

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Lee, Chair
Senator Clemens, Vice Chair

MEETING DATE: Monday, April 3, 2017**TIME:** 4:00—6:00 p.m.**PLACE:** 301 Senate Office Building**MEMBERS:** Senator Lee, Chair; Senator Clemens, Vice Chair; Senators Bean, Brandes, Campbell, Perry, Rodriguez, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1402 Latvala (Similar CS/H 1289)	Local Governmental Financial Emergencies; Expanding the entities that have oversight over local governmental entities, charter schools, charter technical career centers, and district school boards under certain circumstances; authorizing the board to assume operation and institutional control of a local governmental entity's or district school board's functions under certain circumstances, etc. CA 04/03/2017 Fav/CS AED AP RC	Fav/CS Yeas 8 Nays 0
2	CS/SB 36 Judiciary / Montford (Similar CS/H 6533)	Relief of Jennifer Wohlgemuth by the Pasco County Sheriff's Office; Providing for the relief of Jennifer Wohlgemuth by the Pasco County Sheriff's Office; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of an employee of the Pasco County Sheriff's Office, etc. SM JU 02/21/2017 Fav/CS CA 04/03/2017 Favorable RC	Favorable Yeas 8 Nays 0
3	CS/SB 42 Judiciary / Montford (Similar CS/H 6507)	Relief of Angela Sanford by Leon County; Providing for the relief of Angela Sanford by Leon County; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of an employee of Leon County, etc. SM JU 02/21/2017 Fav/CS CA 04/03/2017 Favorable RC	Favorable Yeas 8 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1350 Young (Compare CS/H 903)	Homestead Exemption Fraud; Authorizing property appraisers to contract for services to examine or audit claimed homestead tax exemptions; revising duties of property appraisers and tax collectors when such property appraisers make a certain determination relating to unentitled homestead exemptions; revising the applicability of a provision that specifies the sole means of compensation for information relating to tax law violations, etc. CA 04/03/2017 Not Considered AFT AP	Not Considered
5	SB 1496 Thurston (Identical H 943, Compare S 992)	Neighborhood Improvement Districts; Providing that a city ordinance creating a neighborhood improvement district may authorize the district to borrow money, contract loans, and issue bonds, certificates, warrants, notes, or other evidence of indebtedness and may pledge the special assessment power of the district to pay such debts for the purpose of financing certain capital projects; specifying characteristics of such bonds and loans, etc. CA 04/03/2017 Favorable AFT AP RC	Favorable Yeas 7 Nays 1
6	SB 1046 Passidomo (Similar CS/CS/H 735, S 318)	Covenants and Restrictions; Deleting provisions specifying that a county or municipality is not prohibited from providing information to an applicant regarding other state or federal permits that may apply under certain circumstances; providing that a marketable title is free and clear of all covenants or restrictions, the existence of which depends upon any act, title transaction, event, zoning requirement, building or development permit, or omission that occurred before the effective date of the root of title, etc. CA 04/03/2017 Fav/CS JU RC	Fav/CS Yeas 7 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1770 Lee (Similar CS/H 13)	Community Redevelopment Agencies; Requiring ethics training for community redevelopment agency commissioners; providing a phase-out period for existing community redevelopment agencies; requiring the Department of Economic Opportunity to declare inactive community redevelopment agencies that have reported no financial activity for a specified number of years, etc. CA 03/22/2017 Not Considered CA 04/03/2017 Fav/CS ATD AP RC	Fav/CS Yeas 5 Nays 3
8	SB 1750 Rodriguez	Special Districts; Removing a filing fee paid to counties or municipalities under certain circumstances when petitions to contract or expand the boundaries of a community development district are filed with the Florida Land and Water Adjudicatory Commission; specifying requirements for the petition and the referendum; requiring the district to dissolve if a majority of the qualified voters approve the referendum, subject to certain requirements, etc. CA 04/03/2017 Fav/CS GO RC	Fav/CS Yeas 5 Nays 2
9	SB 1470 Simmons (Similar H 207)	Agency Inspectors General; Prohibiting an agency from offering a bonus on work performance in an inspector general contract or agreement; prohibiting the Florida Housing Finance Corporation from offering a bonus on work performance in an inspector general contract or agreement, etc. GO 03/27/2017 Favorable CA 04/03/2017 Favorable RC	Favorable Yeas 8 Nays 0
10	SB 940 Perry (Similar H 1309)	Growth Management; Requiring local governments to address the protection of private property rights in their comprehensive plans; requiring the comprehensive plan to include a private property rights element that sets forth principles, guidelines, standards, and strategies to achieve certain objectives; requiring the state land planning agency to approve the private property rights element adopted by each local government if it is substantially in a specified form, etc. CA 04/03/2017 Favorable EP RC	Favorable Yeas 7 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 1488 Clemens (Identical H 1087)	Annexation Procedures for Municipalities; Revising circumstances under which a municipality is prohibited from annexing certain lands in contiguous, compact, or unincorporated areas without getting consent from a specified percent of landowners in the area, etc. CA 04/03/2017 Fav/CS JU RC	Fav/CS Yeas 7 Nays 1
12	SB 484 Hukill	Tax on Sales, Use, and Other Transactions; Reducing the tax levied on rental or license fees charged for the use of real property, etc. CA 04/03/2017 Favorable AFT AP	Favorable Yeas 5 Nays 2
13	CS/SB 420 Banking and Insurance / Brandes (Similar CS/H 813)	Flood Insurance; Revising the intervals at which specified standards and guidelines for projecting certain rate filings must be revised by the Florida Commission on Hurricane Loss Projection Methodology; authorizing certain insurers to issue insurance policies, contracts, or endorsements providing certain excess coverage for the peril of flood; specifying a condition for an eligible surplus lines insurer before a surplus lines agent may be excepted from a diligent-effort requirement when exporting flood insurance contracts or endorsements to the insurer, etc. BI 02/21/2017 Fav/CS CA 04/03/2017 Fav/CS RC	Fav/CS Yeas 7 Nays 0
14	CS/SB 188 Regulated Industries / Steube (Compare H 425)	Vacation Rentals; Authorizing local laws, ordinances, or regulations to regulate activities relating to vacation rentals only if such laws, ordinances, or regulations apply uniformly to all properties, etc. RI 03/21/2017 Fav/CS CA 04/03/2017 Amendment Adopted - Temporarily Postponed RC	Amendment Adopted - Temporarily Postponed

Other Related Meeting Documents

By Senator Latvala

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1 A bill to be entitled
2 An act relating to local governmental financial
3 emergencies; amending s. 218.503, F.S.; expanding the
4 entities that have oversight over local governmental
5 entities, charter schools, charter technical career
6 centers, and district school boards under certain
7 circumstances; specifying the number of members to be
8 on a financial emergency board; specifying the
9 entities who shall appoint members to the board;
10 providing qualifications of members and the chair of
11 the board; revising the information to which the board
12 has access; requiring the adoption of rules to conduct
13 board business; authorizing the board to take
14 specified actions; requiring recommendations and
15 reports to be submitted to specified entities;
16 authorizing the board to assume operation and
17 institutional control of a local governmental entity's
18 or district school board's functions under certain
19 circumstances; amending s. 218.504, F.S.; conforming
20 provisions to changes made by the act; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (1), (2), and (3) of section
26 218.503, Florida Statutes, are amended, subsections (4), (5),
27 and (6) are renumbered as subsections (5), (6), and (7),
28 respectively, and a new subsection (4) is added to that section,
29 to read:

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218.503 Determination of financial emergency.—

(1) Local governmental entities, charter schools, charter technical career centers, and district school boards shall be subject to review and oversight by the Governor, the Senate, the House of Representatives, the Legislative Auditing Committee, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as appropriate, when any one of the following conditions occurs:

(a) Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.

(b) Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds.

(c) Failure to transfer at the appropriate time, due to lack of funds:

1. Taxes withheld on the income of employees; or

2. Employer and employee contributions for:

a. Federal social security; or

b. Any pension, retirement, or benefit plan of an employee.

(d) Failure for one pay period to pay, due to lack of funds:

1. Wages and salaries owed to employees; or

2. Retirement benefits owed to former employees.

(2) A local governmental entity shall notify the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee; a charter school shall notify the charter school sponsor, the

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Commissioner of Education, and the Legislative Auditing Committee; a charter technical career center shall notify the charter technical career center sponsor, the Commissioner of Education, and the Legislative Auditing Committee; and a district school board shall notify the Commissioner of Education and the Legislative Auditing Committee, when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity, charter school, charter technical career center, or district school board. In addition, any state agency must, within 30 days after a determination that one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity, charter school, charter technical career center, or district school board, notify the Governor, charter school sponsor, charter technical career center sponsor, or the Commissioner of Education, as appropriate, and the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee.

(3) Upon notification that one or more of the conditions in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity or district school board, the Governor or his or her designee, in cooperation with the appropriate committees and subcommittees of the House of Representatives and of the Senate, including the Legislative Auditing Committee, shall contact the local governmental entity or the Commissioner of Education or his or her designee ~~shall contact the district school board~~ to determine what actions have been taken by the local governmental entity or the district

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88 school board to resolve or prevent the condition. The
89 information requested must be provided within 45 days after the
90 date of the request. If the local governmental entity or the
91 district school board does not comply with the request, the
92 Governor or his or her designee or the Commissioner of Education
93 or his or her designee shall notify the members of the
94 Legislative Auditing Committee who may take action pursuant to
95 s. 11.40. The Governor or the Commissioner of Education, as
96 appropriate, shall determine whether the local governmental
97 entity or the district school board needs state assistance to
98 resolve or prevent the condition into the future. If state
99 assistance is needed, the local governmental entity or district
100 school board is considered to be in a state of financial
101 emergency. The Governor or the Commissioner of Education, as
102 appropriate, may ~~has the authority to~~ implement measures as set
103 forth in ss. 218.50-218.504 to assist the local governmental
104 entity or district school board in resolving the financial
105 emergency. Such measures may include, but are not limited to:

106 (a) Requiring approval of the local governmental entity's
107 budget by the Governor or approval of the district school
108 board's budget by the Commissioner of Education.

109 (b) Authorizing a state loan to a local governmental entity
110 and providing for repayment of same.

111 (c) Prohibiting a local governmental entity or district
112 school board from issuing bonds, notes, certificates of
113 indebtedness, or any other form of debt until such time as it is
114 no longer subject to this section.

115 (d) Making such inspections and reviews of records,
116 information, reports, and assets of the local governmental

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entity or district school board as are needed. The appropriate local officials shall cooperate in such inspections and reviews.

(e) Consulting with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements.

(f) Providing technical assistance to the local governmental entity or the district school board.

(g) ~~1.~~ Establishing and empowering a financial emergency board to oversee the activities of the local governmental entity or the district school board as set forth in subsection (4). ~~If a financial emergency board is established for a local governmental entity, the Governor shall appoint board members and select a chair. If a financial emergency board is established for a district school board, the State Board of Education shall appoint board members and select a chair. The financial emergency board shall adopt such rules as are necessary for conducting board business. The board may:~~

~~a. Make such reviews of records, reports, and assets of the local governmental entity or the district school board as are needed.~~

~~b. Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or the district school board into compliance with state requirements.~~

~~c. Review the operations, management, efficiency,~~

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~~productivity, and financing of functions and operations of the local governmental entity or the district school board.~~

~~d. Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.~~

~~2. The recommendations and reports made by the financial emergency board must be submitted to the Governor for local governmental entities or to the Commissioner of Education and the State Board of Education for district school boards for appropriate action.~~

(h) Requiring and approving a plan, to be prepared by officials of the local governmental entity or the district school board in consultation with the appropriate state officials, prescribing actions that will cause the local governmental entity or district school board to no longer be subject to this section. The plan must include, but need not be limited to:

1. Provision for payment in full of obligations outlined in subsection (1), designated as priority items, which are currently due or will come due.

2. Establishment of priority budgeting or zero-based budgeting in order to eliminate items that are not affordable.

3. The prohibition of a level of operations which can be sustained only with nonrecurring revenues.

4. Provisions implementing the consolidation, sourcing, or

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discontinuance of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

(4) (a) Any financial emergency board established must consist of at least 7 members but not more than 13 members.

1. If a financial emergency board is established for a local governmental entity, the President of the Senate and the Speaker of the House of Representatives shall each appoint two of the members to the board. The Governor shall appoint the remainder of the board members and shall designate the chair of the board.

2. If a financial emergency board is established for a district school board, the President of the Senate and the Speaker of the House of Representatives shall each appoint two of the members to the board. The State Board of Education shall appoint the remainder of the board members and shall designate the chair of the board.

(b) Appointees to a financial emergency board should collectively possess the knowledge, skills, and competencies needed to perform their individual responsibilities and accomplish the mission of the financial emergency board, including, but not limited to, internal quality control, finance, business administration, and public works. The chair of the financial emergency board must have experience in at least one of the following positions or areas:

1. Inspector general.

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204 2. Supervisory experience in an office of inspector general
205 or an investigative public agency similar to an office of
206 inspector general.

207 3. Local, state, or federal law enforcement officer.

208 4. Local, state, or federal court judge.

209 5. Senior-level auditor or comptroller.

210 6. The administration and management of complex audits and
211 investigations.

212 7. Managing programs for prevention, examination,
213 detection, elimination of fraud, waste, abuse, mismanagement,
214 malfeasance, or misconduct in government or other organizations.

215 8. Certified fraud examiner.

216 (c) The financial emergency board shall have access to
217 records, data, and other information of the local governmental
218 entity or the district school board which the board deems
219 necessary to carry out its duties and shall be given the
220 technical and financial resources necessary to complete those
221 duties. The financial emergency board shall adopt such rules as
222 are necessary for conducting board business. The board may:

223 1. Hire or retain legal counsel.

224 2. Obtain external advice and assistance if the internal
225 audit staff lacks the knowledge, skills, or other competencies
226 needed to perform all or part of the duties necessary to resolve
227 the financial emergency conditions.

228 3. Request and obtain assistance from any federal agency,
229 state agency, or local entity.

230 4. Issue and serve subpoenas or subpoenas duces tecum to
231 compel the attendance of witnesses and the production of
232 documents, reports, answers, records, accounts, and data in any

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format. In the event of noncompliance with a subpoena issued pursuant to this subparagraph, the chair of the financial emergency board may petition the circuit court of the county for an order requiring the subpoenaed person to appear and testify and to produce documents.

5. Require a person to file a statement in writing, under oath, as to all the facts and circumstances concerning the matter to be audited, examined, or investigated.

6. Make such reviews of records, reports, and assets of the local governmental entity or the district school board as are needed.

7. Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or the district school board into compliance with state requirements.

8. Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity or the district school board.

9. Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

(d)1. Each recommendation and report made by the financial emergency board addressing a local entity must be submitted to

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the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, and the local governmental entity under review.

2. Each recommendation and report made by the financial emergency board addressing a district school board must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, the Commissioner of Education, and the State Board of Education for appropriate action.

(e) If a local governmental entity or the district school board, as appropriate, fails to remedy or take action on recommendations made in any report submitted under paragraph (d) within 60 days after receiving the recommendations, the financial emergency board may assume operation and institutional control of the local governmental entity's or district school board's functions.

Section 2. Paragraph (b) of subsection (1) and subsection (2) of section 218.504, Florida Statutes, are amended to read:

218.504 Cessation of state action.—The Governor or the Commissioner of Education, as appropriate, has the authority to terminate all state actions pursuant to ss. 218.50-218.504. Cessation of state action must not occur until the Governor or the Commissioner of Education, as appropriate, has determined that:

(1) The local governmental entity, charter school, charter technical career center, or district school board:

(b) Has resolved the conditions outlined in s. 218.503(1) or (4) ~~s. 218.503(1)~~.

(2) None of the conditions outlined in s. 218.503(1) or (4)

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291 ~~s. 218.503(1)~~ exists.

292 Section 3. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1402

INTRODUCER: Community Affairs Committee and Senator Latvala

SUBJECT: Local Governmental Financial Emergencies

DATE: April 4, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Present	Yeatman	CA	Fav/CS
2. _____	_____	AED	_____
3. _____	_____	AP	_____
4. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1402 makes numerous changes to the “Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act.” Specifically, the bill provides that those local governmental entities are subject to review and oversight by the Senate, the House of Representatives, and the Legislative Auditing Committee. As such, when certain financial emergencies exist, a local governmental entity, or an agency in certain cases, must also notify the President of the Senate and the Speaker of the House of Representatives. Upon notification of such an emergency, the Governor, in cooperation with the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee must contact the local governmental entity or the Commissioner of Education to determine what actions have been taken by the local governmental entity or district school board to resolve or prevent the condition and determine whether the local governmental entity or district school board needs state assistance to resolve or prevent the condition into the future.

The bill also revises the composition and duties of financial emergency boards. The bill specifies who can nominate and appoint members and establishes member qualifications. The bill revises the duties of the board and authorizes the Governor to suspend a member of the governing body of the local governmental entity or district school board for malfeasance and misfeasance under certain circumstances.

II. Present Situation:

Financial Emergencies

The Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act (act) governs certain local governmental financial emergencies.¹ The purposes of the act are to promote financial responsibility of the entities, assist the entities in providing essential services without interruption and in meeting their financial obligations, and to assist the entities through improvement of local financial management procedures.²

The act provides that local governmental entities, charter schools, charter technical career centers, and district school boards are subject to review and oversight by the Governor, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as appropriate, when any of the following conditions occur:³

- Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of lack of funds.
- Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of lack of funds.
- Failure to transfer at the appropriate time, due to lack of funds:
 - Taxes withheld on the income of employees; or
 - Employer and employee contributions for:
 - Federal social security; or
 - Any pension, retirement, or benefit plan of an employee.
- Failure for one pay period to pay, due to lack of funds:
 - Wages and salaries owed to employees; or
 - Retirement benefits owed to former employees.

If a financial emergency exists due to a lack of funds, or will occur if action is not taken to assist a local government, the local government must notify the Governor and the Legislative Auditing Committee.⁴ A charter school must notify the charter school sponsor, the Commissioner of Education, and the Legislative Auditing Committee. A charter technical career center must notify the charter technical career center sponsor, the Commissioner of Education, and the Legislative Auditing Committee. A district school board must notify the Commissioner of Education and the Legislative Auditing Committee.⁵

Additionally, any state agency must notify the Governor, charter school sponsor, charter technical career center sponsor, or the Commissioner of Education, as appropriate, within 30 days after determining there is a financial emergency that occurred or will occur if action is not taken to assist the local governmental entity, charter school, charter technical career center, or district school board.⁶

¹ Sections 218.50-218.504, F.S.

² Section 218.501, F.S.

³ Section 218.503(1), F.S.

⁴ Section 218.503(2), F.S.

⁵ *Id.*

⁶ *Id.*

Upon notification that a financial emergency occurred or will occur, the Governor or his or her designee must contact the local governmental entity or the Commissioner of Education or his or her designee to determine what actions have been taken by the local governmental entity or district school board to resolve or prevent the condition.⁷ The information requested must be provided within 45 days of the request. The Governor, or the Commissioner of Education, as appropriate, must determine whether the local governmental entity or district school board needs state assistance to resolve or prevent the condition. If state assistance is needed, the local governmental entity or district school board is considered to be in a state of financial emergency. At that point, certain measures of assistance may occur, including:

- Requiring approval of the local governmental entity's budget by the Governor or approval of the district school board's budget by the Commissioner of Education;
- Authorizing a state loan to a local governmental entity and providing for repayment of same;
- Prohibiting a local governmental entity or district school board from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer in a financial emergency;
- Making such inspections and reviews of records, information, reports, and assets of the local governmental entity or district school board as are needed;
- Consulting with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements;
- Providing technical assistance to the local governmental entity or the district school board;
- Establishing a financial emergency board to oversee the activities of the local governmental entity or the district school board; and
- Requiring and approving a plan, to be prepared by officials of the local governmental entity or district school board in consultation with the appropriate state officials, prescribing actions that will cause the local governmental entity or district school board to no longer be in a financial emergency.⁸

Financial Emergency Boards

If a financial emergency board is established for a local governmental entity, the Governor must appoint board members and select a chair.⁹ If the board is established for a district school board, the State Board of Education must appoint the board members and select a chair.¹⁰ The board must adopt roles necessary for conducting board business. The financial emergency board may:

- Review records, reports, and assets of the local governmental entity or the district school board as needed;
- Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or district school board into compliance with state requirements;

⁷ Section 218.503(3), F.S.

⁸ *Id.*

⁹ Section 218.503(3)(g), F.S.

¹⁰ *Id.*

- Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity or the district school board; and
- Consult with other governmental entities for consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.¹¹

Recommendations and reports made by the board must be submitted to the Governor for local governmental agencies or to the Commissioner of Education and the State Board of Education for district school boards for appropriate action.¹²

Suspension by Governor

The Governor may suspend any county officer or district school board member for stated cause and fill the office by appointment for the period of the suspension.¹³ A separate statute provides that a member of a district school board who votes to incur indebtedness against district funds in excess of appropriations in the district budget, or takes other action in violation of the statute, has committed malfeasance and misfeasance subjecting that member to removal by the Governor.¹⁴ The Governor also may suspend any elected or appointed municipal officer for cause and, unless there is an alternative method to replace the official, the Governor may fill the office by temporary appointment.¹⁵ Members of special district governing boards also are subject to suspension by the Governor.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 218.503, F.S., to expand the entities that have oversight over local governmental entities, charter schools, charter technical career centers, and district school boards for financial emergencies. Specifically, the bill provides that those local governmental entities are subject to review and oversight by the Senate, the House of Representatives, and the Legislative Auditing Committee. As such, when certain financial emergencies exist, a local governmental entity, or an agency in certain cases, must also notify the President of the Senate and the Speaker of the House of Representatives. Upon notification of such an emergency, the Governor, in cooperation with the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee must contact the local governmental entity or the Commissioner of Education to determine what actions have been taken by the local governmental entity or district school board to resolve or prevent the condition and determine

¹¹ *Id.*

¹² *Id.*

¹³ Art. IV, s. 7(a), Fla. Const. The causes listed in the State Constitution are “malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony.” For purposes of this constitutional provision, district school board members are county officers. In re Advisory Opinion to the Governor – Sch. Bd. Member – Suspension Auth., 626 So. 2d 684, 687 (Fla. 1993).

¹⁴ Section 1011.10, F.S.

¹⁵ Section 112.51(1), (3), F.S. The causes listed by the statute are “malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties.

¹⁶ Section 112.511, F.S.

whether the local governmental entity or district school board needs state assistance to resolve or prevent the condition in the future.

The bill also revises the financial emergency boards. The bill provides that a financial emergency board must consist of an odd number of members comprised of at least 7 members but not more than 13. If the board is established for a local governmental entity, the President of the Senate and the Speaker of the House of Representatives must each nominate five individuals as candidates for appointment to the board. The Governor shall choose two candidates from each list and appoint them as four of the members of the board. The Governor must appoint the remainder of the board members and designate the chair. If the board is established for a district school board, the President of the Senate, the Speaker of the House of Representatives and the State Board of Education must each nominate five individuals as candidates for appointment to the board. The Governor shall choose two candidates from each list and appoint them as six of the members of the board. The State Board of Education shall appoint the remainder of the board members and designate the chair of the board.

The bill establishes qualifications for appointees to the financial emergency board. The members should collectively possess the knowledge, skills, and competencies needed to perform their individual responsibilities and accomplish the mission of the board, including, but not limited to, internal quality control, finance, business administration, and public works. The chair must have experience in at least one of the following positions or areas:

- Inspector General.
- Supervisory experience in an office of inspector general or an investigative public agency similar to an office of inspector general.
- Local, state, or federal law enforcement officer.
- Local, state, or federal court judge.
- Senior-level auditor or comptroller.
- The administration and management of complex audits and investigations.
- Managing programs for prevention, examination, detection, elimination of fraud, waste, abuse, mismanagement, malfeasance, or misconduct in government or other organizations.
- Certified fraud examiner.

The board must have access to records, data, and other information of the local governmental entity or the district school board necessary to carry out its duties and must be given the technical and financial resources necessary to complete those duties. The board must adopt rules as necessary for conducting board business. In addition, the board may:

- Hire or retain legal counsel.
- Obtain external advice and assistance if the financial emergency board or the staff of the entity under review lacks the knowledge, skills, or other competencies needed to perform all or part of the duties necessary to resolve the financial emergency conditions.
- Request and obtain assistance from any federal agency, state agency, or local entity.
- Issue and serve subpoenas or subpoenas duces tecum to compel the attendance of witnesses and the production of documents, reports, answers, records, accounts, and data in any format. In the event of noncompliance with a subpoena issued, the chair of the board may petition the circuit court of the county for an order requiring the person to appear and testify and to produce documents.

- Require a person to file a statement in writing, under oath, as to all the facts and circumstances concerning the matter to be audited, examined, or investigated.
- Makes such reviews of records, reports, and assets of the local governmental entity or the district school board as are needed.
- Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or the district school board into compliance with state requirements.
- Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity or the district school board.
- Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

Each recommendation and report made by the board addressing a local entity must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, and the local governmental entity under review. Each recommendation and report addressing a district school board must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, the district school board under review, the Commissioner of Education, and the State Board of Education.

If a local governmental entity or district school board fails to remedy or take action on recommendations made in any report within 60 days after receipt, the Governor may suspend from office the member of the governing body of the local governmental entity or the district school board who failed to vote affirmatively to remedy or take action on the recommendations.

Section 2 amends s. 218.504, F.S., to conform cross-references made by the act.

Section 3 provides that this act 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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on the state. The bill specifies the number of members on a financial emergency board and provides that such boards may hire or retain legal counsel among other duties. As such, there may be increased costs associated with the creation of financial emergency boards depending on the nature of the board and actions of the board.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 218.503 and 218.504 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 Community Affairs Committee on April 3, 2017:

- Requires the Speaker of the House and the President of the Senate to nominate five individuals to serve on the board, rather than appoint members, for a local governmental entity. The Governor must then appoint two board members from each list (a total of four).
- Requires the Speaker of the House of Representatives, the President of the Senate, and the State School Board to each nominate five individuals, rather than appoint members, for an emergency financial board for a district school board. The Governor must then appoint two board members from each list (a total of six).
- Revises the potential consequences for a local governmental entity or district school board that does not remedy the financial emergency or take action on the recommendations of the financial emergency board within 60 days. Those members of the governing body for the local governmental entity or district school board who do not vote affirmatively to remedy or take action on the recommendations are

deemed to have committed malfeasance and misfeasance in office, subjecting them to suspension by the Governor.

- Removes the authority of the financial emergency board to assume operation and institutional control of the local governmental entity's or district school board's functions.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 82 - 277
and insert:
the President of the Senate or his or her designee, the Speaker of the House of Representatives or his or her designee, and the Legislative Auditing Committee, shall contact the local governmental entity or the Commissioner of Education or his or her designee ~~shall contact the district school board to~~ determine what actions have been taken by the local governmental



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entity or the district school board to resolve or prevent the condition. The information requested must be provided within 45 days after the date of the request. If the local governmental entity or the district school board does not comply with the request, the Governor or his or her designee or the Commissioner of Education or his or her designee shall notify the members of the Legislative Auditing Committee who may take action pursuant to s. 11.40. The Governor or the Commissioner of Education, as appropriate, shall determine whether the local governmental entity or the district school board needs state assistance to resolve or prevent the condition into the future. If state assistance is needed, the local governmental entity or district school board is considered to be in a state of financial emergency. The Governor or the Commissioner of Education, as appropriate, may ~~has the authority to~~ implement measures as set forth in ss. 218.50-218.504 to assist the local governmental entity or district school board in resolving the financial emergency. Such measures may include, but are not limited to:

(a) Requiring approval of the local governmental entity's budget by the Governor or approval of the district school board's budget by the Commissioner of Education.

(b) Authorizing a state loan to a local governmental entity and providing for repayment of same.

(c) Prohibiting a local governmental entity or district school board from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer subject to this section.

(d) Making such inspections and reviews of records, information, reports, and assets of the local governmental



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entity or district school board as are needed. The appropriate local officials shall cooperate in such inspections and reviews.

(e) Consulting with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements.

(f) Providing technical assistance to the local governmental entity or the district school board.

(g) ~~1. Establishing and empowering a financial emergency board to oversee the activities of the local governmental entity or the district school board as set forth in subsection (4). If a financial emergency board is established for a local governmental entity, the Governor shall appoint board members and select a chair. If a financial emergency board is established for a district school board, the State Board of Education shall appoint board members and select a chair. The financial emergency board shall adopt such rules as are necessary for conducting board business. The board may:~~

~~a. Make such reviews of records, reports, and assets of the local governmental entity or the district school board as are needed.~~

~~b. Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or the district school board into compliance with state requirements.~~

~~c. Review the operations, management, efficiency,~~



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~~productivity, and financing of functions and operations of the local governmental entity or the district school board.~~

~~d. Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.~~

~~2. The recommendations and reports made by the financial emergency board must be submitted to the Governor for local governmental entities or to the Commissioner of Education and the State Board of Education for district school boards for appropriate action.~~

(h) Requiring and approving a plan, to be prepared by officials of the local governmental entity or the district school board in consultation with the appropriate state officials, prescribing actions that will cause the local governmental entity or district school board to no longer be subject to this section. The plan must include, but need not be limited to:

1. Provision for payment in full of obligations outlined in subsection (1), designated as priority items, which are currently due or will come due.

2. Establishment of priority budgeting or zero-based budgeting in order to eliminate items that are not affordable.

3. The prohibition of a level of operations which can be sustained only with nonrecurring revenues.

4. Provisions implementing the consolidation, sourcing, or



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discontinuance of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

(4) (a) Any financial board established must consist of an odd number of members comprised of at least 7 but not more than 13 members.

1. If a financial emergency board is established for a local governmental entity, the President of the Senate and the Speaker of the House of Representatives shall each nominate five individuals as candidates for appointment to the board. The Governor shall choose two candidates from each list and appoint them as four of the members of the board. The Governor shall appoint the remainder of the board members and shall designate the chair of the board.

2. If a financial emergency board is established for a district school board, the President of the Senate, the Speaker of the House of Representatives, and the State Board of Education shall each nominate five individuals as candidates for appointment to the board. The Governor shall choose two candidates from each list and appoint them as six of the members to the board. The State Board of Education shall appoint the remainder of the board members and shall designate the chair of the board.

(b) Appointees to a financial emergency board should collectively possess the knowledge, skills, and competencies needed to perform their individual responsibilities and



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accomplish the mission of the financial emergency board,
including, but not limited to, internal quality control,
finance, business administration, and public works. The chair of
the financial emergency board must have experience in at least
one of the following positions or areas:

1. Inspector general.

2. Supervisory experience in an office of inspector general
or an investigative public agency similar to an office of
inspector general.

3. Local, state, or federal law enforcement officer.

4. Local, state, or federal court judge.

5. Senior-level auditor or comptroller.

6. The administration and management of complex audits and
investigations.

7. Managing programs for prevention, examination,
detection, elimination of fraud, waste, abuse, mismanagement,
malfeasance, or misconduct in government or other organizations.

8. Certified fraud examiner.

(c) The financial emergency board shall have access to
records, data, and other information of the local governmental
entity or the district school board that the board deems
necessary to carry out its duties and shall be given the
technical and financial resources necessary to complete those
duties. The financial emergency board shall adopt such rules as
are necessary for conducting board business. The board may:

1. Hire or retain legal counsel.

2. Obtain external advice and assistance if the financial
emergency board or the staff of the entity under review lacks
the knowledge, skills, or other competencies needed to perform



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all or part of the duties necessary to resolve the financial
emergency conditions.

3. Request and obtain assistance from any federal agency,
state agency, or local entity.

4. Issue and serve subpoenas or subpoenas duces tecum to
compel the attendance of witnesses and the production of
documents, reports, answers, records, accounts, and data in any
format. In the event of noncompliance with a subpoena issued
pursuant to this subparagraph, the chair of the financial
emergency board may petition the circuit court of the county for
an order requiring the subpoenaed person to appear and testify
and to produce documents.

5. Require a person to file a statement in writing, under
oath, as to all the facts and circumstances concerning the
matter to be audited, examined, or investigated.

6. Make such reviews of records, reports, and assets of the
local governmental entity or the district school board as are
needed.

7. Consult with officials and auditors of the local
governmental entity or the district school board and the
appropriate state officials regarding any steps necessary to
bring the books of account, accounting systems, financial
procedures, and reports of the local governmental entity or the
district school board into compliance with state requirements.

8. Review the operations, management, efficiency,
productivity, and financing of functions and operations of the
local governmental entity or the district school board.

9. Consult with other governmental entities for the
consolidation of all administrative direction and support



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services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

(d)1. Each recommendation and report made by the financial emergency board addressing a local entity must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, and the local governmental entity under review.

2. Each recommendation and report made by the financial emergency board addressing a district school board must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, the district school board under review, the Commissioner of Education, and the State Board of Education for appropriate action.

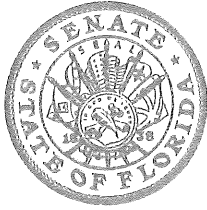
(e) If a local governmental entity or the district school board, as appropriate, fails to remedy or take action on recommendations made in any report submitted under paragraph (d) within 60 days after receiving the recommendations, a member of the governing body of the local governmental entity or the district school board, as appropriate, who failed to vote affirmatively to remedy or take action on the recommendations is subject to suspension from office by the Governor for malfeasance and misfeasance in office.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:



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214 Delete lines 8 - 19
215 and insert:
216 on a financial emergency board; specifying the manner
217 of appointing members to the board; providing
218 qualifications of members and the chair of the board;
219 revising the information to which the board has
220 access; requiring the adoption of rules to conduct
221 board business; authorizing the board to hire or
222 retain legal counsel; requiring recommendations and
223 reports to be submitted to specified entities;
224 providing that certain board members of a local
225 governmental entity or district school board who fail
226 to vote affirmatively to take certain actions in
227 certain circumstances are subject to suspension by the
228 Governor; amending s. 218.504, F.S.; conforming



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Commerce and Tourism
Environmental Preservation and Conservation
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR JACK LATVALA

16th District

March 14, 2017

The Honorable Tom Lee
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Lee,

I respectfully request you place Senate Bill 1402, relating to Local Governmental Financial Emergencies, on your Community Affairs agenda at your earliest convenience.

Should you have any questions or concerns regarding this legislation, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jack", is written over the printed name and title.

Jack Latvala
Senator, 16th District

cc: Tom Yeatman, Staff Director

REPLY TO:

- ☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- ☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

By the Committee on Judiciary; and Senator Montford

590-01954-17

201736c1

A bill to be entitled

An act for the relief of Jennifer Wohlgemuth by the Pasco County Sheriff's Office; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of an employee of the Pasco County Sheriff's Office; providing a limitation on the payment of attorney fees; providing an effective date.

WHEREAS, in the early morning of January 3, 2005, 21-year-old Jennifer Wohlgemuth was lawfully and properly operating her vehicle and traveling southbound on Regency Park Boulevard, and

WHEREAS, at the same time, Deputy Kenneth Petrillo, an officer of the Pasco County Sheriff's Office, was driving one of four law enforcement vehicles engaged in a high-speed pursuit, and

WHEREAS, Deputy Petrillo's vehicle was traveling eastbound on Ridge Road, well behind the other law enforcement vehicles, which had already cleared the intersection of Ridge Road and Regency Park Boulevard in Pasco County, and

WHEREAS, Deputy Petrillo did not activate his vehicle's siren or flashing lights and sped through the intersection on a red light at a speed of at least 20 miles per hour over the posted speed limit, and

WHEREAS, Deputy Petrillo's vehicle violently struck the passenger side of Jennifer Wohlgemuth's vehicle as she entered the intersection on a green light while observing the speed limit, and

WHEREAS, none of the numerous witnesses to the crash heard

590-01954-17

201736c1

Deputy Petrillo's siren or saw flashing lights, and

WHEREAS, after the crash, Deputy Petrillo's siren switch was found to be in the radio mode, which indicates that the siren was not activated at the time of the crash, and

WHEREAS, an internal affairs investigation of the accident found that Deputy Petrillo violated the policies of the Pasco County Sheriff's Office, and he was suspended for 30 days without pay and subjected to other disciplinary measures, and

WHEREAS, as a result of the accident, Jennifer Wohlgemuth was in a coma for 3 weeks, was unable to speak for several months after emerging from the coma, and did not return home until August 2005, and

WHEREAS, Jennifer Wohlgemuth suffered profound brain injuries, including a subdural hematoma of the right frontal lobe and subarachnoid hemorrhage that resulted in the removal of a portion of her skull, and

WHEREAS, due to the damage to her frontal lobe, Jennifer Wohlgemuth's behavior and impulse control are similar to those of a 10-year-old child and require that she be supervised 24 hours a day, 7 days a week, and

WHEREAS, Jennifer Wohlgemuth currently suffers from severe memory loss, partial loss of vision, lack of balance, urinary problems, anxiety, depression, dysarthric speech, acne, and weight fluctuations, and

WHEREAS, as a result of her significant memory impairment and lack of judgment, Jennifer Wohlgemuth is unable to drive, work at a job, or live independently and is under the guardianship of Traci Wohlgemuth, and

WHEREAS, a 3-day bench trial was held in the Sixth Judicial

590-01954-17

201736c1

59 Circuit in the case of *Traci Wohlgemuth, as guardian of Jennifer*
60 *K. Wohlgemuth, an incompetent, v. Robert White, as Sheriff of*
61 *Pasco County, Florida*, which was assigned case number 51-2007-
62 CA-000859, and on March 12, 2009, the trial court rendered a
63 verdict in Jennifer Wohlgemuth's favor, awarding her total
64 damages of \$9,141,267.32, and

65 WHEREAS, the trial court found that Deputy Petrillo was 95
66 percent responsible for Jennifer Wohlgemuth's injuries and that
67 Ms. Wohlgemuth was responsible for the remaining 5 percent due
68 to her alleged failure to wear a seat belt, and

69 WHEREAS, on August 4, 2009, the trial court entered its
70 amended final judgment in the amount of \$8,724,754.40, and

71 WHEREAS, the Pasco County Sheriff's Office appealed the
72 amended final judgment to the Second District Court of Appeal,
73 and the appellate court affirmed the trial court's final
74 judgment on March 10, 2010, and

75 WHEREAS, in accordance with s. 768.28, Florida Statutes,
76 the Pasco County Sheriff's Office paid the statutory limit of
77 \$100,000, and the remaining amount of \$8,624,754.40 remains
78 unpaid, and

79 WHEREAS, the Pasco County Sheriff's Office and Jennifer
80 Wohlgemuth have since entered into a settlement agreement
81 regarding the unpaid amount, with the sheriff's office promising
82 to make annual payments to Ms. Wohlgemuth and agreeing not to
83 oppose this claim bill, NOW, THEREFORE,

84
85 Be It Enacted by the Legislature of the State of Florida:

86
87 Section 1. The facts stated in the preamble to this act are

590-01954-17

201736c1

88 found and declared to be true.

89 Section 2. The Pasco County Sheriff's Office is authorized
90 and directed to appropriate from funds of the sheriff's office
91 and to pay Jennifer Wohlgemuth the settlement amount of \$2.6
92 million as compensation for injuries and damages sustained due
93 to the negligence of an employee of the sheriff's office.
94 Payment shall be made in the amount of \$325,000 per year for 8
95 consecutive years. The first payment must be made no later than
96 October 31, 2017. Payments must be made by October 31 each
97 subsequent year until paid in full. However, if Jennifer
98 Wohlgemuth dies before October 31, 2024, payments shall cease
99 with her death and the award under this act shall be deemed paid
100 in full.

101 Section 3. The amount paid by the Pasco County Sheriff's
102 Office under s. 768.28, Florida Statutes, and the amount awarded
103 under this act are intended to provide the sole compensation for
104 all present and future claims arising out of the factual
105 situation described in this act which resulted in the injuries
106 and damages to Jennifer Wohlgemuth. The total amount paid for
107 attorney fees relating to this claim may not exceed 25 percent
108 of the amount awarded under this act.

109 Section 4. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

402 Senate Office Building

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
1/31/17	SM	Favorable
2/22/17	JU	Fav/CS
4/4/17	CA	Favorable
	RC	

January 31, 2017

The Honorable Joe Negrón
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 36** – Judiciary Committee and Senator Bill Montford
Relief of Jennifer Wohlgemuth

SPECIAL MASTER'S FINAL REPORT

THIS IS A MEDIATED SETTLED EXCESS JUDGMENT CLAIM FOR \$2.6 MILLION AGAINST THE PASCO COUNTY SHERIFF'S OFFICE TO COMPENSATE JENNIFER WOHLGEMUTH FOR INJURIES SUSTAINED IN A MOTOR VEHICLE CRASH RESULTING FROM THE NEGLIGENT OPERATION OF A POLICE VEHICLE.

CURRENT STATUS:

On December 2, 2011, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, issued a report after holding a de novo hearing on a previous version of this bill, SB 22 (2012). The judge's report contained findings of fact and conclusions of law and recommended that the bill be reported favorably with one amendment. That report is attached as an addendum to this report.

PRIOR LEGISLATIVE HISTORY: Senate Bill 50 by Senator Smith and House Bill 1347 were filed during the 2011 Legislative Session. The Senate Bill was indefinitely postponed and withdrawn from consideration. The House Bill died in its only committee of reference. Senate Bill 22 by Senator Smith and House Bill 1353 were filed during the 2012 Legislative Session. The Senate Bill passed with one amendment in all its committees

of reference but died in Messages. The House Bill died in its only committee of reference.

Senate Bill 30 filed by Senator Montford and House Bill 3535 by Representative Rouson were filed during the 2015 Legislative Session. The Senate Bill passed favorably with one amendment in the Judiciary Committee but died in the Community Affairs Committee. The House Bill died in the first committee of reference.

Senate Bill 62 was filed by Senator Montford during the 2016 Legislative Session. The bill passed the Judiciary Committee but died in the Community Affairs Committee. The bill did not have a House Companion.

According to counsel for the parties, there have been no substantial changes in the facts and circumstances for the underlying claim since the claim bill hearing. Accordingly, I find no cause to alter the findings and recommendations of the original report.

RECOMMENDATIONS:

For the reasons set forth above the undersigned recommends that Senate Bill 36 be reported favorably.

Respectfully submitted,

Tracy Jeanne Sumner
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary:

The committee substitute, in conformity with a recent opinion of the Florida Supreme Court, does not include the limits on costs, lobbying fees, and other similar expenses, which were included in the original bill.



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

402 Senate Office Building

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/2/11	SM	Fav/1 amendment

December 2, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 22 (2012)** – Senator Christopher L. Smith
Relief of Jennifer Wohlgemuth

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM FOR \$8,624,754.40 BASED ON A BENCH TRIAL AWARD FOR JENNIFER WOHLGEMUTH AGAINST THE PASCO COUNTY SHERIFF'S OFFICE TO COMPENSATE CLAIMANT FOR INJURIES SUSTAINED IN A MOTOR VEHICLE CRASH RESULTING FROM THE NEGLIGENT OPERATION OF A POLICE VEHICLE.

FINDINGS OF FACT:

On January 3, 2005, at approximately 1:35 a.m., the Claimant, Jennifer Wohlgemuth, was operating her Honda Accord southbound on Regency Park Boulevard in New Port Richey, Florida. The Claimant, who was not wearing her seatbelt, was in the process of dropping off several passengers with whom she had been socializing earlier that evening.

As the Claimant headed southbound on Regency Park Boulevard, she approached the intersection of Ridge Road, which is controlled by a traffic light in all four directions. Unbeknownst to the Claimant, a fleeing motorist, Scott Eddins, had proceeded through the intersection a short time earlier headed eastbound on Ridge Road. Closely pursuing Mr. Eddins were three police vehicles with the Port Richey and New Port Richey Police Departments. A fourth law enforcement vehicle, operated by Pasco County Sheriff's

Deputy Kenneth Petrillo, was well behind the pursuit and trailed the other patrol cars by 10 to 30 seconds.

Although the traffic signal at the intersection was red for vehicles traveling eastbound on Ridge Road, Deputy Petrillo entered the intersection against the light, without slowing, at a rate of travel that substantially exceeded the 45 MPH speed limit. Although Deputy Petrillo's patrol vehicle was equipped with a siren, he neglected to activate it. Almost immediately upon entering the intersection, Deputy Petrillo struck the front right portion of the Claimant's Honda Accord, which had lawfully proceeded into the intersection several seconds earlier.

As a result of the impact, which was devastating, the Claimant's vehicle traveled approximately 15 feet across a grass shoulder and sidewalk, at which point it struck a metal railing and came to rest. The front right of the Claimant's vehicle was demolished, and the entire right side was dented with inward intrusion. In addition, the front windshield, rear windshield, and right side windows were shattered and broken away.

The Claimant exited her vehicle following the collision, but collapsed in the roadway moments later due to the serious nature of her injuries. The Claimant was subsequently transported to Bayfront Medical Center for treatment.

Shortly after the accident, Florida Highway Patrol Corporal Erik W. Bromiley initiated an investigation to determine the cause of the collision. During his investigation, Corporal Bromiley learned that three Alprazolam (an anti-depressant) tablets, totaling 1.8 grams, had been discovered in the Claimant's wallet. In addition, several witnesses advised Corporal Bromiley that the Claimant had consumed alcoholic beverages at a bar earlier in the evening. Ultimately, however, Corporal Bromiley could not conclude that the Claimant was impaired by drugs or alcohol at the time of the accident.

While Corporal Bromiley remained at the scene to question witnesses and inspect the crash site, a second trooper responded to Bayfront Medical Center and obtained blood samples from the Claimant. Testing of the blood, which was drawn approximately two and one-half hours after the

accident, revealed that the Claimant's blood alcohol level was .021 and .022, which is below the legal limit of .08. In addition, cocaine metabolites and Alprazolam were detected.

Jeffrey Hayes, a toxicologist employed with the Pinellas County Forensic Laboratory, estimated that at the time of the accident, the Claimant's blood alcohol level could have ranged from .047 (a level in which the driver is presumed not to be impaired pursuant to Florida law) to .097, which would exceed the legal limit. Significantly, Mr. Hayes conceded that any conclusion that the Claimant was impaired when the collision occurred would be purely speculative.

Accident reconstruction established that Deputy Petrillo was travelling between 64 MPH (with a margin of error of plus or minus 5 MPH) in a 45 MPH zone. It was further estimated that the Claimant was travelling 34 MPH, in excess of the posted 30 MPH limit for Regency Park Boulevard. However, with the margin of error of plus or minus 5 MPH, the accident reconstruction findings do not preclude a determination that the Claimant was observing the speed limit.

Although it is clear that Deputy Petrillo's siren was not activated prior to the collision, the evidence is inconclusive regarding the use of the patrol vehicle's emergency lights.

An additional investigation of the accident was conducted by Inspector Art Fremer with the Pasco County Sheriff's Office Professional Standards Unit. The purpose of Inspector Fremer's investigation was to ascertain if Deputy Petrillo had committed any statutory violations or failed to observe the policies of the Pasco County Sheriff's Office. At the conclusion of his investigation, Investigator Fremer determined that Deputy Petrillo violated General Order 41.3 of the Pasco County Sheriff's Office in the following respects: (1) failing to activate and continuously use a siren while engaged in emergency operations; (2) entering the intersection against a red light without slowing or stopping, which was necessary for safe operation; (3) entering the intersection at a speed greater than reasonable; and (4) failing to ensure that cross-traffic flow had yielded. In addition, Investigator Fremer concluded that Deputy Petrillo had violated s. 316.072(5), Florida Statutes, which provides that the operator of an emergency vehicle may exceed the maximum speed limit "as long as the driver does not endanger

life or property." As a result of his misconduct, Deputy Petrillo was suspended for 30 days without pay.

With respect to the Claimant's driving, the undersigned credits the testimony of Amanda Dunn, an eyewitness driving three to four car lengths behind the Claimant, who noticed no unusual driving and testified that the "coast was clear" when the Claimant entered the intersection. Accordingly, the undersigned finds that she operated her vehicle in accordance with the law and did not contribute to the accident.

As a result of the collision, the Claimant suffered severe closed head trauma, which included a subdural hematoma of the right frontal lobe and a subarachnoid hemorrhage. As a result of significant swelling to her brain, a portion of the Claimant's skull was removed. The Claimant remained in a coma for approximately three weeks following the accident, and did not return home until August of 2005.

At the time of the final hearing in this matter, the Claimant continues to suffer from severe impairment to her memory, a partial loss of vision, poor balance, urinary problems, anxiety, dysarthric speech, and weight fluctuations. Further, the damage to the Claimant's frontal lobe has left her with the behavior, judgment, and impulses similar to those of a seven-year-old child. As a consequence, the Claimant requires constant supervision and is unable to hold a job, drive, or live independently.

LITIGATION HISTORY:

On March 17, 2007, the Claimant filed an Amended Complaint for Negligence and Demand for Jury Trial in the Sixth Judicial Circuit, in and for Pasco County. In her Amended Complaint, the Claimant sued Robert White, as Sheriff of Pasco County, for injuries she sustained as a result of Deputy Petrillo's negligence. On March 9-11, Circuit Judge Stanley R. Mills conducted a bench trial of the Claimant's negligence claim.

On March 12, 2009, Judge Mills rendered a verdict in favor of the Claimant and awarded:

- \$299,284.32 for past medical expenses.
- \$5,786,983.00 for future medical expenses.
- \$1,055,000.00 for future lost earnings.

- \$500,000.00 for past pain and suffering.
- \$1,500,000 for future pain and suffering.

The trial judge further determined that Deputy Petrillo was 95 percent responsible for the Claimant's injuries, and that the Claimant was 5 percent responsible due to her failure to wear a seatbelt. With the allocation of 5 percent responsibility to the Claimant, the final judgment for the Claimant totaled \$8,724,754.50.

The Respondent appealed the final judgment to the Second District Court of Appeal. In its initial brief, the Respondent argued that the trial court erred by: (1) failing to allocate any responsibility to the Claimant based upon her blood alcohol level; (2) awarding lost wages that were not supported by competent substantial evidence; (3) failing to allocate any responsibility to the Claimant based upon her driving in excess of the speed limit; and (4) failing to allocate any responsibility to the Scott Eddins, the fleeing motorist. Oral argument was granted, and on March 10, 2010, the Second District Court of Appeal affirmed the trial court without a written opinion.

CLAIMANT'S ARGUMENTS:

- Deputy Petrillo's negligent operation of his patrol vehicle was the proximate cause of the Claimant's injuries.
- The trial court's findings as to damages and the apportionment of liability were appropriate.

RESPONDENT'S
ARGUMENTS:

- The Pasco County Sheriff's Office objects to any payment to the Claimant through a claim bill.
- At the time of the collision, the Claimant was not wearing her seat belt and was impaired by alcohol, drugs, or a combination of the two, and as such, more than 5 percent of the fault should be allocated to her.
- Some responsibility should be apportioned to Scott Eddins, who was being pursued by multiple law enforcement vehicles at the time Deputy Petrillo collided with the Claimant's vehicle.

CONCLUSIONS OF LAW:

Deputy Petrillo had a duty to operate his vehicle at all times with consideration for the safety of other drivers. See City of Pinellas Park v. Brown, 604 So. 2d 1222, 1226 (Fla. 1992) (holding officers conducting a high-speed chase of a man who ran a red light had a duty to reasonably safeguard surrounding motorists); Brown v. Miami-Dade Cnty., 837 So. 2d 414, 417 (Fla. 3d DCA 2001) ("Florida courts have found that police officers do owe a duty to exercise reasonable care to protect innocent bystanders . . . when their law enforcement activities create a foreseeable zone of risk"); Creamer v. Sampson, 700 So. 2d 711 (Fla. 2d DCA 1997) (holding police owed duty to innocent motorist during high speed pursuit of traffic offender). It was entirely foreseeable that injuries to motorists such as the Claimant could occur where Deputy Petrillo entered an intersection at a high rate of speed, without slowing, against a red light, and without his siren activated. Further, Deputy Petrillo failed to comply with s. 316.072(5), Florida Statutes, which provides that the operator of an emergency vehicle may exceed the maximum speed limit "as long as the driver does not endanger life or property." Deputy Petrillo breached his duty of care and the breach was the proximate cause of the Claimant's injuries.

The Pasco County Sheriff's Office, as Deputy Petrillo's employer, is liable for his negligent act. Mercury Motors Express v. Smith, 393 So. 2d 545, 549 (Fla. 1981) (holding that an employer is vicariously liable for compensatory damages resulting from the negligent acts of employees committed within the scope of their employment).

The circuit judge's allocation of 95 percent liability to the Pasco County Sheriff's Office is reasonable and should not be disturbed. The evidence failed to establish that the Claimant was impaired or that her operation of the vehicle contributed to the accident. Further, as Deputy Petrillo was well behind the pursuit, the zone of risk created by Scott Eddins (the fleeing motorist) had moved beyond the intersection of Regency Park Boulevard and Ridge Road at the time of the collision. Accordingly, the trial court correctly determined that no fault should be apportioned to Mr. Eddins.

The undersigned further concludes that the damages awarded to the Claimant were appropriate. This includes the \$1,055,000.00 for future lost earnings, which was based on the reasonable and conservative assumption that the

Claimant did not possess a high school diploma, when in fact she had graduated from high school and planned to attend community college.

LEGISLATIVE HISTORY:

This is the second year that a bill has been filed on the Claimant's behalf. During the 2011 session, the bill (SB 50) was indefinitely postponed and withdrawn from consideration on May 7, 2011.

ATTORNEYS FEES:

The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), Florida Statutes.

FISCAL IMPACT:

The Respondent has already paid the statutory maximum of \$100,000.00, leaving \$8,624,754.40 unpaid. Pursuant to the Sheriff's Automobile Risk Program (a self-insurance pool), an additional \$332,000 is at the Respondent's disposal. The remaining balance would be paid by Pasco County funds. Respondent's General Counsel, Jeremiah Hawkes, advises that the Pasco County Sheriff's Office is in the midst of a significant budget crisis that would be exacerbated by the passage of the instant claim bill.

Notwithstanding the Respondent's budgetary woes, the undersigned concludes that the Claimant is presently entitled to the full amount sought. In the alternative, it would not be inappropriate to amend Senate Bill 22 to direct Respondent to pay the balance of \$8,624,754.40 over a period of years.

COLLATERAL SOURCES:

The Claimant receives \$221 per month in Social Security Disability Insurance.

SPECIAL ISSUES:

Senate Bill 22, as it is presently drafted, provides that Deputy Petrillo failed to activate his patrol vehicle's emergency lights. In light of the undersigned's finding that the evidenced is inconclusive regarding the use of emergency lights, Senate Bill 22 should be amended accordingly.

The Respondent introduced evidence that that the Claimant began using marijuana at the age of 16, as well as cocaine several years later. Although the Claimant sought help for her addictions, she voluntarily terminated treatment roughly two weeks prior to the collision with Deputy Petrillo's vehicle. As there was no evidence that the Claimant was impaired at the time of the accident, the undersigned concludes that the

Claimant's history of drug addiction should not militate against the passage of the instant claim bill.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 22 (2012) be reported FAVORABLY, as amended.

Respectfully submitted,

Edward T. Bauer
Senate Special Master

cc: Senator Christopher L. Smith
Debbie Brown, Interim Secretary of the Senate
Counsel of Record



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Pre-K - 12
Education
Health Policy
Rules

SENATOR BILL MONTFORD

3rd District

March 22, 2017

Senator Tom Lee, Chair
Senate Committee on Community Affairs
315 Knott Building
Tallahassee, Florida 32399-1100

Dear Chair Lee:

I respectfully request that the following bills be placed on the agenda for the next Community Affairs Committee Meeting:

SB 36 – Relief for Jennifer Wohlgemuth
SB 42 – Relief for Angela Sanford

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William "Bill" Montford
Senate District 3

MD/WM

Cc: Tom Yeatman, Staff Director
Ann Whittaker, Administrative Assistant

REPLY TO:

- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

By the Committee on Judiciary; and Senator Montford

590-01955-17

201742c1

A bill to be entitled

An act for the relief of Angela Sanford by Leon County; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of an employee of Leon County; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act; providing a limitation on the payment of attorney fees; providing an effective date.

WHEREAS, on September 5, 2013, Angela Sanford was a belted, front-seat passenger in a car that was traveling on a green light through the intersection of West Tharpe Street and North Martin Luther King, Jr., Boulevard in Tallahassee, and

WHEREAS, at the same time, a Leon County ambulance operated by Leon County employee Benjamin Hunter entered the intersection despite a red light displayed on the traffic signal, which was clearly visible the entire time Mr. Hunter approached the intersection, and

WHEREAS, the ambulance collided with the car in which Angela Sanford was traveling and struck the passenger side door at a speed in excess of 40 miles per hour, and

WHEREAS, Mr. Hunter failed to operate his ambulance in a reasonably safe manner and conducted himself in direct violation of the Leon County Emergency Medical Services Standard Operating Guidelines, which specifically require all emergency vehicles to come to a full and complete stop at a red light, and

WHEREAS, although Mr. Hunter later claimed that the light was yellow, the video from the ambulance's onboard camera

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clearly showed that the light was red for the entire 8 seconds of the video, and

WHEREAS, the investigation conducted by the Leon County Sheriff's Office concluded that Mr. Hunter was solely at fault in the accident, and

WHEREAS, Mr. Hunter also admitted, and the evidence showed, that fences, trees, and buildings at the corner of the intersection blocked the other driver's view of the ambulance as it approached the intersection, and

WHEREAS, as a result of the crash, which left her in a coma, Angela Sanford sustained life-threatening injuries, including a traumatic brain bleed that resulted in permanent cognitive and depressive disorders, a lacerated liver, a ruptured bladder, a cranial nerve injury resulting in permanent double vision, a fractured pelvis requiring hardware insertion, a fractured clavicle requiring hardware insertion, bilateral hip socket fractures requiring hardware insertion, a fractured knee, a fractured shoulder blade, 13 fractured ribs, permanent peroneal nerve palsy known as foot drop, and numerous other injuries which have now left her totally disabled and permanently unable to return to her career as an elementary school teacher, and

WHEREAS, following mediation, on April 13, 2015, a final judgment in the amount of \$1.15 million was entered by the trial court in favor of Angela Sanford against Leon County, and

WHEREAS, Angela Sanford's medical expenses exceeded \$744,000 at the time of the judgment, and

WHEREAS, Leon County carried liability insurance with OneBeacon Insurance Group, Ltd., a Bermuda-domiciled company,

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201742c1

59 which will pay 100 percent of any appropriation up to the policy
60 limit of \$3 million, and

61 WHEREAS, Leon County has already paid \$300,000 to other
62 persons injured in this accident in satisfaction of sovereign
63 immunity limits set forth in s. 768.28, Florida Statutes, NOW,
64 THEREFORE,

65
66 Be It Enacted by the Legislature of the State of Florida:

67
68 Section 1. The facts stated in the preamble to this act are
69 found and declared to be true.

70 Section 2. Leon County is authorized and directed to
71 appropriate from funds of the county not otherwise appropriated,
72 or from the county's liability insurance coverage, and to draw a
73 warrant in the sum of \$1.15 million, payable to Angela Sanford
74 as compensation for injuries and damages sustained.

75 Section 3. The amount paid by Leon County pursuant to s.
76 768.28, Florida Statutes, and the amount awarded under this act
77 are intended to provide the sole compensation for all present
78 and future claims arising out of the factual situation described
79 in this act which resulted in injuries and damages to Angela
80 Sanford. The total amount paid for attorney fees relating to
81 this claim may not exceed 25 percent of the total amount awarded
82 under this act.

83 Section 4. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

302 Senate Office Building

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
2/1/17	SM	Favorable
2/22/17	JU	Fav/CS
4/3/17	CA	Favorable
	RC	

February 1, 2017

The Honorable Joe Negrón
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 42** – Judiciary Committee and Senator Bill Montford
HB 6507 – Representative Halsey Beshears
Relief of Angela Sanford

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM IN THE AMOUNT OF \$1.15 MILLION AGAINST LEON COUNTY FOR INJURIES AND DAMAGES SUFFERED BY ANGELA SANFORD WHEN THE VEHICLE SHE WAS TRAVELING IN WAS STRUCK BY A LEON COUNTY AMBLUANCE ON SEPTEMBER 5, 2013.

FINDINGS OF FACT:

This matter arises out of a motor vehicle crash that occurred on September 5, 2013, in Tallahassee, Florida, at the intersection of North Martin Luther King Jr. Boulevard (MLK Blvd.) and West Tharpe Street. The intersection of North MLK Blvd. and West Tharpe Street is four-way intersection controlled by an overhead traffic signal. Both North MLK Blvd. and West Tharpe Street are four-lane highways. On the southeast corner of the intersection there are several trees that could obstruct the view of westbound traffic on West Tharpe Street from the northbound traffic on North MLK Blvd. At the time of the accident, there was also at least one advertisement sign hung on the fence leading up the intersection that could obstruct the view of northbound traffic on North MLK Blvd. of any westbound traffic on West Tharpe Street.

The Accident

At approximately 11:28 pm, Patrick Sanford was driving north on North MLK Blvd in a 2011 Buick Enclave. Mr. Sanford's wife, Angela Sanford, was in the front passenger seat and friend, Daniel McNair, was behind Mrs. Sanford, in the rear passenger seat. The posted speed limit on North MLK Blvd. was 30 mph. At the time of the crash, Mr. Sanford was traveling at 42 mph. The light at North MLK Blvd. was green for Mr. Sanford as he approached the intersection of North MLK Blvd. and West Tharpe Street when he entered the intersection and when the crash occurred.

Also at approximately 11:28 pm a Leon County Emergency Medical Services (LCEMS) Ambulance, owned by Leon County, was traveling westbound on West Tharpe Street. Benjamin Hunter was working for LCEMS that night and driving the ambulance. Christina Wagner was also working for LCEMS that night and was the front seat passenger. The posted speed limit on West Tharpe Street was 35 mph.

The camera on the ambulance recorded what occurred before, during, and after the crash. The ambulance was first traveling at approximately 29 mph down West Tharpe Street with only its emergency lights activated. Approximately 4 seconds before the crash, and 277 feet from entering the intersection, the ambulance's siren was activated. At this time, the ambulance was traveling at approximately 40 mph. When the crash occurred the ambulance was traveling at approximately 44 mph. The video footage shows that the ambulance had a red light as it approached the intersection, when the ambulance entered the intersection and when the crash occurred.

The computer system in Mr. Sanford's Buick noted that the brake was engaged two seconds before the crash. Mr. Sanford admits that he did not hear or see the ambulance's lights or sirens before the collision. However, he recalls seeing the ambulance once he had already entered the intersection.

The ambulance hit the front right passenger side of the Buick. As a result, the Buick spun and collided with a concrete pole at on the northwest corner of the intersection.

The crash was witnessed by a number of individuals. The first witness, Ms. Nix, was traveling south on MLK Blvd., the

opposite direction of Mr. Sanford. Ms. Nix heard the sirens from the ambulance and stopped at the intersection of MLK Blvd. and West Tharpe Street because she did not know where the sirens were coming from. Ms. Nix then saw the ambulance traveling west down West Tharpe Street and the Buick traveling north on North MLK Blvd. Ms. Nix said that neither the Buick nor the ambulance stopped before entering the intersection. Ms. Nix acknowledged that she had a green light at time she reached the intersection of MLK Blvd. and West Tharpe Street but stopped because she heard the sirens.

Another witness, Mr. Fernbach, was traveling behind Mr. Sanford's Buick on North MLK Blvd. Mr. Fernbach also confirmed that the light was green as he and the Buick approached the intersection of North MLK Blvd. and West Tharpe Street. Mr. Fernbach acknowledged hearing the sirens before reaching the intersection; however, he was unable to determine where the sirens were coming from.

Ms. Wagner, the passenger of the ambulance, stated that the ambulance was headed to an accident with injuries on West Tharpe Street with only its emergency lights on. Prior to reaching the intersection of North MLK Blvd. and West Tharpe Street, she and Mr. Hunter were advised to upgrade, meaning turn on both the lights and sirens, as they traveled to the accident. Mr. Hunter then turned on the sirens of the ambulance. As Ms. Wagner was attempting to look up the report of the call they were traveling to, the crash occurred.

Mrs. Sanford and Mr. McNair do not have any memory of the crash.

All occupants of both vehicles were restrained in safety belts.

Injuries

After the crash Mr. Hunter and Ms. Wagner were able to exit the ambulance and render aid to occupants of the Buick. Mr. Hunter and Ms. Wagner were not injured in the crash.

All of the occupants of the Buick, Mr. Sanford, Mrs. Sanford, and Mr. McNair were injured. Mr. Sanford sustained a bulging disc to disc # 4 in his back and disc #5 in his back was blown. Mr. Sanford underwent surgery to repair his back injuries.

Mr. McNair suffered a cut to his right hand, a broken bone to his left, and a bone chip in his left wrist.

Mrs. Sanford sustained the most severe injuries from the crash. When she arrived at Tallahassee Memorial Hospital, she was in a coma. The totality of her injuries include:

- A traumatic brain injury (subdural and intracranial bleeding);
- A collapsed lung;
- A ruptured bladder (requiring two surgical repairs);
- A lacerated liver;
- 13 fractured ribs;
- Four lumbar spine fractures;
- Two cervical spine fractures;
- A fractured clavicle;
- A fractured sternum;
- A fractured fibula;
- A fractured knee;
- A fractured scapula (requiring surgical hardware insertion);
- A fractured pelvis (requiring surgical hardware insertion);
- A fractured hip sockets (requiring surgical hardware insertions);
- A fractured sacroiliac joints (requiring surgical hardware insertions);
- A fracture femur (requiring surgical hardware insertion);
- Double vision from an injured cranial nerve;
- Drop foot from an injured peroneal nerve;
- Bursitis and pain from the injured hip; and
- Cognitive and problem-solving deficits due to the brain injury.

Mrs. Sanford spent 25 days in the intensive care unit, and during the first two weeks in the hospital she was kept in a medically induced coma. Afterwards, she was transferred to inpatient rehabilitation in Jacksonville, Florida where she spent 31 days. Mrs. Sanford then continued her rehabilitation back in Tallahassee.

Before the accident, Mrs. Sanford was an active stay-at-home mother of three. She was considering returning to work as a

teacher when her youngest child was old enough to attend school.

Since the accident, Mrs. Sanford has made a remarkable recovery and is now able to drive during the day. She can care for her kids and her house. However, Mrs. Sanford still has some ongoing effects from the accident. She is experiencing foot drop in her right foot and double vision when she looks down. Because of the injuries sustained in the collision, Mrs. Sanford will likely need a hip replacement in the future, have issues with posttraumatic arthritis, and possibly experience further cognitive issues as a result of her traumatic brain injury.

Before the Accident

In the 24-hour period before the crash Mr. and Mrs. Sanford and Mr. McNair, the occupants of the Buick, attended a concert at the Leon County Civic Center. The day before the crash, Mr. Sanford worked the evening of September 4, 2013, and returned home at an unknown hour on September 5, 2013. Mr. Sanford believes he had only 3 hours of sleep after coming home from work on September 5, 2013.

Before the concert, Mr. Sanford had one beer at the house with Mr. McNair. Mr. Sanford admits to bringing and finishing the beer in the car on the way to the restaurant. An empty Bud Light Lime Beer bottle was found in the Buick after the collision. Mr. Sanford also admits to having one beer at the restaurant where he also ate some appetizers while waiting for the food to arrive. The food never came and they all left the restaurant without eating dinner. Once arriving at the concert, Mr. Sanford had another beer and some food because he hadn't eaten dinner at the restaurant.

In the 24-hour period before the crash Mr. Hunter worked on the evening of September 4, 2013. Mr. Hunter got home from work in the morning of September 5, 2013, and went to sleep for approximately 8.5 hours. Mr. Hunter then ate at home before reporting to work at 5 pm on September 5, 2013.

After the Accident

After the crash Mr. Sanford went to Tallahassee Memorial Hospital to be with his injured wife. While at the hospital Deputy McCarthy from the Leon County Sheriff's Office spoke with Mr. Sanford in two different locations. He first spoke to

Mr. Sanford in the hospital garage where Deputy McCarthy smelled a slight odor of an alcoholic beverage but was unable to determine if it was coming from Mr. Sanford or some other person in the garage. Deputy McCarthy then spoke with Mr. Sanford again in a private emergency room and did not smell an odor of an alcoholic beverage. Mr. Sanford was asked to consent to a blood sample since he was driving the Buick and was involved in a collision involving serious bodily injury. Mr. Sanford refused to give a blood sample for testing.

Officer Mordica of the Tallahassee Police Department was one of the first officers on the scene of the crash and noticed that Mr. Sanford was wearing a green wrist band and she smelled the odor of an alcoholic beverage, but did not notice any other signs of impairment. Mr. Sanford stated that he was given the wrist band when he purchased the beer at the concert.

A blood sample was requested from Mr. Hunter because he was operating the ambulance that was involved in a crash involving serious bodily injury. Mr. Hunter agreed to the blood sample being taken and was transported Tallahassee Memorial Hospital for the blood draw. No drugs or alcohol were found in Mr. Hunter's blood.

The Leon County's Sheriff's Department found Mr. Hunter at fault for the crash; however, the State Attorney's Office recommended that no citations should be issued. Therefore, a citation was not issued against Mr. Hunter.

LCEMS disciplined Mr. Hunter, and he was suspended without pay for three 12-hour shifts.

CLAIMANT'S ARGUMENTS:

Mrs. Sanford argues that Leon County is liable for the negligence of its employee, Mr. Hunter, when he failed to stop at the red light at the intersection of North MLK Blvd. and West Tharpe Street, violating s. 316.072(5)(b)2., F.S., and the LCEMS Standard Operating Guidelines.

RESPONDENT'S ARGUMENTS:

Leon County argues that the claim bill should be denied and the statutory caps enforced. Leon County believes that the statutory limits set forth in s. 768.28, F.S., serve a valuable purpose and the County is entitled to the full protections of the statute. Leon County argues that if the statutory caps are to have meaning or effect, they should be enforced.

CONCLUSIONS OF LAW:

Leon County owned the ambulance driven by Mr. Hunter on September 5, 2013, and is covered by the provisions of s. 768.28, F.S. Section 768.28, F.S., generally allows injured parties to sue the state or local governments for damages caused by their negligence or the negligence of their employees by waiving the government's sovereign immunity from tort action. However, the statute limits the amount of damages that a plaintiff can collect from a judgment against or settlement with a government entity to \$200,000 per person and \$300,000 for all claims or judgments arising out of the same incident. Funds can be paid in excess of these limits only upon the approval of a claim bill by the Legislature. Thus, Mrs. Sanford will not receive the full benefit of the settlement agreement with Leon County unless the Legislature approves a claim bill authorizing the additional payment.

In a negligence action a plaintiff, bears the burden of proof to establish the four elements of negligence. These elements are duty, breach, causation, and damage. *Charron v. Birge*, 37 So.3d 292, 296 (Fla. 5th DCA 2010).

Section 768.81, F.S., Florida's comparative fault statute, allows damages in negligence cases to be apportioned against each liable party. The Florida Supreme Court has found that "in determining noneconomic damages fault must be apportioned among all responsible entities who contribute to an accident even though not all of them have been joined at defendants." *Nash v. Wells Fargo Guard Servs.*, 678 So.2d 1262, 1263 (Fla. 1996).

The driver of a motor vehicle has a duty to use reasonable care, in light of the attendant circumstances, to prevent injuring persons within the vehicle's path. *Gowdy v. Bell*, 993 So.2d 585, 586 (Fla. 1st DCA 2008). Reasonable care is the degree of care a reasonably careful person would have used under like circumstances. *Foster v. State*, 603 So.2d 1312, 1316 (Fla. 1st DCA 1992).

Mr. Hunter's Negligence

Section 316.072(5)(b)2., F.S., allows a driver of an ambulance, when responding to an emergency call, to proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation. Section 316.072(5)(c), F.S., reiterates that the driver of an

ambulance has a duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of his or her reckless disregard for the safety of others.

Mr. Hunter breached his duty to operate the ambulance with reasonable care and violated s. 316.072(5)(b)2., F.S., when he did not slow down at the red light at the intersection of North MLK Blvd. and West Tharpe Street on September 5, 2013. Mr. Hunter's negligence and breach of duty of care was a cause of the accident and the damages suffered by Mrs. Sanford.

Leon County, as the employer of Mr. Hunter, is liable for his negligent act. The long-standing doctrine of *respondeat superior* provides that an employer is liable for an employee's acts committed within the course and scope of employment. *City of Boynton Beach v. Weiss*, 120 So.3d 606, 611 (Fla. 4th DCA 2013). Florida's dangerous instrumentality imposes "vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another." *Aurbach v. Gallina*, 753 So.2d 60, 62 (Fla. 2000). Motor vehicles have been considered dangerous instrumentalities under Florida law for over a century. See *Anderson v. S. Cotton Oil Co.*, 74 So. 975, 978 (Fla.1917).

Florida law also provides that an employer's safety rules and procedures governing the conduct of its employees is relevant evidence of the standard of care required. *Mayo v. Publix*, 686 So.2d. 801, 802 (Fla. 4th DCA 1997). LCEMS has Standard Operating Guidelines for the safe operation of its vehicles. Specifically, the guidelines require all ambulance drivers when driving to an emergency to come to a full and complete stop at all red lights and stop signs. Once the driver determines that all other traffic has yielded to the emergency vehicle, the ambulance may proceed through the intersection with due regard for the safety of others.

Mr. Hunter violated LCEMS Standard Operating Guidelines when he did not stop at the red light at the intersection of North MLK Blvd. and West Tharpe Street.

On September 5, 2013, Mr. Hunter, an employee of LCEMS, drove an ambulance owned by Leon County during the

course of his normal workday. Therefore, Leon County is liable for the negligence of Mr. Hunter and the damages caused to Mrs. Sanford.

Mr. Sanford's Negligence

As the driver of the Buick, Mr. Sanford also had a duty to use reasonable care. Section 316.126(1)(a), F.S. provides:

Upon the immediate approach of an authorized emergency vehicle, while en route to meet an existing emergency, the driver of every other vehicle shall, when such emergency vehicle is giving audible signals by siren ... or visible signals by the use of displayed blue or red lights, yield the right-of-way to the emergency vehicle and shall immediately proceed to a position of parallel to, and as close as reasonable to the closest edge of the curb of the roadway, clear of any intersection and shall stop and remain in position until the authorized emergency vehicle has passed, unless otherwise directed by a law enforcement officer.

On the day of the accident, the trees and signs could have obstructed Mr. Sanford's view of the ambulance, which was traveling westbound on West Tharpe Street. The ambulance's siren was activated 4 seconds before the collision which likely did not afford Mr. Sanford adequate time react and avoid the collision. Moreover, the evidence presented was insufficient to show that the three beers Mr. Sanford consumed in the hours before the accident or his lack of sleep contributed to the accident.

However, Mr. Sanford was traveling at 42 mph down at the time of the crash, 12 mph faster than the posted speed limit of 30 mph. Mr. Sanford breached his duty to drive with reasonable care by failing to stop for the ambulance because of his excessive speed. Despite the fact that he had a green light at the intersection, Mr. Sanford is partially at fault for the accident.

Section 316.126(5), F.S., specifies that s. 316.126, F.S., which Mr. Sanford violated, does not relieve the Mr. Hunter of the duty to drive with due regard for the safety of all persons using the highway, which he did failed to do.

Conclusion

Florida's comparative fault statute, s. 768.81, F.S., applies to this case because Mr. Hunter and Mr. Sanford were both at fault in the accident.

Mr. Hunter is at fault for:

- Failing to operate the ambulance with reasonable care;
- Violating s. 316.072(5)(b)2., F.S., when he did not slow down at the red light; and
- Violating LCEMS Standard Operating Guidelines when he did not stop at the red light at the intersection.

Mr. Sanford is at fault for:

- Violating s. 316.126(1)(a), F.S., by failing to stop for the ambulance because of his excessive speed.

While both Mr. Hunter and Mr. Sanford were partially at fault in this matter, Mr. Hunter's negligence far outweighs Mr. Sanford's negligence.

Mrs. Sanford suffered substantial injuries as a result of Mr. Hunter's negligence and has outstanding medical bills because of these injuries. Mrs. Sanford has made a remarkable recovery but still has some ongoing effects from the accident. Mrs. Sanford experiences foot drop in her right foot and double vision when she looks down. Because of the injuries sustained in the collision, Mrs. Sanford will likely need a hip replacement in the future, have issues with posttraumatic arthritis, and possibly experience further cognitive issues as a result of her traumatic brain injury. Mrs. Sanford may have a reduced future earning capacity because of her ongoing physical impairments. She will likely have future medical expenses as a direct result of the accident. Therefore, the undersigned finds that the damages of \$1.15 million sought by Mrs. Sanford are reasonable and justly apportionable to Leon County as a result of Mr. Hunter's negligence.

The parties participated in mediation and reached a Mediation Settlement Agreement for \$1.15 million, the same amount as the claim bill. A Final Judgment in favor of Mrs. Sanford for the \$1.15 million was signed and entered into the circuit court's record on April 13, 2015. The Mediation

Settlement Agreement afforded Mrs. Sanford the right to pursue a claim bill from the legislature for \$1.15 million and also allowed Leon County the right to contest any filed claim bill.

At the Special Master Hearing attorneys for both parties agreed that all evidence and arguments presented at the hearing were also taken into consideration at mediation. The attorneys also agreed that no new evidence was presented to the undersigned at the hearing.

The undersigned finds that at mediation the parties presented all of the facts and arguments described above. The parties also took into account the fault of Mr. Hunter and Mr. Sanford as well as Mrs. Sanford's recovery and her future medical needs. Therefore, the undersigned finds that the Mediation Settlement Agreement was both reasonable and responsible.

LEGISLATIVE HISTORY:

A claim bill for the relief of Angela Sanford was first filed for the 2016 Legislative Session. The Senate Bill, SB 22 (2016) died on the Calendar, and the House companion HB 3511 (2016) was not heard by a committee.

FISCAL IMPACT:

Leon County is insured and has received no indication from its insurer that the entire amount of the claim bill, if passed, will not be paid.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 42 (2017) be reported FAVORABLY.

Respectfully submitted,

Lauren Jones
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary:

The committee substitute, in conformity with a recent opinion of the Florida Supreme Court, does not include the limits on costs, lobbying fees, and other similar expenses, which were included in the original bill.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Pre-K - 12
Education
Health Policy
Rules

SENATOR BILL MONTFORD

3rd District

March 22, 2017

Senator Tom Lee, Chair
Senate Committee on Community Affairs
315 Knott Building
Tallahassee, Florida 32399-1100

Dear Chair Lee:

I respectfully request that the following bills be placed on the agenda for the next Community Affairs Committee Meeting:

SB 36 – Relief for Jennifer Wohlgemuth
SB 42 – Relief for Angela Sanford

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William "Bill" Montford
Senate District 3

MD/WM

Cc: Tom Yeatman, Staff Director
Ann Whittaker, Administrative Assistant

REPLY TO:

- ☐ 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- ☐ 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

By Senator Young

18-00713A-17

20171350__

A bill to be entitled
An act relating to homestead exemption fraud; amending
s. 196.141, F.S.; authorizing property appraisers to
contract for services to examine or audit claimed
homestead tax exemptions; specifying requirements for
agreements for such services; requiring property
appraisers to remove unentitled exemptions from
previous tax rolls; specifying the distribution of
collected back taxes, penalties, and interest;
specifying requirements and prohibited acts of
contractors; amending s. 196.161, F.S.; revising
duties of property appraisers and tax collectors when
such property appraisers make a certain determination
relating to unentitled homestead exemptions;
specifying the basis of a certain interest assessment;
revising procedures for the collection of certain
taxes, penalties, fees, and interest; amending s.
213.30, F.S.; revising the applicability of a
provision that specifies the sole means of
compensation for information relating to tax law
violations; providing a finding of important state
interest; providing an effective date.

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

Section 1. Section 196.141, Florida Statutes, is amended to
read:

196.141 Homestead exemptions; duty of property appraiser.—
(1) The property appraiser shall examine each claim for

18-00713A-17

20171350__

30 exemption filed with or referred to him or her and shall allow
31 the exemption ~~same~~, if found to be in accordance with law, by
32 marking the exemption ~~same~~ approved and by making the proper
33 deductions on the assessment rolls ~~tax books~~.

34 (2) The property appraiser may contract for services to
35 examine or audit homestead tax exemptions claimed on assessment
36 rolls. An agreement for contracted services shall specify that
37 the contractor may only receive a portion of the back taxes,
38 penalties, and interest imposed pursuant to this chapter which
39 are collected on any assessment made as a result of the
40 contractor's examination or audit. If a contractor finds that an
41 owner was not entitled to an exemption, the property appraiser
42 shall remove the homestead exemption from previous tax rolls.
43 After paying the contractor for the contracted services and
44 distributing the fees as set forth in s. 196.161(1)(b) to the
45 property appraiser and the tax collector, the tax collector
46 shall distribute the remainder of the interest and any back
47 taxes collected as set forth in chapter 197.

48 (3) A contractor retained pursuant to this section may only
49 contact persons claiming a homestead exemption in a manner
50 prescribed by the property appraiser. At a minimum, the
51 contractor shall notify the person claiming the homestead
52 exemption that:

53 (a) The contractor is a third party who has been contracted
54 by the property appraiser to examine or audit homestead tax
55 exemptions.

56 (b) The person should contact the property appraiser if he
57 or she has any questions. The contractor shall provide the
58 property appraiser's contact information.

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(4) The contractor may not:

(a) Simulate a governmental official in any manner.

(b) Communicate with the person between the hours of 9 p.m. and 8 a.m. in the person's time zone without prior consent of the person.

(c) Suggest, communicate, or threaten that the person owes any money.

(d) Publish or post, threaten to publish or post, or cause to be published or posted before the general public individual names or any list of names of people who have claimed a homestead exemption.

Section 2. Paragraph (b) of subsection (1) and subsection (2) of section 196.161, Florida Statutes, are amended to read:
196.161 Homestead exemptions; lien imposed on property of person claiming exemption although not a permanent resident.—

(1)

(b)1. In addition, upon determination by the property appraiser that for any year or years within the prior 10 years a person who was not entitled to a homestead exemption was granted a homestead exemption from ad valorem taxes, it shall be the duty of the property appraiser making such determination shall immediately certify to the county tax collector the additional assessment for each year that the owner was not entitled to the exemption and shall provide the owner the same information. The tax collector may provide the notice to the owner by United States Postal Service to the address of record and shall to serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county.,—and Such property shall be

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88 identified in the notice of tax lien. Such property which is
89 situated in this state shall be subject to the taxes exempted
90 thereby, plus a penalty of 50 percent of the unpaid taxes for
91 each year; and 15 percent interest on the unpaid taxes per
92 annum. ~~However, if a homestead exemption is improperly granted~~
93 ~~as a result of a clerical mistake or an omission by the property~~
94 ~~appraiser, the person improperly receiving the exemption shall~~
95 ~~not be assessed penalty and interest.~~ Before any such lien may
96 be filed, the owner so notified must be given 30 days to pay the
97 taxes, penalties, and interest.

98 2. If a homestead exemption is improperly granted as a
99 result of a clerical mistake or an omission by the property
100 appraiser, the person improperly receiving the exemption may not
101 be assessed a penalty, interest, or fees.

102 (2) Except when the property appraiser makes a clerical
103 error and improperly grants a homestead exemption, the taxes,
104 penalties, fees, and interest assessed pursuant to this section
105 which are not paid in full shall be included in the next tax
106 notice and shall be collected in the same manner as, and in
107 addition to, the current ad valorem taxes under chapter 197,
108 including the annual tax certificate sale when appropriate ~~The~~
109 ~~collection of the taxes provided in this section shall be in the~~
110 ~~same manner as existing ad valorem taxes, and the above~~
111 ~~procedure of recapturing such taxes shall be supplemental to any~~
112 ~~existing provision under the laws of this state.~~

113 Section 3. Subsection (3) of section 213.30, Florida
114 Statutes, is amended to read:

115 213.30 Compensation for information relating to a violation
116 of the tax laws.—

18-00713A-17

20171350__

117 (3) Notwithstanding any other provision of law, this
118 section and s. 196.141 are ~~is~~ the sole means by which a ~~any~~
119 person may seek or obtain any moneys as the result of, in
120 relation to, or founded upon the failure by another person to
121 comply with the tax laws of this state. A person's use of any
122 other law to seek or obtain moneys for such failure is in
123 derogation of this section and s. 196.141 and conflicts with the
124 state's duty to administer the tax laws.

125 Section 4. The Legislature finds that this act fulfills an
126 important state interest.

127 Section 5. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1350

INTRODUCER: Senator Young

SUBJECT: Homestead Exemption Fraud

DATE: March 31, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Present	Yeatman	CA	Pre-meeting
2. _____	_____	AFT	_____
3. _____	_____	AP	_____

I. Summary:

SB 1350 authorizes property appraisers to contract for services to examine or audit homestead tax exemptions claimed on assessment rolls. The agreement to contract for services must specify that the contractor may only receive a portion of the back taxes, penalties, and interest imposed which are collected on an assessment made as a result of the contractor's examination or audit.

The contractor may only contact property owners in a manner prescribed by the property appraiser. At a minimum, the contractor must inform the person claiming a homestead exemption that:

- The contractor is a third party who has been contracted by the property appraiser to examine or audit homestead tax exemptions; and
- The person should contact the property appraiser if he or she has any questions. The contractor must provide the person with the property appraiser's contact information.

The contractor may not:

- Simulate a governmental official in any manner;
- Communicate with the person between 9 p.m. and 8 a.m. in the person's time zone without the person's prior consent;
- Suggest, communicate, or threaten the person that any money is owed; or
- Publish or post, threaten to publish or post, or cause to be published or posted to the general public individual names or any list of names of people who have claimed a homestead exemption.

The bill also requires a property appraiser, upon determining a property owner was granted a homestead exemption to which the owner was not entitled, to certify to the county tax collector the additional assessment due for each year and to provide notice to the property owner by mail.

The bill provides that if a homestead exemption was improperly granted as the result of a clerical mistake or omission by the property appraiser, the property owner shall not be assessed penalties, interest, and fees. The bill requires taxes, penalties, fees, and interest assessed due an improperly granted homestead exemption (except where granted due to a clerical mistake) to be included in the next tax notice and collected in the same manner as current ad valorem taxes.

II. Present Situation:

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Article VII, Section 6 of the Florida Constitution provides that every person who owns real estate with legal or equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.⁶ According to Florida Statutes, each property appraiser has the duty to examine each claim for homestead exemption in the county and grant the exemption if found to be in accordance with the law.⁷

Delinquent Property Taxes

Each year, county property appraisers will certify the tax roll to the corresponding tax collector, and the tax collector will then send tax bills to all properties owing tax within the county.⁸ Property taxes are due once a year, and can be paid beginning November 1 of the assessment year.⁹ Generally, taxes become delinquent if not paid in full as of April 1 of the year after

¹ Article VII, s. 1(a), Fla. Const.

² Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Article VII, s. 4, Fla. Const.

⁴ Article VII, ss. 3, 4, and 6, Fla. Const.

⁵ Section 196.031, F.S.

⁶ An additional homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

⁷ Section 196.141, F.S.

⁸ Section 197.322(2), (3), F.S.

⁹ Section 197.333, F.S.

assessment.¹⁰ Delinquent taxes will accrue interest until paid,¹¹ and may accrue penalties in certain circumstances.¹²

If delinquent ad valorem taxes are not paid by June 1 of the year after assessment, the county holds a tax certificate sale for real property located in the county in which the taxes became delinquent in that year.¹³ A tax lien certificate is an interest bearing first lien representing unpaid delinquent real estate property taxes; however, it does not convey any property rights or ownership to the certificate holder.

The property owner has a period of 2 years from the date the taxes became delinquent to redeem the tax certificate by paying to the county the total due, including accrued interest.¹⁴ After the 2-year period, if the taxes remain unpaid, the lien holder may make an application for tax deed auction with the county.¹⁵ If tax deed auction proceedings begin, the property owner must pay all taxes for all years that are due and delinquent, plus fees and interest to stop the sale of the property at public auction.¹⁶ If the tax certificate is not redeemed or sold at auction after 7 years, the tax certificate is cancelled and considered null and void.¹⁷

Under current law, when any deferred taxes, assessments, or interest are collected, the tax collector maintains a record of the payment and distributes payments received to each taxing authority in the proportionate share of the collected taxes as reflected in the tax bill.¹⁸ The tax collector will make this distribution at least four times during the first 2 months after the tax roll comes into the tax collector's possession for collection and at least one time in all other months.¹⁹

Fraudulent Homestead Exemption Claims

Current law provides that if a property owner was granted a homestead exemption to which the property owner was not entitled, the property appraiser will send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.²⁰ The property owner has 30 days to pay the taxes owed, plus penalties and interest.²¹ If not paid within 30 days of notice, the property appraiser may file a tax lien.²² Even if a tax lien is filed, current administration of the law does not follow the tax certificate process described above. Instead, the tax lien remains on the property until it is paid or expires after 20 years.²³

¹⁰ Section 197.333, F.S.

¹¹ Section 197.152, F.S.

¹² See section 196.161, F.S.

¹³ Section 197.432, F.S.

¹⁴ Section 197.502, F.S.

¹⁵ *Id.*

¹⁶ Section 197.472, F.S.

¹⁷ Section 197.482, F.S.

¹⁸ Section 197.383, F.S.

¹⁹ Section 197.383, F.S.

²⁰ Section 196.161, F.S.

²¹ *Id.*

²² *Id.*

²³ Section 95.091(1)(b), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 196.141, F.S., to authorize property appraisers to contract for services to examine or audit homestead tax exemptions claimed on assessment rolls. The agreement to contract for services must specify that the contractor may only receive a portion of the back taxes, penalties, and interest imposed which are collected on an assessment made as a result of the contractor's examination or audit.

If a contractor finds that a property owner was not entitled to a homestead exemption, the property appraiser must remove the homestead exemption from previous tax rolls.

After paying the contractor for the contracted services and distributing the fees as set forth in s. 196.161(1)(b), F.S., to the property appraiser and tax collector, the tax collector shall distribute the remainder of the interest and any back taxes collected as set forth in ch. 197, F.S.

The contractor may only contact persons claiming a homestead exemption in a manner prescribed by the property appraiser. At a minimum, the contractor must inform the person claiming a homestead exemption that:

- The contractor is a third party who has been contracted by the property appraiser to examine or audit homestead tax exemptions; and
- The person should contact the property appraiser if he or she has any questions. The contractor must provide the person with the property appraiser's contact information.

The contractor may not:

- Simulate a governmental official in any manner;
- Communicate with the person between 9 p.m. and 8 a.m. in the person's time zone without the person's prior consent;
- Suggest, communicate, or threaten the person that any money is owed; or
- Publish or post, threaten to publish or post, or cause to be published or posted to the general public individual names or any list of names of people who have claimed a homestead exemption.

Section 2 amends s. 196.161, F.S., to require that after a property appraiser determines that a person was granted, but not entitled to, a homestead exemption for any of the previous 10 years, the property appraiser shall immediately certify to the county tax collector an additional assessment for each year that the owner was not entitled to the exemption. The property appraiser shall provide the property owner with such information. Additionally, the tax collector may provide the notice to the property owner by United States Postal Service to the address of record.

If a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption may not be assessed a penalty, interest, or fees.

The bill also provides that taxes, penalties, fees, and interest assessed pursuant to this section which are not paid in full must be included in the next tax notice and must be collected in the same manner as, and in addition to, the current ad valorem taxes under ch. 197, including the

annual tax certificate sale when appropriate. However, this does not apply when the property appraiser improperly grants a homestead exemption due to a clerical error or omission.

Section 3 amends s. 213.30, F.S., to conform to the changes made by the bill to allow contractors to collect money related to the failure to comply with Florida's tax laws.²⁴

Section 4 states that the Legislature finds that this act fulfills an important state interest.

Section 5 provides that the bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in additional business for firms that investigate homestead exemption fraud.

C. Government Sector Impact:

The ability of a property appraiser to contract for services to examine or audit homestead tax exemptions may result in fewer fraudulent homestead claims, resulting in the relinquishment of those homeowner's improper benefits and a higher ad valorem tax base for the local government. However, local government may expend additional funds to contract for services.

VI. Technical Deficiencies:

None.

²⁴ Under current law, s. 213.30, F.S., is the sole means by which a person who provide information to the Department of Revenue leading to certain violations of tax laws may be compensated by the department.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 196.141, 196.161, and 213.30.

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

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

None.

B. Amendments:

None.

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



820170

LEGISLATIVE ACTION

Senate

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House

The Committee on Community Affairs (Young) recommended the following:

Senate Amendment (with title amendment)

Delete lines 34 - 69
and insert:

(2) The board of county commissioners and the property appraiser may contract for services to examine or audit homestead tax exemptions claimed on assessment rolls. An agreement for contracted services shall specify that the contractor may only receive a portion, not to exceed 50 percent, of the penalties and interest imposed pursuant to this chapter



820170

11 which are collected on any assessment made as a result of the
12 contractor's examination or audit. The contractor may not
13 contact the person suspected of not being entitled to a
14 homestead exemption. If a contractor finds that a person was not
15 entitled to a homestead exemption, the contractor shall notify
16 the property appraiser of the finding. If after due
17 consideration, the property appraiser finds that the person is
18 not entitled under the law to the exemption, the property
19 appraiser shall immediately make out a notice of such
20 disapproval, giving the reasons therefor, a copy of which notice
21 must be served upon the taxpayer by the property appraiser
22 either by personal delivery or by registered mail to the post
23 office address given by the taxpayer. The taxpayer may appeal to
24 the value adjustment board the decision of the property
25 appraiser refusing to allow the exemption, and the board shall
26 review the evidence presented to the property appraiser upon
27 which the taxpayer based the claim for exemption and shall hear
28 the taxpayer in person or by agent on behalf of his or her right
29 to such exemption. The value adjustment board shall reverse the
30 decision of the property appraiser in the cause and grant
31 exemption to the taxpayer if in its judgment the taxpayer is
32 entitled thereto or shall affirm the decision of the property
33 appraiser. The action of the board is final in the cause unless
34 the taxpayer shall, within 15 days from the date of refusal of
35 the exemption by the board, file in the circuit court of the
36 county in which the homestead is situated a proceeding against
37 the property appraiser for a declaratory judgment as is provided
38 by chapter 86 or other appropriate proceeding. The failure of
39 the taxpayer to appear before the property appraiser or value



820170

adjustment board or to file any paper other than the application
above provided does not constitute any bar or defense to the
proceedings.

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

And the title is amended as follows:

Delete lines 3 - 11

and insert:

s. 196.141, F.S.; authorizing the board of county
commissioners and the property appraiser to contract
for services to examine or audit homestead tax
exemptions claimed on assessment rolls; requiring
agreements for contracted services to specify a
limitation for the portion of penalties and interest a
contractor may receive; prohibiting contractors from
contacting persons suspected of not being entitled to
homestead exemptions; requiring such contractors to
notify the property appraiser of their findings;
specifying procedures and requirements for the
property appraiser's notice of disapproval of such
exemptions, for taxpayer appeals before the value
adjustment board, and for certain proceedings in
circuit court for a declaratory judgment; providing
construction; amending s. 196.161, F.S.; revising

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/3/17
Meeting Date

SB 1350
Bill Number (if applicable)

Topic Home Stead Fraud

Amendment Barcode (if applicable)

Name Martha W. Cleaver

Job Title Consultant

Address P.O. Box 11275

Phone 850-491-1945

Tallahassee FL 32302
City State Zip

Email marthacleaver@fapa.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Assoc. of Property Appraisers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By Senator Thurston

33-00319-17

20171496__

A bill to be entitled
An act relating to neighborhood improvement districts;
providing that a city ordinance creating a
neighborhood improvement district may authorize the
district to borrow money, contract loans, and issue
bonds, certificates, warrants, notes, or other
evidence of indebtedness and may pledge the special
assessment power of the district to pay such debts for
the purpose of financing certain capital projects;
conditioning the exercise of such power by a
neighborhood improvement district on approval by the
governing board of the district, city commission, and
electors of the district; establishing requirements
for a referendum; specifying characteristics of such
bonds and loans; providing an effective date.

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

Section 1. Any ordinance enacted by a municipality pursuant to s. 163.506, Florida Statutes, to create a neighborhood improvement district may, in addition to the matters specified in s. 163.506(1), Florida Statutes, authorize the district to borrow money, contract loans, and issue bonds, certificates, warrants, notes, or other evidence of indebtedness to finance the undertaking of capital projects for a purpose authorized by the State Constitution and part IV of chapter 163, Florida Statutes, and may pledge the special assessment power of the district for the payment of such debts and bonds.

(1) Bonds authorized under this section:

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30 (a) Must be authorized by resolution of the governing board
31 of the district, by resolution of the city commission, and by a
32 referendum of the electors of the district. The referendum must
33 include the estimated cost of the capital projects that are the
34 subject of the referendum and the amount of the bond issue.

35 1. Notwithstanding s. 101.6102, Florida Statutes, the
36 referendum to approve the bond issuance shall be by mail ballot.

37 2. Within 45 days after the date the city commission enacts
38 an ordinance calling a referendum pursuant to this paragraph,
39 the city clerk or the supervisor of elections, whichever is
40 appropriate, shall compile a list of the names and last known
41 addresses of the electors in the neighborhood improvement
42 district from the list of registered voters of the county as of
43 the last day of the preceding month, which shall be the
44 registration list for the referendum. A resident of the district
45 whose name does not appear on the registration list may register
46 to vote in the referendum as provided by law.

47 3. Within 45 days after compilation of the voter
48 registration list, the city clerk or the supervisor of
49 elections, whichever is appropriate, shall notify each elector
50 of the provisions of the ordinance and the date of the upcoming
51 referendum. Notification shall be by United States mail and by
52 publication, one time, in a newspaper of general circulation in
53 the municipality in which the district is located.

54 4. The registration list must remain open for 75 days after
55 the date of the mailing of the notices to the electors as set
56 forth in subparagraph 3.

57 5. Within 15 days after closing the registration list, the
58 city clerk or the supervisor of elections, whichever is

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20171496__

appropriate, shall send a ballot to each elector at his or her last known mailing address by first-class United States mail.

The ballot shall include:

a. A description of the provisions of the ordinance applicable to neighborhood improvement districts; and

b. Immediately thereafter, the following statement:

Do you favor authorizing the Neighborhood Improvement District to issue bonds in the amount of for purposes of financing capital projects that are estimated to cost \$...., as provided by ... (legal citation of this act) ...?

....Yes, for authorizing the issuance of bonds for district purposes.

....No, against authorizing the issuance of bonds for district purposes.

6. Ballots shall be returned by United States mail or by personal delivery.

7. All ballots received within 60 days after the closing of the registration list shall be tabulated by the city clerk or the supervisor of elections, whichever is appropriate, who shall certify the results thereof to the city commission no later than 5 days after such 60-day period.

8. The bond issuance is deemed to have been approved only upon the affirmative vote of a majority of the registered voters in the district and voting on the issue.

(b) May be issued in one or more series and shall bear such

33-00319-17

20171496__

88 date or dates; be payable upon demand or mature at such time or
89 times; bear interest at such rate or rates; be in such
90 denomination or denominations; be in such form, registered or
91 not registered, with or without coupon; carry such conversion or
92 registration privileges; have such rank or priority; be executed
93 in such manner; be payable in such medium of payment, at such
94 place or places, and subject to such terms of redemption, with
95 or without premium, be secured in such manner; and have such
96 other characteristics as may be provided by a resolution adopted
97 pursuant to paragraph (a) or a trust indenture or mortgage
98 issued pursuant thereto.

99 (2) A loan contracted by a district under the authority of
100 this section may not have a term that exceeds the life of the
101 projects secured by the loan.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1496

INTRODUCER: Senator Thurston

SUBJECT: Neighborhood Improvement Districts

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.			AFT	
3.			AP	
4.			RC	

I. Summary:

SB 1496 authorizes local government neighborhood improvement districts (NIDs) to borrow money, incur debt and pledge special assessments to finance capital projects. A loan contracted by a district under the authority of the bill may not have a term that exceeds the life of the projects secured by the loan.

II. Present Situation:

Neighborhood Improvement Districts

Purposes and Creation

Part IV of ch. 163, F.S., is known as the “Safe Neighborhoods Act.” The intent of the Act is to:

- Guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods;
- Promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers;
- Establish, maintain, and preserve property values and foster the development of attractive neighborhoods and business environments;
- Prevent overcrowding and congestion;
- Improve or redirect traffic and provide pedestrian safety; and
- Reduce crime rates.¹

Section 163.503(1) defines the term “neighborhood improvement district” to mean:

¹ See s. 163.502, F.S.

A district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques, or through community policing innovations...

The Safe Neighborhoods Act allows county or municipal governing bodies to create NIDs through the adoption of a planning ordinance. Each NID that is established is required to register within 30 days with both the Department of Economic Opportunity and the Department of Legal Affairs and provide the name, location, size, type of NID, and such other information that the departments may require.² Under current law, there are four types of NIDs:

- Local government NIDs,
- Property owners' association NIDs,
- Community redevelopment NIDs, and
- Special NIDs, which are further classified as either residential or business.³

As of March 2017, there are 27 active NIDs in the state of Florida.⁴

NID Boards and Revenue Sources

The board of directors of a local government NID is the local governing body of the municipality or county that created the NID; however, as an alternative, a majority of the local governing body may also appoint a different board.⁵ The officers of an incorporated property owners' association serve as the board of directors for property owners' association NIDs.⁶ The board of a special NID is a three-member body appointed by the governing body of the municipality or county that created the district.⁷ The board of a community redevelopment NID is the community redevelopment board of commissioners, which is designated by the governing body of the municipality or county that created the board.⁸

Local government NIDs are authorized to levy an ad valorem tax on real and personal property of up to two mills annually.⁹ Special NIDs have the same taxing authority; however, this authority is subject to referendum.¹⁰ Special *residential* NID ad valorem taxes are approved by a majority of the district electors voting in a referendum.¹¹ Special *business* NID ad valorem taxes

² Section 163.5055, F.S.

³ See ss. 163.506-163.512, F.S.

⁴ Florida Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, available at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited March 29, 2017).

⁵ Sections 163.506(1)(e), 163.506(3), F.S.

⁶ Section 163.508(1)(e), F.S.

⁷ Section 163.511(1)(f), F.S.

⁸ Section 163.356, F.S.

⁹ Section 163.506(1)(c), F.S.

¹⁰ Section 163.511(1)(a) and (b), F.S.

¹¹ Section 163.511(3)(g), F.S.

are approved if freeholders representing in excess of 50 percent of the assessed value of the property within the district approve the levy.¹²

All NIDs are also authorized, subject to referendum approval, to make and collect special assessments.¹³ Assessments may not exceed \$500 for each individual parcel of land per year and require an affirmative vote by a majority of the registered voters residing in the district.¹⁴ Community redevelopment NIDs may also utilize community redevelopment trust funds to implement district planning and programming.¹⁵

NID Dissolutions

Local government and community redevelopment NIDs may be dissolved by the governing body that established them.¹⁶ Property owners' association NIDs continue in perpetuity as long as the property owners' association created when establishing the NID exists.¹⁷ Special NIDs are dissolved at the end of the 10th fiscal year of operation.¹⁸

NIDs and Bond Authority

Although NIDs have various powers, they do not have express authority to borrow funds. In 2006, the Florida Attorney General issued Opinion 2006-49, stating that an NID created by ordinance pursuant to s. 163.511, F.S., does not have the authority to borrow money to carry out the purposes of the district.¹⁹ The Attorney General's Office reasoned that a statutorily created entity is limited to such powers expressly granted by law or reasonably implied to carry out its expressly granted power. The opinion further stated that "[w]hen the Legislature has directed how a thing shall be done, that is in effect a prohibition against it[] being done any other way."

Other Sources of Funding for Local Government Improvement Efforts

County and municipal governments have authority under current law and under their constitutional home rule authority to raise revenue that could be used for many of the purposes identified by the Safe Neighborhoods Act.

Section 125.01(1)(q), F.S., provides that counties may establish:

municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which it may provide fire protection, law enforcement, beach erosion control, recreation service and facilities, water..., streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and

¹² Section 163.511(4)(g), F.S.

¹³ Section 163.514(16), F.S. This authority and any of the other NID powers enumerated in s.163.514, F.S., may be prohibited by the NID's enacting ordinance.

¹⁴ *Id.*

¹⁵ Section 163.512(1)(c), F.S.

¹⁶ Sections 163.506(4) and 163.512(3), F.S.

¹⁷ Section 163.508(4), F.S.

¹⁸ Section 163.511(13), F.S. Special NIDs may continue for subsequent 10-year periods if the continuation of the district is approved through referendum.

¹⁹ Op. Atty Gen. Fla. 2006-49 (2006).

sewage collection and disposal, drainage, transportation, indigent health care services, mental health care services, and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.... This paragraph authorizes all counties to levy additional taxes, within the limits fixed for municipal purposes, within such municipal service taxing units under the authority of the second sentence of s. 9(b), Art. VII of the State Constitution.

Section 125.01(1)(r), F.S., grants counties the power to levy and collect ad valorem taxes, and provides that no referendum is required for the levy by a county of ad valorem taxes for county purposes or for providing municipal services within any municipal service taxing unit. The distinction between a municipal service taxing unit and a municipal service benefit unit is that in a benefit unit the services are funded by a service charge or a special assessment rather than a tax.

All taxes, other than ad valorem taxes, are reserved to the state.²⁰ Local governments may levy other taxes only if they are authorized by general law. Not all local government revenue sources are taxes. Counties and municipalities may levy fees, assessments, or charges for services under their home rule authority. Special assessments may be used to fund certain services and to construct and maintain capital facilities, such as those appropriate for NIDs, if they meet two requirements: (1) the property subject to assessment must derive a special benefit from the service or improvement funded by the assessment, and (2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.²¹

III. Effect of Proposed Changes:

Section 1 authorizes local government NIDs to borrow money, contract loans, and incur indebtedness to finance capital projects. Loan terms may not exceed the life of the capital project secured by the loan.

The governing body of local government NIDs will be able to issue a resolution authorizing bonds. Bonds must be approved by the board of the district, the governing body of the municipality or county that created the district, and by referendum. The referendum required for bonds is the same referendum currently required to impose special assessments. Local government NIDs will be able to pledge special assessments to secure or repay district obligations.

Section 2 provides that the bill shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁰ Fla. Const. Art. VII, s. 1(a).

²¹ See *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under the bill, local governments may incur additional costs associated with conducting referenda.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Education
Judiciary
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR PERRY E. THURSTON, JR.

Democratic Caucus Rules Chair
33rd District

March 21, 2017

The Honorable Tom Lee
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Lee,

I am writing this letter because my bill, SB 1496 Neighborhood Improvement Districts, has been referred to the Senate Community Affairs Committee, I am respectfully requesting you place the bill on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Respectfully,

Perry E. Thurston, Jr.
District 33

REPLY TO:

- ☐ 2151 NW 6th Street, Fort Lauderdale, Florida 33311 (954) 321-2705 FAX: (954) 321-2707
- ☐ 208 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 21, 2017

I respectfully request that **Senate Bill #1496**, relating to Neighborhood Improvement Districts, be placed on the:

- ☒ Committee agenda at your earliest possible convenience.
- ☐ Next committee agenda.

Perry E. Thurston, Jr.

Senator Perry E. Thurston, Jr.
Florida Senate, District 33

THE FLORIDA SENATE

APPEARANCE RECORD

4/3/17

Meeting Date

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

1492

Bill Number (if applicable)

Topic Safe Neighborhood Districts

Amendment Barcode (if applicable)

Name Marri J. Bailey

Job Title Sen. Gov Relations Consultant

Address 1 East Broward

Phone 205 246-3932

Street

Fort Lauderdale

FL

City

State

Zip

Email mbailey@flsenate.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By Senator Passidomo

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A bill to be entitled
An act relating to covenants and restrictions;
amending ss. 125.022 and 166.033, F.S.; deleting
provisions specifying that a county or municipality is
not prohibited from providing information to an
applicant regarding other state or federal permits
that may apply under certain circumstances; specifying
that the imposition or acceptance of certain
restrictions or covenants does not preclude a county
or municipality from exercising its police power, in
its sole discretion, to later amend, release, or
terminate such restrictions or covenants; prohibiting
a county or municipality from delegating its police
power to a third party by restriction, covenant, or
otherwise; declaring any such purported delegation
void; providing for retroactive applicability;
creating s. 712.001, F.S.; providing a short title;
amending s. 712.01, F.S.; defining and redefining
terms; amending s. 712.04, F.S.; providing that a
marketable title is free and clear of all covenants or
restrictions, the existence of which depends upon any
act, title transaction, event, zoning requirement,
building or development permit, or omission that
occurred before the effective date of the root of
title; providing for construction; providing
applicability; amending s. 712.05, F.S.; revising the
notice filing requirements for a person claiming an
interest in land and other rights; authorizing a
property owners' association to preserve and protect

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30 certain covenants or restrictions from extinguishment,
31 subject to specified requirements; providing that a
32 failure in indexing does not affect the validity of
33 the notice; extending the length of time certain
34 covenants or restrictions are preserved; deleting a
35 provision requiring a two-thirds vote by members of an
36 incorporated homeowners' association to file certain
37 notices; conforming provisions to changes made by the
38 act; amending s. 712.06, F.S.; exempting a specified
39 summary notice from certain notice content
40 requirements; revising the contents required to be
41 specified by certain notices; conforming provisions to
42 changes made by the act; amending s. 712.11, F.S.;
43 conforming provisions to changes made by the act;
44 creating s. 712.12, F.S.; defining terms; authorizing
45 the parcel owners of a community not subject to a
46 homeowners' association to use specified procedures to
47 revive certain covenants or restrictions, subject to
48 certain exceptions and requirements; authorizing a
49 parcel owner to commence an action by a specified date
50 under certain circumstances for a judicial
51 determination that the covenants or restrictions did
52 not govern that parcel as of a specified date and that
53 any revitalization of such covenants or restrictions
54 as to that parcel would unconstitutionally deprive the
55 parcel owner of rights or property; providing
56 applicability; amending s. 720.303, F.S.; requiring a
57 board to take up certain provisions relating to notice
58 filings at the first board meeting; creating s.

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720.3032, F.S.; providing recording requirements for an association; providing a document form for recording by an association to preserve certain covenants or restrictions; providing that failure to file one or more notices does not affect the validity or enforceability of a covenant or restriction or alter the time before extinguishment under certain circumstances; requiring a copy of the filed notice to be sent to all members; requiring the original signed notice to be recorded with the clerk of the circuit court or other recorder; amending ss. 702.09 and 702.10, F.S.; conforming provisions to changes made by the act; amending s. 712.095, F.S.; conforming a cross-reference; amending ss. 720.403, 720.404, 720.405, and 720.407, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (6) of section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—

(6) The imposition or acceptance of a recorded or unrecorded restriction or covenant in connection with the approval or issuance of a development permit does not preclude the county from exercising its police power, in its sole discretion, to later amend, release, or terminate the restriction or covenant. A county may not delegate its police power to a third party by restriction, covenant, or otherwise,

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and any such purported delegation is hereby declared to be void
~~This section does not prohibit a county from providing~~
~~information to an applicant regarding what other state or~~
~~federal permits may apply.~~

Section 2. Subsection (6) of section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—

(6) The imposition or acceptance of a recorded or
unrecorded restriction or covenant in connection with the
approval or issuance of a development permit does not preclude a
municipality from exercising its police power, in its sole
discretion, to later amend, release, or terminate the
restriction or covenant. A municipality may not delegate its
police power to a third party by restriction, covenant, or
otherwise, and any such purported delegation is hereby declared
to be void ~~This section does not prohibit a municipality from~~
~~providing information to an applicant regarding what other state~~
~~or federal permits may apply.~~

Section 3. The amendments by this act to ss. 125.022 and
166.033, Florida Statutes, which relate to development permits,
are remedial in nature and apply retroactively.

Section 4. Section 712.001, Florida Statutes, is created to read:

712.001 Short title.—This chapter may be cited as the
"Marketable Record Title Act."

Section 5. Section 712.01, Florida Statutes, is reordered and amended to read:

712.01 Definitions.—As used in this chapter, the term ~~law~~:

(1) "Community covenant or restriction" means any agreement

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or limitation contained in a document recorded in the public records of the county in which a parcel is located which:

(a) Subjects the parcel to any use restriction that may be enforced by a property owners' association; or

(b) Authorizes a property owners' association to impose a charge or assessment against the parcel or the parcel owner.

~~(4)-(1)~~ The term "Person" includes the as used herein
~~denotes~~ singular or plural, natural or corporate, private or governmental, including the state and any political subdivision or agency thereof as the context for the use thereof requires or denotes and including any property owners' homeowners' association.

~~(6)-(2)~~ "Root of title" means any title transaction purporting to create or transfer the estate claimed by any person ~~and~~ which is the last title transaction to have been recorded at least 30 years before ~~prior to~~ the time when marketability is being determined. The effective date of the root of title is the date on which it was recorded.

~~(7)-(3)~~ "Title transaction" means any recorded instrument or court proceeding that ~~which~~ affects title to any estate or interest in land and that ~~which~~ describes the land sufficiently to identify its location and boundaries.

~~(5)-(4)~~ "Property owners' association" ~~The term "homeowners' association"~~ means a homeowners' association as defined in s. 720.301, a corporation or other entity responsible for the operation of property in which the voting membership is made up of the owners of the property or their agents, or a combination thereof, and in which membership is a mandatory condition of property ownership, or an association of parcel owners which is

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authorized to enforce a community covenant or restriction ~~use~~
~~restrictions~~ that is ~~are~~ imposed on the parcels.

~~(3)(5) The term~~ "Parcel" means real property that ~~which~~ is
used for residential purposes and that is subject to exclusive
ownership and ~~which is subject~~ to any covenant or restriction of
a property owners' ~~homeowners'~~ association.

~~(2)(6) The term~~ "Covenant or restriction" means any
agreement or limitation contained in a document recorded in the
public records of the county in which a parcel is located which
subjects the parcel to any use or other restriction or
obligation ~~which may be enforced by a homeowners' association or~~
~~which authorizes a homeowners' association to impose a charge or~~
~~assessment against the parcel or the owner of the parcel or~~
~~which may be enforced by the Florida Department of Environmental~~
~~Protection pursuant to chapter 376 or chapter 403.~~

Section 6. Section 712.04, Florida Statutes, is amended to
read:

712.04 Interests extinguished by marketable record title.—

(1) Subject to s. 712.03, a marketable record title is free
and clear of all estates, interests, claims, covenants,
restrictions, or charges, the existence of which depends upon
any act, title transaction, event, zoning requirement, building
or development permit, or omission that occurred before the
effective date of the root of title. Except as provided in s.
712.03, all such estates, interests, claims, covenants,
restrictions, or charges, however denominated, whether they are
or appear to be held or asserted by a person sui juris or under
a disability, whether such person is within or without the
state, natural or corporate, or private or governmental, are

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declared to be null and void. However, this chapter does not affect any right, title, or interest of the United States, Florida, or any of its officers, boards, commissions, or other agencies reserved in the patent or deed by which the United States, Florida, or any of its agencies parted with title.

(2) This section may not be construed to alter or invalidate a zoning ordinance, land development regulation, building code, or other ordinance, rule, regulation, or law if such ordinance, rule, regulation, or law operates independently of matters recorded in the official records.

(3) This section is intended to clarify existing law, is remedial in nature, and applies to all restrictions and covenants whether imposed or accepted before, on, or after October 1, 2017.

Section 7. Section 712.05, Florida Statutes, is amended to read:

712.05 Effect of filing notice.—

(1) A person claiming an interest in land or other right ~~subject to extinguishment under this chapter~~ ~~a homeowners' association desiring to preserve a covenant or restriction~~ may preserve and protect such interest or right ~~the same~~ from extinguishment by the operation of this chapter ~~act~~ by filing for record, at any time during the 30-year period immediately following the effective date of the root of title, a written notice in accordance with s. 712.06 ~~this chapter~~.

(2) A property owners' association may preserve and protect a community covenant or restriction from extinguishment by the operation of this chapter by filing for record, at any time during the 30-year period immediately following the effective

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204 date of the root of title:

205 (a) A written notice in accordance with s. 712.06; or

206 (b) A summary notice in substantial form and content as
207 required under s. 720.3032(2). Failure of a summary notice to be
208 indexed to the current owners of the affected property does not
209 affect the validity of the notice or vitiate the effect of the
210 filing of such notice.

211 (3) A ~~Such~~ notice under subsection (1) or subsection (2)
212 preserves an interest in land or other ~~such claim of right~~
213 subject to extinguishment under this chapter, or a ~~such~~ covenant
214 or restriction or portion of such covenant or restriction, for
215 not less than ~~up to~~ 30 years after filing the notice unless the
216 notice is filed again as required in this chapter. A person's
217 disability or lack of knowledge of any kind may not delay the
218 commencement of or suspend the running of the 30-year period.
219 Such notice may be filed for record by the claimant or by any
220 other person acting on behalf of a claimant who is:

221 (a) Under a disability;

222 (b) Unable to assert a claim on his or her behalf; or

223 (c) One of a class, but whose identity cannot be
224 established or is uncertain at the time of filing such notice of
225 claim for record.

226
227 ~~Such notice may be filed by a homeowners' association only if~~
228 ~~the preservation of such covenant or restriction or portion of~~
229 ~~such covenant or restriction is approved by at least two-thirds~~
230 ~~of the members of the board of directors of an incorporated~~
231 ~~homeowners' association at a meeting for which a notice, stating~~
232 ~~the meeting's time and place and containing the statement of~~

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233 ~~marketable title action described in s. 712.06(1)(b), was mailed~~
234 ~~or hand delivered to members of the homeowners' association at~~
235 ~~least 7 days before such meeting. The property owners'~~
236 ~~homeowners' association or clerk of the circuit court is not~~
237 required to provide additional notice pursuant to s. 712.06(3).
238 The preceding sentence is intended to clarify existing law.

239 ~~(4)(2)~~ It is ~~shall~~ not be necessary for the owner of the
240 marketable record title, as described in s. 712.02 herein
241 ~~defined~~, to file a notice to protect his or her marketable
242 record title.

243 Section 8. Subsections (1) and (3) of section 712.06,
244 Florida Statutes, are amended to read:

245 712.06 Contents of notice; recording and indexing.—

246 (1) To be effective, the notice referred to in s. 712.05,
247 other than the summary notice referred to in s. 712.05(2)(b),
248 must ~~shall~~ contain:

249 (a) The name or description and mailing address of the
250 claimant or the property owners' ~~homeowners'~~ association
251 desiring to preserve any covenant or restriction ~~and the name~~
252 ~~and particular post office address of the person filing the~~
253 ~~claim or the homeowners' association.~~

254 (b) The name and mailing ~~post office~~ address of an owner,
255 or the name and mailing ~~post office~~ address of the person in
256 whose name the ~~said~~ property is assessed on the last completed
257 tax assessment roll of the county at the time of filing, who,
258 for purpose of such notice, shall be deemed to be an owner;
259 ~~provided~~, however, if a property owners' ~~homeowners'~~ association
260 is filing the notice, ~~then~~ the requirements of this paragraph
261 may be satisfied by attaching to and recording with the notice

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an affidavit executed by the appropriate member of the board of directors of the property owners' ~~homeowners'~~ association affirming that the board of directors of the property owners' ~~homeowners'~~ association caused a statement in substantially the following form to be mailed or hand delivered to the members of that property owners' ~~homeowners'~~ association:

STATEMENT OF MARKETABLE TITLE ACTION

The [name of property owners' ~~homeowners'~~ association] (the "Association") has taken action to ensure that the [name of declaration, covenant, or restriction], recorded in Official Records Book, Page, of the public records of County, Florida, as may be amended from time to time, currently burdening the property of each and every member of the Association, retains its status ~~as the source of marketable title~~ with regard to the affected real property ~~the transfer of a member's residence~~. To this end, the Association shall cause the notice required by chapter 712, Florida Statutes, to be recorded in the public records of County, Florida. Copies of this notice and its attachments are available through the Association pursuant to the Association's governing documents regarding official records of the Association.

(c) A full and complete description of all land affected by such notice, which description shall be set forth in particular terms and not by general reference, but if said claim is founded upon a recorded instrument or a covenant or a restriction, ~~then~~ the description in such notice may be the same as that contained

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in such recorded instrument or covenant or restriction, provided the same shall be sufficient to identify the property.

(d) A statement of the claim showing the nature, description, and extent of such claim or other right subject to extinguishment under this chapter or, in the case of a covenant or restriction, a copy of the covenant or restriction, except that it is ~~shall~~ not be necessary to show the amount of any claim for money or the terms of payment.

(e) If such claim or other right subject to extinguishment under this chapter is based upon an instrument of record or a recorded covenant or restriction, such instrument of record or recorded covenant or restriction shall be deemed sufficiently described to identify the same if the notice includes a reference to the book and page in which the same is recorded.

(f) Such notice shall be acknowledged in the same manner as deeds are acknowledged for record.

(3) The person providing the notice referred to in s. 712.05, other than a notice for preservation of a community covenant or restriction, shall:

(a) Cause the clerk of the circuit court to mail by registered or certified mail to the purported owner of said property, as stated in such notice, a copy thereof and shall enter on the original, before recording the same, a certificate showing such mailing. For preparing the certificate, the claimant shall pay to the clerk the service charge as prescribed in s. 28.24(8) and the necessary costs of mailing, in addition to the recording charges as prescribed in s. 28.24(12). If the notice names purported owners having more than one address, the person filing the same shall furnish a true copy for each of the

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several addresses stated, and the clerk shall send one such copy to the purported owners named at each respective address. Such certificate shall be sufficient if the same reads substantially as follows:

I hereby certify that I did on this, mail by registered (or certified) mail a copy of the foregoing notice to each of the following at the address stated:

...(Clerk of the circuit court)...
of County, Florida,
By...(Deputy clerk)...

The clerk of the circuit court is not required to mail to the purported owner of such property any such notice that pertains solely to the preserving of any covenant or restriction or any portion of a covenant or restriction; or

(b) Publish once a week, for 2 consecutive weeks, the notice referred to in s. 712.05, with the official record book and page number in which such notice was recorded, in a newspaper as defined in chapter 50 in the county in which the property is located.

Section 9. Section 712.11, Florida Statutes, is amended to read:

712.11 Covenant revitalization.—A property owners' ~~homeowners'~~ association not otherwise subject to chapter 720 may use the procedures set forth in ss. 720.403-720.407 to revive covenants that have lapsed under the terms of this chapter.

Section 10. Section 712.12, Florida Statutes, is created to

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349 read:

350 712.12 Covenant or restriction revitalization by parcel
351 owners not subject to a homeowners' association.-

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

353 (a) "Community" means the real property that is subject to
354 a covenant or restriction that is recorded in the county where
355 the property is located.

356 (b) "Covenant or restriction" means any agreement or
357 limitation imposed by a private party and not required by a
358 governmental agency as a condition of a development permit, as
359 defined in s. 163.3164, which is contained in a document
360 recorded in the public records of the county in which a parcel
361 is located and which subjects the parcel to any use restriction
362 that may be enforced by a parcel owner.

363 (c) "Parcel" means real property that is used for
364 residential purposes and that is subject to exclusive ownership
365 and any covenant or restriction that may be enforced by a parcel
366 owner.

367 (d) "Parcel owner" means the record owner of legal title to
368 a parcel.

369 (2) The parcel owners of a community not subject to a
370 homeowners' association may use the procedures set forth in ss.
371 720.403-720.407 to revive covenants or restrictions that have
372 lapsed under the terms of this chapter, except:

373 (a) A reference to a homeowners' association or articles of
374 incorporation or bylaws of a homeowners' association under ss.
375 720.403-720.407 is not required to revive the covenants or
376 restrictions.

377 (b) The approval required under s. 720.405(6) must be in

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378 writing, and not at a meeting.

379 (c) The requirements under s. 720.407(2) may be satisfied
380 by having the organizing committee execute the revived covenants
381 or restrictions in the name of the community.

382 (d) The indexing requirements under s. 720.407(3) may be
383 satisfied by indexing the community name in the covenants or
384 restrictions as the grantee and the parcel owners as the
385 grantors.

386 (3) With respect to any parcel that has ceased to be
387 governed by covenants or restrictions as of October 1, 2017, the
388 parcel owner may commence an action by October 1, 2018, for a
389 judicial determination that the covenants or restrictions did
390 not govern that parcel as of October 1, 2017, and that any
391 revitalization of such covenants or restrictions as to that
392 parcel would unconstitutionally deprive the parcel owner of
393 rights or property.

394 (4) Revived covenants or restrictions that are implemented
395 pursuant to this section do not apply to or affect the rights of
396 the parcel owner which are recognized by any court order or
397 judgment in any action commenced by October 1, 2018, and any
398 such rights so recognized may not be subsequently altered by
399 revived covenants or restrictions implemented under this section
400 without the consent of the affected parcel owner.

401 Section 11. Paragraph (e) is added to subsection (2) of
402 section 720.303, Florida Statutes, to read:

403 720.303 Association powers and duties; meetings of board;
404 official records; budgets; financial reporting; association
405 funds; recalls.—

406 (2) BOARD MEETINGS.—

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407 (e) At the first board meeting, excluding the
408 organizational meeting, which follows the annual meeting of the
409 members, the board shall consider the desirability of filing
410 notices to preserve the covenants or restrictions affecting the
411 community or association from extinguishment under the
412 Marketable Record Title Act, chapter 712, and to authorize and
413 direct the appropriate officer to file notice in accordance with
414 s. 720.3032.

415 Section 12. Section 720.3032, Florida Statutes, is created
416 to read:

417 720.3032 Notice of association information; preservation
418 from Marketable Record Title Act.—

419 (1) Not less than once every 5 years, each association
420 shall record in the official records of each county in which the
421 community is located a notice specifying:

422 (a) The legal name of the association.

423 (b) The mailing and physical addresses of the association.

424 (c) The names of the affected subdivision plats and
425 condominiums or, if not applicable, the common name of the
426 community.

427 (d) The name, address, and telephone number for the current
428 community association management company or community
429 association manager, if any.

430 (e) Indication as to whether the association desires to
431 preserve the covenants or restrictions affecting the community
432 or association from extinguishment under the Marketable Record
433 Title Act, chapter 712.

434 (f) A listing by name and recording information of those
435 covenants or restrictions affecting the community which the

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association desires to be preserved from extinguishment.

(g) The legal description of the community affected by the covenants or restrictions, which may be satisfied by a reference to a recorded plat.

(h) The signature of a duly authorized officer of the association, acknowledged in the same manner as deeds are acknowledged for record.

(2) Recording a document in substantially the following form satisfies the notice obligation and constitutes a summary notice as specified in s. 712.05(2)(b) sufficient to preserve and protect the referenced covenants and restrictions from extinguishment under the Marketable Record Title Act, chapter 712.

Notice of ...(name of association)... under s. 720.3032, Florida Statutes, and notice to preserve and protect covenants and restrictions from extinguishment under the Marketable Record Title Act, chapter 712, Florida Statutes.

Instructions to recorder: Please index both the legal name of the association and the names shown in item 3.

1. Legal name of association:

2. Mailing and physical addresses of association:

3. Names of the subdivision plats, or, if none, common name of community:

4. Name, address, and telephone number for management company, if any:

5. This notice does does not constitute a notice to preserve and protect covenants or restrictions from

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extinguishment under the Marketable Record Title Act.

6. The following covenants or restrictions affecting the community which the association desires to be preserved from extinguishment:

...(Name of instrument)...

...(Official Records Book where recorded & page)...

...(List of instruments)...

...(List of recording information)...

7. The legal description of the community affected by the listed covenants or restrictions is: ...(Legal description, which may be satisfied by reference to a recorded plat)...

This notice is filed on behalf of ...(Name of association) ... as of ...(Date)....

...(Name of association)...

By:

...(Name of individual officer)...

...(Title of officer)...

...(Notary acknowledgment)...

(3) The failure to file one or more notices does not affect the validity or enforceability of any covenant or restriction nor in any way alter the remaining time before extinguishment by the Marketable Record Title Act, chapter 712.

(4) A copy of the notice, as filed, must be included as part of the next notice of meeting or other mailing sent to all members.

(5) The original signed notice must be recorded in the official records of the clerk of the circuit court or other

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494 recorder for the county.

495 Section 13. Section 702.09, Florida Statutes, is amended to
496 read:

497 702.09 Definitions.—For the purposes of ss. 702.07 and
498 702.08, the words “decree of foreclosure” shall include a
499 judgment or order rendered or passed in the foreclosure
500 proceedings in which the decree of foreclosure shall be
501 rescinded, vacated, and set aside; the word “mortgage” shall
502 mean any written instrument securing the payment of money or
503 advances and includes liens to secure payment of assessments
504 arising under chapters 718 and 719 and liens created pursuant to
505 the recorded covenants of a property owners’ ~~homeowners’~~
506 association as defined in s. 712.01; the word “debt” shall
507 include promissory notes, bonds, and all other written
508 obligations given for the payment of money; the words
509 “foreclosure proceedings” shall embrace every action in the
510 circuit or county courts of this state wherein it is sought to
511 foreclose a mortgage and sell the property covered by the same;
512 and the word “property” shall mean and include both real and
513 personal property.

514 Section 14. Subsection (1) of section 702.10, Florida
515 Statutes, is amended to read:

516 702.10 Order to show cause; entry of final judgment of
517 foreclosure; payment during foreclosure.—

518 (1) A lienholder may request an order to show cause for the
519 entry of final judgment in a foreclosure action. For purposes of
520 this section, the term “lienholder” includes the plaintiff and a
521 defendant to the action who holds a lien encumbering the
522 property or a defendant who, by virtue of its status as a

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condominium association, cooperative association, or property
owners' ~~homeowners'~~ association, may file a lien against the
real property subject to foreclosure. Upon filing, the court
shall immediately review the request and the court file in
chambers and without a hearing. If, upon examination of the
court file, the court finds that the complaint is verified,
complies with s. 702.015, and alleges a cause of action to
foreclose on real property, the court shall promptly issue an
order directed to the other parties named in the action to show
cause why a final judgment of foreclosure should not be entered.

(a) The order shall:

1. Set the date and time for a hearing to show cause. The
date for the hearing may not occur sooner than the later of 20
days after service of the order to show cause or 45 days after
service of the initial complaint. When service is obtained by
publication, the date for the hearing may not be set sooner than
30 days after the first publication.

2. Direct the time within which service of the order to
show cause and the complaint must be made upon the defendant.

3. State that the filing of defenses by a motion, a
responsive pleading, an affidavit, or other papers before the
hearing to show cause that raise a genuine issue of material
fact which would preclude the entry of summary judgment or
otherwise constitute a legal defense to foreclosure shall
constitute cause for the court not to enter final judgment.

4. State that a defendant has the right to file affidavits
or other papers before the time of the hearing to show cause and
may appear personally or by way of an attorney at the hearing.

5. State that, if a defendant files defenses by a motion, a

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552 verified or sworn answer, affidavits, or other papers or appears
553 personally or by way of an attorney at the time of the hearing,
554 the hearing time will be used to hear and consider whether the
555 defendant's motion, answer, affidavits, other papers, and other
556 evidence and argument as may be presented by the defendant or
557 the defendant's attorney raise a genuine issue of material fact
558 which would preclude the entry of summary judgment or otherwise
559 constitute a legal defense to foreclosure. The order shall also
560 state that the court may enter an order of final judgment of
561 foreclosure at the hearing and order the clerk of the court to
562 conduct a foreclosure sale.

563 6. State that, if a defendant fails to appear at the
564 hearing to show cause or fails to file defenses by a motion or
565 by a verified or sworn answer or files an answer not contesting
566 the foreclosure, such defendant may be considered to have waived
567 the right to a hearing, and in such case, the court may enter a
568 default against such defendant and, if appropriate, a final
569 judgment of foreclosure ordering the clerk of the court to
570 conduct a foreclosure sale.

571 7. State that if the mortgage provides for reasonable
572 attorney fees and the requested attorney fees do not exceed 3
573 percent of the principal amount owed at the time of filing the
574 complaint, it is unnecessary for the court to hold a hearing or
575 adjudge the requested attorney fees to be reasonable.

576 8. Attach the form of the proposed final judgment of
577 foreclosure which the movant requests the court to enter at the
578 hearing on the order to show cause.

579 9. Require the party seeking final judgment to serve a copy
580 of the order to show cause on the other parties in the following

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manner:

a. If a party has been served pursuant to chapter 48 with the complaint and original process, or the other party is the plaintiff in the action, service of the order to show cause on that party may be made in the manner provided in the Florida Rules of Civil Procedure.

b. If a defendant has not been served pursuant to chapter 48 with the complaint and original process, the order to show cause, together with the summons and a copy of the complaint, shall be served on the party in the same manner as provided by law for original process.

Any final judgment of foreclosure entered under this subsection is for in rem relief only. This subsection does not preclude the entry of a deficiency judgment where otherwise allowed by law. The Legislature intends that this alternative procedure may run simultaneously with other court procedures.

(b) The right to be heard at the hearing to show cause is waived if a defendant, after being served as provided by law with an order to show cause, engages in conduct that clearly shows that the defendant has relinquished the right to be heard on that order. The defendant's failure to file defenses by a motion or by a sworn or verified answer, affidavits, or other papers or to appear personally or by way of an attorney at the hearing duly scheduled on the order to show cause presumptively constitutes conduct that clearly shows that the defendant has relinquished the right to be heard. If a defendant files defenses by a motion, a verified answer, affidavits, or other papers or presents evidence at or before the hearing which raise

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610 a genuine issue of material fact which would preclude entry of
611 summary judgment or otherwise constitute a legal defense to
612 foreclosure, such action constitutes cause and precludes the
613 entry of a final judgment at the hearing to show cause.

614 (c) In a mortgage foreclosure proceeding, when a final
615 judgment of foreclosure has been entered against the mortgagor
616 and the note or mortgage provides for the award of reasonable
617 attorney fees, it is unnecessary for the court to hold a hearing
618 or adjudge the requested attorney fees to be reasonable if the
619 fees do not exceed 3 percent of the principal amount owed on the
620 note or mortgage at the time of filing, even if the note or
621 mortgage does not specify the percentage of the original amount
622 that would be paid as liquidated damages.

623 (d) If the court finds that all defendants have waived the
624 right to be heard as provided in paragraph (b), the court shall
625 promptly enter a final judgment of foreclosure without the need
626 for further hearing if the plaintiff has shown entitlement to a
627 final judgment and upon the filing with the court of the
628 original note, satisfaction of the conditions for establishment
629 of a lost note, or upon a showing to the court that the
630 obligation to be foreclosed is not evidenced by a promissory
631 note or other negotiable instrument. If the court finds that a
632 defendant has not waived the right to be heard on the order to
633 show cause, the court shall determine whether there is cause not
634 to enter a final judgment of foreclosure. If the court finds
635 that the defendant has not shown cause, the court shall promptly
636 enter a judgment of foreclosure. If the time allotted for the
637 hearing is insufficient, the court may announce at the hearing a
638 date and time for the continued hearing. Only the parties who

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appear, individually or through an attorney, at the initial hearing must be notified of the date and time of the continued hearing.

Section 15. Section 712.095, Florida Statutes, is amended to read:

712.095 Notice required by July 1, 1983.—Any person whose interest in land is derived from an instrument or court proceeding recorded subsequent to the root of title, which instrument or proceeding did not contain a description of the land as specified by s. 712.01(7) ~~s. 712.01(3)~~, and whose interest had not been extinguished prior to July 1, 1981, shall have until July 1, 1983, to file a notice in accordance with s. 712.06 to preserve the interest.

Section 16. Section 720.403, Florida Statutes, is amended to read:

720.403 Preservation of ~~residential~~ communities; revival of declaration of covenants.—

(1) Consistent with required and optional elements of local comprehensive plans and other applicable provisions of the Community Planning Act, property owners ~~homeowners~~ are encouraged to preserve existing residential and other communities, promote available and affordable housing, protect structural and aesthetic elements of their ~~residential~~ community, and, as applicable, maintain roads and streets, easements, water and sewer systems, utilities, drainage improvements, conservation and open areas, recreational amenities, and other infrastructure and common areas that serve and support the ~~residential~~ community by the revival of a previous declaration of covenants and other governing documents

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that may have ceased to govern some or all parcels in the community.

(2) In order to preserve a ~~residential~~ community and the associated infrastructure and common areas for the purposes described in this section, the parcel owners in a community that was previously subject to a declaration of covenants that has ceased to govern one or more parcels in the community may revive the declaration and the ~~homeowners'~~ association for the community upon approval by the parcel owners to be governed thereby as provided in this act, and upon approval of the declaration and the other governing documents for the association by the Department of Economic Opportunity in a manner consistent with this act.

(3) Part III of this chapter is intended to provide mechanisms for the revitalization of covenants or restrictions for all types of communities and property associations and is not limited to residential communities.

Section 17. Section 720.404, Florida Statutes, is amended to read:

720.404 Eligible ~~residential~~ communities; requirements for revival of declaration.—Parcel owners in a community are eligible to seek approval from the Department of Economic Opportunity to revive a declaration of covenants under this act if all of the following requirements are met:

(1) All parcels to be governed by the revived declaration must have been once governed by a previous declaration that has ceased to govern some or all of the parcels in the community;

(2) The revived declaration must be approved in the manner provided in s. 720.405(6); and

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(3) The revived declaration may not contain covenants that are more restrictive on the parcel owners than the covenants contained in the previous declaration, except that the declaration may:

(a) Have an effective term of longer duration than the term of the previous declaration;

(b) Omit restrictions contained in the previous declaration;

(c) Govern fewer than all of the parcels governed by the previous declaration;

(d) Provide for amendments to the declaration and other governing documents; and

(e) Contain provisions required by this chapter for new declarations that were not contained in the previous declaration.

Section 18. Subsections (1), (3), (5), and (6) of section 720.405, Florida Statutes, are amended to read:

720.405 Organizing committee; parcel owner approval.—

(1) The proposal to revive a declaration of covenants and an ~~a homeowners'~~ association for a community under the terms of this act shall be initiated by an organizing committee consisting of not less than three parcel owners located in the community that is proposed to be governed by the revived declaration. The name, address, and telephone number of each member of the organizing committee must be included in any notice or other document provided by the committee to parcel owners to be affected by the proposed revived declaration.

(3) The organizing committee shall prepare the full text of the proposed articles of incorporation and bylaws of the revived

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homeowners' association to be submitted to the parcel owners for approval, unless the association is then an existing corporation, in which case the organizing committee shall prepare the existing articles of incorporation and bylaws to be submitted to the parcel owners.

(5) A copy of the complete text of the proposed revised declaration of covenants, the proposed new or existing articles of incorporation and bylaws of the ~~homeowners'~~ association, and a graphic depiction of the property to be governed by the revived declaration shall be presented to all of the affected parcel owners by mail or hand delivery not less than 14 days before the time that the consent of the affected parcel owners to the proposed governing documents is sought by the organizing committee.

(6) A majority of the affected parcel owners must agree in writing to the revived declaration of covenants and governing documents of the ~~homeowners'~~ association or approve the revived declaration and governing documents by a vote at a meeting of the affected parcel owners noticed and conducted in the manner prescribed by s. 720.306. Proof of notice of the meeting to all affected owners of the meeting and the minutes of the meeting recording the votes of the property owners shall be certified by a court reporter or an attorney licensed to practice in the state.

Section 19. Subsection (3) of section 720.407, Florida Statutes, is amended to read:

720.407 Recording; notice of recording; applicability and effective date.—

(3) The recorded documents shall include the full text of

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the approved declaration of covenants, the articles of
incorporation and bylaws of the ~~homeowners'~~ association, the
letter of approval by the department, and the legal description
of each affected parcel of property. For purposes of chapter
712, the association is deemed to be and shall be indexed as the
grantee in a title transaction and the parcel owners named in
the revived declaration are deemed to be and shall be indexed as
the grantors in the title transaction.

Section 20. This act shall take effect October 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1046

INTRODUCER: Community Affairs Committee and Senator Passidomo

SUBJECT: Covenants and Restrictions

DATE: April 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1046 relates to covenants and restrictions and does the following:

- Provides updated definitions and replaces the term "homeowners' association" with "property owners' association," thus extending statutory provisions regarding preservation and revival to a broader range of associations, notably commercial property owners' associations;
- Updates the process for a homeowners' association to timely renew its covenants, including repealing the requirement that a homeowners' association board achieve a two-thirds vote for preservation of existing covenants and restrictions;
- Authorizes parcel owners who were subject to covenants and restrictions but who do not have a homeowners' association to use the same mechanisms as a homeowners' association to revitalize extinguished covenants and restrictions;
- Requires a homeowners' association to annually consider preservation of the covenants and restrictions and requires an association to file a summary preservation every five years; and
- Conforms statutory and definitional cross references.

II. Present Situation:

The Marketable Record Title Act

The Marketable Record Title Act (MRTA) was enacted in 1963 to simplify and facilitate land transactions.¹ In general, MRTA provides that any person vested with any estate in land of record for 30 years or more has a marketable record title free and clear of most claims or encumbrances against the land. Current law includes nine exceptions to the applicability MRTA.²

One effect of MRTA is that homeowner association covenants can lose effect after 30 years. In order to protect such covenants, MRTA has long provided for renewal of such covenants. However, many homeowners' associations fail to timely file a renewal of their covenants. Formerly, MRTA would apply in such cases and accordingly the covenants and restrictions expired and were unenforceable. In 2004, part III of ch. 720, F.S., was enacted to provide a means by which covenants and restrictions of a mandatory homeowners' association may be revived.³ In 2007, nonmandatory homeowners' associations became eligible for revitalization.⁴ Revitalization requires the creation of an organizing committee, notice to all affected property owners, approval by a majority of the homeowners, approval by the Department of Economic Opportunity, and the recording of notice in the public records.⁵

There are two categories of property owners who enact and enforce covenants and restrictions regarding their property and that of their neighbors who are impacted by MRTA, but have not been included in the laws regarding renewal or revival of their covenants and restrictions. These property owners are commercial landowners in office parks, industrial parks, and other commercial districts; and neighborhoods with enforceable covenants but no formal homeowners' association.

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Preservation of Existing Covenants

Present Situation

Sections 712.05 and 712.06, F.S., provide that a homeowners' association wishing to timely renew its covenants may only do so under the following conditions:

- The board must give written notice to every parcel owner of the impending preservation of the covenants;⁶

¹ *Blanton v. City of Pinellas Park*, 887 So.2d 1224, 1227 (Fla. 2004).

² Section 712.03, F.S.

³ Chapter 2004-345, Laws of Fla.

⁴ Chapter 2007-173, Laws of Fla.

⁵ Part III of ch. 720, F.S.

⁶ Section 712.06(1)(b), F.S.

- The board must give written notice to every parcel owner of a meeting of the board of directors where the directors will decide whether to renew the covenants;⁷
- The board of directors of the association must approve the renewal by a two-thirds vote;⁸ and
- Notice of the renewal must be recorded in the Official Records of the county.⁹

Sections 3 and 4 of the bill change this procedure to:

- Provide that compliance by a homeowners' association with newly created s. 720.3032, F.S. (see discussion below) may substitute for the requirements of ss. 712.05 and 712.06, F.S.;
- Repeal the requirement that the board achieve a two-thirds vote; and
- Repeal the requirement that affected property owners be furnished notice of the board meeting to vote on preservation.

These sections also contain conforming language.

Preservation and Revitalization of Covenants by a Commercial Property Owners' Association

Present Situation

Current law provides for the preservation and for the revitalization of covenants by a homeowners association.

Effect of the Bill

Section 2 provides a definition for the term community covenant or restriction and substitutes the term property owners' association for homeowners' association. A property owners' association includes a homeowners' association as defined in s. 720.301, F.S., a corporation or entity responsible for the operation of property in which the voting membership is made up of the owners of the property or their agents, or a combination thereof, and in which membership is a mandatory condition of property ownership, as well as an association of parcel owners authorized to enforce a community covenant or restriction. The bill also makes changes in s. 712.01, F.S., to conform to these new terms.

The bill replaces all instances of the term "homeowners' association" found in ch. 712, F.S., with the term "property owners' association." The effect is to expand MRTA laws on preservation and revitalization of covenants or restrictions to these associations, that is, to expand the law to cover commercial associations.

Section 12 provides that part III of ch. 720, F.S., comprised of ss. 720.403 – 720.407, F.S., is intended to provide mechanisms for revitalization of covenants or restrictions by all types of communities and property associations, not just residential communities. This section also includes conforming changes.

⁷ Section 712.05(1), F.S.

⁸ *Id.*

⁹ Section 712.06(2), F.S.

Revitalization by an Owner Not Subject to Homeowners' Association

Present Situation

There are residential communities in which there were recorded covenants and restrictions similar to those found in a homeowners' association, but no association was ever created. Under current law, individual owners can file notice of preservation of covenants before they expire (see ss. 712.05 and 712.06, F.S.), but there are no means of revitalizing such covenants and restrictions.

Effect of the Bill

Section 6 creates s. 712.12, F.S., relating to covenant or restriction revitalization by parcel owners not subject to a homeowners' association. The bill provides the following definitions:

- “Community” means the real property that is subject to a covenant or restriction that is recorded in the county where the property is located.
- “Covenant or restriction” means any agreement or limitation imposed by a private party and not required by a governmental agency as a condition of a development permit, as defined in s. 163.3164, F.S., which is contained in a document recorded in the public records of the county in which a parcel is located and which subjects the parcel to any use restriction that may be enforced by a parcel owner.
- “Parcel” means real property that is used for residential purposes and that is subject to exclusive ownership and any covenant or restriction that may be enforced by a parcel owner.
- “Parcel owner” means the record owner of legal title to a parcel.

The section provides that the parcel owners may use the process available to a homeowners' association in ss. 720.403 – 720.407, F.S., to revive covenants or restrictions that have lapsed under MRTA. The parcel owners are excepted from needing to provide articles of incorporation or bylaws to revive the covenants or restrictions and only need the required approval in writing. The organizing committee of the community may execute the revived covenants in the name of the community and the community name can be indexed as the grantee of the covenants with the parcel owners listed as grantors. A parcel owner who has ceased to be subject to covenants or restrictions as of October 1, 2017, may commence an action by October 1, 2018, to determine if revitalization would unconstitutionally deprive the parcel owner of right or property. Revived covenants or restrictions do not affect the rights of a parcel owner which are recognized by a court order in an action commenced by October 1, 2018, and may not be subsequently altered without the consent of the affected parcel owner.

Requirements on the Board of Directors of a Homeowners' Association

Present Situation

While it is probably good practice for a homeowners' association to regularly consider the need for preservation of the covenants and restrictions of their neighborhood, there is no statutory requirement that a board of directors of a homeowners' association do so.

Effect of the Bill

Section 7 amends s. 720.303(2), F.S., to require that the board of directors for a homeowners' association must consider whether to file a notice to preserve the covenants and restrictions

affecting the community from extinguishment pursuant to MRTA. This must be considered at the first board meeting after the annual meeting of the members.

Section 8 creates s. 720.3032, F.S., to require that, at least once every 5 years, a homeowners' association must file in the official records of the county in which it is located a notice detailing:

- The legal name of the association;
- The mailing and physical addresses of the association;
- The names of the affected subdivision plats and condominiums, or the common name of the community;
- The name, address, and telephone number for the current community association management company or manager, if any;
- An indication as to whether the association desires to preserve the covenants or restrictions affecting the community from extinguishment pursuant to MRTA;
- The name and recording information of those covenants or restrictions affecting the community which the association wishes to preserve;
- A legal description of the community affected by the covenants or restrictions; and
- The signature of a duly authorized officer of the association.

The section creates a statutory form for such information. The bill further provides that the filing of the completed form is considered a substitute for the notice required for preservation of the covenants pursuant to ss. 712.05 and 712.06, F.S. As such, every 5-year filing of the form will have the effect of starting the MRTA 30-year period anew.

The failure to file this notice does not affect the validity or enforceability of any covenant or restriction. A copy of this notice must be included as a part of the next notice of meeting or other mailing sent to all members of the association. The original signed notice must be recorded in the official records of the clerk of the circuit court or other recorder for the county.

Other Changes Made by the Bill

Section 1 provides a short title of the "Marketable Record Title Act" for ch. 712, F.S.

Sections 5, 9, 10, 11, 13, 14, and 15 make changes to conform various statutory and definitional cross references.

Section 16 provides for an effective date of October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 8 of the bill requires associations to prepare and record a notice every 5 years. The recording fee is nominal (\$10 for the first page, \$8.50 for additional pages). Because the form is in statute, associations may be able to complete the task without assistance, or a community association manager can assist an association with preparation and filing without reference to a licensed attorney.

C. Government Sector Impact:

The bill requires the recording of documents in the public records of the county. Recording is subject to a fee of \$10.00 for the first page and \$8.50 for every subsequent page, payable to the recording department (in most counties, the clerk of the court).¹⁰ The net revenues to county recorders, after deductions for incremental costs of recording and indexing documents, are unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 712.01, 712.05, 712.06, 712.11, 720.303, 702.09, 702.10, 712.095, 720.403, 720.404, 720.405, and 720.407.

This bill creates the following sections of the Florida Statutes 712.001, 712.12, and 720.3032.

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 Community Affairs on April 3, 2017:

¹⁰ Section 28.24(12), F.S.

- Removed sections of the bill that authorized counties and municipalities to amend, release, or terminate a restriction or covenant that they imposed or accepted during the approval of a development permit.
- Removed retroactivity clauses pertaining to existing restrictions and covenants.
- Removed a section that added that a marketable record title is also free and clear of all zoning requirements or building or development permits that occurred before the effective date of the root of title.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Passidomo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 78 - 188

and insert:

Section 1. Section 712.001, Florida Statutes, is created to read:

712.001 Short title.—This chapter may be cited as the
“Marketable Record Title Act.”

Section 2. Section 712.01, Florida Statutes, is reordered and amended to read:



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

(1) "Community covenant or restriction" means any agreement or limitation contained in a document recorded in the public records of the county in which a parcel is located which:

(a) Subjects the parcel to any use restriction that may be enforced by a property owners' association; or

(b) Authorizes a property owners' association to impose a charge or assessment against the parcel or the parcel owner.

(4) ~~(1)~~ The term "Person" includes the as used herein
~~denotes~~ singular or plural, natural or corporate, private or governmental, including the state and any political subdivision or agency thereof as the context for the use thereof requires or denotes and including any property owners' homeowners' association.

(6) ~~(2)~~ "Root of title" means any title transaction
purporting to create or transfer the estate claimed by any person ~~and~~ which is the last title transaction to have been recorded at least 30 years before ~~prior to~~ the time when marketability is being determined. The effective date of the root of title is the date on which it was recorded.

(7) ~~(3)~~ "Title transaction" means any recorded instrument or court proceeding that ~~which~~ affects title to any estate or interest in land and that ~~which~~ describes the land sufficiently to identify its location and boundaries.

(5) ~~(4)~~ "Property owners' association" The term "homeowners' association" means a homeowners' association as defined in s. 720.301, a corporation or other entity responsible for the operation of property in which the voting membership is made up of the owners of the property or their agents, or a combination



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thereof, and in which membership is a mandatory condition of
property ownership, or an association of parcel owners which is
authorized to enforce a community covenant or restriction use
restrictions that is are imposed on the parcels.

(3)(5) The term "Parcel" means real property that which is
used for residential purposes and that is subject to exclusive
ownership and which is subject to any covenant or restriction of
a property owners' homeowners' association.

(2)(6) The term "Covenant or restriction" means any
agreement or limitation contained in a document recorded in the
public records of the county in which a parcel is located which
subjects the parcel to any use or other restriction or
obligation which may be enforced by a homeowners' association or
which authorizes a homeowners' association to impose a charge or
assessment against the parcel or the owner of the parcel or
which may be enforced by the Florida Department of Environmental
Protection pursuant to chapter 376 or chapter 403.

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

And the title is amended as follows:

Delete lines 3 - 26

and insert:

creating s. 712.001, F.S.; providing a short title;
amending s. 712.01, F.S.; defining and redefining
terms; amending s. 712.05, F.S.; revising the



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 6, 2017

I respectfully request that **Senate Bill #1046**, relating to Covenants and Restrictions, be placed on the:

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

A handwritten signature in black ink, appearing to read "K. Passidomo", followed by a horizontal line.

Senator Kathleen Passidomo
Florida Senate, District 28

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017
Meeting Date

1046
Bill Number (if applicable)

Topic Marketable title

Amendment Barcode (if applicable)

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St
Street

Phone (352) 377-3141

Tallahassee FL 32301
City State Zip

Email thawkins@1000for.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By Senator Lee

20-00956A-17

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A bill to be entitled

An act relating to community redevelopment agencies; amending s. 163.356, F.S.; providing reporting requirements; deleting provisions requiring certain annual reports; amending s. 163.367, F.S.; requiring ethics training for community redevelopment agency commissioners; amending s. 163.370, F.S.; establishing procurement procedures; creating s. 163.371, F.S.; providing annual reporting requirements; requiring a community redevelopment agency to publish annual reports and boundary maps on its website; creating s. 163.3755, F.S.; providing a phase-out period for existing community redevelopment agencies; providing a limited exception for community redevelopment agencies with certain outstanding bond obligations; providing that a governing body of a county or municipality may create a community redevelopment agency only by a super majority vote on or after a specified date; creating s. 163.3756, F.S.; providing legislative findings; requiring the Department of Economic Opportunity to declare inactive community redevelopment agencies that have reported no financial activity for a specified number of years; providing hearing procedures; authorizing certain financial activity by a community redevelopment agency that is declared inactive; requiring the department to maintain a website identifying all inactive community redevelopment agencies; amending s. 163.387, F.S.; revising requirements for the use of the redevelopment

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trust fund proceeds; limiting allowed expenditures; revising requirements for the annual budget of a community redevelopment agency; requiring municipal community redevelopment agencies to provide an annual budget to the county commission; revising requirements for the annual audit; requiring the audit to be included with the financial report of the county or municipality that created the community redevelopment agency; amending s. 218.32, F.S.; requiring county and municipal governments to report community redevelopment agency annual audit reports as part of the county or municipal annual report; revising criteria for finding that a county or municipality failed to file a report; requiring the Department of Financial Services to provide a report to the Department of Economic Opportunity concerning community redevelopment agencies with no revenues, expenditures, or debts; providing an effective date.

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

Section 1. Paragraphs (c) and (d) of subsection (3) of section 163.356, Florida Statutes, are amended to read:

163.356 Creation of community redevelopment agency.—

(3)(c) The governing body of the county or municipality shall designate a chair and vice chair from among the commissioners. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it requires, and determine their

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59 qualifications, duties, and compensation. For such legal service
60 as it requires, an agency may employ or retain its own counsel
61 and legal staff.

62 (d) An agency authorized to transact business and exercise
63 powers under this part shall file with the governing body the
64 report required pursuant to s. 163.371(1), ~~on or before March 31~~
65 ~~of each year, a report of its activities for the preceding~~
66 ~~fiscal year, which report shall include a complete financial~~
67 ~~statement setting forth its assets, liabilities, income, and~~
68 ~~operating expenses as of the end of such fiscal year. At the~~
69 ~~time of filing the report, the agency shall publish in a~~
70 ~~newspaper of general circulation in the community a notice to~~
71 ~~the effect that such report has been filed with the county or~~
72 ~~municipality and that the report is available for inspection~~
73 ~~during business hours in the office of the clerk of the city or~~
74 ~~county commission and in the office of the agency.~~

75 (e) ~~(d)~~ At any time after the creation of a community
76 redevelopment agency, the governing body of the county or
77 municipality may appropriate to the agency such amounts as the
78 governing body deems necessary for the administrative expenses
79 and overhead of the agency, including the development and
80 implementation of community policing innovations.

81 Section 2. Subsection (1) of section 163.367, Florida
82 Statutes, is amended to read:

83 163.367 Public officials, commissioners, and employees
84 subject to code of ethics.—

85 (1)(a) The officers, commissioners, and employees of a
86 community redevelopment agency created by, or designated
87 pursuant to, s. 163.356 or s. 163.357 are ~~shall be~~ subject to

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the provisions and requirements of part III of chapter 112.

(b) Commissioners of a community redevelopment agency must comply with the ethics training requirements in s. 112.3142.

Section 3. Subsection (5) is added to section 163.370, Florida Statutes, to read:

163.370 Powers; counties and municipalities; community redevelopment agencies.—

(5) A community redevelopment agency shall procure all commodities and services under the same purchasing processes and requirements that apply to the county or municipality that created the agency.

Section 4. Section 163.371, Florida Statutes, is created to read:

163.371 Reporting requirements.—

(1) Beginning March 31, 2018, and no later than March 31 of each year thereafter, a community redevelopment agency shall file an annual report with the county or municipality that created the agency and publish the information on the agency's website. The report must include the following information:

(a) A complete audit report of the redevelopment trust fund pursuant to s. 163.387(8).

(b) The performance data for each plan authorized, administered, or overseen by the community redevelopment agency as of December 31 of the year being reported, including the:

1. Total number of projects started and completed and the estimated project cost for each project.

2. Total expenditures from the redevelopment trust fund.

3. Number of jobs created within the community redevelopment agency's area of authority.

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117 4. Sector of the economy to which the new jobs pertain.

118 5. Number of jobs retained in the area within the community
119 redevelopment agency's authority.

120 6. Original assessed real property values within the
121 community redevelopment agency's area of authority as of the day
122 the agency was created.

123 7. Total assessed real property values of property within
124 the boundaries of the community redevelopment agency as of
125 January 1 of the year being reported.

126 8. Total amount expended for affordable housing for low-
127 income and middle-income residents.

128 (2) By January 1, 2018, each community redevelopment agency
129 shall publish on its website digital maps that depict the
130 geographic boundaries and total acreage of the community
131 redevelopment agency. If any change is made to the boundaries or
132 total acreage, the agency shall post updated map files on its
133 website within 60 days after the date such change takes effect.

134 Section 5. Section 163.3755, Florida Statutes, is created
135 to read:

136 163.3755 Termination of community redevelopment agencies;
137 future creation.—

138 (1) A community redevelopment agency in existence on July
139 1, 2017, shall terminate on the expiration date provided in the
140 community redevelopment agency's charter as it exists on July 1,
141 2017, or on September 30, 2037, whichever is earlier.

142 (2) (a) Notwithstanding subsection (1), a community
143 redevelopment agency with outstanding bonds as of July 1, 2017,
144 which do not mature until after the earlier of the termination
145 date of the agency or September 30, 2037, remains in existence

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146 until the date the bonds mature.

147 (b) A community redevelopment agency operating under this
148 subsection on or after September 30, 2037, may not extend the
149 maturity date of any outstanding bonds.

150 (c) The county or municipality that created the community
151 redevelopment agency must issue a new finding of necessity
152 limited to timely meeting the remaining bond obligations of the
153 community redevelopment agency.

154 (3) On or after July 1, 2017, the governing body of a
155 county or municipality may create a community redevelopment
156 agency only by a super majority vote of the members of the
157 governing body of the county or municipality. A community
158 redevelopment agency in existence before July 1, 2017, may
159 continue to operate as provided in this part.

160 Section 6. Section 163.3756, Florida Statutes, is created
161 to read:

162 163.3756 Inactive community redevelopment agencies.—

163 (1) The Legislature finds that a number of community
164 redevelopment agencies continue to exist but report no revenues,
165 no expenditures, and no outstanding debt in their annual report
166 to the Department of Financial Services pursuant to s. 218.32.

167 (2) (a) A community redevelopment agency that has reported
168 no revenues, expenditures, or debt under s. 218.32 or s.
169 189.016(9) for 3 consecutive fiscal years calculated from no
170 earlier than October 1, 2014, shall be declared inactive by the
171 Department of Economic Opportunity. The department shall notify
172 the agency of the declaration of inactive status under this
173 subsection. If the agency has no board members or no agent, the
174 notice of inactive status must be delivered to the governing

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board or commission of the county or municipality which created the agency.

(b) The governing board of a community redevelopment agency declared inactive under this subsection may seek to invalidate the declaration by initiating proceedings under s. 189.062(5) within 30 days after the date of the receipt of the notice from the department.

(3) A community redevelopment agency declared inactive under this section is authorized only to expend funds from the redevelopment trust fund as necessary to service outstanding bond debt. The agency may not expend other funds without an ordinance of the governing body of the local government which created the agency consenting to the expenditure of funds.

(4) The provisions of s. 189.062(2) and (4) do not apply to a community redevelopment agency that has been declared inactive under this section.

(5) The provisions of this section are cumulative to the provisions of s. 189.062. To the extent the provisions of this section conflict with the provisions of s. 189.062, this section prevails.

(6) The Department of Economic Opportunity shall maintain on its website a separate list of community redevelopment agencies declared inactive under this section.

Section 7. Subsections (6) and (8) of section 163.387, Florida Statutes, are amended to read:

163.387 Redevelopment trust fund.—

(6) Beginning July 1, 2017, moneys in the redevelopment trust fund may be expended ~~from time to time~~ for undertakings of a community redevelopment agency as described in the community

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204 redevelopment plan only pursuant to an annual budget adopted by
205 the board of commissioners of the community redevelopment agency
206 and only for the following purposes stated in this subsection.~~7~~
207 ~~including, but not limited to:~~

208 (a) Except as provided in this subsection, a community
209 redevelopment agency shall comply with the requirements of s.
210 189.016.

211 (b) A community redevelopment agency created by a
212 municipality shall:

213 1. Adopt its proposed budget within 90 days before the
214 beginning of its fiscal year.

215 2. Submit its proposed budget and projections for the next
216 fiscal year to the board of county commissioners for the county
217 in which the community redevelopment agency is located within 60
218 days before the start of the agency's fiscal year.

219 3. Submit amendments to its operating budget to the board
220 of county commissioners of the county in which the community
221 redevelopment agency is located within 10 days after the date of
222 adoption of the amended budget ~~Administrative and overhead~~
223 ~~expenses necessary or incidental to the implementation of a~~
224 ~~community redevelopment plan adopted by the agency.~~

225 (c) The annual budget of a community redevelopment agency
226 may provide for payment of the following expenses:

227 1. Administrative and overhead expenses directly or
228 indirectly necessary to implement a community redevelopment plan
229 adopted by the agency.

230 2.~~(b)~~ Expenses of redevelopment planning, surveys, and
231 financial analysis, including the reimbursement of the governing
232 body or the community redevelopment agency for such expenses

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incurred before the redevelopment plan was approved and adopted.

3.~~(e)~~ The acquisition of real property in the redevelopment area.

4.~~(d)~~ The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.

5.~~(e)~~ The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.

6.~~(f)~~ All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

7.~~(g)~~ The development of affordable housing within the community redevelopment area.

8.~~(h)~~ The development of community policing innovations.

(8) (a) Each community redevelopment agency shall provide for an audit of the trust fund each fiscal year and a report of such audit to be prepared by an independent certified public accountant or firm.

(b) The audit ~~Such~~ report shall:

1. Describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness.

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262 2. Include a complete financial statement identifying the
263 assets, liabilities, income, and operating expenses of the
264 community redevelopment agency as of the end of such fiscal
265 year.

266 3. Include a finding by the auditor determining whether the
267 community redevelopment agency complies with the requirements of
268 subsection (7).

269 (c) The audit report for the community redevelopment agency
270 shall be included with the annual financial report submitted by
271 the county or municipality that created the agency to the
272 Department of Financial Services as provided in s. 218.32,
273 regardless of whether the agency reports separately under s.
274 218.32.

275 (d) The agency shall provide ~~by registered mail~~ a copy of
276 the audit report to each taxing authority.

277 Section 8. Subsection (3) of section 218.32, Florida
278 Statutes, is amended to read:

279 218.32 Annual financial reports; local governmental
280 entities.—

281 (3) (a) The department shall notify the President of the
282 Senate and the Speaker of the House of Representatives of any
283 municipality that has not reported any financial activity for
284 the last 4 fiscal years. Such notice must be sufficient to
285 initiate dissolution procedures as described in s.
286 165.051(1)(a). Any special law authorizing the incorporation or
287 creation of the municipality must be included within the
288 notification.

289 (b) Failure of a county or municipality to include in its
290 annual report to the department the full audit required by s.

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291 163.387(8) for each community redevelopment agency created by
292 that county or municipality constitutes a failure to report
293 under this section.

294 (c) By November 1 of each year, the department must provide
295 the Special District Accountability Program of the Department of
296 Economic Opportunity with a list of each community redevelopment
297 agency reporting no revenues, expenditures, or debt for the
298 community redevelopment agency's previous fiscal year.

299 Section 9. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1770

INTRODUCER: Community Affairs Committee and Senator Lee

SUBJECT: Community Redevelopment Agencies

DATE: April 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			ATD	
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1770 makes numerous changes to ch. 163, F.S., relating to Community Redevelopment Agencies (CRAs).

The bill provides that unless the governing body of the county or municipality which created the CRA approves its continued existence by a super majority vote of the governing body members, CRAs in existence on July 1, 2017, will terminate at the earlier of the expiration date stated in the CRA's charter or on September 30, 2037. However, even if a governing body of the county or municipality which created the CRA does not approve its continued existence by super majority vote, CRAs with outstanding bonds remain in existence until the bonds mature regardless if the maturation date is after the expiration date in the charter or September 30, 2037. Additionally, on or after July 1, 2017, the governing body of a county or municipality may create a CRA only by a super majority vote of the members of the governing body of the county or municipality.

The bill increases accountability and transparency for CRAs by:

- Requiring the commissioners of a CRA to undergo 4 hours of ethics training annually;
- Requiring each CRA to use the same procurement and purchasing processes as the creating county or municipality;
- Expanding the annual reporting requirements for CRAs to include audit information and performance data and requiring the information and data to be published on the agency website;

- Providing that moneys in the redevelopment trust fund may only be expended pursuant to an annual budget adopted by the board of commissioners of the CRA and only for those purposes specified in current law beginning October 1, 2017;
- Requiring a CRA created by a municipality to provide its proposed budget, and any amendments to the budget, to the board of county commissioners for the county in which the CRA is located 60 days before the start of the CRA's fiscal year; and
- Requiring counties and municipalities to include CRA data in their annual financial report.

The bill also provides a process for the Department of Economic Opportunity (DEO) to declare a CRA inactive if it has no revenue, expenditures, and debt for 3 consecutive fiscal years.

II. Present Situation:

The Community Redevelopment Act

The Community Redevelopment Act of 1969 (Act) authorizes a county or municipality to create a community redevelopment agency (CRA) as a means of redeveloping slums and blighted areas.¹ The Act defines a “blighted area” as an area in which there are a substantial number of deteriorated structures causing economic distress or endangerment to life or property and two or more of the factors listed in s. 163.340(8), F.S., are present. However, an area may also be classified as blighted if one factor is present and all taxing authorities with jurisdiction over the area agree that the area is blighted by interlocal agreement or by passage of a resolution by the governing bodies.²

The Act defines a “slum area” as “an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements” in poor states of repair with one of the following factors present:

- Inadequate provision for ventilation, light, air, sanitation, or open spaces;
- High density of population, compared to the population density of adjacent areas within the county or municipality, and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
- The existence of conditions that endanger life or property by fire or other causes.³

Creation of Community Redevelopment Agencies

Either a county or a municipal government may create a CRA.⁴ Before creating a CRA, a county or municipal government must adopt a resolution with a “finding of necessity.”⁵ This resolution must make legislative findings “supported by data and analysis” that the area to be included in the CRA's jurisdiction is either blighted or a slum and that redevelopment of the area is necessary to promote “the public health, safety, morals, or welfare” of residents.

¹ Chapter 163, F.S., part III.

² Section 163.340(8), F.S.

³ Section 163.340(7), F.S.

⁴ See s. 163.355, F.S. (prohibiting counties and municipalities from exercising powers under the Act without a finding of necessity).

⁵ *Id.*

A county or municipality may create a CRA upon the adoption of a finding of necessity and a finding that a CRA is necessary for carrying out the community redevelopment goals embodied by the Act.⁶ A CRA created by a county may only operate within the boundaries of a municipality when the municipality has concurred by resolution with the community redevelopment plan adopted by the county. A CRA created by a municipality may not include more than 80 percent of the municipality if it was created after July 1, 2006.⁷

The ability to create, expand, or modify a CRA is also determined by the county's status as a charter or non-charter county, as summarized below:

- If a CRA is created in a charter county after the adoption of the charter, the county possesses authority to create CRAs within the county, but may delegate authority to a municipality via interlocal agreement.⁸
- If a CRA is created in a charter county before the adoption of the charter, the county does not have authority over CRA operations, including modification of the redevelopment plan or expansion of CRA boundaries.⁹
- If a CRA is created in a non-charter county, the county does not have authority over CRA operations, including modification of the redevelopment plan or expansion of CRA boundaries.¹⁰

As of March 1, 2017, there are 222 CRAs in Florida, which is a 30 percent increase over the past decade.¹¹

Community Redevelopment Agency Boards

The Act allows the local governing body creating a CRA to choose between two structures for the agency governing board.

One option is to appoint a board of commissioners consisting of five to nine members serving 4-year terms.¹² The local governing body may appoint any person as a commissioner who lives in or is engaged in business in the agency's area of operation.¹³ The local governing body making the appointment selects the chair and vice chair of the commission.¹⁴ Commissioners are not entitled to compensation for their services, but may receive reimbursement for expenses incurred

⁶ Section 163.356(1), F.S.

⁷ Section 163.340(10), F.S.

⁸ Section 163.410, F.S.

⁹ *Id.*

¹⁰ Section 163.415, F.S.

¹¹ Compare Dept. of Economic Opportunity, Special District Accountability Program, Official List of Special Districts Online, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Mar. 17, 2017) (222 active CRAs as of Mar. 1, 2017) with Bill Analysis for HB 1583 (2006) (stating there were 171 CRAs in operation as of Mar. 26, 2006).

¹² Section 163.356(2), F.S.

¹³ Section 163.356(3)(b), F.S. A person is "engaged in business" if he or she owns a business, performs services for compensation, or serves as an officer or director of a business that owns property or performs services in the agency's area of operation.

¹⁴ Section 163.356(3)(c), F.S.

in the discharge of their official duties.¹⁵ Commissioners and employees of an agency are subject to the code of ethics for public officers and employees under ch. 112, F.S.¹⁶

The second option is for the local governing body to appoint itself as the agency board of commissioners.¹⁷ If the local governing body consists of five members, the local governing body may appoint two additional members to 4-year terms.¹⁸ The additional members must meet the selection criteria for appointed board members under s. 163.356, F.S., or be representatives of another taxing authority within the agency's area of operation, subject to an interlocal agreement between the local governing body creating the CRA and the other taxing authority.¹⁹

As of March 1, 2017, the local governing body creating the CRA serves as the CRA board for 155 of the 222 active CRAs.²⁰

Community Redevelopment Agency Operations

The CRA board of commissioners is responsible for exercising the powers of the agency.²¹ A majority of the board's members are required for a quorum. An agency is authorized to employ an executive director, technical experts, legal counsel, and other agents and employees necessary to fulfill its duties.²²

A CRA exercising its powers under the Act must file an annual report to the governing body of the creating local government entity.²³ The report must contain a complete financial statement of the assets, liabilities, income, and operating expenses of the agency. The CRA must publish a notice in a newspaper of general circulation in the community that the report has been filed and is available for inspection during business hours in the office of the clerk of the city or county commission and the office of the agency.²⁴

Community Redevelopment Plans

A community redevelopment plan must be in place before a CRA can engage in operations.²⁵ Each community redevelopment plan must provide a time certain for completing all redevelopment financed by increment revenues.²⁶ The time certain must occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended pursuant to s. 163.361(1), F.S.²⁷ However, for any agency created after July 1, 2002, the time certain for

¹⁵ Section 163.356(3)(a), F.S.

¹⁶ Section 163.367(1), F.S., but cf. s. 112.3142, F.S. (requiring ethics training for specific constitutional officers and elected municipal officers).

¹⁷ Section 163.357(1)(a), F.S.

¹⁸ Section 163.357(1)(c), F.S.

¹⁹ Section 163.357(1)(c)-(d), F.S.

²⁰ Dept. of Economic Opportunity, Special District Accountability Program, Official List of Special Districts Online, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Mar. 17, 2017).

²¹ Section 163.356(3)(b), F.S.

²² Section 163.356(3)(c), F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 163.360(1), F.S.

²⁶ Section 163.362(10), F.S.

²⁷ *Id.*

completing all redevelopment financed by increment revenues must occur within 40 years after the fiscal year in which the plan is approved or adopted.²⁸

The county, municipality, the CRA itself, or members of the public may submit the plan and the CRA then chooses which plan it will use as its community redevelopment plan.²⁹ Next, the CRA must submit the plan to the local planning agency for review before the plan can be considered.³⁰ The local planning agency must complete its review within 60 days.

The CRA must submit the community redevelopment plan to the governing body that created the CRA as well as each taxing authority that levies ad valorem taxes on taxable real property contained in the boundaries of the CRA.³¹ The local governing body that created the CRA must hold a public hearing before the plan is approved.³²

To approve the plan, the local governing body must make findings as specified in s. 163.360(7), F.S. The community redevelopment plan must also:

- Conform to the comprehensive plan for the county or municipality;
- Indicate land acquisition, demolition, and removal of structures; redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area; zoning and planning changes, if any; land uses; maximum densities; and building requirements; and
- Provide for the development of affordable housing in the area, or state the reasons for not addressing in the plan the development of affordable housing.³³

Redevelopment Trust Fund

CRA's are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF). The amount of TIF available to the agency in a given year is equal to 95 percent of the difference between:

- The amount of ad valorem taxes levied in the current year by each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area; and
- The amount of ad valorem taxes that would have been produced by levying the current year's millage rate for each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area at the total assessed value of the taxable real property prior to the effective rate of the ordinance providing for the redevelopment trust fund.³⁴

A CRA created by a county on or after July 1, 1994, may set the amount of funding provided at less than 95 percent, with a floor of 50 percent.

²⁸ *Id.*

²⁹ Section 163.360(4), F.S.

³⁰ *Id.*

³¹ Section 163.360(5), F.S.

³² Section 163.360(6), F.S.

³³ Section 163.360(2), F.S.

³⁴ Section 163.387(1)(a), F.S.

The TIF authority of a CRA may be limited in certain circumstances.³⁵

Each taxing authority must transfer TIF funds to the redevelopment trust fund of the CRA by January 1 of each year.³⁶ For CRAs created before July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for the lesser of 60 years from when the community redevelopment plan was adopted or 30 years from when it was amended. For CRAs created on or after July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for 40 years from when the community redevelopment plan was adopted. If there are any outstanding loans, advances, or indebtedness at the conclusion of these time periods, the local governing body that created the CRA must continue transfers to the redevelopment trust fund until the debt has been paid.³⁷

If a taxing authority does not transfer the TIF funds to the redevelopment trust fund, the taxing authority is required to pay a penalty of 5 percent of the TIF amount to the trust fund as well as 1 percent interest per month for the outstanding amount.³⁸ A CRA may choose to waive these penalties in whole or in part.

Certain taxing authorities are exempt from contributing to the redevelopment trust fund.³⁹

Additionally, the local governing body creating the CRA may choose to exempt other special districts levying ad valorem taxes in the community redevelopment area.⁴⁰

Any revenue bonds issued by the CRA are payable from revenues pledged to and received by the CRA and deposited into the redevelopment trust fund.⁴¹ The lien created by the revenue bonds does not attach to the bonds until the revenues are deposited in the redevelopment trust fund and do not grant bondholders any right to require taxation in order to retire the bond. Revenue bonds issued by a CRA are not a liability of the state or any political subdivision of the state and this status must be made clear on the face of the bond.⁴²

A CRA may spend funds deposited in its redevelopment trust fund for purposes, including, but not limited to those listed in s. 163.387(6), F.S.

If any funds remain in the redevelopment trust fund on the last day of the fiscal year, the funds must be:

- Returned to each taxing authority on a pro rata basis;
- Used to reduce the amount of any indebtedness to which increment revenues are pledged;
- Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or

³⁵ Section 163.387(1)(b)1. and 2., F.S.

³⁶ Section 163.387(2)(a), F.S.

³⁷ Section 163.387(3)(a), F.S.

³⁸ Section 163.387(2)(b), F.S.

³⁹ Section 163.387(2)(c), F.S.

⁴⁰ Section 163.387(2)(d), F.S.

⁴¹ Section 163.387(4), F.S.

⁴² Section 163.387(5), F.S.

- Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan and the project must be completed within 3 years from the date of such appropriation.⁴³

Each CRA is required to provide for an annual audit of its redevelopment trust fund, conducted by an independent certified public accountant or firm.⁴⁴

CRA Oversight and Accountability

Miami-Dade County Grand Jury Report

A Miami-Dade County grand jury issued a report in 2016 after “learning of several examples of mismanagement of large amounts of public dollars” by CRAs.⁴⁵ The report found that some CRA boards were “spending large amounts of taxpayer dollars on what appeared to be pet projects of elected officials” and “there is a significant danger of CRA funds being used as a slush fund for elected officials.”⁴⁶ In the event funds were misused, the report found that the Act lacked any accountability and enforcement measures.

The report noted that while county and municipal governments may not pledge ad valorem tax proceeds to finance bonds without voter approval, the board of a CRA can pledge TIF funds to finance bonds without any public input.⁴⁷

The grand jury found that redevelopment trust fund money was often used “without the exercise of any process of due diligence, without justification and without recourse.”⁴⁸ The report notes that the Act does not provide guidelines for the proper use of CRA funds, resulting in questionable expenditures.⁴⁹ For example, one CRA highlighted in the report spent \$300,000 of its \$400,000 budget on administrative expenses. The report also found examples of the CRA funds being used to fund fairs, carnivals, and other community entertainment events.⁵⁰ Additionally, the report found that funds may have been misused as part of the CRA contracting process since there is no specified procurement process for CRAs.⁵¹

While the Act states affordable housing is one of the three primary purposes for the existence of CRAs, the report found that the provision of affordable housing by CRAs “appears to be the exception and not the rule.”⁵² The report stated that while CRAs cite prohibitive costs as a reason for not developing affordable housing, funds are often used for other purposes.⁵³ Some CRAs have requested that their boundaries be extended to include areas for low-income housing while

⁴³ Section 163.387(7), F.S.

⁴⁴ Section 163.387(8), F.S.

⁴⁵ Miami-Dade County Grand Jury, Final Report for Spring Term A.D. 2015, at 1, available at https://www.miamisao.com/publications/grand_jury/2000s/gj2015s.pdf (filed Feb. 3, 2016).

⁴⁶ *Id.* at 7.

⁴⁷ *Id.* at 9.

⁴⁸ *Id.* at 14.

⁴⁹ *Id.* at 15.

⁵⁰ *Id.* at 16.

⁵¹ *Id.* at 17.

⁵² *Id.* at 19.

⁵³ *Id.*

not providing any affordable housing.⁵⁴ Some CRA board members have stated the agencies do not focus on affordable housing because it does not produce sufficient revenue.⁵⁵

Another area of concern for the grand jury was a focus on removing blight by improving the appearance of commercial areas, but leaving slum conditions in place, particularly in the form of multi-family housing that is “unsafe, unsanitary, and overcrowded.”⁵⁶ The grand jury points to news coverage of some apartment buildings with overflowing toilets and frequent losses of power due to the need for repairs. The report notes the contrast between these conditions and the use of some CRA proceeds to “fund ball stadiums, performing arts centers[,] and dog parks.”⁵⁷

The grand jury report also notes that while a finding of necessity is required for creating a CRA, there is no process for determining whether the mission of the CRA has been fulfilled.⁵⁸

The report concludes by making 29 recommendations for ensuring transparency and accountability in the operation of CRAs, including:

- Requiring all CRA boards to contain members of the community;
- Imposing a cap on annual CRA expenditures used for administrative costs;
- Requiring CRAs to adopt procurement guidelines that mirror those of the associated county or municipality;
- Requiring each CRA to submit its budget to the county commission with sufficient time for full consideration;
- Setting aside a percentage of TIF revenue for affordable housing; and
- Imposing ethics training requirements.⁵⁹

Broward County Inspector General Reports

The Broward County Office of the Inspector General has conducted two investigations into CRA operations in the past five years: Hallandale Beach CRA in 2013⁶⁰ and Margate CRA in 2014.⁶¹ The investigation into the Hallandale Beach CRA showed that the agency failed to create a trust fund and that the city commission failed to operate the CRA as an entity separate from the city.⁶² The former executive director of the CRA stated the city had “free reign” to use funds from the CRA’s account.⁶³ The report found over \$2 million of questionable expenditures by the Hallandale Beach CRA between 2007 and 2012, including \$125,000 in inappropriate loans and

⁵⁴ *Id.*

⁵⁵ *Id.* at 20.

⁵⁶ *Id.* at 22.

⁵⁷ *Id.*

⁵⁸ *Id.* at 32.

⁵⁹ *Id.* at 34-36.

⁶⁰ Broward Office of the Inspector Gen., Final Report Re: Gross Mismanagement of Public Funds by the City of Hallandale Beach and the Hallandale Beach Community Redevelopment Agency, OIG 11-020, available at <http://www.broward.org/InspectorGeneral/PublicationsPress/Documents/OIG11020-201405219-BrownMemo.pdf> (Apr. 18, 2013).

⁶¹ Broward Office of the Inspector Gen., Final Report Re: Misconduct by the Margate Community Redevelopment Agency in the Handling of Taxpayer Funds, OIG 13-015A, available at <http://www.broward.org/InspectorGeneral/Documents/OIG13015AMargateCRAFinalReport.pdf> (July 22, 2014).

⁶² City of Hallandale Beach, *supra* note 62, at 1.

⁶³ *Id.* at 28.

\$152,494 spent on “civic promotions such as festivals and fireworks displays.”⁶⁴ After some of these issues were brought to the attention of the city and the CRA, the CRA continued working on a funding plan that included spending \$5,347,000 on two parks outside of the boundaries of the CRA. The report also found that CRA paid “substantially more than its appraised value” to purchase a property owned by a church whose pastor was a city commissioner at the time.⁶⁵

The investigation of the Margate CRA showed a failure to properly allocate TIF funds received from the county and other taxing authorities.⁶⁶ While the CRA stated unused funds were not returned because they were allocated for a specific project, the investigation showed the agency had a pattern of intentionally retaining excess unallocated funds for later use.⁶⁷ This pattern of misuse had resulted in a debt to the county of approximately \$2.7 million for fiscal years 2008-2012.⁶⁸

Auditor General Report

The Auditor General is required to conduct a performance audit of the local government financial information reporting system every 3 years.⁶⁹ As part of the most recent performance audit, the Auditor General made five findings concerning CRAs:

- Current law could be enhanced to be more specific as to the types of expenditures that qualify for undertakings of a CRA.
- Current law could be enhanced to provide county taxing authorities more control over expenditures of CRAs created by municipalities to help ensure that CRA trust fund moneys are used appropriately.
- Current law could be revised to require all CRAs, including those created before October 1, 1984, to follow the statutory requirements governing the specific authorized uses of CRA trust fund moneys.
- Current law could be enhanced to allow CRAs to provide for reserves of unexpended CRA trust fund balances to be used during financial downturns.
- Current law could be enhanced to promote compliance with the audit requirement in s. 163.387(8), F.S., and to require such audits to include a determination of compliance with laws pertaining to expenditure of, and disposition of unused, CRA trust fund moneys.⁷⁰

Ethics Training Requirements for Public Officials

Constitutional officers and all elected municipal officers must complete 4 hours of ethics training on an annual basis.⁷¹ The required ethics training must include instruction on Art. II, s. 8 of the

⁶⁴ *Id.* at 1.

⁶⁵ *Id.* at 2.

⁶⁶ Margate Community Redevelopment Agency, *supra* note 63, at 1.

⁶⁷ *Id.*

⁶⁸ *Id.* at 2.

⁶⁹ Section 11.45(2)(g), F.S.

⁷⁰ Florida Auditor Gen., Report No. 2015-037, p. 1, available at http://www.myflorida.com/audgen/pages/pdf_files/2015-037.pdf (Oct. 2014).

⁷¹ Section 112.3142, F.S. A “constitutional officer” is defined as the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws. This requirement may be met by attending a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

Inactive Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO must declare that district inactive by following a specified process.⁷² The DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of the following criteria:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
 - Provides DEO with written notice that the district has taken no action for 2 or more years;
 - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years; or
 - Fails to respond to an inquiry by DEO within 21 days.⁷³
- Following statutory procedure,⁷⁴ DEO determines the district failed to file specified reports,⁷⁵ including required financial reports.⁷⁶
- For more than 1 year, no registered office or agent for the district was on file with DEO.⁷⁷
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.⁷⁸

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.⁷⁹ After declaring certain special districts inactive, DEO must send written notice of the declaration to the authorities that created the district. The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district and any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.⁸⁰

⁷² Section 189.062(1), F.S.

⁷³ Section 189.062(1)(a)1.-3., F.S.

⁷⁴ Section 189.067, F.S.

⁷⁵ Section 189.066, F.S.

⁷⁶ Section 189.062(1)(a)4., F.S. See, ss. 189.016(9), 218.32, 218.39, F.S.

⁷⁷ Section 189.062(1)(a)5., F.S.

⁷⁸ Section 189.062(1)(a)6., F.S.

⁷⁹ Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

⁸⁰ Section 189.062(2), F.S.

A district declared inactive may not collect taxes, fees, or assessments.⁸¹ This prohibition continues until the declaration of invalid status is withdrawn or revoked by DEO⁸² or invalidated in an administrative proceeding⁸³ or civil action⁸⁴ timely brought by the governing body of the special district.⁸⁵ Failure of the special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.⁸⁶

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature⁸⁷ or the entity that created the district.⁸⁸

Annual Financial Reports for Local Government Entities

Counties, municipalities, and special districts must submit an annual financial report for the previous fiscal year to the Department of Financial Services (DFS).⁸⁹ The report must include component units of the local government entity submitting the report. If a local government entity is required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report, as well as a copy of the audit report, must be submitted to DFS within 45 days of completion of the audit report, but no later than 9 months after the end of the fiscal year. If the local government entity is not required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report is due no later than 9 months after the end of the fiscal year. Each local government must provide a link to the annual audit report on its website.

III. Effect of Proposed Changes:

Section 1 amends s. 163.340, F.S., to revise the definition of the term “blighted area.” The revised definition adds four new factors to the definition. The four factors include higher rates of unemployment; higher rates of poverty; higher rates of foreclosure; and higher rates of infant mortality than the surrounding area. The revision also removes from the definition of “blighted area” a clause that allowed an area to be classified as blighted if one factor was present if all taxing authorities agreed by interlocal agreement or resolution that the area is blighted. As a result, an area needs to have two of the factors listed in s. 163.340 (8), F.S., in order to be considered blighted.

Section 2 amends s. 163.524, F.S., to conform a cross reference to the new factors listed under the term “blighted area.”

⁸¹ Section 189.062(5), F.S.

⁸² Section 189.062(5)(a), F.S.

⁸³ Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

⁸⁴ Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

⁸⁵ The special district must initiate the legal challenge within 30 days after the date the written notice of DEO’s declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

⁸⁶ Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

⁸⁷ Sections 189.071(3), 189.072(3), F.S.

⁸⁸ Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

⁸⁹ Section 218.32, F.S.

Section 3 amends s. 163.356, F.S., to conform a cross-reference for the reporting requirements created under s. 163.371, F.S.

Section 4 amends s. 163.357, F.S., to require, rather than authorize, a governing body of a county or municipality which appoints itself as the governing body of the CRA and consists of five members to appoint two additional persons to act as members of the CRA. The two additional members may not be elected officials and must have expertise in architecture, finance, construction, land use, affordable housing, sustainability, or other educational or professional experience in community redevelopment.

Section 5 amends s. 163.367, F.S., to provide that commissioners of a CRA must comply with the ethics training requirements in s. 112.3142, F.S. The requirements include mandating that officers complete 4 hours of ethics training each calendar year.

Section 6 amends s. 163.370, F.S., to require a CRA to procure all commodities and services under the same purchasing processes and requirements that apply to the county or municipality that created the agency.

Section 7 creates s. 163.371, F.S., to provide reporting requirements for CRAs. Specifically, the section requires each CRA to submit an annual report to the county or municipality that created the agency by March 31 of each year and to publish the report to the agency's website. The report must include the most recent complete audit report of the redevelopment trust fund and provide performance data for each community redevelopment plan authorized, administered, or overseen by the CRA. The performance data report must include the following information as of December 31 of the year being reported:

- The total number of projects the CRA started and completed, and the estimated cost of each project;
- The total expenditures from the redevelopment trust fund;
- The original assessed real property values within the CRA's area of authority as of the day the agency was created;
- The total assessed real property values within the CRA's area of authority as of January 1 of the year being reported; and
- The total amount expended for affordable housing for low- and middle-income residents.

By January 1, 2018, each CRA must publish digital maps on its website depicting the geographic boundaries and the total acreage of the CRA. If any change is made to the boundaries or total acreage, the CRA must post the updated map files on its website within 60 days after the date such change takes effect.

Section 8 creates s. 163.3755, F.S., to provide for the termination and future creations of CRAs. Specifically, the section provides for the termination of CRAs in existence on July 1, 2017, on the earlier of the expiration date stated in the agency's charter or on September 30, 2037, unless the governing body of the county or municipality which created the community redevelopment agency approves its continued existence by a super majority vote of the governing body members.

Additionally, if the CRA does not approve its continued existence by a super majority vote, and the CRA has outstanding bond obligations as of July 1, 2017, which do not mature until after the earlier of the termination date of the agency or September 30, 2037, the CRA remains in existence until the bonds mature. A CRA in operation on or after September 30, 2037, may not extend the maturity date of its outstanding bonds.

The county or municipality that created the CRA must issue a new finding of necessity that is limited to meeting the remaining bond obligations of the CRA in a timely manner.

On or after July 1, 2017, the governing body of a county or municipality may create a CRA only by a super majority vote of the members of the governing body of the county or municipality. However, a CRA in existence before July 1, 2017, may continue to operate.

Section 9 creates s. 163.3756, F.S., relating to inactive CRAs. The section provides a legislative finding that a number of CRAs continue to exist despite reporting no revenues, no expenditures, and no outstanding debt in their annual report.

The Department of Economic Opportunity must declare inactive any CRA reporting no revenues, no expenditures, and no debt for 3 consecutive fiscal years with the calculation beginning on October 1, 2014. The DEO must notify the CRA of the declaration of inactive status. If the CRA has no board members and no agent, the DEO must notify the governing board or commission of the county or municipality that created the CRA. The governing board of a CRA declared inactive by this procedure may seek to invalidate the declaration by initiating proceedings under s. 189.062(5), F.S., within 30 days after the date of receipt of the DEO notice.

A CRA declared inactive may only expend funds from its redevelopment trust fund as necessary to service outstanding bond debt. The CRA may not expend other funds without an ordinance of the governing body of the local government that created the CRA consenting to the expenditure of funds.

The provisions of s. 189.062(2) and (4) do not apply to a CRA that has been declared inactive under this section.

The bill further provides that the provisions of this section are cumulative to the provisions of s. 189.062, F.S., which provides special procedures for inactive special districts. However, if the provisions in this section conflict with s. 189.062, F.S., this section prevails.

The DEO must maintain on its website a separate list of CRAs declared inactive pursuant to this section.

Section 10 amends s. 163.387, F.S., relating to the redevelopment trust fund.

Beginning October 1, 2017, money in the redevelopment trust fund may be expended for undertakings of the CRA as described in the community redevelopment plan pursuant to an

annual budget adopted by the board of commissioners of the CRA and for the following purposes:⁹⁰

- Administrative and overhead expenses directly or indirectly necessary to implement a CRA plan adopted by the agency.
- Expenses of redevelopment planning, surveys, and financial analysis.
- The acquisition of real property in the redevelopment area.
- The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the CRA.
- The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness.
- The development of affordable housing with the CRA.
- The development of community policing innovations.

Except as provided in this section, the bill requires CRAs to comply with budgeting, auditing, and reporting requirements of s. 189.016, F.S.

Additionally, a CRA created by a municipality must:

- Adopt a proposed budget within 90 days before the start of its fiscal year.
- Submit its proposed budget and projections for the next fiscal year to the board of county commissioners for the county in which the CRA is located within 60 days before the start of the CRA's fiscal year.
- Submit amendments to the CRA's operating budget to the board of county commissioners of the county in which the CRA is located within 10 days after the date of the adoption of the amended budget.

The bill expands the current reporting requirements for the audit report of the redevelopment trust fund to include:

- A complete financial statement identifying all assets, liabilities, income, and operating expenses of the CRA as of the end of fiscal year; and
- A finding by the auditor determining whether the CRA complied with the requirements concerning remaining funds at the conclusion of the fiscal year.

The bill requires the audit report for the CRA to be included with the annual financial report submitted by the county or municipality that created the CRA to DFS, even if the CRA files a separate financial report under s. 218.32, F.S.

Section 11 amends s. 218.32, F.S., relating to annual financial reports. The section provides that the failure of a county or municipality to include in its annual report to the DFS the full audit required under s. 163.387(8), F.S., for each CRA created by that county or municipality constitutes a failure to report under s. 218.32, F.S.

⁹⁰ The only new purpose provided under this section is the administrative and overhead expenses. The other purposes exist under current law. However, current law provides that CRAs are authorized, but not limited, to using money for these other purposes. The bill strictly limits CRAs to the listed purposes only.

By November 1 of each year, the DFS must provide the Special District Accountability Program of the DEO with a list of each CRA reporting no revenues, expenditures, or debt for the CRA's previous fiscal year.

Section 12 provides that the act takes effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill would increase revenue to some local governments to the extent ad valorem taxation that would otherwise be received by those governments is currently deposited in the redevelopment trust fund.

The bill may require expenditures by DEO and DFS if additional staff are necessary to comply with duties created by the bill.

The bill may have a fiscal impact on CRA expenditures due to the reporting requirements in the bill, including the requirement to post certain information on the agency's website.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear whether a super majority requires a majority plus one or a higher vote threshold.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.340, 163.524, 163.356, 163.357, 163.367, 263.370, 163.387, and 218.32.

This bill creates the following sections of the Florida Statutes: 163.371, 163.3755, and 163.3756.

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

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

CS by Community Affairs Committee on April 3, 2017:

- Provides that the governing body of the county or municipality that created the CRA may approve its continued existence beyond the expiration date in its charter and beyond September 30, 2037, by a super majority vote of the governing body members;
- Makes a technical change that provides that the notice of inactive status is only to be delivered to the governing board or commission if the agency does not have any board members or agents who may receive the notice;
- Revises the initial date after which moneys in the redevelopment trust fund may only be expended pursuant to an annual budget adopted by the board of commissioners of the CRA and only for those purposes specified in current law from July 1, 2017, to October 1, 2017;
- Requires a governing body of a county or municipality which appoints itself as the governing body of the CRA and consists of five members to appoint two additional non-elected persons with specified expertise to act as members of the CRA;
- Removes certain performance data including the number of jobs created within the CRA, the sector of the economy to which the new jobs pertain, and the number of jobs retained within the CRA from the list of information required under the CRA annual report; and
- Revises the definition of the term “blighted area.”

B. Amendments:

None.



544476

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
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	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 50 and 51
insert:

Section 1. Subsection (8) of section 163.340, Florida
Statutes, is amended to read:

163.340 Definitions.—The following terms, wherever used or
referred to in this part, have the following meanings:

(8) "Blighted area" means an area in which there are a
substantial number of deteriorated or deteriorating structures;



544476

in which conditions, as indicated by government-maintained statistics or other studies, endanger life or property or are leading to economic distress; and in which two or more of the following factors are present:

(a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities.

(b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions.

(c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness.

(d) Unsanitary or unsafe conditions.

(e) Deterioration of site or other improvements.

(f) Inadequate and outdated building density patterns.

(g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality.

(h) Tax or special assessment delinquency exceeding the fair value of the land.

(i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality.

(j) Incidence of crime in the area higher than in the remainder of the county or municipality.

(k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality.

(l) A greater number of violations of the Florida Building



544476

Code in the area than the number of violations recorded in the remainder of the county or municipality.

(m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area.

(n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

(o) A substantial number or percentage of properties damaged by sinkhole activity which have not been adequately repaired or stabilized.

(p) Rates of unemployment higher in the area than in the remainder of the county or municipality.

(q) Rates of poverty higher in the area than in the remainder of the county or municipality.

(r) Rates of foreclosure higher in the area than in the remainder of the county or municipality.

(s) Rates of infant mortality higher in the area than in the remainder of the county or municipality.

~~However, the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (e) is present and all taxing authorities subject to s. 163.387(2) (a) agree, either by interlocal agreement with the agency or by resolution, that the area is blighted. Such agreement or resolution must be limited to a determination that the area is blighted. For purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area as defined in this subsection.~~

Section 2. Subsection (3) of section 163.524, Florida



544476

Statutes, is amended to read:

163.524 Neighborhood Preservation and Enhancement Program;
participation; creation of Neighborhood Preservation and
Enhancement Districts; creation of Neighborhood Councils and
Neighborhood Enhancement Plans.—

(3) After the boundaries and size of the Neighborhood
Preservation and Enhancement District have been defined, the
local government shall pass an ordinance authorizing the
creation of the Neighborhood Preservation and Enhancement
District. The ordinance shall contain a finding that the
boundaries of the Neighborhood Preservation and Enhancement
District comply with s. 163.340(7) or (8) (a)-(s) ~~(8) (a)-(e)~~ or
do not contain properties that are protected by deed
restrictions. Such ordinance may be amended or repealed in the
same manner as other local ordinances.

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

And the title is amended as follows:

Between lines 2 and 3

insert:

amending s. 163.340, F.S.; revising the definition of
the term "blighted area"; amending s. 163.524, F.S.;
conforming a cross-reference;



766500

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 80 and 81
insert:

Section 2. Present subsection (11) of section 163.362, Florida Statutes, is redesignated as subsection (12), and a new subsection (11) is added to that section, to read:

163.362 Contents of community redevelopment plan.—Every community redevelopment plan shall:

(11) (a) For a community redevelopment agency whose annual



766500

tax increment funding exceeds \$1 million, set aside 10 percent of its annual tax increment funding to be used for low-income and moderate-income affordable housing.

(b) For a community redevelopment agency whose annual tax increment funding exceeds \$5 million, set aside 10 percent of the annual tax increment funding to be used for low-income or moderate-income affordable housing. If the community redevelopment agency does not use the 10 percent for affordable housing within 5 years, the money shall revert to the county for use for affordable housing.

(c) Permit a community redevelopment agency to carry over tax increment funding that has been designated for use for affordable housing for low-income or moderate-income residents.

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

And the title is amended as follows:

Delete line 5

and insert:

annual reports; amending s. 163.362, F.S.; requiring a community redevelopment plan to set aside a specified percentage of a community redevelopment agency's annual tax increment funding for specified purposes under certain circumstances; requiring the funding to revert to the county for use for affordable housing under certain circumstances; requiring a community redevelopment plan to permit a community redevelopment agency to carry over tax increment funding that has been designated for use for affordable housing for low-income or moderate-income residents; amending s.



766500

40

163.367, F.S.; requiring



135856

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment to Amendment (766500) (with title amendment)

Delete lines 10 - 23
and insert:

(11) (a) For a community redevelopment agency whose annual tax increment funding exceeds \$1 million, set aside 10 percent of its annual tax increment funding to be used for low-income and moderate-income affordable housing.

(b) For a community redevelopment agency whose annual tax



135856

increment funding exceeds \$5 million, set aside 10 percent of the annual tax increment funding to be used for low-income or moderate-income affordable housing. If the community redevelopment agency does not use the 10 percent for affordable housing within 5 years, the money shall revert to the county for use for affordable housing.

Paragraphs (a) and (b) apply only if the community redevelopment agency has affordable housing as part of its community redevelopment plan or if there is a shortage of affordable housing in the area, as declared in the community redevelopment agency's blight determination.

(c) Permit a community redevelopment agency to carry over tax increment funding that has been designated for use for affordable housing for low-income or moderate-income residents.

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

And the title is amended as follows:

Delete line 35

and insert:

under certain circumstances; providing applicability;
requiring a community



139294

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 80 and 81
insert:

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

163.357 Governing body as the community redevelopment
agency.—

(1)

(c) A governing body that ~~which~~ consists of five members



139294

11 shall ~~may~~ appoint two additional persons to act as members of
12 the community redevelopment agency. These members may not be
13 elected officials. The two additional members must have
14 expertise in at least one of the following areas: architecture,
15 finance, construction, land use, affordable housing,
16 sustainability, or other educational or professional experience
17 in the area of community redevelopment. The terms of office of
18 the additional members shall be for 4 years, except that the
19 first person appointed shall initially serve a term of 2 years.
20 Persons appointed under this section are subject to all
21 provisions of this part relating to appointed members of a
22 community redevelopment agency.

23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete line 5

27 and insert:

28 annual reports; amending s. 163.357, F.S.; requiring,
29 rather than authorizing, a governing body that
30 consists of five members to appoint two additional
31 persons to act as members of the community
32 redevelopment agency; providing requirements for such
33 members; amending s. 163.367, F.S.; requiring



922728

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment

Delete lines 115 - 127

and insert:

3. Original assessed real property values within the community redevelopment agency's area of authority as of the day the agency was created.

4. Total assessed real property values of property within the boundaries of the community redevelopment agency as of January 1 of the year being reported.



922728

11 5. Total amount expended for affordable housing for low-
12 income and middle-income residents.



452384

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete lines 138 - 142
and insert:

(1) Unless the governing body of the county or municipality which created the community redevelopment agency approves its continued existence by a super majority vote of the governing body members, a community redevelopment agency in existence on July 1, 2017, shall terminate on the expiration date provided in the community redevelopment agency's charter as it exists on



452384

July 1, 2017, or on September 30, 2037, whichever is earlier.

(2) (a) If the governing body of the county or municipality
which created the community redevelopment agency does not
approve its continued existence by a super majority vote of the
governing body members, a community

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

And the title is amended as follows:

Delete line 13

and insert:

existing community redevelopment agencies unless their
continued existence is approved by a super majority
vote of the governing bodies of the counties or
municipalities which created them; providing a



341286

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
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	.	

The Committee on Community Affairs (Lee) recommended the following:

Senate Amendment

Delete line 173
and insert:
subsection. If the agency has no board members and no agent, the



818196

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete line 201

and insert:

(6) Beginning October 1, 2017, moneys in the redevelopment

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

And the title is amended as follows:



818196

11 Delete line 30
12 and insert:
13 trust fund proceeds beginning on a specified date;
14 limiting allowed expenditures;



135856

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment to Amendment (766500) (with title amendment)

Delete lines 10 - 23
and insert:

(11) (a) For a community redevelopment agency whose annual tax increment funding exceeds \$1 million, set aside 10 percent of its annual tax increment funding to be used for low-income and moderate-income affordable housing.

(b) For a community redevelopment agency whose annual tax



135856

increment funding exceeds \$5 million, set aside 10 percent of the annual tax increment funding to be used for low-income or moderate-income affordable housing. If the community redevelopment agency does not use the 10 percent for affordable housing within 5 years, the money shall revert to the county for use for affordable housing.

Paragraphs (a) and (b) apply only if the community redevelopment agency has affordable housing as part of its community redevelopment plan or if there is a shortage of affordable housing in the area, as declared in the community redevelopment agency's blight determination.

(c) Permit a community redevelopment agency to carry over tax increment funding that has been designated for use for affordable housing for low-income or moderate-income residents.

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

And the title is amended as follows:

Delete line 35

and insert:

under certain circumstances; providing applicability;
requiring a community

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

1770
Bill Number (if applicable)

Topic CPA

544476
Amendment Barcode (if applicable)

Name Bill Peebles

766 500
~~139 294~~

Job Title _____

Address PO Box 10930
Street

Phone 880 566 3029

Tallahassee FL
City State Zip

Email bill@billpeebles.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Redevelopment Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

1770
Bill Number (if applicable)

Topic CRA's

766500
Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757
Street

Phone 701-3674

Tallahassee FL 32302
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

5/3/17
Meeting Date

1770
Bill Number (if applicable)

Topic CRAs

139294
Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone 701-3476

Tallahassee FL 32302
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017
Meeting Date

1770
Bill Number (if applicable)

452384
Amendment Barcode (if applicable)

Topic Community Redevelopment

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 308 N Monroe St
Street

Phone (352) 377-3141

Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☒ For ☒ Bill ☐ Information
Amendment

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

Representing 1000 Friends of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/2017

Meeting Date

1770

Bill Number (if applicable)

452384

*Amendment Barcode (if applicable)*Topic Community Redevelopment Agencies: Super-Majority AmendmentName John A. Titkanich, Jr.Job Title City ManagerAddress 65 Stone Street*Street*Cocoa*City*FL*State*32922*Zip*Phone (321) 433-8737Email jtitkanich@cocoafl.orgSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing City of CocoaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/2017

Meeting Date

1770

Bill Number (if applicable)

Topic CRA

Amendment Barcode (if applicable)

Name DAWN PARZO

Job Title Commissioner

Address 600 W Blue Heron

Phone 561 845 3683

Street

Riviera Beach, FL 33404

City

State

Zip

Email dparzo@rivierabch.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Riviera Beach CRA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17

Meeting Date

SB 1770

Bill Number (if applicable)

Topic CRAs

Amendment Barcode (if applicable)

Name Sally Everett

Job Title Dir. Govt Relations

Address City Hall

Street

St. Petersburg FL

State

33701

Zip

Phone 727-267-2111

Email sally.everett@

stpete.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing City of St. Petersburg

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17
Meeting Date

1770
Bill Number (if applicable)

Topic CRA's

Amendment Barcode (if applicable)

Name DALE YOUNG

Job Title Pres

Address 2401 Dairy Rd
Street
McBourne FL 32904
City State Zip

Phone 321 223 5924

Email lethandale@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Reagan Clubs Inc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

SB 1770
Bill Number (if applicable)

Topic Community Redevelopment Agencies - SB 1770

Amendment Barcode (if applicable)

Name Kathleen Russell

Job Title Governmental Affairs

Address 400 S Orange Ave
Street

Phone (407) 383-2075

Orlando FL 32802
City State Zip

Email Kathleen.Russell@cityoforlando.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing City of Orlando

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/2017
Meeting/Date

SB 1770
Bill Number (if applicable)

Topic CRA

Amendment Barcode (if applicable)

Name David Sigerson

Job Title

Address 1121 S. Military Trl # 209
Street

Phone 954 340-7252

City

State

Zip

Email sigersonatlaw@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing City of Margate

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

1770
Bill Number (if applicable)

Topic CRA

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757
Street

Phone 701-3676

Tallahassee FL 32302
City State Zip

Email DCRUZ@FLcities.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/3/2017

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

1770

*Meeting Date**Bill Number (if applicable)*Topic Community Redevelopment Agencies*Amendment Barcode (if applicable)*Name John A. Titkanich, Jr.Job Title City ManagerAddress 65 Stone StreetPhone (321) 433-8737*Street*CocoaFL32922*City**State**Zip*Email jtitkanich@cocoafl.orgSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing City of CocoaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.****This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/17

Meeting Date

1770

Bill Number (if applicable)

Topic CRHA

Amendment Barcode (if applicable)

Name Bill Peables

Job Title

Address PO Box 10930

Street

Tallahassee FL

City

State

Zip

Phone 8505663029

Email bill@billpeabes.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Redevelopment Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17

Meeting Date

1770

Bill Number (if applicable)

Topic Community Redevelopment Agencies

Amendment Barcode (if applicable)

Name Diana Arteaga

Job Title Director of Govt Relations

Address 444 SW 2nd Ave, 10th floor

Street

Phone 786-469-1644

Miami

FL

33130

City

State

Zip

Email darteaga@miamigov.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of Miami

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By Senator Rodriguez

37-01462-17

20171750__

A bill to be entitled

An act relating to special districts; amending s. 189.069, F.S.; requiring a special district to post on its website all meeting minutes within a specified time and have the information remain on the website for a specified period; amending s. 190.006, F.S.; removing certain compensation for supervisors on the governing board of a special district; amending s. 190.046, F.S.; removing a filing fee paid to counties or municipalities under certain circumstances when petitions to contract or expand the boundaries of a community development district are filed with the Florida Land and Water Adjudicatory Commission; conforming provisions to changes made by the act; authorizing the board of supervisors by majority vote to transfer its assets and operating and maintenance responsibilities to the private sector or to a certain local general-purpose government if the district has no outstanding financial obligations; requiring the district to terminate upon such transfer, subject to certain requirements; providing for a referendum to dissolve the district, subject to certain requirements; specifying requirements for the petition and the referendum; requiring the district to dissolve if a majority of the qualified voters approve the referendum, subject to certain requirements; providing an effective date.

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

37-01462-17

20171750__

Section 1. Paragraph (a) of subsection (2) of section 189.069, Florida Statutes, is amended to read:

189.069 Special districts; required reporting of information; web-based public access.—

(2)(a) A special district shall post the following information, at a minimum, on the district's official website:

1. The full legal name of the special district.
2. The public purpose of the special district.
3. The name, official address, official e-mail address, and, if applicable, term and appointing authority for each member of the governing body of the special district.
4. The fiscal year of the special district.
5. The full text of the special district's charter, the date of establishment, the establishing entity, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established. Community development districts may reference chapter 190 as the uniform charter but must include information relating to any grant of special powers.
6. The mailing address, e-mail address, telephone number, and website uniform resource locator of the special district.
7. A description of the boundaries or service area of, and the services provided by, the special district.
8. A listing of all taxes, fees, assessments, or charges imposed and collected by the special district, including the rates or amounts for the fiscal year and the statutory authority for the levy of the tax, fee, assessment, or charge. For purposes of this subparagraph, charges do not include patient

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charges by a hospital or other health care provider.

9. The primary contact information for the special district for purposes of communication from the department.

10. A code of ethics adopted by the special district, if applicable, and a hyperlink to generally applicable ethics provisions.

11. The budget of the special district and any amendments thereto in accordance with s. 189.016.

12. The final, complete audit report for the most recent completed fiscal year and audit reports required by law or authorized by the governing body of the special district.

13. A listing of its regularly scheduled public meetings as required by s. 189.015(1).

14. The public facilities report, if applicable.

15. The link to the Department of Financial Services' website as set forth in s. 218.32(1)(g).

16. At least 7 days before each meeting or workshop, the agenda of the event, along with any meeting materials available in an electronic format, excluding confidential and exempt information. The information must remain on the website for at least 1 year after the event.

17. All meeting minutes, within 30 days after a meeting. The information must remain on the website for at least 1 year after the event.

Section 2. Subsection (8) of section 190.006, Florida Statutes, is amended to read:

190.006 Board of supervisors; members and meetings.—

(8) ~~Each supervisor shall be entitled to receive for his or her services an amount not to exceed \$200 per meeting of the~~

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~~board of supervisors, not to exceed \$4,800 per year per~~
~~supervisor, or an amount established by the electors at~~
~~referendum. In addition,~~ Each supervisor shall receive travel
and per diem expenses as set forth in s. 112.061.

Section 3. Paragraph (d) of subsection (1) and subsection
(2) of section 190.046, Florida Statutes, are amended, and
subsections (11) and (12) are added to that section, to read:

190.046 Termination, contraction, or expansion of
district.—

(1) A landowner or the board may petition to contract or
expand the boundaries of a community development district in the
following manner:

(d)1. For those districts initially established by
administrative rule pursuant to s. 190.005(1), the petition
shall be filed with the Florida Land and Water Adjudicatory
Commission.

~~2. Prior to filing the petition,~~ The petitioner shall
submit a copy of the petition ~~pay a filing fee of \$1,500,~~ to the
county if the district or the land to be added or deleted from
the district is located within an unincorporated area or to the
municipality if the district or the land to be added or deleted
is located within an incorporated area, and to each municipality
the boundaries of which are contiguous with or contain all or a
portion of the land within or to be added to or deleted from the
external boundaries of the district. ~~The petitioner shall submit~~
~~a copy of the petition to the same entities entitled to receive~~
~~the filing fee.~~ In addition, if the district is not the
petitioner, the petitioner shall file the petition with the
district board of supervisors.

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117 3. Each county and each municipality shall have the option
118 of holding a public hearing as provided by s. 190.005(1)(c).
119 However, the public hearing shall be limited to consideration of
120 the contents of the petition and whether the petition for
121 amendment should be supported by the county or municipality.

122 4. The district board of supervisors shall, in lieu of a
123 hearing officer, hold the local public hearing provided for by
124 s. 190.005(1)(d). This local public hearing shall be noticed in
125 the same manner as provided in s. 190.005(1)(d). Within 45 days
126 of the conclusion of the hearing, the district board of
127 supervisors shall transmit to the Florida Land and Water
128 Adjudicatory Commission the full record of the local hearing,
129 the transcript of the hearing, any resolutions adopted by the
130 local general-purpose governments, and its recommendation
131 whether to grant the petition for amendment. The commission
132 shall then proceed in accordance with s. 190.005(1)(e).

133 5. A rule amending a district boundary shall describe the
134 land to be added or deleted.

135 (2) The district shall remain in existence unless:

136 (a) The district is merged with another district as
137 provided in subsection (3) or subsection (4);

138 (b) All of the specific community development systems,
139 facilities, and services that it is authorized to perform have
140 been transferred to a general-purpose unit of local government
141 in the manner provided in subsections (5), (6), and (7); ~~or~~

142 (c) All of the specific community development systems,
143 facilities, and services that it is authorized to perform have
144 been transferred to the private sector or a general-purpose unit
145 of local government as provided in subsection (11); or

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146 (d)~~(e)~~ The district is dissolved as provided in subsection
147 (8), subsection (9), ~~or~~ subsection (10), or subsection (12).

148 (11) If a district has no outstanding financial
149 obligations, the board of supervisors by majority vote may
150 transfer its assets and operating and maintenance
151 responsibilities to the private sector or to the local general-
152 purpose government within the geographical boundaries of the
153 district. Upon the transfer of all of the community development
154 assets and services, the district shall be terminated in
155 accordance with a plan of termination which shall be adopted by
156 the board of supervisors and filed with the clerk of the circuit
157 court.

158 (12) (a) A referendum to dissolve the district must be held
159 if a petition containing the signatures of 40 percent of the
160 qualified electors within the district or 20 percent of the
161 landowners within the district is presented to the board of
162 supervisors. The petition must state that it is for the purpose
163 of calling a referendum to determine whether the district should
164 be dissolved.

165 (b) Upon receipt of the petition, the board of supervisors
166 shall arrange to place on the next general election ballot of
167 the qualified electors residing within the district the
168 following question: "Shall the ...(name of district)... sell all
169 of its assets and fulfill any outstanding financial obligations,
170 operating responsibilities, or maintenance responsibilities and
171 dissolve immediately upon completion of such tasks?" and
172 thereafter the words "Yes" and "No."

173 (c) If a majority of the qualified electors voting approve
174 the ballot question, the district shall be dissolved in

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175 accordance with a plan of termination which shall be adopted by
176 the board of supervisors and filed with the clerk of the circuit
177 court. The plan of termination must provide for the sale of all
178 district assets and the fulfillment of all outstanding financial
179 obligations and operating or maintenance responsibilities.

180 Section 4. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1750

INTRODUCER: Community Affairs Committee and Senator Rodriguez

SUBJECT: Special Districts

DATE: April 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1750 makes numerous changes to chs. 189 and 190, F.S., relating to special districts and community development districts (CDDs). Specifically, the bill:

- Requires a special district to post all meeting minutes on its website within 30 days after the minutes are approved by the governing board of the district and requires such information to remain on the website for at least 1 year;
- Provides that a CDD no longer has to pay a filing fee of \$1,500 to a county or municipality if the CDD wishes to shrink the CDD; and
- Provides additional circumstances under which a CDD may dissolve.

II. Present Situation:

Special Districts

A “special district” is “a unit of local government created for a special purpose... operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance, or rule of the Governor and Cabinet.”¹ Special districts are created to provide a wide variety of

¹ Section 189.012(6), F.S.

services, such as mosquito control,² beach facilities,³ children's services,⁴ fire control and rescue,⁵ or drainage control.⁶

Special districts can be classified as “dependent special districts” or “independent special districts.” For a special district to be classified as a “dependent special district,” the district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms; or
- The district has a budget that requires approval or can be vetoed by the governing body of a single county or a single municipality.⁷

An “independent special district” is any special district that does not meet the definition of “dependent special district.”⁸ Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely within the borders of a single municipality.⁹

In 1989, the Legislature enacted the Uniform Special District Accountability Act which governs special districts and reformed and consolidated laws relating to special districts.¹⁰ In 2014, the Legislature extensively revised and reorganized the Act into eight parts. The revision made significant changes to provisions concerning independent special districts and special district oversight and accountability.¹¹

According to the Department of Economic Opportunity (DEO) Special District Accountability Program Official List of Special Districts, the state currently has 1,667 active special districts. Specially there are:

- 631 dependent special districts; and
- 1,036 independent special districts.¹²

² Section 388.021(1), F.S., (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2), F.S.).

³ *See* s. 189.011, F.S.

⁴ Section 125.901(1), F.S.

⁵ Section 191.002, F.S.

⁶ Section 298.01, F.S.

⁷ Section 189.012(2), F.S.

⁸ Section 189.012(3), F.S.

⁹ *Id.*

¹⁰ Section 189.06, F.S.

¹¹ Chapter 2014-22, L.O.F.

¹² *See* Department of Economic Opportunity, Division of Community Development, Special District Accountability Program, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited March, 29, 2017).

Special District Websites

Each special district is required to maintain an official website containing essential information about the district.¹³ Each independent special district is required to maintain a separate website.¹⁴ Each dependent district is, at a minimum, required to be prominently displayed on the home page of the website of the local general-purpose government upon which it is dependent.¹⁵ However, a dependent special district may maintain a separate website.¹⁶ A special district shall post the following information, at a minimum, on the district's official website:¹⁷

- The full legal name of the special district.
- The public purpose of the special district.
- The name, official address, official e-mail address, and, if applicable, term and appointing authority for each member of the governing body of the special district.
- The fiscal year of the special district.
- The full text of the special district's charter, the date of establishment, the establishing entity, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established. Community development districts may reference ch. 190, F.S., as the uniform charter but must include information relating to any grant of special powers.
- The mailing address, e-mail address, telephone number, and website uniform resource locator of the special district.
- A description of the boundaries or service area of, and the services provided by, the special district.
- A listing of all taxes, fees, assessments, or charges imposed and collected by the special district, including the rates or amounts for the fiscal year and the statutory authority for the levy of the tax, fee, assessment, or charge. For purposes of this subparagraph, charges do not include patient charges by a hospital or other health care provider.
- The primary contact information for the special district for purposes of communication from the department.
- A code of ethics adopted by the special district, if applicable, and a hyperlink to generally applicable ethics provisions.
- The budget of the special district and any amendments thereto in accordance with s. 189.016, F.S.
- The final, complete audit report for the most recent completed fiscal year and audit reports required by law or authorized by the governing body of the special district.
- A listing of its regularly scheduled public meetings as required by s. 189.015(1), F.S.
- The public facilities report, if applicable.
- The link to the Department of Financial Services website as set forth in s. 218.32(1)(g), F.S.
- At least 7 days before each meeting or workshop, the agenda of the event, along with any meeting materials available in an electronic format, excluding confidential and exempt information. The information must remain on the website for at least 1 year after the event.

¹³ Section 189.069(1), F.S.

¹⁴ Section 189.069(1)(a), F.S.

¹⁵ Section 189.069(1)(b), F.S.

¹⁶ *Id.*

¹⁷ Section 189.069(2)(a), F.S.

Community Development Districts

Community Development Districts are special-purpose units of local government established to help Florida development and growth “pay for itself” by providing infrastructure and services for new and existing communities when such infrastructure and services would not otherwise be available from other local, general-purpose governments like counties and municipalities.¹⁸ CDDs serve as an alternative means of financing, constructing, acquiring, operating, and maintaining public infrastructure improvements to communities throughout Florida such as roads, utilities, hardscaping, landscaping, streetlights, stormwater infrastructure, conservation and mitigation areas, recreation facilities, and various other improvements allowed by statute.¹⁹

Boundary Amendments

A CDD may amend its boundaries after it has been established. Section 190.046, F.S., governs this process. A boundary amendment petition must contain a metes and bounds description of the boundaries of the CDD, and a statement of estimated regulatory costs.²⁰ If the petitioner seeks to expand the CDD area, the petition must describe “the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan.”²¹ If the petitioner seeks to contract the CDD, the petition must describe “what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.”²² Generally, the boundary amendment petition must be filed with the entity that established the CDD.²³

If the Florida Land and Water Adjudicatory Commission (FLWAC) established the CDD, the boundary amendment petition must be filed with the FLWAC.²⁴ The petitioner must pay a filing fee of \$1,500 to the county if the CDD or the land to be added to or deleted from the CDD is located within an unincorporated area, or to the municipality if the CDD or the land to be added to or deleted from the CDD is located within an incorporated area, and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within or to be added to or deleted from the external boundaries of the CDD.²⁵

In all cases of a petition to amend the boundaries of a CDD, the filing of the petition by the CDD constitutes consent of the landowners within the amended CDD.²⁶ As a result, the only other

¹⁸ Jere L. Earlywine and Katie S. Buchanan, *The Role of Community Development Districts In Florida*, Florida Environmental and Land Use Law Treatise 25.10-1 (2015).

¹⁹ *Id.*

²⁰ Section 190.046(1)(a), F.S.

²¹ *Id.*

²² *Id.*

²³ Section 190.046(1)(b) and (c), F.S.

²⁴ Section 190.046(1)(d), F.S.

²⁵ *Id.*

²⁶ Section 190.005(1)(g), F.S.

consent necessary for a boundary amendment is the written consent of those landowners whose land is to be added to or removed from the CDD.²⁷

Dissolution of CDDs

CDDs only terminate and cease to exist in specific circumstances. Specifically, CDDs remain in existence unless:

- The CDD is merged with another CDD under s. 190.046(3) or (4), F.S.;
- All of the specific community development systems, facilities, and services that it is authorized to perform have been transferred to a general-purpose unit of local government in the manner provided in s. 190.046(5), (6), or (7), F.S.;
- A landowner has not received a development permit, as defined in ch. 380, F.S., on some part or all of the area covered by the CDD within 5 years after the effective date of the rule or ordinance establishing the CDD;²⁸
- The CDD has become inactive pursuant to s. 189.062, F.S.; or
- The CDD has no outstanding financial obligations and no operating or maintenance responsibilities, and;
 - The CDD petitions to be dissolved by a nonemergency ordinance of the general-purpose local governmental entity that establish the CDD; or
 - If the CDD was established by rule of the FLWAC, by the repeal of such rule of the commission.

Board of Supervisors

The Board of Supervisors of the CDD generally consists of five members, and each member shall hold office for a term of 2 years or 4 years.²⁹ The members of the board must be residents of Florida and citizens of the United States.³⁰ Members of the board are known as supervisors, and upon entering into office, must take and subscribe to the oath of office as prescribed in s. 876.05, F.S.³¹ They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified.³²

Each supervisor of the board is entitled to receive for his or her services an amount not to exceed \$200 per meeting of the Board of Supervisors, not to exceed \$4,800 per year per supervisor, or an amount established by the electors at referendum.³³ In addition, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061, F.S.³⁴

²⁷ *Id.*

²⁸ Section 190.046(8), F.S.

²⁹ Section 190.006(1), F.S.

³⁰ *Id.*

³¹ Section 190.006(4), F.S.

³² *Id.*

³³ Section 190.006(8), F.S.

³⁴ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 189.069, F.S., to require a special district to post all meeting minutes on its website within 30 days after the governing board of the district approves the minutes. The information must remain on the website for at least 1 year after the event.

Section 2 amends s. 190.046, F.S., relating to the termination, contraction, and expansion of a CDD. Specifically, the bill provides that a CDD is no longer required to pay a filing fee of \$1,500 to a county or municipality if the CDD wishes to shrink the CDD. A petitioner seeking to shrink the CDD must still submit a copy of the petition to the relevant county or municipality.

The bill also provides that a CDD shall dissolve if:

- All of the community development systems, facilities, and services that it is authorized to perform have been transferred to the private sector or a general-purpose unit of local government; or
- The qualified electors or landowners within the CDD petition and vote to dissolve the CDD by referendum.

Dissolution by Transfer

If a CDD has no outstanding financial obligations, the Board of Supervisors by majority vote may transfer its assets and operating and maintenance responsibilities to the private sector or to the local general-purpose government within the geographical boundaries of the CDD. Upon the transfer of all of the community development assets and services, the CDD shall be terminated in accordance with a plan of termination which shall be adopted by the Board of Supervisors and filed with the clerk of the circuit court.

Dissolution by Referendum

A referendum to dissolve the CDD must be held if a petition containing the signatures of 40 percent of the qualified electors within the CDD or 20 percent of the landowners within the CDD is presented to the Board of Supervisors. The petition must state that it is calling for a referendum to determine whether the CDD should be dissolved. A referendum may only occur once in a 12-month period and only after a district has existed for 2 or more years.

Upon receipt of the petition, the Board of Supervisors must arrange to place on the next general election ballot a question asking whether the CDD shall sell all of its assets; fulfill any outstanding financial obligations, operating responsibilities, or maintenance responsibilities; and dissolve immediately.

If a majority of the qualified electors who vote on the ballot question approve, the CDD shall be dissolved in accordance with a plan of termination which shall be adopted by the Board of Supervisors and filed with the clerk of the circuit court. The plan of termination must provide for the sale of all CDD assets and the fulfillment of all outstanding financial obligations and operating or maintenance responsibilities.

Section 3 provides that the bill is effective July 1, 2017.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CDDs may save money because they no longer have to pay the \$1,500 filing fee to contract the territory of the CDD.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear how a CDD could fulfill its outstanding financial obligations, including outstanding bonds, under the plan of termination in lines 169-171 if the CDD ceases to exist.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 189.069 and 190.046.

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 Community Affairs Committee on April 3, 2017:

- Revises the situations under which a petitioner seeking to adjust the boundaries of a CDD must file a filing fee of \$1,500. The amendment requires the petitioner to pay the fee only when the CDD is adding territory. As a result, petitions to shrink a CDD do not require the payment of the filing fee;
- Provides that a referendum to dissolve a CDD after a petition of qualified electors may only occur once in a 12-month period and may only occur after the CDD has existed for at least 2 years;
- Removes s. 190.006, F.S., from the bill, which deleted a provision that entitled each member of the Board of Supervisors of a CDD to no more than \$200 per meeting up to a maximum of \$4,800 per member per year; and
- Requires the CDD to publish all meeting minutes to its website within 30 days after the governing board of the CDD approves the minutes.

B. Amendments:

None.



898000

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment

Delete line 80
and insert:
17. All meeting minutes, within 30 days after the minutes
are approved by the governing board of the district.



457266

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 83 - 91.

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

And the title is amended as follows:

Delete lines 6 - 8

and insert:

for a specified period; amending s.



781062

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 104 - 116
and insert:

2. Prior to filing the petition, the petitioner shall pay a filing fee of \$1,500~~7~~ to the county if the district or the land to be added to ~~or deleted from~~ the district is located within an unincorporated area or to the municipality if the district or the land to be added ~~or deleted~~ is located within an incorporated area, and to each municipality the boundaries of



781062

which are contiguous with or contain all or a portion of the land within or to be added to ~~or deleted from~~ the external boundaries of the district. The petitioner shall submit a copy of the petition to the same entities entitled to receive the filing fee. In addition, if the district is not the petitioner, the petitioner shall file the petition with the district board of supervisors.

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

And the title is amended as follows:

Delete line 11

and insert:

petitions to contract the boundaries of a



323982

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete line 164
and insert:
be dissolved. A referendum may only occur once in a 12-month
period and only after a district has existed for 2 or more
years.

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

And the title is amended as follows:



323982

11 Delete line 23
12 and insert:
13 requirements and restrictions; specifying requirements
14 for the petition

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

1750

Bill Number (if applicable)

Topic Special Districts

Amendment Barcode (if applicable)

Name Chris Lyon

Job Title Attorney

Address 315 S. Calhoun St., Ste. 830

Phone 222-5702

Street

Tallahassee

City

FL

State

32301

Zip

Email clyonellw-law.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Association of Special Districts

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 April 17
Meeting Date

1750
Bill Number (if applicable)

Topic Community Development District

Amendment Barcode (if applicable)

Name Cheryl Stuart

Job Title Attorney

Address Hopping Green 3rd S 119 S Monroe St 300
Street
Tallahassee FL 32301
City State Zip

Phone 850 222 7500

Email cheryl@s@hgsllaw.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Association of Florida Community Developers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By Senator Simmons

9-01378-17

20171470__

A bill to be entitled
An act relating to agency inspectors general; amending
s. 20.055, F.S.; prohibiting an agency from offering a
bonus on work performance in an inspector general
contract or agreement; amending s. 420.506, F.S.;
prohibiting the Florida Housing Finance Corporation
from offering a bonus on work performance in an
inspector general contract or agreement; providing an
effective date.

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

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

20.055 Agency inspectors general.—

(3)(a)1. For state agencies under the jurisdiction of the
Cabinet or the Governor and Cabinet, the inspector general shall
be appointed by the agency head. For state agencies under the
jurisdiction of the Governor, the inspector general shall be
appointed by the Chief Inspector General. The agency head or
Chief Inspector General shall notify the Governor in writing of
his or her intention to hire the inspector general at least 7
days before an offer of employment. The inspector general shall
be appointed without regard to political affiliation.

2. Within 60 days after a vacancy or anticipated vacancy in
the position of inspector general, the agency head or, for
agencies under the jurisdiction of the Governor, the Chief
Inspector General, shall initiate a national search for an
inspector general and shall set the salary of the inspector

9-01378-17

20171470__

30 general. Effective July 1, 2017, an agency that enters into an
31 employment agreement, or renewal or renegotiation of an existing
32 contract or employment agreement, with an inspector general or
33 deputy inspector may not offer a bonus on work performance in
34 the contract or agreement, and the awarding of such bonuses is
35 prohibited. In the event of a vacancy in the position of
36 inspector general, the agency head or, for agencies under the
37 jurisdiction of the Governor, the Chief Inspector General, may
38 appoint other office of inspector general management personnel
39 as interim inspector general until such time as a successor
40 inspector general is appointed.

41 3. A former or current elected official may not be
42 appointed inspector general within 5 years after the end of such
43 individual's period of service. This restriction does not
44 prohibit the reappointment of a current inspector general.

45 Section 2. Subsection (2) of section 420.506, Florida
46 Statutes, is amended to read:

47 420.506 Executive director; agents and employees; inspector
48 general.—

49 (2) (a) The appointment and removal of an inspector general
50 shall be by the executive director, with the advice and consent
51 of the corporation's board of directors. The corporation's
52 inspector general shall perform for the corporation the
53 functions set forth in s. 20.055. The inspector general shall
54 administratively report to the executive director. The inspector
55 general shall meet the minimum qualifications as set forth in s.
56 20.055(4). The corporation may establish additional
57 qualifications deemed necessary by the board of directors to
58 meet the unique needs of the corporation. The inspector general

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59 shall be responsible for coordinating the responsibilities set
60 forth in s. 420.0006.

61 (b) Effective July 1, 2017, if the corporation enters into
62 an employment agreement, or renewal or renegotiation of an
63 existing contract or employment agreement, with an inspector
64 general or deputy inspector, the corporation may not offer a
65 bonus on work performance in the contract or agreement, and the
66 awarding of such bonuses is prohibited.

67 Section 3. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1470

INTRODUCER: Senator Simmons

SUBJECT: Agency Inspectors General

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Ferrin	GO	Favorable
2.	Cochran	Yeatman	CA	Favorable
3.			RC	

I. Summary:

SB 1470 prohibits an agency from offering a bonus on work performance in an inspector general contract or agreement. The bill also prohibits the Florida Housing Finance Corporation from offering a bonus on work performance in an inspector general contract or agreement.

II. Present Situation:

Chief Inspector General

Section 14.32, F.S., creates the Office of Chief Inspector General in the Executive Office of the Governor. The Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor.¹ The Chief Inspector General is appointed by, and serves at the pleasure of, the Governor and serves as the inspector general for the Executive Office of the Governor.² Some of the duties of the Chief Inspector General include:

- Initiating investigations, recommending policies, and carrying out other activities designed to deter, detect, and prevent, fraud, waste, mismanagement, and misconduct in government;
- Investigating and examining records of any agency under the direct supervision of the Governor, and coordinating complaint-handling activities with the agencies;
- Coordinating the activities of the Whistle-blower's Act³ and maintaining the whistle-blower's hotline;
- Acting as liaison and monitoring the activities of the inspectors general in the agencies under the Governor's jurisdiction; and
- Conducting special investigations and management reviews at the request of the Governor.⁴

¹ Section 14.32(1), F.S.

² *Id.*

³ The Whistle-blower's Act can be found in ss. 112.3187-112.31895, F.S.

⁴ Section 14.32(2), F.S.

The Chief Inspector General also has various duties relating to public-private partnerships, including advising on internal control and performance measures, conducting audits, investigating complaints of fraud, and monitoring contract compliance.⁵

Agency Inspectors General

Duties

Section 20.055, F.S., requires each state agency⁶ of state government to have an Office of Inspector General (OIG). The OIG is created to provide a focal point of accountability efforts within the agency.⁷ Each agency inspector general is responsible for the following:⁸

- Advising in the development of performance measures, standards, and procedures for the evaluation of state agency programs;
- Assessing the reliability and validity of information provided by the agency on performance measures and standards;
- Reviewing the actions taken by the agency to improve agency performance, and making recommendations, if necessary;
- Supervising and coordinating audits, investigations, and management reviews relating to the programs and operations of the agency;
- Conducting, supervising, or coordinating other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;
- Informing and recommending corrective action to the agency head or, for state agencies under the jurisdiction of the Governor, the Chief Inspector General about fraud, abuses, deficiencies relating to programs and operations administered or financed by the state agency, and reporting on progress made in implementing corrective action;
- Ensuring effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies to avoid duplication;
- Reviewing rules relating to the programs and operations of the agency and making recommendations concerning their impact;
- Ensuring that an appropriate balance is maintained between audit, investigative, and other accountability activities; and
- Complying with the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.

⁵ Section 14.32(3), F.S.

⁶ Section 20.055(1)(d), F.S., defines the term “state agency” as “each department created pursuant to this chapter and the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, the Agency for State Technology, the Office of Early Learning, and the state courts system.”

⁷ Section 20.055(2), F.S.

⁸ *Id.*

In carrying out the investigative duties and responsibilities, the inspector general initiates, conducts, supervises, and coordinates investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government.⁹

Each inspector general must submit an annual report on its activities to the agency head,¹⁰ and provide any written complaints about the operations of the inspector general.¹¹ Audit plans and reports are submitted to the Auditor General.¹²

Appointment

Section 20.055(3)(a), F.S., governs appointment of inspectors general. For state agencies under the jurisdiction of the Governor and Cabinet, the inspector general is appointed by the agency head. For agencies under the jurisdiction of the Governor, the inspector general is appointed by the Chief Inspector General. The agency head or Chief Inspector General is required to notify the Governor in writing of their intent to hire the inspector general at least 7 days prior to an offer of employment. Inspectors general are appointed without regard to political affiliation.¹³

Removal

Section 20.055(3)(c), F.S., governs removal of inspectors general. For agencies under the jurisdiction of the Governor and Cabinet, inspectors general may be removed by the agency head. For agencies under the jurisdiction of the Governor, the inspector general may only be removed from office by the Chief Inspector General for cause, including concerns regarding performance, malfeasance, misfeasance, misconduct, or failure to carry out his or her duties. At least 21 days before removal, the Chief Inspector General must notify the Governor in writing of his or her intention to remove an inspector general. For state agencies under the jurisdiction of the Governor and Cabinet, the agency head shall notify the Governor and Cabinet in writing of his or her intention to remove the inspector general at least 21 days before the removal. If the inspector general disagrees with the removal, the inspector general may present objections in writing to the Governor within the 21-day period.

Internal Audits

Each inspector general must review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency.¹⁴ The inspector general must conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of his or her findings.¹⁵ If the inspector general does not possess the specified qualifications, the director of auditing must perform the auditing functions.¹⁶

⁹ Section 20.055(7), F.S.

¹⁰ Section 20.055(8), F.S.

¹¹ Section 20.055(9), F.S. For agencies under the jurisdiction of the Governor, the inspector general must provide the complaint to the Chief Inspector General.

¹² Section 20.055(6)(f)-(i), F.S.

¹³ Section 20.055(3)(a), 1., F.S.

¹⁴ Section 20.055(6), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC), a public corporation administratively housed within the Department of Economic Opportunity,¹⁷ is the state's affordable housing finance agency. As such, the FHFC is responsible for increasing the amount of affordable housing available to individuals and families by stimulating investment of private capital and encouraging public and private sector housing partnerships. To accomplish this, the FHFC uses federal and state resources to finance the development of safe, affordable homes and rental housing and to assist first-time homebuyers.¹⁸

The FHFC is authorized to employ an inspector general, who is appointed by the corporation's executive director, with the advice and consent of the corporation's nine-member board of directors.¹⁹ The inspector general is charged with performing the same duties outlined above for inspectors general of other state agencies.²⁰

Bonus Payments

Section 110.1245(2), F.S., requires state agencies to pay employees bonuses from funds authorized by the Legislature in an appropriation specifically for bonuses. Each agency is required to develop a plan²¹ for awarding lump-sum bonuses, which must be submitted no later than September 15 of each year and approved by the Office of Policy and Budget in the Executive Office of the Governor. To be eligible for a bonus, employees must meet specified eligibility criteria.²² No more than 35 percent of an agency's total authorized positions can receive a bonus.²³

Section 215.425(3), F.S., provides that any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

- Base the award of a bonus on work performance;
- Describe the performance standards and evaluation process by which a bonus will be awarded;
- Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and
- Consider all employees for the bonus.

III. Effect of Proposed Changes:

Section 1 amends s. 20.055, F.S., to prohibit a state agency, effective July 1, 2017, that enters into an employment agreement, or renewal or renegotiation of an existing contract or employment agreement, with an inspector general or deputy inspector general from offering a

¹⁷ Section 420.504(1), F.S.

¹⁸ See ss. 420.502 and 420.507, F.S.

¹⁹ Section 420.506(2), F.S.

²⁰ *Id.*

²¹ Section 110.1245(2), F.S.

²² Section 110.245(2)(b), F.S.

²³ Section 110.1245(2)(f), F.S.

bonus on work performance in the contract or agreement. The awarding of such a bonus is also prohibited.

Section 2 amends s. 420.506, F.S., to prohibit the FHFC, effective July 1, 2017, from entering into an employment agreement, or renewal or renegotiation of an existing contract or employment agreement, with an inspector general or deputy inspector general that offers a bonus on work performance in the contract or agreement. The awarding of such a bonus is also prohibited.

Section 3 provides an effective date of 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill may have a positive effect on agency expenditures because agencies will no longer be permitted to provide bonuses to inspectors general or deputy inspectors general. If the inspector general or deputy inspector general of an agency or the FHFC was a hired employee and not under a contract or an employment agreement, the provisions of SB 1470 prohibiting bonuses might not be applicable to such employees.²⁴ In addition, if an agency offered employees of an agency bonus payments, the prohibition of inspectors

²⁴ Florida Housing Finance Corporation, *2017 Legislative Bill Analysis HB 207* (March 2, 2017) (Copy on file with the Senate Governmental Oversight and Accountability Committee).

general and deputy inspectors general from being eligible to receive and from receiving such payments would appear to violate ss. 110.1245(2) and 215.425(3), F.S.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 20.055 and 420.506 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

²⁵ Florida Agency for Health Care Administration, *2017 Legislative Bill Analysis HB 207* (January 18, 2017)(Copy on file with the Senate Governmental Oversight and Accountability Committee).



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 28, 2017

I respectfully request that **Senate Bill 1470**, relating to Agency Inspectors General, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 9

By Senator Perry

8-00629-17

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A bill to be entitled
An act relating to growth management; amending s.
163.3167, F.S.; requiring local governments to address
the protection of private property rights in their
comprehensive plans; amending s. 163.3177, F.S.;
requiring the comprehensive plan to include a private
property rights element that sets forth principles,
guidelines, standards, and strategies to achieve
certain objectives; requiring counties and
municipalities to adopt within a specified period land
development regulations consistent with the private
property rights element; providing deadlines for each
local government to adopt a private property rights
element; requiring the state land planning agency to
approve the private property rights element adopted by
each local government if it is substantially in a
specified form; providing an effective date.

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

Section 1. Subsection (9) of section 163.3167, Florida
Statutes, is amended to read:

163.3167 Scope of act.—

(9) Each local government shall address in its
comprehensive plan, as enumerated in this chapter:

(a) The water supply sources necessary to meet and achieve
the existing and projected water use demand for the established
planning period, considering the applicable plan developed
pursuant to s. 373.709.

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(b) The protection of private property rights.

Section 2. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(i)1. In recognition of the legitimate and often competing public and private interests in land use regulations and other government action, a property rights element that protects private property rights. The private property rights element must set forth the principles, guidelines, standards, and strategies to guide the local government's decisions and program implementation with respect to the following objectives:

a. Consideration of the impact to private property rights of all proposed development orders, plan amendments, ordinances, and other government decisions.

b. Encouragement of economic development.

c. Use of alternative, innovative solutions to provide equal or better protection than the comprehensive plan.

d. Consideration of the degree of harm created by noncompliance with the provisions of the comprehensive plan.

2. Each county and each municipality within the county shall, within 1 year after adopting its private property rights element, adopt land development regulations consistent with this paragraph.

3. Each local government shall adopt a private property rights element at its next evaluation and appraisal update review as required under this section or by July 2019, whichever

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occurs first.

4. The state land planning agency shall approve each private property rights element adopted by a local government if it is in substantially the following form:

GOAL: In all decisions, the ...(name of commission)... will take into consideration the balancing of the comprehensive plan provisions with protection of private property rights; the encouragement of economic development; the use of alternative, innovative solutions to provide equal or better protection than the comprehensive plan; and the degree of harm created by noncompliance with the provisions of the comprehensive plan.

OBJECTIVE 1: In all decisions rendered under the comprehensive plan and implementing land development regulations, the ...(name of local government)... shall balance the protection of private property rights with the comprehensive plan provisions applicable to the circumstance.

POLICY 1.1: The ...(name of commission)... shall render its decisions in support of economic development and in deference to private property rights.

POLICY 1.2: In all decisions, the ...(name of commission)... may approve alternative, innovative solutions that provide equal or better protection than the comprehensive plan.

POLICY 1.3: If the degree of harm created by noncompliance with the provisions of the comprehensive plan is minimal or may be mitigated, the ...(name of local government)... may approve the applicable request or application.

OBJECTIVE 2: The ...(name of local government)... shall bring its land development regulations into internal consistency

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88 with the private property rights element.

89 POLICY 2.1: No later than 1 year after the ... (name of
90 local government) ... adopts the private property rights element,
91 it shall review and revise its land development regulations as
92 necessary to make them consistent with that element.

93 Section 3. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 940

INTRODUCER: Senator Perry

SUBJECT: Growth Management

DATE: March 31, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cochran	Yeatman	CA	Favorable
2. _____	_____	EP	_____
3. _____	_____	RC	_____

I. Summary:

SB 940 requires local governments to address the protection of private property rights in their comprehensive plans by setting forth principles, guidelines, standards, and strategies to achieve certain objectives. The bill also specifies that the state land planning agency shall approve the private property rights element adopted by each local government if it is substantially in a specified form.

II. Present Situation:

Growth Management

The Local Government Comprehensive Planning and Land Development Regulation Act,¹ also known as Florida's Growth Management Act, was adopted in 1985. The act requires all counties and municipalities to adopt local government comprehensive plans that guide future growth and development.² Comprehensive plans contain chapters or "elements" that address topics including future land use, housing, transportation, conservation, and capital improvements, among others.³ The state land planning agency that administers these provisions is the Department of Economic Opportunity (DEO).⁴

There are nine elements that are required in a comprehensive plan: future land use; conservation; transportation; capital improvements; sanitary sewer, solid waste, drainage, potable water and aquifer recharge; recreation and open space; housing; intergovernmental coordination; and

¹ See ch. 163, part II, F.S.

² Section 163.3167(1)(b), F.S.

³ Section 163.3177, F.S.

⁴ Section 163.3221(14), F.S.

coastal management (for coastal local governments).⁵ Optional elements are also allowed. A private property rights element is not required.

Amendments to a Comprehensive Plan

A local government may choose to amend its comprehensive plan for a variety of reasons. A local government may wish to expand, contract, accommodate proposed job creation projects or housing developments, or change the direction and character of growth. Some comprehensive plan amendments are initiated by landowners or developers, but all must be approved by the local government.⁶

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.⁷ The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including DEO, the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.⁸

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for “extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region” as well as adverse effects on regional resources or facilities.⁹ Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote, it is transmitted to the DEO for final review.¹⁰ The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant laws and agency rules.¹¹

Consistency with the Comprehensive Plan

Consistency is an important part of a comprehensive plan, and s. 163.3177(2), F.S., states that “the several elements of the comprehensive plan shall be consistent.” Consistent data is to be used.¹² In sum, the elements of the comprehensive plan shall not be at odds with one another. In terms of land development regulations and development orders, s. 163.3194(3)(a), F.S., provides a definition of what is meant by “consistent.”

A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the

⁵ Section 163.3184 (6), F.S.

⁶ Section 163.3184, F.S.

⁷ Sections 163.3174(4)(a), and 163.3184, F.S.

⁸ Section 163.3184, F.S.

⁹ Section 163.3184(3)(b)3.a., F.S.

¹⁰ Section 163.3184, F.S.

¹¹ Sections 163.3184(3)(c)4., and 163.3184(4)(e)4., F.S.

¹² Section 163.3177(2), F.S.

comprehensive plan and if it meets all other criteria enumerated by the local government.

All public and private development must be consistent with the local government's adopted comprehensive plan.¹³ Additionally, all land development regulations must also be consistent with the plan.¹⁴ Whether a proposed development project is consistent with a local comprehensive land use plan and all of its elements is tested on review by a standard of strict scrutiny; the burden is on the applicant for rezoning to show by competent and substantial evidence that the requested rezoning conforms to the legislative plan.¹⁵

Private Property Rights

The express legislative intent in ch. 163 states that all government entities in Florida recognize and respect judicially acknowledged or constitutionally protected private property rights.¹⁶ Private property rights are also protected by numerous state and federal judicial decisions which are binding on all Florida local governments.¹⁷

Recourse for an adverse impact on property rights that create an "inordinate burden" on a property owner is provided for in the Bert J. Harris, Jr., Private Property Rights Protection Act, s. 70.001, F.S. In addition, a cause of action for damages for a prohibited government exaction ("any condition imposed by a governmental entity on a property owner's proposed use of real property that lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity seeks to avoid, minimize, or mitigate") is provided for in s. 70.45, F.S., adopted in 2015.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 163.3167(9), F.S., to require local governments to address the protection of private property rights in their comprehensive plans.

Section 2 amends s. 163.3177(6), F.S., to require local government comprehensive plans to include a property rights element that protects private property rights. The element must set forth the principles, guidelines, standards, and strategies to guide the local government's decisions and program implementation with respect to the following objectives:

- Consideration of the impact to private property rights of all proposed development orders, plan amendments, ordinances, and other government decisions;
- Encouragement of economic development;
- Use of alternative, innovative solutions to provide equal or better protection than the comprehensive plan; and,

¹³ Department of Economic Opportunity, *Senate Bill 940 Analysis* (February 21, 2017); *See* ss. 163.3161(6) and 163.3194(1), F.S.

¹⁴ Section 163.3194(1)(b), F.S.

¹⁵ *Machado v. Musgrove*, 519 So. 2d 629, 635 (Fla. 3d DCA 1987).

¹⁶ *See* section 163.3161(10), F.S.

¹⁷ Department of Economic Opportunity, *Senate Bill 940 Analysis* (February 21, 2017); *See* ss. 163.3161(6) and 163.3194(1), F.S.

¹⁸ *Id.*

- Consideration of the degree of harm created by noncompliance with the provisions of the comprehensive plan.

The bill provides that each county and municipality within the county shall adopt land development regulations consistent with this paragraph within 1 year after adopting its private property rights element. The bill also states that each local government shall adopt a private property rights element at its next evaluation and appraisal update review as required under this section, or by July 2019, whichever occurs first.

Finally, the bill contains a model form and states that the state land planning agency shall approve each private property rights element adopted by a local government if it is in substantially the form provided by the bill. The form's goal statement says: in all decisions, the commission will take into consideration the balancing of the comprehensive plan provisions with the protection of private property rights; the encouragement of economic development; the use of alternative, innovative solutions to provide equal or better protection than the comprehensive plan; and the degree of harm created by noncompliance with the provisions of the comprehensive plan. It then lists the following objectives and policies:

- Objective 1: In all decisions rendered under the comprehensive plan and implementing land development regulations, the local government shall balance the protection of private property rights with the comprehensive plan provisions applicable to the circumstance.
 - Policy 1.1: The commission shall render its decisions in support of economic development and in deference to private property rights.
 - Policy 1.2: In all decisions, the commission may approve alternative, innovative solutions that provide equal or better protection than the comprehensive plan.
 - Policy 1.3: If the degree of harm created by noncompliance with the provisions of the comprehensive plan is minimal or may be mitigated, the local government may approve the applicable request or application.
- Objective 2: The local government shall bring its land development regulations into internal consistency with the private property rights element.
 - Policy 2.1: No later than 1 year after the local government adopts the private property rights element, it shall review and revise its land development regulations as necessary to make them consistent with that element.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(b), Article VII, of the Florida Constitution requires any general law that would require the expenditure of money to be passed by a two-thirds vote of the membership of each house of the Legislature. By requiring that all local governments adopt a new element to their comprehensive plans, and subsequently amend all existing land development regulations to be consistent with the new element, the bill will require the expenditure of money by local governments.

An exemption from the mandates provision may apply if the expected fiscal impact of the bill is less than \$2 million. For a number of reasons, including the uncertainty regarding the exact cost each local government will undertake to develop a comprehensive plan amendment and consistent land development regulations, a precise estimate cannot be developed. As a guide, however, if the cost for each local government exceeds \$4,175, the \$2 million threshold will be exceeded. Therefore, in an abundance of caution, the Legislature will need to find the bill fulfills an important state interest and pass the bill by a two-thirds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEO has indicated that the bill will result in increased administrative cost to the state due to the review and approval of new comprehensive plan amendments. Local governments will also incur costs due to the development of new comprehensive plan elements and land use regulations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill as drafted contains a model form that includes the following policy: “If the degree of harm created by noncompliance with the provisions of the comprehensive plan is minimal or may be mitigated, the local government may approve the applicable request or application.” This may cause litigation if a challenger argues that the bill language lacks meaningful and predictable standards, as required by s. 163.3177(1), F.S. Further, a challenger may argue that the language as proposed in the bill creates internal inconsistencies pursuant to s. 163.3177(2), F.S., in the portion of the model form that states “The commission shall render its decisions in support of economic development and in deference to private property rights.”

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3167 and 163.3177.

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

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

None.

B. Amendments:

None.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17

Meeting Date

SB 940

Bill Number (if applicable)

Topic Comp Plans

Amendment Barcode (if applicable)

Name DAN PETERSON

Job Title Director

Address 100 N Duval

Street

City

Tallahassee

State

FL

Zip

31201

Phone 407-758-2491

Email dpeterson@jamesmadison.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing JAMES MADISON INSTITUTE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17

Meeting Date

513 940

Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO / Chief Lobbyist

Address 2600 Centennial Place
Street

Phone 224-4316

Tally FL 32308
City State Zip

Email rpayton@fhba.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Home Builders Assn

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017
Meeting Date

940
Bill Number (if applicable)

Topic Planning

Amendment Barcode (if applicable)

Name Thomas Hankins

Job Title Policy & Planning Director

Address 308 N Monroe St
Street

Phone (352) 377-3141

Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

940
Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Deputy Chief Lobbyist

Address 3730 Coconut Creek Parkway, Ste 200
Street

Phone (954) 465-6811

Coconut Creek FL 33066
City State Zip

Email cbowen@abwconstruction.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Builders and Contractors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017

Meeting Date

940

Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name Phil Leary

Job Title Lobbyist

Address 240 S Arabelle

Phone 386-937-7829

Street

Saint Johns

FL

32259

City

State

Zip

Email pleary@learygac.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Alachua County Farm Bureau

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

940

Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757
Street

Phone 701-3876

Tallahassee FL 32302
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

SB940

Bill Number (if applicable)

Topic Growth Mgmt.

Amendment Barcode (if applicable)

Name Bill Hunter

Job Title President

Address 307 West Park Ave. Suite 214

Phone 850-681-2176

Street

Idaho

IL

State

32301

Zip

Email afcd@aecd.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Assn. of Fla. Community Developers, Inc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By Senator Clemens

31-01009A-17

20171488__

A bill to be entitled
An act relating to annexation procedures for
municipalities; amending s. 171.0413, F.S.; revising
circumstances under which a municipality is prohibited
from annexing certain lands in contiguous, compact, or
unincorporated areas without getting consent from a
specified percent of landowners in the area;
specifying circumstances under which a vote of the
electors in the area to be annexed is not required;
providing an effective date.

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

Section 1. Subsections (5) and (6) of section 171.0413,
Florida Statutes, are amended to read:

171.0413 Annexation procedures.—Any municipality may annex
contiguous, compact, unincorporated territory in the following
manner:

(5) If more than 70 percent of the land in an area proposed
to be annexed is owned by individuals, corporations, or legal
entities ~~which are not registered electors of such area~~, such
area shall not be annexed unless the owners of more than 50
percent of the land in such area consent to such annexation.
Such consent shall be obtained by the parties proposing the
annexation prior to the referendum to be held on the annexation.

(6) Notwithstanding subsections (1) and (2), if the area
proposed to be annexed does not have any registered electors
that own property in the area to be annexed on the date the
ordinance is ~~finally~~ adopted, a vote of electors of the area

31-01009A-17

20171488__

30 proposed to be annexed is not required. In addition to the
31 requirements of subsection (5), the area may not be annexed
32 unless the owners of more than 50 percent of the parcels of land
33 in the area proposed to be annexed consent to the annexation. If
34 the governing body of the annexing municipality does not ~~choose~~
35 ~~to~~ hold a referendum ~~of the annexing municipality~~ pursuant to
36 subsection (2), then the consent of the property owners ~~property~~
37 ~~owner consents~~ required pursuant to subsection (5) shall be
38 obtained by the parties proposing the annexation prior to the
39 final adoption of the ordinance, and the annexation ordinance
40 shall be effective upon becoming a law or as otherwise provided
41 in the ordinance.

42 Section 2. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1488

INTRODUCER: Community Affairs Committee and Senator Clemens

SUBJECT: Annexation Procedures for Municipalities

DATE: April 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1488 revises the circumstances under which a municipality is required to take a vote of the electors of the area proposed to be annexed prior to annexation.

The bill provides that if the area proposed to be annexed does not have any registered electors on the date the ordinance is adopted, or has fewer than five registered electors and such electors do not own property in the area to be annexed on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.

II. Present Situation:

Annexation under General Law

The Florida Constitution authorizes the Legislature to develop procedures for the municipal annexation of unincorporated territory by general or special law.¹ The Legislature passed the “Municipal Annexation or Contraction Act,” in 1974, which provides a mechanism for municipalities to annex territory and to recede from territory by contraction.² Municipalities may annex territory that is:³

- Contiguous;⁴

¹ Art. VIII, s. 2(c), Fla. Const.

² Ch. 171, part I, F.S.

³ Section 171.043, F.S.

⁴ “Contiguous” means that a substantial part of a boundary of the territory a municipality seeks to annex is coterminous with a part of the boundary of the municipality. Section 171.031(11), F.S.

- Compact;⁵
- Unincorporated (not within the boundaries of another municipality);⁶ and
- Developed for urban purposes.⁷

Annexation may be accomplished in two ways:

- By ordinance of the annexing municipality⁸; or
- On a voluntary basis initiated by the owners of real property in an unincorporated area of a county.⁹

Annexation by Ordinance

The governing body of a municipality may adopt an ordinance annexing a piece of contiguous, compact, unincorporated territory.¹⁰ The municipality must hold at least two public hearings before the adoption of the ordinance.¹¹ After the governing body adopts the ordinance, the ordinance is submitted to a referendum of electors in the area to be annexed.¹² The municipality may, but is not required to, submit the ordinance to its own electors for approval.¹³ If the electors approve the ordinance in the referendum, the ordinance takes effect 10 days after the referendum or on the date provided in the ordinance.¹⁴ However, the date provided in the ordinance may not be more than 1 year following the date of the referendum.¹⁵

Under current law, if more than 70 percent of the land in the area proposed to be annexed is owned by individuals, corporations, or legal entities that are not registered electors of the area, a municipality cannot annex the area without the approval of at least 50 percent of the owners of the area.¹⁶ Additionally, if an area does not have any registered voters on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.¹⁷

Voluntary Annexation

Alternatively, property owners of an unincorporated area may petition a municipality for voluntary annexation, unless a county charter provides for an exclusive method of municipal annexation.¹⁸ After the governing body of the municipality determines that the petition bears the

⁵ “Compactness” means concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Section 171.031(12), F.S.

⁶ Section 171.043(1), F.S.

⁷ An “area developed for urban purposes” is an area that has a total resident population of at least 2 persons per acre of land within its boundaries; has a total resident population of at least 1 person per acre of land and is subdivided into lots and tracts so that at least 60 percent of the lots and tracts are 1 acre or less; or uses 60 percent of the total number of lots and tracts in the area at the time of annexation for urban purposes, and it is subdivided so that at least 60 percent of the acreage, excluding acreage used for nonresidential urban purposes, consists of lots and tracts that are 5 acres or less. Section 171.042(2), F.S.

⁸ Section 171.0413, F.S.

⁹ Section 171.044, F.S.

¹⁰ Section 171.0413(1), F.S.

¹¹ *Id.*

¹² Section 171.0413(2), F.S.

¹³ *Id.*

¹⁴ Section 171.0413(1), F.S.

¹⁵ *Id.*

¹⁶ Section 171.0413(5), F.S.

¹⁷ Section 171.0413(6), F.S.

¹⁸ Section 171.044(4), F.S.

signatures of all owners of property in the area proposed to be annexed, the governing body may, at any regular meeting, adopt a nonemergency ordinance to annex the property and redefine the boundary lines of the municipality to include the property.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 171.0413, F.S., to revise the circumstances under which a municipality is required to take a vote of the electors of the area proposed to be annexed prior to annexation.

The bill provides that if the area proposed to be annexed does not have any registered electors on the date the ordinance is adopted, or has fewer than five registered electors and such electors do not own property in the area to be annexed on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.

Section 2 provides that the act takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

¹⁹ Section 171.044(2), F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 171.0413 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 Community Affairs Committee on April 4, 2017:

- Removes s. 171.0413(5), F.S., from the bill which prohibited an area from being annexed if 70 percent of the land in the area proposed to be annexed is owned by individuals, corporations, or legal entities, unless the owners of more than 50 percent of the land consent to the annexation; and
- Provides that if the area proposed to be annexed does not have any registered electors on the date the ordinance is adopted, or has fewer than five registered electors and such electors do not own property in the area to be annexed on the date the ordinance is adopted, a vote of the electors of the area proposed to be annexed is not required.

B. Amendments:

None.



706732

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Clemens) recommended the following:

Senate Amendment (with title amendment)

Delete lines 14 - 25

and insert:

Section 1. Subsection (6) of section 171.0413, Florida Statutes, is amended to read:

171.0413 Annexation procedures.—Any municipality may annex contiguous, compact, unincorporated territory in the following manner:



706732

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

12 And the title is amended as follows:

13 Delete lines 3 - 7

14 and insert:

15 municipalities; amending s. 171.0413, F.S.;



820292

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Clemens) recommended the following:

Senate Amendment

Delete lines 28 - 29
and insert:
on the date the ordinance is ~~finally~~ adopted, or has fewer than
5 registered electors and such electors do not own property in
the area to be annexed on the date the ordinance is adopted, a
vote of the electors of the area



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Higher Education
Communications, Energy, and Public Utilities
Criminal Justice

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JEFF CLEMENS

Democratic Whip
31st District

March 14, 2017

Senator Tom Lee, Chair
Senate Committee on Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Lee:

I respectfully request that SB 1488—Annexation Procedures for Municipalities be added to the agenda for the next Senate Committee on Community Affairs meeting.

SB 1488 recognizes that property owners currently participating in an involuntary annexation process, permitted by state statute, do not have the ultimate control over their own property when a tenant or other permitted individual registers to vote using the subject property address. This bill remedies this loss of owner control with the involuntary annexation process and establishes that the property owner, who consents to annexation in an involuntary procedure, dictates the future of the property, not the tenant.

Please feel free to contact me with any questions. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Clemens".

Senator Jeff Clemens
Florida Senate District 31

REPLY TO:

☐ 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
☐ 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

1488
Bill Number (if applicable)

Topic Annexation

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757
Street

Phone 701-3476

Tallahassee FL 32302
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By Senator Hukill

14-00059-17

2017484__

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.031, F.S.; reducing the tax levied on rental or license fees charged for the use of real property; making technical changes; providing an effective date.

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

Section 1. Paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, are amended to read:

212.031 Tax on rental or license fee for use of real property.—

(1)

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5 ~~6~~ percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property must ~~shall~~ include payments for the granting of a privilege to use or occupy real property for any purpose and must ~~shall~~ include base rent, percentage rents, or similar charges. Such charges must ~~shall~~ be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor's or licensor's property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. If ~~In the case of~~ a contractual arrangement ~~that~~ provides for ~~both~~ payments that are taxable as total rent or license fee and payments that are not taxable ~~subject to tax~~, the tax shall be based on a reasonable allocation of such

14-00059-17

2017484__

33 payments and does ~~shall~~ not apply to the ~~that~~ portion ~~which is~~
34 for ~~the~~ nontaxable payments.

35 (d) If ~~When~~ the rental or license fee of any such real
36 property is paid by way of property, goods, wares, merchandise,
37 services, or other thing of value, the tax shall be at the rate
38 of 5 ~~6~~ percent of the value of the property, goods, wares,
39 merchandise, services, or other thing of value.

40 Section 2. This act shall take effect January 1, 2018.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 484

INTRODUCER: Senators Hukill and Bean

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.			AFT	
3.			AP	

I. Summary:

SB 484 reduces the tax rate imposed on the rent or license fee charged for the use of commercial property from 6 percent to 5 percent.

II. Present Situation:

The Florida Sales and Use Tax is a 6 percent levy on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles.¹ Since enactment in 1949, Florida's sales tax rate has been modified several times. In 1968, the Legislature increased rates on most items from 3 percent to 4 percent. In 1982, rates were increased from 4 percent to 5 percent. In the 1987 Regular Session, the Legislature passed legislation extending the tax to sales of many services.² During Special Session D in December 1987, the Legislature repealed the recently-enacted service tax and increased the general sales tax rate from 5 percent to 6 percent, the current tax rate.³

Section 212.031, F.S., provides for a tax levied in an amount equal to 6 percent on the total rent or license fee charged for the exercise of the taxable privilege of engaging in the business of renting, leasing, letting, or granting a license for the use of any real property unless the type of property is specifically exempted. Exemptions exist for the following types of property:

- Agricultural assessed property;⁴
- Dwelling units;⁵

¹ Chapter 212, F.S.

² Chapter 87-6, 101, Laws of Fla.

³ Chapter 87-548, Laws of Fla.

⁴ Section 212.031 (1)(a)1, F.S.

⁵ Section 212.031 (1)(a)2, F.S.

- Parking, docking, or storage spaces;⁶
- Recreational property or common elements of a condominium that meet certain conditions;⁷
- Streets or right-of-ways with improvements used by a utility or provider of communications services;⁸
- Public street or road used for transportation services;⁹
- Airport property used exclusively for landing, taxiing, passenger movement or fueling;¹⁰
- Port authority property used exclusively for docking, mooring, passenger movement, or fueling;¹¹
- Property used as an integral part of the performance of qualified production services;¹²
- Property used by concessionaires at certain venues;¹³
- Property declared to be nontaxable pursuant to a Technical Assistance Advisement issued before March 15, 1993;¹⁴ and
- Property used or occupied predominately for space-flight business.¹⁵

In addition to the exemptions specified above, other statutory provisions exempt specific uses of property from sales and use taxes.

- A special provision for air carriers provides for apportionment of the tax on real property rentals used by the carrier for aircraft maintenance.¹⁶
- A limited exemption exists for leases of real property used to provide education services described in s. 212.031 (1)(a)(9), F.S.¹⁷
- Business properties within an enterprise zone are authorized to receive a refund for certain previously paid taxes.¹⁸
- Exemptions exist for religious institutions, Section 501(c)(3) organizations, and fair associations.¹⁹

The 6 percent tax on transient lodging rentals, parking and storage for motor vehicles in parking lots or garages, docking or storage for boats in boat docks or marinas, or tie-down or storage space for aircraft in airports²⁰ is not affected by this bill.

⁶ Section 212.031 (1)(a)3, F.S. Parking, docking and storage facilities for boats, and tie-down or storage space for aircraft at airports is taxable under s. 212.03(6), F.S.

⁷ Section 212.031 (1)(a)4, F.S.

⁸ Section 212.031 (1)(a)5, F.S.

⁹ Section 212.031 (1)(a)6, F.S.

¹⁰ Section 212.031 (1)(a)7, F.S.

¹¹ Section 212.031 (1)(a)8, F.S.

¹² Section 212.031 (1)(a)9, F.S.

¹³ Section 212.031 (1)(a)10, F.S.

¹⁴ Section 212.031 (1)(a)11, F.S. This exemption applied to a limited number of situations that existed before April 1993 and is not available to new lease contracts.

¹⁵ Section 212.031 (1)(a)12, F.S.

¹⁶ Section 212.0598, F.S.

¹⁷ Section 212.0602, F.S.

¹⁸ Section 212.08(5)(h), F.S.

¹⁹ Sections 212.08(7)(m),(p),and (gg), F.S.

²⁰ Section 212.03(1) and (6), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 212.031(1)(c) and (d), F.S., to reduce the tax rate imposed on the rent or license fees charged for the use of commercial property from 6 percent to 5 percent.

Section 2 provides an effective date of January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference analysis of the bill finds it will reduce sales and use tax revenue by \$125.9 million in Fiscal Year 2017-2018 and \$302.2 million on a recurring basis.²¹ It decreases General Revenue and local revenue by \$267.6 million and \$34.6 million, respectively, on a recurring basis. In Fiscal Year 2017-2018, the bill reduces General Revenue by \$111.5 million and local revenue by \$14.4 million.²²

B. Private Sector Impact:

Landlords and tenants will benefit from a reduction in the tax on commercial rentals. A 2014 study, “The Economic Impact of Sales Tax on the Rental of Real Property,” found that “since the leasing market has demonstrated a history of growth and manageable vacancies over the long run, it is unlikely on its face that the rental tax had materially driven a significant number of the economic actors into other paths.”²³ The report analyzed the impact of a total repeal of the tax on commercial rentals and concluded that “property owners would likely gain the greatest benefit from eliminating the tax (on commercial rentals), but this effect would be masked for a period of at least 3 to 5 years

²¹ Office of Economic and Demographic Research, Revenue Estimating Conference, SB 484, p. 260, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/Impact0303.pdf> (analyzed March 3, 2017).

²² *Id.*

²³ Office of Economic and Demographic Research, The Florida Legislature, p. 3, available at <http://edr.state.fl.us/Content/returnoninvestment/SalesTaxontheRentalofRealProperty.pdf> (Nov. 15, 2014).

by the length of existing contracts.”²⁴ The report adds “A straight reduction in the tax rate is analyzed in the same manner as complete elimination.”²⁵

C. Government Sector Impact:

See Tax/Fee Issues above.

In its analysis, the Department of Revenue provided that if the bill passes, the department will have \$56,465 in nonrecurring expenditures for the 2017-2018 fiscal year.²⁶ The costs include the mailing of a Tax Information Publication (TIP) notifying approximately 146,000 taxpayers of the sales and use tax exemption to notify them of the change in the sales tax rate collected on the commercial rental of real property.²⁷ The estimated cost for this TIP is \$49,000, but it is nonrecurring.²⁸ Furthermore, the costs will include a nonrecurring \$7,465 expenditure to modify the sales use tax website application and make the necessary modifications to the SUNTAX system.²⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.031 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

²⁴ *Id.* p. 5.

²⁵ *Id.*

²⁶ Department of Revenue, Legislative Bill Analysis for SB 484, p. 5 (analyzed February 20, 2017)

²⁷ *Id.* at 6

²⁸ *Id.*

²⁹ *Id.*



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Regulated Industries, *Vice Chair*
Appropriations Subcommittee on the Environment
and Natural Resources
Health Policy
Transportation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
14th District

March 16, 2017

The Honorable Tom Lee
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 484 – Tax on Sales, Use, and Other Transactions (Commercial Lease Sales Tax Reduction)

Dear Chairman Lee:

Senate Bill 484, relating to Tax on Sales, Use, and Other Transactions has been referred to the Community Affairs Committee. I am requesting your consideration on placing SB 484 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

Dorothy L. Hukill, District 14

cc: Tom Yeatman, Staff Director of the Community Affairs Committee
Ann Whittaker, Administrative Assistant of the Community Affairs Committee

REPLY TO:

- ☐ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- ☐ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17

Meeting Date

484

Bill Number (if applicable)

Topic Sales Tax on Commercial Leases

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Senior Legislative Advocate

Address PO Box 1757

Street

Tallahassee, FL 32302

City

State

Zip

Phone 813-777-4783

Email ahughes@floridaleague.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17

Meeting Date

484

Bill Number (if applicable)

Topic Sales tax on commercial leases and rents

Amendment Barcode (if applicable)

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough St

Phone 222-5052

Street

Tallahassee

FL

32301

City

State

Zip

Email kwenner@floridataxwatch.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida TaxWatch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

484
Bill Number (if applicable) _____

Topic TAX ON Business Rent

Amendment Barcode (if applicable) _____

Name CHRISTOPHER EMMANUEL

Job Title POLICY DIRECTOR

Address 136 S BRONOUGH
Street

Phone _____

TLH FL 32301
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17
Meeting Date

484
Bill Number (if applicable)

Topic TAX ON SALES USE & OTHER TRANSACTIONS

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title

Address 1625 SUMMIT LAKE DR, STE 300

Phone 850 402 2954

Street

TALLAHASSEE

FL

32317

City

State

Zip

Email nancy@nstephens.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing MANUFACTURERS ASSOCIATION OF FLORIDA
AND FLORIDA POULTRY FEDERATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 3, 2017

Meeting Date

484

Bill Number (if applicable)

Topic Tax on Sales, Use, and Other Transactions

Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title Vice President

Address 227 S Adams St

Phone (850) 222-4082

Street

Tallahassee

FL

32301

Email Melissa@FRF.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017

Meeting Date

484

Bill Number (if applicable)

Topic Tax on Sales, Use, and Other Transactions

Amendment Barcode (if applicable)

Name Danielle Scoggins

Job Title Sr. Public Policy Representative

Address 200 South Monroe Street

Phone 8502241400

Street

Tallahassee

Florida

32301

Email danielles@floridarealtors.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

484
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable) _____

Name Andrew Hasek

Job Title Policy Analyst

Address 200 W College Ave

Phone _____

Street

Tallahassee

City

FL

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

484

Bill Number (if applicable)

Topic Sales tax on commercial leases

Amendment Barcode (if applicable)

Name H Lee Moffitt

Job Title Attorney

Address 3327 NW Perimeter Road

Phone 813 760-5712

Street

Palm City

FL

34990

Email MrSpeaker@aol.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing BOMA - Building Owners and Managers Assoc of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

By the Committee on Banking and Insurance; and Senator Brandes

597-01936-17

2017420c1

A bill to be entitled

An act relating to flood insurance; amending s. 627.0628, F.S.; revising the intervals at which specified standards and guidelines for projecting certain rate filings must be revised by the Florida Commission on Hurricane Loss Projection Methodology; amending s. 627.715, F.S.; authorizing certain insurers to issue insurance policies, contracts, or endorsements providing certain excess coverage for the peril of flood; revising applicability; authorizing an insurer to issue flood insurance policies on a flexible basis; extending the last date of filing with the Office of Insurance Regulation of certain flood coverage rates that may be established and used by an insurer; specifying a condition for an eligible surplus lines insurer before a surplus lines agent may be excepted from a diligent-effort requirement when exporting flood insurance contracts or endorsements to the insurer; deleting the expiration date of the exception; revising applicability of certain notification and filing requirements; revising provisions related to an acknowledgment required before the procurement of a private flood insurance policy for property currently insured under the National Flood Insurance Program; providing an effective date.

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

597-01936-17

2017420c1

Section 1. Paragraph (f) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(f) The commission shall revise previously adopted actuarial methods, principles, standards, models, or output ranges every odd-numbered year for hurricane loss projections. The commission shall revise previously adopted actuarial methods, principles, standards, models, or output ranges no less than every 4 years for flood loss projections.

Section 2. Section 627.715, Florida Statutes, is amended to read:

627.715 Flood insurance.—An authorized insurer may issue an insurance policy, contract, or endorsement providing personal lines residential coverage for the peril of flood or excess coverage for the peril of flood on any structure or the contents of personal property contained therein, subject to this section. This section does not apply to commercial lines residential or commercial lines nonresidential coverage for the peril of flood. ~~This section also does not apply to coverage for the peril of flood that is excess coverage over any other insurance covering the peril of flood.~~ An insurer may issue flood insurance policies, contracts, or endorsements on a standard, preferred, customized, flexible, or supplemental basis.

(1)(a) Except for excess flood insurance policies, policies issued under this section include:

1. Standard flood insurance, which must cover only losses

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2017420c1

59 from the peril of flood, as defined in paragraph (b), equivalent
60 to that provided under a standard flood insurance policy under
61 the National Flood Insurance Program. Standard flood insurance
62 issued under this section must provide the same coverage,
63 including deductibles and adjustment of losses, as that provided
64 under a standard flood insurance policy under the National Flood
65 Insurance Program.

66 2. Preferred flood insurance, which must include the same
67 coverage as standard flood insurance but:

68 a. Include, within the definition of "flood," losses from
69 water intrusion originating from outside the structure that are
70 not otherwise covered under the definition of "flood" provided
71 in paragraph (b).

72 b. Include coverage for additional living expenses.

73 c. Require that any loss under personal property or
74 contents coverage that is repaired or replaced be adjusted only
75 on the basis of replacement costs up to the policy limits.

76 3. Customized flood insurance, which must include coverage
77 that is broader than the coverage provided under standard flood
78 insurance.

79 4. Flexible flood insurance, which must cover losses from
80 the peril of flood, as defined in paragraph (b), and may also
81 include coverage for losses from water intrusion originating
82 from outside the structure which is not otherwise covered by the
83 definition of flood. Flexible flood insurance must include one
84 or more of the following provisions:

85 a. An agreement between the insurer and the insured that
86 the flood coverage is in a specified amount, such as coverage
87 that is limited to the total amount of each outstanding mortgage

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2017420c1

applicable to the covered property.

b. A requirement for a deductible in an amount authorized under s. 627.701, including a deductible in an amount authorized for hurricanes.

c. A requirement that flood loss to a dwelling be adjusted in accordance with s. 627.7011(3) or adjusted only on the basis of the actual cash value of the property.

d. A restriction limiting flood coverage to the principal building defined in the policy.

e. A provision including or excluding coverage for additional living expenses.

f. A provision excluding coverage for personal property or contents as to the peril of flood.

5. Supplemental flood insurance, which may provide coverage designed to supplement a flood policy obtained from the National Flood Insurance Program or from an insurer issuing standard or preferred flood insurance pursuant to this section. Supplemental flood insurance may provide, but need not be limited to, coverage for jewelry, art, deductibles, and additional living expenses.

(b) "Flood" means a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties, at least one of which is the policyholder's property, from:

1. Overflow of inland or tidal waters;
2. Unusual and rapid accumulation or runoff of surface waters from any source;
3. Mudflow; or
4. Collapse or subsidence of land along the shore of a lake

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2017420c1

117 or similar body of water as a result of erosion or undermining
118 caused by waves or currents of water exceeding anticipated
119 cyclical levels that result in a flood as defined in this
120 paragraph.

121 (2) Flood coverage deductibles and policy limits pursuant
122 to this section must be prominently noted on the policy
123 declarations page or face page.

124 (3)(a) An insurer may establish and use flood coverage
125 rates in accordance with the rate standards provided in s.
126 627.062.

127 (b) For flood coverage rates filed with the office before
128 October 1, 2025 ~~2019~~, the insurer may also establish and use
129 such rates in accordance with the rates, rating schedules, or
130 rating manuals filed by the insurer with the office which allow
131 the insurer a reasonable rate of return on flood coverage
132 written in this state. Flood coverage rates established pursuant
133 to this paragraph are not subject to s. 627.062(2)(a) and (f).
134 An insurer shall notify the office of any change to such rates
135 within 30 days after the effective date of the change. The
136 notice must include the name of the insurer and the average
137 statewide percentage change in rates. Actuarial data with regard
138 to such rates for flood coverage must be maintained by the
139 insurer for 2 years after the effective date of such rate change
140 and is subject to examination by the office. The office may
141 require the insurer to incur the costs associated with an
142 examination. Upon examination, the office, in accordance with
143 generally accepted and reasonable actuarial techniques, shall
144 consider the rate factors in s. 627.062(2)(b), (c), and (d), and
145 the standards in s. 627.062(2)(e), to determine if the rate is

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2017420c1

excessive, inadequate, or unfairly discriminatory. If the office determines that a rate is excessive or unfairly discriminatory, the office shall require the insurer to provide appropriate credit to affected insureds or an appropriate refund to affected insureds who no longer receive coverage from the insurer.

(4) A surplus lines agent may export a contract or endorsement providing flood coverage to an eligible surplus lines insurer without making a diligent effort to seek such coverage from three or more authorized insurers under s. 626.916(1) if the surplus lines insurer maintains a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the office ~~s. 626.916(1)(a). This subsection expires July 1, 2017.~~

(5) In addition to any other applicable requirements, an insurer providing flood coverage that is not excess coverage in this state must:

(a) Notify the office at least 30 days before writing flood insurance in this state; and

(b) File a plan of operation and financial projections or revisions to such plan, as applicable, with the office.

(6) Citizens Property Insurance Corporation may not provide insurance for the peril of flood.

(7) The Florida Hurricane Catastrophe Fund may not provide reimbursement for losses proximately caused by the peril of flood, including losses that occur during a covered event as defined in s. 215.555(2)(b).

(8) When procuring a private flood insurance policy from an authorized insurer or a surplus lines insurer for a property that is currently insured under the National Flood Insurance

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2017420c1

175 Program, an agent must receive an acknowledgment signed by the
176 applicant within 20 days before the expiration date of the
177 current coverage. The acknowledgment must notify the applicant
178 that the full risk rate for flood insurance may apply to the
179 property if such insurance is later obtained under the National
180 Flood Insurance Program. If the agent does not receive the
181 acknowledgment, the private flood insurance policy must be
182 canceled and the premium must be remitted to a participant in
183 the National Flood Insurance Program ~~An agent must, upon~~
184 ~~receiving an application for flood coverage from an authorized~~
185 ~~or surplus lines insurer for a property receiving flood~~
186 ~~insurance under the National Flood Insurance Program, obtain an~~
187 ~~acknowledgment signed by the applicant before placing the~~
188 ~~coverage with the authorized or surplus lines insurer. The~~
189 ~~acknowledgment must notify the applicant that, if the applicant~~
190 ~~discontinues coverage under the National Flood Insurance Program~~
191 ~~which is provided at a subsidized rate, the full risk rate for~~
192 ~~flood insurance may apply to the property if the applicant later~~
193 ~~seeks to reinstate coverage under the program.~~

194 (9) With respect to the regulation of flood coverage
195 written in this state by authorized insurers, this section
196 supersedes any other provision in the Florida Insurance Code in
197 the event of a conflict.

198 (10) If federal law or rule requires a certification by a
199 state insurance regulatory official as a condition of qualifying
200 for private flood insurance or disaster assistance, the
201 Commissioner of Insurance Regulation may provide the
202 certification, and such certification is not subject to review
203 under chapter 120.

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2017420c1

204 (11) (a) An authorized insurer offering flood insurance may
205 request the office to certify that a policy, contract, or
206 endorsement provides coverage for the peril of flood which
207 equals or exceeds the flood coverage offered by the National
208 Flood Insurance Program. To be eligible for certification, such
209 policy, contract, or endorsement must contain a provision
210 stating that it meets the private flood insurance requirements
211 specified in 42 U.S.C. s. 4012a(b) and may not contain any
212 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

213 (b) The authorized insurer or its agent may reference or
214 include a certification under paragraph (a) in advertising or
215 communications with an agent, a lending institution, an insured,
216 or a potential insured only for a policy, contract, or
217 endorsement that is certified under this subsection. The
218 authorized insurer may include a statement that notifies an
219 insured of the certification on the declarations page or other
220 policy documentation related to flood coverage certified under
221 this subsection.

222 (c) An insurer or agent who knowingly misrepresents that a
223 flood policy, contract, or endorsement is certified under this
224 subsection commits an unfair or deceptive act under s. 626.9541.

225 Section 3. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/CS/SB 420

INTRODUCER: Community Affairs Committee; Banking and Insurance Committee; and Senator Brandes

SUBJECT: Flood Insurance

DATE: April 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 420 extends to October 1, 2025, existing law that allows insurers offering private market flood insurance under s. 627.715, F.S., to make rate filings that are not required to be reviewed by the Office of Insurance Regulation (OIR) before implementation of the rate (“file and use” review) or shortly after implementation of the rate (“use and file” review). The bill generally applies s. 627.715, F.S., to excess flood insurance. Excess coverage is exempted from the requirement of s. 627.715(1), F.S., to offer flood insurance on a standard, preferred, customized, flexible, or supplemental basis. The bill allows flood policies to be placed with a surplus lines insurer with a superior financial strength rating without the agent first receiving three declinations from admitted insurers. The bill increases the interval for the Florida Commission on Hurricane Loss Projection Methodology to revise the criteria used in calculating flood loss projection models to 4 years. Lastly, the bill requires an insured currently covered under the National Flood Insurance Program to sign an acknowledgement regarding the risk of being charged a higher rate should they choose to return at a later date.

II. Present Situation:

In 2014, the Legislature passed CS/CS/CS/SB 542, allowing an expedited process for insurers to offer a variety of private flood insurance policies. The bill created s. 627.715, F.S., governing the sale of personal lines, residential flood insurance. The statute does not apply to commercial lines

residential, commercial lines nonresidential, or excess flood insurance. Under this new section, authorized insurers can sell five different types of flood insurance products:

- Standard coverage, which covers only losses from the peril of flood as defined by the National Flood Insurance Program (NFIP). The policy must be the same as coverage offered from the NFIP regarding the definition of flood, coverage, deductibles, and loss adjustment.¹
- Preferred coverage, which includes the same coverage as standard flood insurance and also must cover flood losses caused by water intrusion from outside the structure that are not otherwise covered under the definition of flood, coverage for additional living expenses, and replacement cost coverage for personal property or contents coverage.²
- Customized coverage, which is coverage that is broader than standard flood coverage.³
- Flexible coverage, which has coverage limits at an agreed upon amount, deductibles ranging from \$500 to 10 percent of policy dwelling limits, adjusts dwelling losses on the basis of actual cash value or pursuant to s. 627.7011(3), F.S., restricts coverage to the principal building defined in the policy, excludes additional living expenses coverage, or excludes personal property or contents coverage.⁴
- Supplemental coverage, which supplements an NFIP flood policy or a standard or preferred policy from a private market insurer. Supplemental coverage may provide coverage for jewelry, art, deductibles, and additional living expenses.⁵

The law requires prominent notice on the policy declarations or face page of deductibles and any other limitations on flood coverage or policy limits. Insurance agents that receive a flood insurance application must obtain a signed acknowledgement from the applicant stating that the full risk rate for flood insurance may apply to the property if flood insurance is later obtained under the National Flood Insurance Program.⁶

Under the law an insurer may establish flood rates through the standard process in s. 627.062, F.S. Alternatively, rates filed before October 1, 2019,⁷ may be established through a rate filing with the Office of Insurance Regulation that is not required to be reviewed by the OIR before implementation of the rate (“file and use” review) or shortly after implementation of the rate (“use and file” review). Specifically, the flood rate is exempt from the “file and use” and “use and file” requirements of s. 627.062(2)(a), F.S. Such filings are also exempt from the requirement to provide information necessary to evaluate the company and the reasonableness of the rate. The OIR may, however, examine a rate filing at its discretion. To enable the OIR to conduct such examinations, insurers must maintain actuarial data related to flood coverage for 2 years after the effective date of the rate change. Upon examination, the OIR will use actuarial techniques and the standards of the rating law to determine if the rate is excessive, inadequate or unfairly discriminatory.

¹ s. 627.715(1)(a)1., F.S.

² s. 627.715(1)(a)2., F.S.

³ s. 627.715(1)(a)3., F.S.

⁴ s. 627.715(1)(a)4., F.S.

⁵ s. 627.715(1)(a)5., F.S.

⁶ s. 627.715(8), F.S.

⁷ s. 627.715(3)(b), F.S.

Insurers that write flood coverage must notify the OIR at least 30 days before doing so in this state and file a plan of operation, financial projections, and any such revisions with the OIR.⁸ The law allows surplus lines agents to export flood insurance without making a diligent effort to seek coverage from three or more authorized insurers until July 1, 2017.⁹ Section 627.715(6), F.S., prohibits Citizens Property Insurance Corporation from providing flood insurance.¹⁰ The Florida Hurricane Catastrophe Fund is prohibited from reimbursing flood losses.¹¹ The law allows projected flood losses for personal residential property insurance to be a rating factor. Flood losses may be estimated using a model or straight average of models found reliable by the Florida Commission on Hurricane Loss Projection Methodology.¹²

The law also specifies that the OIR Commissioner may provide a certification required by federal law or rule as a condition of qualifying for private flood insurance or disaster assistance. The certification is not subject to review under ch. 120, F.S.¹³

The National Flood Insurance Program (NFIP)

The NFIP was created by the passage of the National Flood Insurance Act of 1968.¹⁴ The NFIP is administered by Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government. Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.¹⁵

Florida Commission on Hurricane Loss Projection Methodology (Commission)

In 1995, the Legislature established the Commission to serve as an independent body within the State Board of Administration.¹⁶ Section 627.0628, F.S., lists the 12 members who are to make up the Commission. The Commission is to adopt findings on the accuracy or reliability of the methods, standards, principles, models and other means used to project hurricane and flood losses. The Commission sets standards for loss projection methodology and examines the methods employed in proprietary loss models used by private insurers in setting rates to determine whether they meet the Commission's standards. The law requires the Commission to revise previously adopted actuarial methods, principles, standards, models, or output ranges every odd numbered year.¹⁷

⁸ s. 627.715(5), F.S.

⁹ s. 627.715(4), F.S.

¹⁰ s. 627.715(6), F.S.

¹¹ s. 627.715(7), F.S.

¹² s. 627.062(2)(b)12, F.S.

¹³ s. 627.715(10), F.S.

¹⁴ Federal Emergency Management Agency, National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973, <http://www.fema.gov/media-library/assets/documents/7277?id=2216> (last visited March 29, 2017).

¹⁵ Federal Emergency Management Agency, All-Hazard Authorities of the Federal Emergency Management Agency, https://www.fema.gov/media-library-data/20130726-1545-20490-9247/frm_acts.pdf (last visited March 29, 2017).

¹⁶ s. 627.0628, F.S.

¹⁷ s. 627.0628(3)(f), F.S.

III. Effect of Proposed Changes:

The bill requires the Florida Commission on Hurricane Loss Projection Methodology to revise previously adopted actuarial methods, principles, standards, models, or output ranges no less than every 4 years for flood loss projections. Existing law requires revisions no less than every 2 years.

The bill extends from October 1, 2019, to October 1, 2025, the time period during which personal lines residential flood insurance rates may be established through a rate filing with the Office of Insurance Regulation that is not required to be reviewed by the OIR before implementation of the rate (“file and use” review) or shortly after implementation of the rate (“use and file” review). The expedited filing also applies to commercial and commercial residential policies. After 2025, insurers offering private flood insurance will be required to make a complete rate filing with the OIR as required under s. 627.062, F.S.

The bill generally applies s. 627.715, F.S., to excess flood insurance and exempts such coverage for s. 627.715(5), F.S. Excess coverage is exempted from the requirement of s. 627.715(1), F.S., to offer flood insurance on a standard, preferred, customized, flexible, or supplemental basis. Excess coverage generally covers gaps above the NFIP limits and can also be purchased to cover gaps in private flood coverage.

The bill allows flood policies to be placed with a surplus lines insurer with a superior financial strength rating without the agent first receiving three declinations from admitted insurers. This section has a sunset date of July 1, 2022.

The bill prohibits a policy from being removed from the NFIP if the policyholder does not sign an acknowledgment at the time of expiration of the current policy. The acknowledgment provides a warning of the potential rate increase should they choose to return to the NFIP at a later date. A policy must be returned to the NFIP if the assigned agent does not receive this signed acknowledgment from the policyholder. This section has a sunset date of January 1, 2020.

The bill makes a technical correction that clarifies insurers can offer a flexible flood insurance policy as defined in s. 627.715(1)(a)4., F.S.

The effective date of the bill is July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurers can now offer excess flood insurance under s. 627.715, F.S.

The bill requires surplus lines insurers to maintain a superior, excellent, exceptional or equivalent financial strength rating by a rating agency acceptable to the Office before issuing a private flood insurance policy without obtaining three declinations from admitted insurers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.0628 and 627.715.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Community Affairs on April 3, 2017:

- Provides a sunset date for the section that allows flood policies to be placed with a surplus lines insurer with a superior financial strength rating without the agent first receiving three declinations from admitted insurers.
- Provides that a policy is prohibited from being removed from the NFIP if the policyholder does not sign an acknowledgment at the time of expiration of the current policy. There is also a sunset date on this provision of January 1, 2020.

CS by Banking and Insurance on February 21, 2017:

- Includes excess coverage for the peril of flood under s. 627.715, F.S.
- Allows flood insurance to be placed with an eligible surplus lines insurer without making a diligent effort to seek coverage from 3 or more Florida-licensed insurers if the surplus lines insurer has a superior, excellent, exceptional or equivalent financial strength rating by a rating agency acceptable to the Office.

B. Amendments:

None.



601270

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 157 - 183
and insert:
agency acceptable to the office ~~s. 626.916(1)(a)~~. This
subsection expires July 1, 2022 ~~2017~~.

(5) In addition to any other applicable requirements, an
insurer providing flood coverage that is not excess coverage in
this state must:

(a) Notify the office at least 30 days before writing flood



601270

insurance in this state; and

(b) File a plan of operation and financial projections or revisions to such plan, as applicable, with the office.

(6) Citizens Property Insurance Corporation may not provide insurance for the peril of flood.

(7) The Florida Hurricane Catastrophe Fund may not provide reimbursement for losses proximately caused by the peril of flood, including losses that occur during a covered event as defined in s. 215.555(2) (b).

(8) When procuring a private flood insurance policy from an authorized insurer or a surplus lines insurer for a property currently insured under the National Flood Insurance Program, an agent must, at the time of expiration of the current policy, provide a written notice to be signed by the applicant, informing the applicant that the National Flood Insurance Program could apply the full risk rate to the property if flood insurance is later obtained under the National Flood Insurance Program. The agent must receive the signed notice from the applicant within 21 days after expiration of the policy under the National Flood Insurance Program; otherwise, the private flood insurance policy must be canceled and the National Flood Insurance Program policy renewed. This subsection expires January 1, 2020 ~~An agent must, upon~~

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

And the title is amended as follows:

Delete lines 19 - 25

and insert:

the insurer; extending the expiration date of the



601270

40 exception; revising applicability of certain
41 notification and filing requirements; revising a
42 provision relating to a specified notice required
43 before the procurement of a private flood insurance
44 policy for property currently insured under the
45 National Flood Insurance Program; providing an
46 expiration date for the provision; providing an



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Committee on
Community Affairs

Subject: Committee Agenda Request

Date: February 23rd, 2017

I respectfully request that **Senate Bill #420**, relating to **Flood Insurance**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

By the Committee on Regulated Industries; and Senators Steube and Perry

580-02662-17

2017188c1

A bill to be entitled
An act relating to vacation rentals; amending s.
509.032, F.S.; authorizing local laws, ordinances, or
regulations to regulate activities relating to
vacation rentals only if such laws, ordinances, or
regulations apply uniformly to all properties;
providing applicability; providing an effective date.

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

Section 1. Paragraph (b) of subsection (7) of section
509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(7) PREEMPTION AUTHORITY.—

(b) A local law, ordinance, or regulation may regulate activities that arise when a property is used as a vacation rental provided such regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental as defined in s. 509.242 or a long-term rental subject to the provisions of Chapter 83 or whether a property owner chooses not to rent the property. However, a local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rentals of vacation rentals. This paragraph does not apply to any local law, ordinance or regulation adopted on or before June 1, 2011, except when such law, ordinance or regulation is being amended to be less restrictive ~~A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not~~

580-02662-17

2017188c1

~~apply to any local law, ordinance, or regulation adopted on or
before June 1, 2011.~~

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 188

INTRODUCER: Regulated Industries Committee and Senators Steube and Perry

SUBJECT: Vacation Rentals

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	Fav/CS
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	Pre-meeting
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 188 permits a local law, ordinance, or regulation that regulates activities that arise when a property is used as a vacation rental. However, such regulation must apply uniformly to all residential properties without regard to whether the property is used as a vacation rental or a long-term rental under ch. 83, F.S., or is rented by the property owner. The bill retains the current requirement that local governments cannot prohibit vacation rentals or regulate the duration or frequency of vacations rentals. The bill also retains the grandfather provision in current law that exempts from the prohibition any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011, and seeks to also permit a local government to amend a law, ordinance or regulation adopted on or before June 1, 2011, to be less restrictive.

II. Present Situation:

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

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

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

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

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

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

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

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

¹ Section 509.013(4)(a), F.S.

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

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

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

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

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

The 40,341 public lodging establishments licensed by the division are distributed as follows:⁵

- Hotels – 1,834 licenses;
- Motels – 2,609 licenses;
- Nontransient apartments – 17,772 licenses;
- Transient apartments – 981 licenses;
- Bed and Breakfast Inns – 256 licenses;
- Vacation rental condominiums – 4,402 licenses;
- Vacation rental dwellings – 12,539 licenses; and
- Vacation rental timeshare projects- 17 licenses.

² Section 509.242(1), F.S.

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

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

⁵ *Division of Hotels and Restaurants Annual Report for FY 2015-2016*, Department of Business and Professional Regulation. A copy of the report is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2015_16.pdf (Last visited March 22, 2017).

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but transient and nontransient apartments must be inspected at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request by the division.⁶ The division inspects a vacation rental in response to a consumer complaint related to sanitation issues or unlicensed activity. In Fiscal Year 2015-2016, the division received 113 consumer complaints regarding vacation rentals and inspected the vacation rentals.⁷

Preemption

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

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

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.⁸

Legislative History

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

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or
- Regulated vacation rentals based solely on their classification, use, or occupancy.⁹

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.¹⁰

⁶ Section 509.032(2)(a), F.S.

⁷ See *supra* note 5, at 20.

⁸ This exemption relates to the Village of Islamorada. According to a representative for the village, its housing ordinance is regularly amended at the DCA's direction, and without this provision they were concerned that the grandfather provision in s. 509.032(7)(b), F.S., would not be sufficient.

⁹ Chapter 2011-119, Laws of Fla.

¹⁰ *Id.*

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.¹¹ Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited “restrict[ing] the use of vacation rentals” and which prohibited regulating vacation rentals “based solely on their classification, use or occupancy.”¹²

Attorney General Opinion

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.¹³ According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood.” Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, in s. 509.032(7)(b), F.S. The Attorney General concluded that the county’s local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

A second advisory opinion was issued by the Attorney General on November 13, 2014, for the City of Wilton Manors concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals which fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.¹⁴

In addition, the Attorney General issued a third advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed ordinance regarding vacation rentals.¹⁵ The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.¹⁶

III. Effect of Proposed Changes:

The bill amends s. 509.032(7)(b), F.S., to permit a local law, ordinance, or regulation that regulates activities that arise when a property is used as a vacation rental. However, such regulation must apply uniformly to all residential properties without regard to whether the

¹¹ Chapter 2014-71, Laws of Fla.; codified in s. 509.032(7)(b), F.S.

¹² *Id.*

¹³ Florida Attorney General, Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding “Vacation Rental Operation-Local Ordinances,” dated October 22, 2013.

¹⁴ Florida Attorney General, AGO 2014-09, Vacation Rentals - Municipalities - Land Use, November 13, 2014, available at: <http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E>. (last visited March 29, 2017).

¹⁵ Florida Attorney General, AGO 2016-12, Municipalities - Vacation Rentals - Zoning, October 5, 2016, available at: <http://www.myfloridalegal.com/ago.nsf/printview/3AF7050D48068C10852580440051386C> (last visited March 29, 2017).

¹⁶ *Id.*

property is used as a vacation rental or a long-term rental under ch. 83, F.S.,¹⁷ or is rented by the property owner. The bill retains the current requirement that local governments cannot prohibit vacation rentals or regulate the duration or frequency of vacations rentals.

The bill also retains the grandfather provision in current law that exempts from the preemption any local law, ordinance, or regulation that was adopted by a local government on or before June 1, 2011, and seeks to also permit a local government to amend a law, ordinance or regulation adopted on or before June 1, 2011, to be less restrictive.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill retains the grandfather provision in s. 509.032(7)(b), F.S., that exempts from the preemption in this paragraph any local law, ordinance, or regulation that was adopted by a local government on or before June 1, 2011, and seeks to permit a local government to amend a law, ordinance or regulation adopted on or before June 1, 2011.

¹⁷ Part II, of ch. 83, F.S., which relates to the rental of residential dwellings, does not define the term “long-term rental.”

As written, the bill language at line 26 provides that the grandfather clause applies “*except when*” the grandfathered law, ordinance, or regulation is amended to be less restrictive. Consideration should be given to replacing the text at lines 26-27 of the bill with “including any amendment of such law, ordinance, or regulation to be less restrictive.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 509.032 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Regulated Industries Committee on March 21, 2017:

- Permits a local law, ordinance, or regulation that regulates activities that arise when a property is used as a vacation rental. However, such regulation must apply uniformly to all residential properties without regard to whether the property is used as a vacation rental or a long-term rental under ch. 83, F.S., or is rented by the property owner.
- Removes from the bill a prohibition against a local law, ordinance, or regulation that restricts the use, prohibits, or regulates vacation rentals based solely on their classification, use, or occupancy.
- Retains the current requirement that local governments cannot prohibit vacation rentals or regulate the duration or frequency of vacations rentals.
- Retains the grandfather provision in current law that exempts from the preemption any local law, ordinance, or regulation that was adopted by a local government on or before June 1, 2011, and seeks to also permit a local government to amend a law, ordinance or regulation adopted on or before June 1, 2011, to be less restrictive. See Section VI, Technical Deficiencies.

B. Amendments:

None.



112524

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete line 21
and insert:
property owner chooses not to rent the property. A local law, ordinance, or regulation may require that a copy of the vacation rental license required under chapter 509, a copy of the certificate of registration required under s. 212.18, and an emergency contact telephone number be submitted to the local jurisdiction. Such law, ordinance, or regulation may not impose



112524

a fee for this submission. The submission is for informational
purposes only and cannot be used as an enforcement mechanism by
the local jurisdiction. A

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

And the title is amended as follows:

Delete line 6

and insert:

regulations apply uniformly to all properties;
authorizing local governments to require copies of a
vacation rental license, certificate of registration,
and an emergency contact; prohibiting the assessment
of a fee for such submissions;



314494

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/04/2017	.	
	.	
	.	
	.	

The Committee on Community Affairs (Lee) recommended the following:

Senate Amendment to Amendment (112524)

Delete lines 11 - 13
and insert:
a fee for this submission. A



736436

LEGISLATIVE ACTION

Senate

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.

House

The Committee on Community Affairs (Steube) recommended the following:

Senate Amendment

Delete lines 26 - 27

and insert:

except when such law, ordinance, or regulation:

1. Is being amended to be less restrictive; or

2. Applies to a vacation rental owned, in whole or in part,
by a person who is activated, deployed, or temporarily assigned
to military service ~~A local law, ordinance, or regulation may~~



703600

LEGISLATIVE ACTION

Senate

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House

The Committee on Community Affairs (Steube) recommended the following:

Senate Substitute for Amendment (736436)

Delete lines 26 - 27

and insert:

including any amendment to such law, ordinance or regulation or regulation to:

1. Make it less restrictive; or

2. Reduce local regulatory burdens on vacation rentals owned, in whole or in part, by a person who is currently serving on active duty or temporary duty in a branch of the United



703600

11 States Armed Services or owned by a disabled veteran with a
12 service-connected evaluation of such disability of 30 percent or
13 more, according to the United States Department of Veteran
14 Affairs ~~A local law, ordinance, or regulation may~~



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

March 21, 2017

The Honorable Tom Lee
Florida Senate
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Lee,

I am writing this letter because my bill, SB 188 Vacation Rentals, has been referred to the Senate Community Affairs Committee. This bill passed the Senate Regulated Industry Committee on March 21. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in blue ink, appearing to read "W. Gregory Steube".

W. Gregory Steube, District 23

REPLY TO:

- ☐ 722 Apex Road, Unit A, Sarasota, Florida 34240 (941)342-9162
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

188
Bill Number (if applicable)

703600
Amendment Barcode (if applicable)

Topic _____

Name Casey Cook

Job Title Senior Legislative Advocate

Address PO Box 1757
Street

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

April 3, 2017

Meeting Date

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

SB 188

Bill Number (if applicable)

112524

Amendment Barcode (if applicable)

Topic Vacation Rentals

Name Cari Roth

Job Title _____

Address 215 S. Monroe Street, Suite 815

Street

Tallahassee

City

FL

State

32303

Zip

Phone 850.999.4100

Email croth@deanmead.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of Holmes Beach

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17

Meeting Date

188

Bill Number (if applicable)

112524

Amendment Barcode (if applicable)

Topic _____

Name Casey Cook

Job Title Senior Legislative Advocate

Address PO Box 1757

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850 701 3701

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17

Meeting Date

SB 188

Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name AMY TRIPP

Job Title CONSTITUENT

Address 750 North Shore Drive
Street

Phone 1-941-705-4488

Anna Maria FL 34216
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

April 3, 2017

Meeting Date

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

SB 188

Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name Cari Roth

Job Title _____

Address 215 S. Monroe Street, Suite 815

Phone 850.999.4100

Street

Tallahassee

FL

32303

Email croth@deanmead.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of Holmes Beach

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

188

Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name JENNIFER GREEN

Job Title _____

Address 113 E. COLLEGE AVE.
Street

Phone 841-1726

TUL FL 32301
City State Zip

Email JENNIFER@LIBERTYPARTNERS
FL.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing HOME AWAY, INC.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

188

Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name LORI KILLINGER

Job Title Attorney/lobbyist

Address 315 S. Calhoun St

Phone PSD 222 5702

Street

Tallahassee

City

FL

State

32301

Zip

Email lkilling@lw-law.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA VACATION RENTAL MANAGERS ASSOC.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17
Meeting Date

188
Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name Diana Arteaga

Job Title Director of Govt Relations

Address 444 SW 2nd Ave, 10th floor
Street
Miami FL 33130
City State Zip

Phone 786-469-1644

Email darteaga@miamigov.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of Miami

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

188
Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable) _____

Name LARRY SANSON

Job Title _____

Address PO Box 700

Phone 321-277-8130

Street

Cocoa

FL

32923

City

State

Zip

Email FISHAWK@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing CITIZENS of Melbourne, Cocoa, Rockledge, Cape Canaveral

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 13, 2017

Meeting Date

188

Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name Jessica Fernandez

Job Title

Address 1674 Meridian Avenue Suite 420 Phone 305-785-5489

Street

Miami Beach

FL

33139

City

State

Zip

Email jessica@qicadvisory.co

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Greater Miami - the Beaches Hotel Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 3, 2017
Meeting Date

188
Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name Armando Ibarra

Job Title _____

Address 1674 Meridian Ave suite 420
Street

Phone 786-514-2965

Miami Beach FL 33139
City State Zip

Email armando@aiadvisory.co

Speaking: ☒ For ☒ Against ☐ Information

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

Representing Greater Miami & the Beaches Hotel Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

188
Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name BRIAN BAUTISTA

Job Title LOBBYIST

Address 123 SOUTH ADAMS ST
Street

Phone 850-570-3016

TALLAHASSEE FL 32301
City State Zip

Email bautista@igr.solutions

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AIRBNB

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

128

Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Job Title _____

Address P.O. Box 2020
Street

Phone 727.421.6902

St. Petersburg FL 33731
City State Zip

Email travis@moore-relations.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Ocean Hammock Property Owners Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 3, 2017
Meeting Date

SB 188
Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name RICHARD TURNER

Job Title GEN COUNSEL : V.P. GOVERNMENTAL RELATIONS

Address 230 S. ADAMS ST
Street

Phone 850. 224. 2250

TALLAHASSEE FL 32301
City State Zip

Email rturner@fla.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA RESTAURANT & LODGING ASSOC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17
Meeting Date

CS/53188
Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name AL HADEED

Job Title COUNTY ATTORNEY, FLORIDA COUNTY

Address 1768 E MOORE BLVD. #2
Street
BURKE FL 32110
City State Zip

Phone 386-313-4005

Email ahadeed@floridacounty.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA COUNTY BOARD OF CO. COMM'RS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4/3/2017

Meeting Date

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

188

Bill Number (if applicable)

Topic VACATION Rentals

Amendment Barcode (if applicable)

Name DAWN PARDO

Job Title Council woman

Address 600 W Blue Heron Blvd

Phone 561 8453683

Street

Riviera Beach FL 33404

Email dpardo@riviera

City

State

Zip

bch.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of Riviera Beach

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

188
Bill Number (if applicable)

Topic SB 188 - Vacation Rental Pre-emption

Amendment Barcode (if applicable) _____

Name Troy Flanagan

Job Title VP, State Government Affairs

Address 310 Escambia St.

Phone 202-285-4371
~~202-285-4371~~

Fernandina Beach FL 32034
City State Zip

Email ~~ss@carden~~
tflanagan@ahla.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing American Hotel & Lodging Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

188
Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name ERIC POOLE

Job Title Asst. Leg Dir.

Address 100 Munroe
Street

Phone 922-4300

T-11 FL
City State Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Association Counties

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/3/17

Meeting Date

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

188

Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name Andy Gonzalez

Job Title Public Policy Rep

Address 200 N. Monroe St

Phone -

Tallahassee

City

FL

State

32308

Zip

Email andy@floridarealtors.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

April 3, 2017

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

188

Meeting Date

Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name Edgar G. Fernandez

Job Title _____

Address 201 W. Park Avenue, Suite 100

Phone 786 255 5755

Street

Tallahassee

FL

32301

Email edgar@anfieldflorida.com

City

State

Zip

Speaking: For Against Information

Waive Speaking

In Support

Against

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

Representing Indian River County

Appearing at request of Chair: Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-2017
Meeting Date

188
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E College Ave # 1200

Phone _____

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

City of Lake Worth

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

SBO188

Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSIST COUNTY ATTORNEY

Address 111 NW 1ST STREET

Street

MIAMI

City

FL

State

33128

Zip

Phone 305 375 5600

Email JM12@MIAMIDADE.GOV

Speaking: ☐ For ☐ Against ☐ Information

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

Representing MIAMI DADE COUNTY

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

SB 188

Bill Number (if applicable)

Topic Vacation Rentals - SB 188

Amendment Barcode (if applicable)

Name Kathleen Russell

Job Title Governmental Affairs

Address 400 S Orange Ave
Street

Phone (407) 383-2075

Orlando
City

FL
State

32802
Zip

Email Kathleen.Russell@cityoforlando.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing City of Orlando

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

188
Bill Number (if applicable)

Topic VACATION RENTALS

Amendment Barcode (if applicable)

Name CHRISTOPHER EMMANUEL

Job Title POLICY DIRECTOR

Address 136 S BROWARD
Street

Phone

TLH FL 32801
City State Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

188
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Policy Analyst

Address 200 W College Ave

Phone _____

Street

Tallahassee FL

City

State

Zip

Email ahosek@afphq.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

188

Bill Number (if applicable)

Topic Vacation Rentals

Amendment Barcode (if applicable)

Name Casey Cook

Job Title Senior Legislative Advocate

Address PO Box 1757
Street

Phone 850 701 3701

Tallahassee
City

FL
State

32302
Zip

Email ccook@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 301 **Case No.:**
Caption: Senate Committee on Community Affairs

Type:
Judge:

Started: 4/3/2017 4:10:26 PM
Ends: 4/3/2017 6:00:59 PM **Length:** 01:50:34

4:10:27 PM Meeting called to order
4:10:33 PM Roll call
4:10:37 PM Quorum present
4:10:50 PM Tab 2
4:11:01 PM Senator Montford on SB 36
4:12:21 PM Questions?
4:12:31 PM Debate?
4:12:43 PM Senator Montford closes on SB 36
4:12:59 PM SB 36 reported favorably
4:13:03 PM Tab 3
4:13:20 PM Senator Montford on SB 42
4:13:53 PM Questions?
4:14:12 PM Senator Montford closes on SB 42
4:14:30 PM SB 42 reported favorably
4:14:56 PM Tab 1
4:15:04 PM Senator Latvala on SB 1402
4:15:30 PM Amendment barcode 266362
4:16:59 PM Questions?
4:17:06 PM Back on bill as amended
4:17:14 PM Debate?
4:17:25 PM Senator Latvala closes on SB 1402
4:17:34 PM SB 1402 reported favorably
4:18:10 PM Senator Lee turns the chair over to Senator Clemens
4:18:16 PM Tab 7
4:18:29 PM Senator Lee on SB 1770
4:21:42 PM Rodriguez on amendment 544476
4:22:33 PM Bill Peebles, Florida Redevelopment Association
4:25:07 PM Amendment 544476 adopted
4:25:29 PM Senator Rodriguez on Amendment 766500
4:26:57 PM Amendment to the amendment barcode 135856 by Senator Rodriguez
4:27:04 PM Questions?
4:27:19 PM Debate?
4:27:33 PM Amendment passes
4:27:56 PM Back on the original amendment
4:28:05 PM David Cruz, Florida League of Cities
4:29:41 PM Bill Peebles, Florida Redevelopment Association
4:30:22 PM Debate?
4:30:26 PM Senator Brandes
4:30:56 PM Chair Lee
4:31:33 PM Other debate?
4:31:37 PM Senator Clemens
4:32:12 PM Senator Rodriguez closes on the amendment
4:32:46 PM Vote on amended amendment 766500
4:33:15 PM Amendment fails
4:33:34 PM Senator Rodriguez on amendment 139294
4:34:12 PM Questions?
4:34:16 PM Senator Clemens
4:34:57 PM David Cruz, Florida League of Cities
4:35:29 PM Debate?
4:35:37 PM Senator Clemens
4:35:52 PM Senator Simmons
4:36:52 PM Senator Clemens

4:38:22 PM	Senator Rodriguez
4:38:30 PM	Questions?
4:38:39 PM	Debate?
4:38:42 PM	Chair Lee
4:39:52 PM	Senator Rodriguez closes on amendment barcode 139294
4:39:59 PM	Amendment is adopted
4:40:14 PM	Amendment barcode 922728 by Senator Rodriguez
4:40:44 PM	Questions?
4:40:51 PM	Debate?
4:40:58 PM	Senator Clemens
4:41:12 PM	Senator Rodriguez closes on the amendment
4:41:18 PM	Amendment is adopted
4:41:31 PM	Amendment barcode 452384 by Senator Lee
4:42:23 PM	Questions?
4:42:30 PM	Appearance forms?
4:42:46 PM	Thomas Hawkins, 1000 Friends of Florida
4:43:20 PM	John A. Titkanich, Jr., City of Cocoa
4:45:21 PM	Senator Clemens
4:46:06 PM	Debate?
4:46:11 PM	Senator Clemens
4:46:37 PM	Chair Lee closes on amendment 452384
4:46:43 PM	Amendment is adopted
4:46:52 PM	Amendment barcode 341286
4:47:15 PM	Questions?
4:47:18 PM	Debate?
4:47:26 PM	Amendment is adopted
4:47:45 PM	Amendment barcode 818196 by Chair Lee
4:47:50 PM	Amendment is adopted
4:47:56 PM	Back on the bill as amended
4:48:01 PM	Questions?
4:48:13 PM	Senator Simmons
4:48:40 PM	Chair Lee
4:49:10 PM	Senator Campbell
4:51:18 PM	Chair Lee
4:52:02 PM	Senator Clemens
4:52:42 PM	Appearance forms?
4:53:08 PM	Diana Arteaga, City of Miami
4:53:59 PM	Bill Peebles, Florida Redevelopment Association
4:55:05 PM	John A. Tikanich, Jr., City of Cocoa
5:00:19 PM	Thomas Hawkins, 1000 Friends of Florida
5:01:55 PM	David Cruz, Florida League of Cities
5:02:46 PM	David Siegerson, City of Margate
5:03:15 PM	Kathleen Russell, City of Orlando
5:03:35 PM	Dale Young, Reagan Clubs Inc.
5:06:25 PM	Sally Everett, City of Pittsburg
5:06:40 PM	Dawn Partin, City of West Palm Beach
5:07:15 PM	Chair Lee closes on SB 1770
5:09:25 PM	Roll call on SB 1770
5:09:54 PM	SB 1770 reported favorably
5:10:03 PM	Tab 9
5:10:10 PM	Senator Simmons on SB 1470
5:10:30 PM	Questions?
5:10:35 PM	Appearance forms?
5:10:58 PM	Jennifer Berthiavme, Florida Housing Finance Corporation
5:11:08 PM	Senator Simmons closes on SB 1470
5:11:13 PM	Roll call on SB 1470
5:11:21 PM	SB 1470 is reported favorably
5:11:23 PM	Tab 12
5:11:49 PM	SB 484 by Senator Hukill
5:11:56 PM	Senator Bean on SB 484
5:12:15 PM	Questions?
5:12:23 PM	Appearance forms?

5:12:33 PM Amber Hughes, Florida League of Cities
5:13:07 PM Kurt Wenner, Florida Taxwatch
5:14:15 PM H Lee Moffitt, Building Owners and Managers Association of Florida
5:14:17 PM Andrew Hasek, Americans for Prosperity
5:14:20 PM Danielle Scoggins, Florida Realtors
5:14:28 PM Melissa Ramba, Florida Retail Federation
5:14:50 PM Nancy Stephens, Manufacturers Association of Florida
5:14:59 PM Christopher Emmanuel, Florida Chamber of Commerce
5:15:09 PM Back on the bill
5:15:12 PM Debate?
5:15:16 PM Senator Clemens
5:16:13 PM Senator Brandes
5:16:17 PM Senator Rodriguez
5:16:45 PM Senator Campbell
5:17:39 PM Senator Bean closes on SB 484
5:18:11 PM SB 484 is reported favorably
5:18:45 PM Tab13
5:18:55 PM Senator Brandes on SB 420
5:19:13 PM Amendment barcode 601270
5:19:56 PM Questions?
5:20:02 PM Amendment is adopted
5:20:07 PM Back on bill as amended
5:20:10 PM Debate?
5:20:14 PM Senator Clemens
5:20:21 PM Senator Brandes closes on SB 420
5:20:27 PM Roll call on SB 420
5:20:34 PM SB 420 is reported favorably
5:20:56 PM Tab 10
5:21:03 PM Senator Perry on SB 940
5:22:26 PM Questions?
5:22:31 PM Appearance forms?
5:22:56 PM Bill Hunter, Association of Community Developers Inc.
5:23:20 PM David Cruz, Florida League of Cities
5:24:18 PM Phil Leary, Alachua County Farm Bureau
5:24:58 PM Carol Bowen, Associated Builders of Contractors
5:25:11 PM Thomas Hawkins, 1000 Friends of Florida
5:28:26 PM Senator Clemens turns the chair back over to Chair Lee
5:28:31 PM Chair Lee resumes the chair
5:28:39 PM Dan Peterson, James Madison Institute
5:28:50 PM Rusty Payton, Florida Home Builders Association
5:29:01 PM Debate?
5:29:15 PM Senator Perry closes on SB 940
5:30:13 PM Roll call on SB 940
5:30:29 PM SB 940 is reported favorably
5:30:46 PM Tab 6
5:30:52 PM Senator Passidomo on SB 1046
5:31:22 PM Amendment barcode 708650
5:32:47 PM Questions?
5:32:53 PM Debate?
5:32:56 PM Senator Simmons
5:34:03 PM Senator Lee
5:34:29 PM Senator Passidomo closes on the amendment
5:35:10 PM Amendment adopted
5:35:17 PM Back on bill as amended
5:35:30 PM Thomas Hawkins, 1000 Friends of Florida
5:36:40 PM Debate?
5:36:51 PM Senator Passidomo closes on SB 1046
5:36:59 PM Roll call on SB 1046
5:37:07 PM SB 1046 is reported favorably
5:37:31 PM Senator Thurston on SB 1496
5:38:04 PM Questions?
5:38:08 PM Appearance forms?

5:38:29 PM	Mario J. Bailoy
5:38:41 PM	Senator Thurston closes on SB 1496
5:39:14 PM	Roll call on SB 1496
5:39:22 PM	SB 1496 is reported favorably
5:39:30 PM	Tab 11
5:39:48 PM	Senator Clemens on SB 1488
5:40:20 PM	Late-filed handwritten amendment
5:41:12 PM	Questions?
5:41:15 PM	Debate?
5:41:21 PM	Amendment adopted
5:41:29 PM	Amendment barcode 706732
5:42:08 PM	Amendment adopted
5:42:14 PM	Back on bill as amended
5:42:23 PM	David Cruz, Florida League of Cities
5:42:39 PM	Roll call on SB 1488
5:43:00 PM	SB 1488 is reported favorably
5:43:45 PM	Tab 8
5:43:56 PM	Senator Rodriguez on SB 1750
5:44:37 PM	Amendment barcode 323982
5:45:08 PM	Questions?
5:45:21 PM	Amendment is adopted
5:45:30 PM	Late-filed amendment 781062
5:45:55 PM	Amendment is adopted
5:46:13 PM	Late-filed amendment barcode 457266
5:46:36 PM	Amendment is adopted
5:46:50 PM	Late-filed amendment barcode 898000
5:47:14 PM	Amendment is adopted
5:47:20 PM	Back on the bill as amended
5:47:24 PM	Appearance forms?
5:47:45 PM	Cheryl Stuart, Association of Florida Community Developers
5:50:20 PM	Chris Lyon, Florida Association of Special Districts
5:50:36 PM	Back on the bill as amended
5:50:50 PM	Senator Rodriguez closes on SB 1750
5:51:08 PM	SB 1750 is reported favorably
5:51:35 PM	Tab 14
5:51:42 PM	SB 188 by Senator Steube
5:52:46 PM	Amendment barcode 112524
5:54:01 PM	Handwritten amendment to the amendment by Senator Lee
5:55:58 PM	Questions?
5:56:16 PM	Amendment to the amendment adopted
5:56:25 PM	Amendment as amended
5:56:39 PM	Cari Roth, City of Holmes Beach
5:56:51 PM	Casey Cook, Florida League of Cities
5:59:46 PM	Senator Steube closes on the amendment as amended
6:00:00 PM	Amendment barcode 736436
6:00:10 PM	Questions?
6:00:47 PM	Meeting time over
6:00:52 PM	Meeting adjourned