic and technological considerations, for improving water quality.[49] BMPs for stormwater treatment promote the

[41] EPA, *Urbanization and Stormwater Runoff*, https://www.epa.gov/sourcewaterprotection/urbanization-and-stormwater-runoff (last visited Jan. 26, 2024).
[42] Southwest Florida Water Management District (SWFWMD), *Stormwater Runoff*, https://www.swfwmd.state.fl.us/residents/education/kids/stormwater-runoff (last visited an. 26, 2024).
[43] *Id*.
[44] *Id*.
[45] *Id*.
[46] SFWMD, *Your Impact on the Environment*, https://www.sfwmd.gov/community-residents/what-can-you-do (last visited Jan. 26, 2024).
[47] SWFWMD, *Stormwater Runoff*, https://www.swfwmd.state.fl.us/residents/education/kids/stormwater-runoff (last visited Nov. 27, 2023).
[48] Fla. Admin. Code R. 62-40.431(2)(b).
[49] Section 373.4595(2)(a), F.S.; *see also* section 373.4592(2)(b), F.S.

natural movement of water and reduce the amount of pollutants entering waterways through runoff.[50]

Stormwater BMPs include dry retention and wet detention ponds, engineered media and filtration, and the use of low impact development and green stormwater infrastructure such as rain gardens, bioswales, tree wells, pervious pavement, littoral zones, floating wetlands, and harvesting systems.[51] BMPs can be implemented in combination or in conjunction with other BMPs in a series as a treatment train.[52]

Green Stormwater Infrastructure (GSI)

Historically, communities have used gray infrastructure[53] to convey stormwater to treatment systems or straight to local water bodies.[54] However, gray infrastructure can present a variety of challenges, including high construction, maintenance, and repair costs, increased combined sewer overflow events, and the introduction of pollutants into source waters.[55] These problems are exacerbated as population and development continue to increase and new challenges arise, such as changing weather patterns, increasing energy costs, and aging water infrastructure.[56] To meet these challenges, many communities are installing GSI systems to bolster their capacity to manage stormwater.[57]

GSI uses natural processes to improve water quality and manage water quantity by restoring the hydrologic function of the urban landscape, managing stormwater at its source, and reducing the need for additional gray infrastructure.[58] When GSI is employed as part of a larger-scale stormwater management system, it reduces the volume of stormwater that requires conveyance and treatment through conventional means, such as detention ponds.[59] Overall, GSI is more cost-effective than traditional gray infrastructure and offers numerous ancillary benefits.[60]

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[50] EPA, *Best Management Practices (BMPs) Siting Tool*, https://www.epa.gov/water-research/best-management-practices-bmps-siting-tool (last visited Jan. 26, 2024).
[51] DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources).
[52] *Id.*; *see also* EPA, *Stormwater Best Management Practice Design Guide: Volume 1*, 72 (2004), *available at* https://cfpub.epa.gov/si/si_public_record_report.cfm?Lab=NRMRL&dirEntryId=99739.
[53] Gray infrastructure includes curbs, gutters, drains, piping, and collection systems. Traditional gray infrastructure collects and conveys stormwater from impervious surfaces, such as roadways, parking lots and rooftops, into a series of piping that ultimately discharges untreated stormwater into a local water body. EPA, *Why You Should Consider Green Stormwater Infrastructure for Your Community*, https://www.epa.gov/G3/why-you-should-consider-green-stormwater-infrastructure-your-community (last visited Jan. 26, 2024).
[54] EPA, *What is Green Infrastructure?*, https://www.epa.gov/green-infrastructure/what-green-infrastructure (last visited Jan. 26, 2024).
[55] EPA, *Case Studies Analyzing the Economic Benefits of Low Impact Development and Green Infrastructure Programs*, 9 (2013), *available at* https://www.epa.gov/sites/default/files/2015-10/documents/lid-gi-programs_report_8-6-13_combined.pdf.
[56] *Id.*
[57] EPA, *What is Green Infrastructure?*, https://www.epa.gov/green-infrastructure/what-green-infrastructure (last visited Jan. 26, 2024).
[58] EPA, *Green Infrastructure Opportunities that Arise During Municipal Operations*, 1 (2015), *available at* https://www.epa.gov/sites/default/files/2015-09/documents/green_infrastructure_roadshow.pdf.
[59] *Id.*
[60] *Id.* at 2-3.

Low Impact Design

Low Impact Design or Low Impact Development (LID) is a stormwater management set of practices used to reduce runoff and pollutant loadings by managing the runoff as close to the source as possible.[61] LID practices, including the use of GSI, promote the use of natural systems. By working to mimic the natural water cycle, LID practices protect downstream resources from adverse pollutant and hydrologic impacts that can degrade water quality and harm aquatic life.[62] LID practices include:

- Conservation designs that preserve open space, including cluster development, open space preservation, reduced setbacks and widths of streets and sidewalks, and shared driveways;
- Infiltration practices, including porous or permeable pavement, disconnected downspouts, and rain gardens and other vegetated treatment systems;
- Runoff storage practices, including rain barrels and cisterns, green roofs, and depressional storage in landscape islands and in tree, shrub, or turf depressions;
- Runoff conveyance practices, including eliminating curbs and gutters and creating grassed swales and long flow paths over landscaped areas; and
- Low impact landscaping, including planting native, drought-tolerant plants, converting turf areas to shrubs and trees, reforestation, and amending soil to improve infiltration.[63]

Stormwater Management in Florida

Florida was the first state in the country to adopt a rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development.[64] Florida's original

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[61] EPA, *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices*, 2 (2007), *available at* https://www.epa.gov/sites/default/files/2015-10/documents/2008_01_02_nps_lid_costs07uments_reducingstormwatercosts-2.pdf.
[62] *Id.*
[63] *Id.* at 3-5.
[64] DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater#:~:text=To%20manage%20urban%20stormwater%20and%20minimize%20these%20impacts,1981%20and%20went%20into%20effect%20in%20February%201982 (last visited Jan. 26, 2024).

stormwater rule was adopted in 1981 and went into effect in February 1982.[65] The rule is a technology-based rule that relies upon four key components:

- A performance standard or goal for the minimum level of treatment;
- Design criteria for BMPs that will achieve the required performance standard;
- A rebuttable presumption that discharges from a stormwater treatment system designed in accordance with the BMP design criteria will not cause harm to water resources; and
- Periodic review and updating of BMP design criteria as more information becomes available to increase their effectiveness in removing pollutants.[66]

One of the primary goals of Florida's stormwater management program is to maintain, to the maximum extent practical, the predevelopment stormwater characteristics of a site during and after construction and development.[67] Accordingly, the state's stormwater rules were developed to establish a minimum treatment performance standard that requires stormwater systems to achieve at least an 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards and a 95 percent reduction for Outstanding Florida Waters (OFW).[68] The DEP selected this level of treatment for two reasons:

- To establish equitability in treatment requirements between point and nonpoint sources of pollution. The minimum level of treatment for domestic wastewater point sources was "secondary treatment" which equated to an 80 percent reduction in total suspended solids.
- The costs of stormwater treatment greatly increased as the level of treatment rose above 80 percent.[69]

However, studies show that the rules' existing stormwater presumptive design criteria fail to consistently meet either the 80 or 95 percent target reduction goals, with pollutant removal efficiencies varying greatly depending on the amount of runoff and other conditions.[70]
Under the newly expanded Water Quality Improvement Grant Program,[71] The DEP may provide grants for repairing, upgrading, expanding, or constructing stormwater treatment facilities that result in improvements to surface water or groundwater quality.[72]

Stormwater Rulemaking

In 2020, the Florida Legislature passed Senate Bill 712, also known as the Clean Waterways Act (the Act).[73] This legislation passed with unanimous, bipartisan support and included a wide range of water-quality protection provisions aimed at minimizing the impact of known sources of

[65] *Id.*
[66] *Id.*
[67] Fla. Admin. Code R. 62-40.431(2)(a).
[68] Fla. Admin. Code R. 62-40.432(2)(a). An OFW is a water designated worthy of special protection because of its natural attributes. DEP, *Outstanding Florida Waters*, https://floridadep.gov/dear/water-quality-standards/content/outstanding-florida-waters (last visited Jan. 26, 2024); *see* Fla. Admin. Code R. 62-302.700(2) and (9).
[69] DEP, *ERP Stormwater*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater#:~:text=To%20manage%20urban%20stormwater%20and%20minimize%20these%20impacts,1981%20and%20went%20into%20effect%20in%20February%201982 (last visited Jan. 26, 2024).
[70] *See* Harvey H. Harper and David M. Baker, *Evaluation of Current Stormwater Design Criteria within the State of Florida*, 6-1 (2007), *available at* https://tmp.nationalstormwater.com/wp/wp-content/uploads/2020/07/Evaluation-of-Current-Stormwater-Design-Criteria-within-the-State-of-Florida_Final_71907.pdf.
[71] Ch. 2023-169, s. 15, Laws of Fla. (amending s. 403.0673, F.S., effective July 1, 2023)
[72] Section 403.0673(2)(c), F.S.
[73] Ch. 2020-150, Laws of Fla.

nutrient pollution and strengthening regulatory requirements. Among other things, the Act directs the DEP and the WMDs to update stormwater regulations using the latest scientific information.[74]

Over the last three years, the DEP has undertaken rulemaking efforts, including holding two public outreach meetings in 2020 and four rule development workshops between May and December 2022.[75] Interested parties were able to provide public comments and feedback on the proposed rules during these workshops.[76]

In November 2020, the DEP established a technical advisory committee (TAC) to offer recommendations for strengthening the state's regulations on stormwater system design and operation.[77] The TAC conducted 13 meetings between December 2020 and November 2021 and published a report summarizing its recommendations in March 2022.[78]

A Notice of Proposed Rule was published in the Florida Administrative Register on February 24, 2023, and the DEP held a rule adoption hearing on March 22.[79] A Notice of Change, which incorporated stakeholder feedback and comments as well as four lower cost regulatory alternatives, was published on March 24, 2023.[80] The final rule was filed with the Department of State in April of 2023.[81]

Dam Systems

A dam is a structure that is built across a river or body of water to hold, divert, or regulate water.[82] Dams are a critical part of Florida's infrastructure for the vital benefits they provide, including flood protection, water supply, irrigation, and recreation.[83] Dams must be properly maintained throughout their lifespan to operate as intended.[84] As dams age, they require greater attention and investment to ensure their safe operation.[85] Continuous dam safety practices are

[74] *Id.*at s. 5 (amending s. 373.4131, F.S., effective July 1, 2020).
[75] DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources).
[76] DEP, *Clean Waterways Act Stormwater Rulemaking Workshops*, https://floridadep.gov/water/engineering-hydrology-geology/content/clean-waterways-act-stormwater-rulemaking-workshops (last visited Jan. 26, 2024).
[77] DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 5-6 (Dec. 6, 2023), *available at* https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6001/10561_MeetingPacket_6001.6.23.pdf.
[78] DEP, *Clean Waterways Act Technical Advisory Committee Summary Report*, 2-3 (2022), *available at* https://floridadep.gov/sites/default/files/CleanWaterwaysAct-TAC-SummaryReport.pdf.
[79] 49 Fla. Admin. Reg. 644 (Feb. 24, 2023); DEP, *Clean Waterways Act Stormwater Rulemaking Workshops*, https://floridadep.gov/water/engineering-hydrology-geology/content/clean-waterways-act-stormwater-rulemaking-workshops (last visited Jan. 26, 2024).
[80] *Id.*; 49 Fla. Admin. Reg. 1064 (Mar. 24, 2023).
[81] DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 6 (Dec. 6, 2023), *available at* https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6001/10561_MeetingPacket_6001.6.23.pdf.
[82] U.S. Army Corps of Engineers (USACE), *National Inventory of Dams: Dams 101*, https://nid.sec.usace.army.mil/#/learn/dams101 (last visited Dec. 13, 2023).
[83] DEP, *Florida Dam Safety Program*, https://floridadep.gov/water/engineering-hydrology-geology/content/florida-dam-safety-program (last visited Dec. 13, 2023).
[84] *Id.*
[85] *Id.*

particularly important for dams that are upstream of human populations, where dam misoperation or failure has the potential for loss of life and property.[86]

Various classification systems are used to describe dams. Under the National Dam Safety Program's classification system, dams are divided into three categories—Low Hazard Potential, Significant Hazard Potential, and High Hazard Potential—based on the probable loss of human life and the impacts on economic, environmental, and lifeline interests should the dam fail or be misoperated.[87] Owners of High Hazard Potential and Significant Hazard Potential dams are strongly encouraged to develop emergency action plans to provide a comprehensive and consistent plan to implement in the event of a developing or imminent emergency in order to protect lives and reduce damage to property, infrastructure, and wetlands and other surface waters.[88]

The construction, operation, alteration, repair, or abandonment of a dam may require an environmental resource permit pursuant to Chapter 62-330 of the Florida Administrative Code.

Environmental Resource Permitting (ERP)

Part IV of Chapter 373, F.S., and Chapter 62-330 of the Florida Administrative Code regulate the statewide ERP program, which is the primary tool used by the DEP and the WMDs for preserving natural resources and fish and wildlife, minimizing degradation of water resources caused by stormwater discharges, and providing for the management of water and related land resources. The program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and other works such as docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters.[89]

The ERP rules within Chapter 62-330 of the Florida Administrative Code contain:

- Criteria and thresholds for requiring permits;
- Types of permits;
- Procedures governing the review of applications and notices, duration and modification of permits, operational maintenance requirements, transfers of permits, provisions for emergencies, and provisions for abandonment and removal of systems;
- Exemptions and general permits that do not allow significant adverse impacts to occur individually or cumulatively;
- Conditions for issuance;
- General permit conditions, including monitoring, inspection, and reporting requirements;
- Standardized fee categories to promote consistency;
- Application, notice, and reporting forms; and

[86] *Id.*
[87] USACE, *National Inventory of Dams: Managing Dams*, https://nid.sec.usace.army.mil/#/learn/manage-dams (last visited Jan. 26, 2024); Federal Emergency Management Agency (FEMA), *Federal Guidelines for Dam Safety: Hazard Potential Classification System for Dams*, 5-6 (2004), *available at* https://damsafety.org/sites/default/files/FEMA%20Federal%20Guidelines%20HazPotential%20333_04.pdf.
[88] DEP, *Florida Dam Safety Program*, https://floridadep.gov/water/engineering-hydrology-geology/content/florida-dam-safety-program (last visited Jan. 26, 2024).
[89] Fla. Admin. Code R. 62-330.010(2).

- An Applicant's Handbook containing general program information, application and review procedures, stormwater quality and quantity criteria, and how environmental criteria are evaluated.[90]

ERP Applicant's Handbook

An integral part of the ERP program is the Applicant's Handbook, which consists of two volumes.[91] Volume I applies statewide to all activities regulated under the ERP program.[92] It provides background information on the program, including points of contact, a summary of the statutes and rules used to authorize and implement the ERP program, and the forms used to notice or apply to agencies for an ERP authorization. Volume I also contains detailed information regarding:

- Types of permits, permit thresholds, and exemptions;
- Procedures used to review exemptions and permits, and procedures for inspections, compliance, and enforcement;
- Conditions for issuance of an ERP, including the environmental criteria used for activities located in wetlands and other surface waters;
- Erosion and sediment control practices to prevent water quality violations; and
- Operation and maintenance requirements.[93]

Volume II consists of five separate handbooks, one for each WMD. These handbooks address regional differences in hydrology, soils, geology, and rainfall and provide region-specific design and performance standards.[94] Specifically, it provides:

- Design and performance standards and criteria for water quality and quantity, including those for specific types of stormwater management systems, dams, impoundments, reservoirs, and appurtenant works;
- Standards and criteria pertaining to special basins that may exist within the geographic area of each WMD;
- Standards and criteria pertaining to flood protection; and
- Design and performance standards for dams.[95]

Volume II handbooks generally are not applicable to the construction, alteration, modification, maintenance, or removal of projects that cause no more than an incidental amount of stormwater runoff.[96]

Developments of Regional Impact (DRI)

DRIs are defined as any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one

[90] Section 373.4131(1)(a), F.S.
[91] *See* section 373.4131(1)(a)9, F.S.
[92] Fla. Admin. Code R. 62-330.010(4)(a).
[93] DEP, *ERP Applicant's Handbook, Vol. I*, s. 1.1 (2020), *available at* https://www.flrules.org/gateway/reference.asp?No=Ref-12078.
[94] *Id.*
[95] *Id.*
[96] *Id.*

county.[97] The DRI statutes were created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting laws.[98] The program provided a process to identify regional impacts stemming from large developments and appropriate provisions to mitigate impacts on state and regional resources.[99]

The process to review or amend a DRI agreement and its implementing development orders went through several revisions[100] until repeal of the requirements for state and regional reviews in 2018.[101] Local governments are responsible for the implementation and amendment of existing DRI agreements and development orders.[102] Any proposed change to a previously approved DRI must be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and local land development regulations.[103]

Ecosystem Management Agreements (EMAs)

The DEP is authorized to enter into EMAs with regulated entities to better coordinate the legal requirements and timelines applicable to a regulated activity, which may include permit processing, project construction, operations monitoring, enforcement actions, proprietary approvals, and compliance with development orders and regional and local comprehensive plans.[104] Entering into an EMA is voluntary for both the regulated entity and the DEP.[105] An EMA may include incentives for participation and implementation by a regulated entity, including, but not limited to, permitting process flexibility, expedited permit processing, and cooperative inspections that provide opportunity for informal resolution of compliance issues before enforcement action is initiated.[106]

III. Effect of Proposed Changes:

Section 1 ratifies the revised stormwater rules under Chapter 62-330 of the Florida Administrative Code, titled "Environmental Resource Permitting" (ERP). Chapter 62-330 of the Florida Administrative Code, as proposed by the Department of Environmental Protection (DEP) and filed for adoption with the Florida Department of State pursuant to the certification package dated April 28, 2023.

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[97] Section 380.06(1), F.S.
[98] The Florida Senate, Committee on Community Affairs, Interim Report 2012-114, September 2011, citing: Thomas G. Pelham, *A Historical Perspective for Evaluating Florida's Evolving Growth Management Process*, in *Growth Management in Florida: Planning for Paradise*, 8 (Timothy S. Chapin, Charles E. Connerly, and Harrison T. Higgins eds. 2005).
[99] Ch. 72-317, s. 6, Laws of Fla.
[100] *See* ch. 2015-30, Laws of Fla. (requiring that new DRI-sized developments proposed after July 1, 2015, must be approved by a comprehensive plan amendment in lieu of the state review process provided for in s. 380.06, F.S.) and ch. 2016-148, Laws of Fla. (requiring DRI reviews to follow the state coordinated review process if the development, or an amendment to the development, required an amendment to the comprehensive plan).
[101] Ch. 2018-158, Laws of Fla.
[102] Section 380.06(4)(a) and (7), F.S.
[103] Section 380.06(7)(a), F.S. These procedures must include notice to the applicant and public about the issuance of development orders.
[104] Section 403.0752(1), F.S.
[105] *Id.*
[106] Section 403.0752(4), F.S.

The bill provides that, except for the changes set forth in section 2 as to rule 62-330.010, Florida Administrative Code, this section serves no other purpose and may not be codified in the Florida Statutes. After this act becomes a law, its enactment and effective dates must be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This section does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing adoption of any rule cited.

The DEP's Revisions to ERP Rules and Volume I of the ERP Applicant's Handbook

As discussed in further detail below, the revised ERP rules and Applicant's Handbook:

- Create new minimum performance standards for all ERP stormwater systems;
- Require applicants to demonstrate through modeling and calculations based on local conditions and annual runoff volumes that their proposed stormwater treatment system is designed to discharge to the required treatment level;
- Create new requirements for periodic inspections and the operation and maintenance of stormwater treatment systems; and
- Provide new permitting criteria applicable to the construction of new dams or alteration of existing dams.

New Minimum Performance Standards

Under the revised rules, stormwater treatment systems must be designed to achieve at least an 80 percent reduction of the average annual post-development total suspended solids (TSS) load, or 95 percent if the proposed project is located within a hydrologic unit code (HUC) 12[107] watershed containing an Outstanding Florida Water (OFW)[108] and located upstream of that OFW. In addition, stormwater treatment systems must provide a level of treatment sufficient to accomplish the greater of the following:

- The minimum percent reduction of the average annual loading[109] of total phosphorus (TP) and total nitrogen (TN) as established in the revised rules; or

[107] "Hydrologic Unit Code" or "HUC" means the hydrologic cataloging unit assigned to a geographic area representing a surface watershed drainage basin. Each unit is assigned a two- to 12-digit number that uniquely identifies each of the six levels of classification within six two-digit fields. United States Geological Survey (USGS), *Hydrologic Unit Codes (HUCs) Explained*, https://nas.er.usgs.gov/hucs.aspx (last visited an. 26, 2024). Eight-digit HUCs are used for large watersheds known as subbasins; 10-digit HUCs divide the large subbasins into watersheds; and 12-digit HUCs divide watersheds into subwatersheds that capture local tributary systems. EPA, *Hydrologic Unit Codes: HUC 4, HUC 8, and HUC 12*, *available at* https://enviroatlas.epa.gov/enviroatlas/datafactsheets/pdf/Supplemental/HUC.pdf; DEP, *About the Florida National Hydrography Dataset*, https://floridadep.gov/dear/watershed-services-program/content/about-florida-national-hydrography-dataset (last visited Jan. 26, 2024).

[108] An OFW is a water designated worthy of special protection because of its natural attributes. DEP, *Outstanding Florida Waters*, https://floridadep.gov/dear/water-quality-standards/content/outstanding-florida-waters (last visited Jan. 26, 2024); *see* Fla. Admin. Code R. 62-302.700(2) and (9).

[109] "Average annual nutrient load or loading" means the product of annual runoff volumes and land use appropriate event mean nutrient concentrations for TP and TN.

- A reduction such that the post-development condition[110] average annual loading of nutrients does not exceed the predevelopment condition[111] nutrient loading.

To calculate pre- and post-development loadings of TN and TP, the predevelopment annual runoff volume is multiplied by the land-use-specific runoff characterization data (event meant concentrations or EMCs).[112] EMC values quantify the concentration of pollutants washed off a surface during a rain event and vary by location and land use type. EMC values are calculated by dividing the total annual pollutant load for a given parameter (e.g., TN or TP) by the total annual runoff volume.[113]

The revised rules provide that the most up-to-date verified EMC values available for the project region must be used.[114] ERP applicants may propose the use of EMC values derived from regional or local government studies or other studies accepted by the agency or adopted by DEP.[115] If no appropriate regional studies or EMC values exist for the proposed project area, the applicant must use the EMC values listed in Volume I of the ERP Applicant's Handbook.[116]

The required percent reduction of TP and TN depends primarily on the location of the stormwater treatment system. In general, systems located within a HUC 12 watershed containing an OFW or impaired water[117]—and located upstream of such OFW or impaired water—must achieve a higher percent reduction of TP and TN than systems located elsewhere. In addition, sites undergoing redevelopment[118] are subject to different reduction criteria and may be exempt from permitting requirements if under one acre and other conditions are met. Below is an overview of the TP and TN reductions required under the proposed rules:

Site Location	Required Reduction

[110] The proposed rules define "post-development condition" as the average annual nutrient loading based on the proposed project area that would exist in accordance with the permitted project design. DEP, *ERP Applicant's Handbook: Vol. I*, s. 2.0(a)89 (proposed 2023), *available at* http://publicfiles.dep.state.fl.us/dwrm/draftruledocs/stormwater/noc/Updated%20AH_I_thru%20Clean%20Copy.pdf.

[111] The proposed rules define "predevelopment condition" as the average annual nutrient loading based on the land use, land cover, and other site conditions that are legally in existence at the time of the application. DEP, *ERP Applicant's Handbook: Vol. I*, s. 2.0(a)90 (proposed 2023).

[112] 49 Fla. Admin. Reg. 647 (Feb. 24, 2023). *Id.* at s. 9.2.2.

[113] Harper, *Evaluation of Current Stormwater Design Criteria within the State of Florida*, 4-11 (2007), *available at* https://tmp.nationalstormwater.com/wp/wp-content/uploads/2020/07/Evaluation-of-Current-Stormwater-Design-Criteria-within-the-State-of-Florida_Final_71907.pdf.

[114] DEP, *ERP Applicant's Handbook: Vol. I* at s. 9.2.2a. (proposed 2023).

[115] *Id.* at s. 9.2.2b. (proposed 2023).

[116] 49 Fla. Admin. Reg. 647 (Feb. 24, 2023).

[117] The proposed rules define "impaired water" as a waterbody or waterbody segment that does not meet its applicable water quality standards due in whole or in part to discharges of pollutants from point or nonpoint sources. Impaired waters include those waters on the verified list of impaired waters, waters with a Total Maximum Daily Load, waters with an alternative restoration plan, and waters with other evidence demonstrating that water quality standards are not being met. DEP, *ERP Applicant's Handbook: Vol. I*, s. 2.0(a)60 (proposed 2023).

[118] The proposed rules define "redevelopment" as the construction on sites having existing commercial, industrial, institutional, roadway, or residential land uses, excluding silviculture or agriculture, where the existing land use has not been previously permitted, where all or part of the existing impervious surface is removed and replaced with new impervious surface, which has the same or lesser area as the existing impervious surface, and the same or less intense land uses. DEP, *ERP Applicant's Handbook: Vol. I*, s. 2.0(a)97 (proposed 2023).

	TP	TN
OFWs	90%	80%
Impaired Waters	80%	80%
Impaired OFWs	95%	95%
Redevelopment (nonimpaired waters)	80%	45%
Redevelopment OFWs	90%	60%
All other sites	80%	55%

Where the stormwater treatment system is located upstream of and within a HUC 12 watershed which contains an impaired water where basin-specific design and performance criteria for load reductions of nonpoint sources were included to achieve an adopted Total Maximum Daily Load (TMDL), Basin Management Action Plan (BMAP), an approved alternative restoration plan,[119] or other watershed management plan, the applicant must provide a level of treatment sufficient to accomplish:

- The level of treatment prescribed in such TMDL, BMAP, approved alternative restoration plan, or other watershed management plan; and
- The post-development condition average annual loading of those pollutants not meeting water quality standards are less than that of the predevelopment condition.[120]

Best Management Practices (BMPs) are an effective tool for achieving the required minimum performance standards.[121] If the required nutrient reductions are not met by a single BMP, the ERP applicant must either modify the selected BMP or incorporate additional BMPs to achieve the required load reductions. The DEP encourages the use of low impact design (LID) approaches, such as green stormwater infrastructure (GSI), to supplement or replace traditional stormwater infrastructure.[122]

Offsite stormwater treatment, overtreatment,[123] and regional stormwater management systems[124] may be used as an alternative to, or in combination with, onsite treatment to meet the required performance standards.

[119] Alternative restoration plans are water quality improvement plans that employ the early implementation of restoration activities to avoid being placed on the verified list of impaired waters and the development of TMDLs and BMAPs. DEP, *Alternative Restoration Plans*, https://floridadep.gov/DEAR/Alternative-Restoration-Plans (last visited Jan. 26, 2024).
[120] DEP, *ERP Applicant's Handbook: Vol. I*, s. 8.3.4(b) (proposed 2023).
[121] DEP, *ERP Applicant's Handbook: Vol. I*, ss. 9.5 and 9.5.1 (proposed 2023).
[122] *Id.* at s. 9.5.3.
[123] The proposed rules define "overtreatment" as the treatment of the runoff from the project area that flows to a treatment system to a higher level than the rule requires to make up for the lack of sufficient treatment for a portion of the project area. DEP, *ERP Applicant's Handbook: Vol. I*, s. 9.7.1 (proposed 2023).
[124] The proposed rules define "regional stormwater management system" as a system designed, constructed, operated, and maintained to collect convey, store, absorb, inhibit, treat, use or reuse stormwater to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from multiple parcels and projects within the drainage area served by the regional system, where the term "drainage area" refers to the land or development that is served by or contributes stormwater to the regional system. DEP, *ERP Applicant's Handbook: Vol. I*, s. 2.0(a)98 (proposed 2023).

New requirements for Inspections and Operation and Maintenance

The revised ERP rules and Applicant's Handbook provide that an applicant for the construction, alteration, or operation of a stormwater management system must provide a written operation and management plan. The plan must be prepared and certified by a registered professional.

Under the revised rules, operation and maintenance entities for stormwater management systems are required to estimate expected annual operating expenses, including inspection and routine maintenance costs, and certify that they have the financial capability to maintain the system over time. In addition, all operation and maintenance entities, other than MS4 entities,[125] must conduct periodic inspections to ensure that the stormwater management system, and each component thereof, continues to function as designed and permitted. An inspection report must be provided to the permitting agency within 30 days of the inspection.

New Requirements for Dam Systems

The revised ERP rules and Applicant's Handbook provide new permitting criteria applicable to the construction of new dams or alteration of existing dams. The criteria require an ERP applicant to:

- Provide dam system information for collection in a repository maintained by the DEP;
- Establish a downstream hazard potential[126] for each dam indicating the potential adverse impact on the downstream areas should the dam or its appurtenant structures fail or be misoperated;
- Develop an emergency action plan for dams with a high hazard potential or significant hazard potential; and
- Provide a condition assessment report for each existing high hazard potential or significant hazard potential dam.

Grandfathered/Exempt Activities

The revised ERP requirements do not apply to certain activities, including:

- Projects and activities already approved by an unexpired conceptual, general, or individual permit;
- Any non-major modification of such permits and to subsequent permits to construct and operate future phases consistent with an unexpired conceptual approval permit;
- Transfer of approved permits or conversions of such permits to the operation phase;

[125] MS4 means municipal separate storm sewer systems, which are publicly-owned conveyance systems (e.g., ditches, curbs, catch basins, underground pipes) designed for collecting or conveying stormwater. DEP, *Municipal Separate Storm Sewer Systems (MS4),* https://floridadep.gov/water/stormwater/content/municipal-separate-storm-sewer-systems-ms4#:~:text=A%20municipal%20separate%20storm%20sewer%20system%20%28MS4%29%20is,that%20discharges%20to%20surface%20waters%20of%20the%20state (last visited Jan. 26, 2024). Under the revised rules, an MS4 entity must conduct and report inspections of ERP-permitted stormwater management systems in accordance with their MS4 permit requirements and any associated standard operating procedures. DEP, *ERP Applicant's Handbook: Vol. I*, s. 12.5(b) (proposed 2023).

[126] "Downstream Hazard Potential" means the category of a dam that indicates its potential adverse impact on the downstream areas should the dam or its appurtenant structures fail or be mis-operated. The Downstream Hazard Potential reflects probable loss of human life or adverse impacts on economic, environmental, or lifeline interests, or other concerns, such as water quality degradation. The Downstream Hazard may be one of three categories: High Hazard Potential, Significant Hazard Potential, and Low Hazard Potential. DEP, *ERP Applicant's Handbook: Vol. I*, s. 2.0(a)(37) (proposed 2023).

- Projects or activities that are the subject of a general or individual permit application that are deemed complete within 12 months after the effective date of the revised rules;
- Major permit modifications where the purpose of the modification is solely to bring the system into compliance with applicable design and performance criteria that were applicable at the time of the current permit's issuance; and
- Certain public transportation projects and project modifications.

Section 2 amends s. 373.4131, F.S., regarding the statewide environmental resource permitting rules. The bill ratifies rule 62-330.010 of the Florida Administrative Code, titled "Purpose and Implementation," as filed for adoption with the Department of State pursuant to the certification package dated April 28, 2023, with the following changes to Volume I of the ERP Applicant's Handbook:

- Amending section 3.1.2(e)3 to clarify that nothing in the rule eliminates any grandfather provisions[127] in in existence prior to the effective date of the ratified rules. The bill provides that certain grandfathered projects must use all forms in effect at the time the permit was originally issued, except for those subsequent permits to construct and operate the future phases consistent with an unexpired conceptual approval permit.[128]
- Amending sections 8.3.4(a)3. and 8.3.4(b)2 to add commas to language currently in the proposed rule providing that the minimum level of treatment must be sufficient to accomplish a reduction such that "the post-development condition average annual loading**,** of those pollutants not meeting water quality standards**,** that is less than that of the predevelopment condition";
- Amending section 12.5(a) to provide exceptions to the rules' inspection requirements for the following activities and BMPs, and providing such activities must be inspected in accordance with the applicable rules and laws:
  A. Activities and BMPs regulated by the South Florida Water Management District pursuant to rule 40E-63 of Florida Administrative Code regarding the Everglades Program; and
  B. Activities and BMPs regulated by the Department of Agriculture and Consumer Services pursuant to Title 5M of the Florida Administrative Code, regarding agricultural BMPs, and s. 403.067(7)(c)2., F.S., regarding the establishment and implementation of TMDLs.
- Amending section 8.2.2 to provide that, when an applicant demonstrates that its designs and plans, including any supporting information, meet the revised rule's performance standards by performing the analysis specified in section 9 and, if applicable, in Volume II or Appendix O of Volume I, employing the structural best management practices specified therein as needed, and provides the information required by such sections, the applicant shall

[127] Grandfather provisions are contained within sections 1.4.2 and 3.1.2 of Volume I of the ERP Applicant's Handbook. DEP, *ERP Applicant's Handbook: Vol. I*, ss. 1.4.2 and 3.1.2 (2020), *available at* https://www.flrules.org/gateway/reference.asp?No=Ref-12078.

[128] These projects must use the following forms effective July 1, 2024: Form 62-330.301(26) Financial Capability Certification; Form 62-330.301(25) Dam System Information; Form 62-330.311(1) Operation and Maintenance Certification; or Form 62-330.311(3) Inspection Checklists.

have satisfied the conditions for issuance of rule 62-330.301(1)(e)[129] and (3)[130] of the Florida Administrative Code, and is entitled to the presumption within s. 373.4131(3)(b), F.S., that the stormwater system does not cause or contribute to violations of state water quality standards;

- Amending section 8.3.1 to clarify that applicants must use the modeling and calculations describe in section 9 of Volume I of the Applicant's Handbook to demonstrate that their proposed stormwater management system is designed to discharge to the required treatment levels; and
- Amending section 9.1 to provide that when an applicant provides reasonable assurance that its modeling, calculations, and applicable supporting documentation satisfy the provisions described above, the applicant shall have demonstrated that it meets the performance standards under the revised rules.

The bill also provides that, in addition to the grandfather provisions ratified by this bill, the DEP must exempt from the amended rules development or other construction projects for which construction or permitting design drawings have been signed and sealed by a registered professional and which were submitted to a local or other government agency before January 1, 2024, for any of the following:

- A project for which construction or permitting design drawings were submitted as part of a local building permit or as part of a rezoning application provided to demonstrate consistency with a local government's comprehensive plan adopted; and
- An approved regional stormwater management system designed and permitted pursuant to an effective permit under Part IV of Chapter 373, F.S.

The bill also exempts stormwater management systems constructed in accordance with a binding ecosystem management agreement executed by the DEP before January 1, 2024, and designs for a development of regional impact that have been signed and sealed by a registered professional before January 1, 2024.

The bill also amends section 8.3.5 of the Applicant's Handbook, which provides alternative treatment standards for stormwater systems serving redevelopment[131] activities. The bill permits an alternative level of treatment for redevelopment projects in areas with impaired waters, which the DEP's proposed rules currently do not allow.[132] Specifically, the bill provides that

[129] This rule provides that, to obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this rule will not adversely affect the quality of receiving waters such that the state water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated. Fla. Admin. Code R. 62-330.301(1)(e).

[130] This rule provides that, in instances where an applicant is unable to meet state water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, the applicant must implement mitigation measures that are proposed by, or acceptable to, the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards. Fla. Admin. Code R. 62-330.301(2) (renumbered as 62-330.301(3) under the revised rules).

[131] The proposed rules define "redevelopment" as the construction on sites having existing commercial, industrial, institutional, roadway, or residential land uses, excluding silviculture or agriculture, where the existing land use has not been previously permitted, where all or part of the existing impervious surface is removed and replaced with new impervious surface, which has the same or lesser area as the existing impervious surface, and the same or less intense land uses. DEP, *ERP Applicant's Handbook: Vol. I*, s. 2.0(a)97 (proposed 2023).

[132] DEP, *ERP Applicant's Handbook: Vol. I*, s. 8.3.5 (proposed 2023).

stormwater treatment systems located within a HUC 12 subwatershed which contains an impaired water and located upstream of that impaired water may provide an alternative level of treatment sufficient to accomplish:

- An 80 percent reduction of the post-development average annual loading of TP and a 45 percent reduction of the post-development average annual loading of TN from the project area; and
- A post-development condition average annual loading, of those pollutants not meeting water quality standards, that is less than that of the predevelopment condition.

Under the DEP's proposed rules, stormwater systems for redevelopment projects located within a subwatershed containing an impaired water and located upstream of that impaired water would have to meet the minimum performance standards for impaired waters under section 8.3.4 of the Applicant's Handbook.[133] Section 8.3.4 provides that stormwater systems in these areas must generally provide a level of treatment sufficient to accomplish:

- An 80 percent reduction of the average annual loading of TP and TN from the proposed project, or 95 percent where located within such HUC 12 subwatershed containing an OFW and located upstream of that OFW; and
- A reduction such that the post-development condition average annual loading of nutrients does not exceed the predevelopment condition nutrient loading; and
- The post-development condition average annual loading of those pollutants not meeting water quality standards are less than that of the predevelopment condition.

The bill does not change the required pollutant reductions for redevelopment projects within a HUC 12 subwatershed containing an OFW (a 90 percent reduction of the post-development average annual loading of TP and a 60 percent reduction of the post-development average annual loading of TN from the project area). However, the bill specifies that these alternative standards apply to stormwater systems within an OFW subwatershed if they are *located upstream* of the OFW. In contrast, under the DEP's proposed rules, these alternative standards would be applicable to all stormwater systems within such a subwatershed, irrespective of their location relative to the OFW.[134]

Below is a table summarizing how the bill changes the required reductions for redevelopment:

Site Location	**Required Reduction under DEP's Proposed Rules**		**Required Reduction as Amended by Bill**	
	TP	**TN**	**TP**	**TN**
Impaired Waters	80%	80%	No Change	No Change
Impaired Waters - Redevelopment	80%*****	80%*****	80%	45%
OFWs	90%	80%	No Change	No Change
OFWs - Redevelopment	90%	60%	90%******	60%******
All other Redevelopment Sites	80%	45%	No Change	No Change

[133] *Id.*
[134] *Id.*at s.

* Alternative standards for redevelopment do not apply. Stormwater systems must comply with the minimum level of treatment for impaired waters.
** Applies to stormwater systems located upstream of OFW.

In addition, the bill provides that any future changes to those portions of the Applicant's Handbook that are amended by the bill must be submitted in bill form to the Speaker of the House of Representatives and to the President of the Senate for their consideration and referral to the appropriate committees. Such amendments would become effective only upon approval by act of the Legislature.

Section 3 provides that the bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The municipality/county mandates provision of Art. VII, s. 18(a) of the Florida Constitution may not apply to this bill. The Florida Constitution limits the ability of the State to impose unfunded mandates on local governments. However, if a bill merely reauthorizes existing statutory authority, it is exempt from the unfunded mandates provision. This bill likely falls under this exemption and will therefore not be subject to the unfunded mandates prohibition.

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:

Revisions to Chapter 62-330 of the Florida Administrative Code will increase costs associated with the new requirements for stormwater treatment, operation and

maintenance, inspections and reporting, and dam systems information and safety.[135] The Department of Environmental Protection (DEP) estimates that approximately 14,032 entities will be required to comply with the revised rules within five years of the rules' implementation.[136] This includes private and public entities of all sizes that are ordinarily involved in construction or development of residential, commercial, and light industrial properties.[137]

The estimated total cost for developing stormwater infrastructure in compliance with *current* treatment standards is $12.6 billion in the aggregate over a five-year period.[138] The DEP estimates that the proposed rules revisions will increase these costs by approximately $1.21 billion[139] (or $2,600 per acre developed) within a five-year period after implementation.[140] This includes lower cost regulatory alternatives.[141] The provisions of this bill allowing redevelopment projects in areas with impaired waters are likely to reduce the fiscal impact of the rules. However, the provisions of this bill creating new law are likely to reduce the fiscal impact of the rules.

C. Government Sector Impact:

The DEP can implement the proposed rule within existing resources.[142] Local governments that need to comply with the stormwater rule would be subject to the same costs discussed in the private sector impact section above.

VI. Technical Deficiencies:

None.

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[135] DEP, *SERC: Chapter 62-330, F.A.C.*, 2-3 (2023), *available at* http://publicfiles.dep.state.fl.us/dwrm/draftruledocs/stormwater/noc/serc-template-updated.pdf.
[136] *Id.* at 3.
[137] *Id.*
[138] *Id.* at 2.
[139] Prior to receipt of lower cost regulatory alternatives (LCRAs), DEP estimated the revised rules would increase stormwater treatment costs by $1.44 billion in the aggregate within five years from the rules' implementation, or $1.486 billion when including additional transactional costs (i.e., new requirements for system design, operation and maintenance, inspections, and reporting) and costs related to the rules' new requirements for dam systems. *Id.* at 2-3. DEP estimates the LCRAs will lower stormwater treatment costs (excluding transactional and dam system costs) by approximately 16 percent from the original estimate. *Id.* at 10. Accordingly, DEP's revised estimate for stormwater treatment costs under the proposed rules is $1.21 billion. DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 13 (Dec. 6, 2023), *available at* https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6001/10561_MeetingPacket_6001.6.23.pdf; DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources).
[140] *Id.* at 2, 10; DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources); DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 13 (Dec. 6, 2023), *available at* https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6001/10561_MeetingPacket_6001.6.23.pdf.
[141] DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources* at 13.
[142] DEP, *SERC: Chapter 62-330, F.A.C.*, 4 (2023), *available at* http://publicfiles.dep.state.fl.us/dwrm/draftruledocs/stormwater/noc/serc-template-updated.pdf.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 373.4131 of the Florida Statutes.

The bill creates an undesignated section of Florida law.

IX. Additional Information:

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

CS by Appropriations Committee on Agriculture, Environment and General Government on February 8, 2024:
The committee substitute:

- Provides that a stormwater system is presumed to not violate state water quality standards if an applicant:
  - Demonstrates that its designs and plans meet the revised rule's performance standards;
  - Completes the required analysis employing best management practices as needed; and
  - Provides all information required by the rules;
- Allows an applicant to demonstrate it has met the rule's performance standards by providing reasonable assurance through modeling, calculations, and supporting documentation that satisfy the provisions of the revised rules;
- Exempts the following types of projects if construction and permitting design drawings have been signed and sealed by a registered professional and submitted to a local government or other government agency before January 1, 2024:
  - Projects that are part of a local building permit or rezoning application provided to demonstrate consistency with a local government's comprehensive plan; and
  - An approved regional stormwater management system designed and permitted pursuant to an effective permit;
- Exempts designs for projects included in a development of regional impact that have been signed and sealed by a registered professional before January 1, 2024;
- Exempts stormwater management systems constructed in accordance with a binding ecosystem management agreement executed by the Department of Environmental Protection before January 1, 2024.

B. Amendments:

None.

947242

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Mayfield) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 118 and 119
insert:

(8) In addition to the grandfather provisions ratified by this section, the department shall exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II, development or other construction projects for which construction or permitting

947242

design drawings have been signed and sealed by a registered professional pursuant to chapter 62-330, Florida Administrative Code, and which were submitted to a local or other government agency before January 1, 2024, for any of the following:

(a) A project included in a development of regional impact as defined in s. 380.06 for which the landowner has submitted plans to a local government for subsequent development review and approval.

(b) A project for which construction or permitting design drawings were submitted as part of a local building permit or as part of a rezoning application provided to demonstrate consistency with a local government's comprehensive plan adopted pursuant to s. 163.3184.

(c) An approved regional stormwater management system designed and permitted pursuant to an effective permit under part IV of chapter 373.

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

And the directory clause is amended as follows:

Delete line 41

and insert:

Section 2. Subsections (7) and (8) are added to section 373.4131,

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

And the title is amended as follows:

Delete line 15

and insert:

Legislature; exempting specified developments and

947242

projects from amended rules; providing an effective date.

101048

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Mayfield) recommended the following:

Senate Amendment to Amendment (947242) (with directory and title amendments)

After line 26
insert:
(9) Stormwater management systems constructed in accordance with a binding ecosystem management agreement executed by the department pursuant to s. 403.0752 before January 1, 2024, are exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and

101048

corresponding amendments to the Applicant's Handbook Volume II.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:
Delete line 32
and insert:
Section 2. Subsections (7), (8), and (9) are added to section

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:
Delete line 40
and insert:
projects from the amended rules; exempting certain stormwater management systems from the amended rules; providing an effective

484510

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Mayfield) recommended the following:

Senate Substitute for Amendment (947242) (with directory and title amendments)

Between lines 118 and 119
insert:

(8) In addition to the grandfather provisions ratified by this section, the department shall exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II, development or other

484510

construction projects for which construction or permitting design drawings have been signed and sealed by a registered professional pursuant to chapter 62-330, Florida Administrative Code, and which were submitted to a local or other government agency before January 1, 2024, for any of the following:

(a) A project included in a development of regional impact as defined in s. 380.06.

(b) A project for which construction or permitting design drawings were submitted as part of a local building permit or as part of a rezoning application provided to demonstrate consistency with a local government's comprehensive plan adopted pursuant to s. 163.3184.

(c) An approved regional stormwater management system designed and permitted pursuant to an effective permit under part IV of chapter 373.

(9) Stormwater management systems constructed in accordance with a binding ecosystem management agreement executed by the department pursuant to s. 403.0752 before January 1, 2024, are exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II.

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

And the directory clause is amended as follows:

Delete line 41

and insert:

Section 2. Subsections (7), (8), and (9) are added to section 373.4131,

484510

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 15
and insert:
Legislature; exempting specified developments and projects and certain stormwater management systems from the amended rules; providing an effective date.

258950

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Mayfield) recommended the following:

Senate Substitute for Amendment (947242) (with directory and title amendments)

Between lines 118 and 119

insert:

(8) In addition to the grandfather provisions ratified by this section, the department shall exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II, development or other

258950

construction projects for which construction or permitting design drawings have been signed and sealed by a registered professional pursuant to chapter 62-330, Florida Administrative Code, and which were submitted to a local or other government agency before January 1, 2024, for any of the following:

(a) A project for which construction or permitting design drawings were submitted as part of a local building permit or as part of a rezoning application provided to demonstrate consistency with a local government's comprehensive plan adopted pursuant to s. 163.3184.

(b) An approved regional stormwater management system designed and permitted pursuant to an effective permit under part IV of chapter 373.

(9) Stormwater management systems constructed in accordance with a binding ecosystem management agreement executed by the department pursuant to s. 403.0752 before January 1, 2024, are exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II.

(10) Projects included in a development of regional impact as defined in s. 380.061 are exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II,.

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

And the directory clause is amended as follows:

Delete line 41

and insert:

258950

Section 2. Subsections (7), (8), (9), and (10) are added to section 373.4131,

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

And the title is amended as follows:

Delete line 15

and insert:

Legislature; exempting specified developments and projects and certain stormwater management systems from the amended rules; providing an effective date.

945698

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Mayfield) recommended the following:

Senate Substitute for Amendment (947242) (with directory and title amendments)

Between lines 118 and 119
insert:

(8) In addition to the grandfather provisions ratified by this section, the department shall exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II, development or other

945698

construction projects for which construction or permitting design drawings have been signed and sealed by a registered professional pursuant to chapter 62-330, Florida Administrative Code, and which were submitted to a local or other government agency before January 1, 2024, for any of the following:

(a) A project for which construction or permitting design drawings were submitted as part of a local building permit or as part of a rezoning application provided to demonstrate consistency with a local government's comprehensive plan adopted pursuant to s. 163.3184.

(b) An approved regional stormwater management system designed and permitted pursuant to an effective permit under part IV of chapter 373.

(9) Stormwater management systems constructed in accordance with a binding ecosystem management agreement executed by the department pursuant to s. 403.0752 before January 1, 2024, are exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II.

(10) Designs for a development of regional impact as defined in s. 380.06 that have been signed and sealed by a registered professional pursuant to chapter 62-330, Florida Administrative Code, before January 1, 2024, are exempt from the amendments to chapter 62-330, Florida Administrative Code, the Applicant's Handbook Volume I, and corresponding amendments to the Applicant's Handbook Volume II.

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

And the directory clause is amended as follows:

945698

Delete line 41

and insert:

Section 2. Subsections (7), (8), (9), and (10) are added to section 373.4131,

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

And the title is amended as follows:

Delete line 15

and insert:

Legislature; exempting specified developments and projects and certain stormwater management systems from the amended rules; providing an effective date.

175060

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

The Appropriations Committee on Agriculture, Environment, and General Government (Mayfield) recommended the following:

Senate Amendment

Between lines 109 and 110
insert:

(f) Section 8.2.2 of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to add, after the last sentence, the following: "When an applicant demonstrates that its designs and plans, including any supporting information, meet the performance standards of Sections 8.2.3 and 8.3 by performing the analysis

175060

specified in Section 9 and, if applicable, in Volume II or Appendix O of Volume I, employing the structural best management practices specified therein as needed, and provides the information required by such sections, the applicant shall have satisfied the conditions for issuance of rule 62-330.301(1)(e), F.A.C., and rule 62-330.301(3), F.A.C., if applicable, and is entitled to the presumption of subsection 373.4131(3)(b), F.S."

(g) Section 8.3.1 of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: "Each applicant shall demonstrate, through modeling or calculations as described in Section 9, that their proposed stormwater management system is designed to discharge to the required treatment level based on the performance standards described in Sections 8.3.2 through 8.3.5 below. For the purposes of this section, annual loading from the proposed project refers to post-development loads before treatment, as calculated in Section 9 of this volume. Stormwater treatment systems shall be designed to achieve at least an 80 percent reduction of the average annual post-development total suspended solids (TSS) load, or 95 percent of the average annual post-development TSS load for those proposed projects located within a HUC 12 subwatershed containing an Outstanding Florida Water (OFW) and located upstream of that OFW. There is a rebuttable presumption that this standard is met when structural stormwater best management practices (BMPs) are designed to meet the applicable design standards in Sections 8.3.2 through 8.3.5 below."

(h) Section 9.1 of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative

175060

Code, is changed to read: "Applicants are required to provide nutrient load reduction calculations in their application. To calculate the required stormwater nutrient load reduction for a project, the applicant should:

Determine whether the site falls within the same HUC 12 subwatershed as, and is upstream of, an OFW or impaired water, and select the corresponding performance standard from Section 8.3 of this volume;

Determine the pre-development average annual average mass loading of the project area for both total nitrogen (TN) and total phosphorus (TP) through modeling or as described in Section 9.2;

Calculate the project area's post-development annual average mass loading before treatment for both TN and TP through modeling or as described in Section 9.2;

Determine the percent TN and TP reduction needed as defined within Sections 8.3 and 9.3 of this volume. The greater percent load reduction will be the requirement for the project; and

Determine which BMPs, or other treatment and reduction options, will be used to meet the required TN and TP load reductions that are equivalent to, or which exceed, the applicable performance standards in Sections 8.2.3 through 8.3.6. Information on how to

175060

calculate nutrient load reduction for BMP Treatment Train is found in Section 9.5 of this volume.

When an applicant provides reasonable assurance that its modeling, calculations, and applicable supporting documentation satisfy the provisions described above, the applicant shall have demonstrated that it meets the performance standards specified under Sections 8.2.3 through 8.3.6 of this volume.”

By the Committee on Environment and Natural Resources

592-02428-24 20247040__

A bill to be entitled

An act relating to the ratification of the Department of Environmental Protection's rules relating to stormwater; ratifying a specified rule relating to environmental resource permitting for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; providing construction; amending s. 373.4131, F.S.; ratifying rule 62-330.010, Florida Administrative Code, with specified changes; requiring that specified future amendments to such rule be submitted in bill form to and approved by the Legislature; providing an effective date.

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

Section 1. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), Florida Statutes: rule 62-330, Florida Administrative Code, titled "Environmental Resource Permitting," as filed for adoption with the Department of State pursuant to the certification package dated April 28, 2023.

(2) Except for the changes set forth in section 2 as to rule 62-330.010, Florida Administrative Code, this section serves no other purpose and may not be codified in the Florida Statutes. After this act becomes a law, its enactment and

592-02428-24 20247040__

effective dates must be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This section does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing adoption of any rule cited.

Section 2. Subsection (7) is added to section 373.4131, Florida Statutes, to read:

373.4131 Statewide environmental resource permitting rules.—

(7) The Legislature ratifies rule 62-330.010, Florida Administrative Code, titled "Purpose and Implementation," as filed for adoption with the Department of State pursuant to the certification package dated April 28, 2023, with the following changes:

(a) Section 3.1.2(e)3. of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to add, after the last sentence, the following: "Nothing in Section 3.1.2(e)3. shall eliminate any grandfather provisions in Section 1.4.2 and other grandfather provisions of Section 3.1.2 in existence prior to [effective date]. Projects listed in Section 3.1.2(e)3. shall use all forms in effect at the time the permit was originally issued, except for those subsequent permits to construct and operate the future phases

consistent with an unexpired conceptual approval permit which shall use the following forms effective [effective date]: Form 62-330.301(26) Financial Capability Certification; Form 62-330.301(25) Dam System Information; Form 62-330.311(1) Operation and Maintenance Certification; and Form 62-330.311(3) Inspection Checklists, as applicable."

(b) Section 8.3.4(a)3 of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: "the post-development condition average annual loading, of those pollutants not meeting water quality standards, that is less than that of the predevelopment condition."

(c) Section 8.3.4(b)2 of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: "the post-development condition average annual loading, of those pollutants not meeting water quality standards, that is less than that of the predevelopment condition."

(d) Section 8.3.5 of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: "Stormwater treatment systems serving redevelopment activities shall either meet the requirements of Sections 8.3.2 through 8.3.4 or provide an alternate level of treatment sufficient to accomplish:

(a) an 80 percent reduction of the post-development average annual loading of TP and a 45 percent reduction of the post-development average annual loading of TN from the project area; and

(b) for stormwater systems located within a HUC 12

subwatershed containing an OFW and located upstream of that OFW, a 90 percent reduction of the post-development average annual loading of TP and a 60 percent reduction of the post-development average annual loading of TN from the project area; and

(c) for stormwater treatment systems located within a HUC 12 subwatershed which contains an impaired water and located upstream of that impaired water, a level of treatment sufficient to accomplish a post-development condition average annual loading, of those pollutants not meeting water quality standards, that is less than that of the predevelopment condition."

(e) The first sentence of Section 12.5(a) of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, is changed to read: "All operation and maintenance entities, other than MS4 Entities, shall conduct and report inspections in accordance with this section; except that those specific activities and best management practices regulated by the South Florida Water Management District pursuant to Chapter 40E-63, F.A.C., or by the Department of Agriculture and Consumer Services pursuant to Title 5M, F.A.C., and Section 403.067(7)(c)2., F.S., shall be inspected in accordance with such applicable rules and laws."

Any future amendments to those portions of the Applicant's Handbook Volume I, incorporated in rule 62-330.010(4)(a), Florida Administrative Code, included in this subsection must be submitted in bill form to the Speaker of the House of Representatives and to the President of the Senate for their consideration and referral to the appropriate committees. Such

amendments shall become effective only upon approval by act of the Legislature.

Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR GAYLE HARRELL
31st District

January 31, 2024

Senator Jason Brodeur
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Brodeur,

I respectfully request that **SB 7040** – DEP Rule Ratification be placed on the next available agenda for the Appropriations Committee on Agriculture, Environment and General Government Meeting.

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

Thank you,

Senator Gayle Harrell
Senate District 25

Cc: Giovanni Betta, Staff Director
Julie Brass, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
❒ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

2/7/24	7040
Meeting Date	Bill Number or Topic
Ag, Env & Gen Gov Appropriations	
Committee	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)

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
Senate professional staff conducting the meeting

2/8/24
Meeting Date

App. As. Comm.
Committee

7040
Bill Number or Topic

~~258950~~ ~~SA~~ WD
Amendment Barcode (if applicable)

Name Liam Coyne

Phone 945698 SA

Address
Street

Email

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 Stormwater 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

APPEARANCE RECORD

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Senate professional staff conducting the meeting

2/8/2024	7040 945698
Meeting Date	Bill Number or Topic
Appropriations Committee on Agriculture, Environment, and General Government	~~484510 SA~~ ~~258950~~ SA
Committee	Amendment Barcode (if applicable)

WD

Name Elizabeth Alvi

Phone 850-222-1098

Address 308 N.Monroe
Street

Email Beth.Alvi@audubon.org

Tallahassee 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:
Audubon 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. 2020-2022 JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Postsecondary, *Chair*
Agriculture
Appropriations
Appropriations Committee on Agriculture, Environment, and General Government
Appropriations Committee on Transportation, Tourism, and Economic Development
Education Pre-K -12
Ethics and Elections

SELECT COMMITTEE:
Select Committee on Resiliency

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR ERIN GRALL
29th District

February 7, 2024

Dear Chair Brodeur,

I respectfully request an excused absence from the Appropriations Committee on Agriculture, Environment, and General Government on February 8, 2024 at 2:00pm.

Thank you for your consideration,

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

REPLY TO:
❒ 3209 Virginia Avenue, Suite A149, Fort Pierce, Florida 34981 (772) 595-1398
❒ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

CourtSmart Tag Report

Room: SB 110 **Case No.:** **Type:**
Caption: Senate Appropriations Committee on Agriculture, Environment, and General Government **Judge:**

Started: 2/8/2024 2:01:54 PM
Ends: 2/8/2024 3:29:32 PM Length: 01:27:39

2:01:59 PM Sen. Brodeur (Chair)
2:02:44 PM S 676
2:02:49 PM Sen. Bradley
2:04:04 PM Samantha Padgett, Florida Restaurant and Lodging Association (waives in support)
2:04:13 PM Greg Black, GrubHub (waives in support)
2:04:15 PM Adam Basford, Associated Industries of Florida (waives in support)
2:04:21 PM Tiffany Garling, Florida Chamber of Commerce (waives in support)
2:04:25 PM Sarah Suskey, TechNet (waives in support)
2:04:28 PM Sal Nuzzo, The James Madison Institute (waives in support)
2:04:38 PM Sen. Bradley
2:05:12 PM S 846
2:05:16 PM Sen. Diceglie
2:05:50 PM Sen. Burman
2:06:05 PM Sen. Diceglie
2:06:52 PM Sen. Diceglie
2:07:21 PM S 1786
2:07:28 PM Sen. Diceglie
2:08:34 PM Sal Nuzzo, The James Madison Institute (waives in support)
2:08:46 PM Sen. Diceglie
2:09:17 PM Sen. Brodeur
2:09:41 PM Sen. Burman (Chair)
2:09:50 PM S 532
2:09:54 PM Sen. Brodeur
2:11:23 PM Ash Mason, Office of Financial Regulation (waives in support)
2:11:32 PM Tiffany Garling, Florida Chamber of Commerce (waives in support)
2:11:36 PM Aimee Diaz Lyon, The Business Law Section of the Florida Bar (waives in support)
2:11:41 PM David Cruz, Florida League of Cities (waives in support)
2:11:51 PM Sen. Brodeur
2:12:53 PM S 1692
2:13:09 PM Sen. Brodeur
2:13:46 PM John November, Public Trust for Conservation
2:15:56 PM Ryan Smart, Florida Springs Council (waives in support)
2:16:02 PM Nancy Lawther, Florida PTA (waives in support)
2:16:12 PM Sen Brodeur
2:16:43 PM Sen. Brodeur (Chair)
2:16:50 PM S 7040
2:16:54 PM Sen. Harrell
2:18:43 PM Am. 945698
2:18:58 PM Sen. Mayfield
2:20:39 PM Sen Brodeur
2:20:59 PM Elizabeth Alvi, Senior Director of Policy, Audobon Florida
2:22:27 PM Kevin Coyne, Florida Stormwater Association
2:24:35 PM Sen. Mayfield
2:26:07 PM Am. 175060
2:26:18 PM Sen. Mayfield
2:27:02 PM Sen. Mayfield
2:27:19 PM Adam Basford, Associated Industries of Florida
2:28:42 PM Sen. Mayfield
2:29:26 PM Sen. Harrell
2:31:23 PM Sen. Collins
2:31:30 PM S 1084
2:31:41 PM Am. 549006

2:31:46 PM Sen. Collins
2:32:49 PM Am. to Am. 509132
2:33:20 PM Theresa King, Florida State Building Trades
2:33:37 PM Ryan Smart, Forida Springs Council (waives in support)
2:33:46 PM David Cullen, Sierra Club Florida (waives in support)
2:34:13 PM Am 549006 (cont.)
2:34:23 PM Izzy Garbarino, Florida Department of Agriculture and Consumer Services (waives in support)
2:34:50 PM S 1084 (cont.)
2:34:57 PM Sen. Polsky
2:35:17 PM Sen. Collins
2:35:53 PM Sen. Polsky
2:36:10 PM Sen. Collins
2:36:29 PM Sen. Polsky
2:36:42 PM Sen. Collins
2:37:30 PM Sen. Polsky
2:37:55 PM Sen. Collins
2:38:16 PM Sen. Polsky
2:38:25 PM Sen. Collins
2:38:57 PM Sen. Polsky
2:39:26 PM Sen. Collins
2:39:57 PM Sen. Polsky
2:40:16 PM Sen. Collins
2:41:48 PM Sen. Polsky
2:42:08 PM Sen. Collins
2:42:47 PM Sen. Polsky
2:42:58 PM Sen. Collins
2:43:49 PM Sen. Polsky
2:43:55 PM Sen. Collins
2:44:20 PM Sen. Polsky
2:44:40 PM Sen. Collins
2:45:26 PM Sen. Polsky
2:45:30 PM Sen. Collins
2:45:37 PM Sen. Polsky
2:45:40 PM Sen. Collins
2:46:01 PM Sen. Burman
2:46:43 PM Sen. Collins
2:47:05 PM Sen. Burman
2:47:21 PM Sen. Collins
2:47:29 PM Sen. Osgood
2:48:28 PM Sen. Collins
2:49:50 PM Sen. Osgood
2:50:06 PM Sen. Collins
2:50:46 PM Sen. Osgood
2:51:06 PM Sen. Collins
2:51:32 PM Sen. Osgood
2:51:46 PM Sen. Collins
2:52:14 PM Sen. Burman
2:52:33 PM Sen. Collins
2:52:46 PM Sen. Burman
2:53:12 PM Sen. Collins
2:53:41 PM Sen. Burman
2:54:00 PM Sen. Collins
2:54:54 PM Sen. Burman
2:55:09 PM Sen. Collins
2:55:46 PM Sen. Burman
2:55:50 PM Sen. Collins
2:56:06 PM Sen. Polsky
2:56:16 PM Sen. Collins
2:56:25 PM Sen. Polsky
2:56:27 PM Sen. Collins
2:57:05 PM Sen. Polsky
2:57:11 PM Sen. Collins

2:57:57 PM Sen. Polsky
2:58:06 PM Sen. Collins
2:58:25 PM Sen. Polsky
2:58:31 PM S 1084 (cont.)
2:58:47 PM Sam Ard, Florida Cattlemen's Association and Certified Pest Control Operators (waives in support)
2:58:53 PM Nancy Stewart, Florida Poultry Federation, (waives in support)
2:58:57 PM Jim Spratt, Florida Forestry Association (waives in support)
2:59:00 PM Andrew Walmsley, Florida Farm Bureau Federation (waives in support)
2:59:04 PM Tripp Hunter, Florida Fruit and Vegetable Association (waives in support)
2:59:13 PM Samuel Dohler
3:00:46 PM Samantha Kaddis
3:02:17 PM Bill Helmich, Food Solutions Action/ Good Food Institute (waives against)
3:02:26 PM Mark Shelley, Chief Legal Officer, Believer Meats
3:04:33 PM Luke Cooperhouse, Founder an Chief Executive Officer, BlueNalu Inc.
3:05:54 PM Rene Vinas
3:07:30 PM Theresa King, Florida State Building Trades
3:09:32 PM Kathy Mears, Florida Department of Agriculture and Consumer Services (waives in support)
3:09:40 PM Sen. Polsky
3:12:14 PM Sen. Osgood
3:14:46 PM Sen. Collins
3:16:46 PM S 804
3:16:52 PM Sen. Hutson
3:17:02 PM Am. 597826
3:17:07 PM Am. to Am. 872214
3:17:24 PM Am. to Am. 837390
3:17:31 PM Sen. Hutson
3:17:35 PM Sen. Brodeur
3:17:56 PM Am. 597826 (cont.)
3:17:58 PM Sen. Burman
3:18:16 PM Sen. Hutson
3:18:39 PM Loius Trombetta, Executive Director, Florida Gaming Control Commission (waives in support)
3:18:51 PM Sen. Hutson
3:19:17 PM S 1046
3:19:24 PM Am. 703598
3:19:34 PM Sen Martin
3:20:54 PM S 1046 (cont.)
3:20:59 PM Sen. Burman
3:21:15 PM Sen. Martin
3:22:04 PM Sen. Burman
3:22:11 PM Sen. Martin
3:22:36 PM Sen. Burman
3:22:46 PM Sen. Martin
3:22:59 PM Sen. Burman
3:23:09 PM Sen. Martin
3:23:28 PM Sen. Burman
3:23:37 PM Sen. Martin
3:24:02 PM Adam Potts, Florida Sherriff's Association, (waives in support)
3:24:07 PM Louis Trombetta, Executive Director, Florida Gaming Control Commission (waives in support)
3:24:20 PM Jonathan Zachen, Amusement Machine Association of Florida
3:26:02 PM Sen. Martin
3:26:32 PM S 1210
3:26:37 PM Sen. Martin
3:27:05 PM Sen. Brodeur
3:27:14 PM Kim Dinkins, 1000 Friends of Florida (waives against)
3:27:15 PM Ryan Matthews, San Carlos Island Redevelopment Corporation (waives in support)
3:27:21 PM Sen. Martin
3:28:03 PM S 1622
3:28:06 PM Sen. Trumbull
3:28:15 PM Kevin Jacobs, Office of Insurance Regulation (waives in support)
3:29:02 PM Sen. Garcia
3:29:06 PM Sen. Burman
3:29:18 PM Meeting adjourned