

<b>Tab 1</b>	<b>SB 534 by Trumbull;</b> (Identical to H 00523) Individual Wine Containers					
<b>Tab 2</b>	<b>SB 1114 by Rodriguez;</b> (Compare to CS/H 00919) Community Associations					
866366	D	S	RCS	RI, Rodriguez	Delete everything after	04/04 03:55 PM
190622	SD	S	RCS	RI, Rodriguez	Delete everything after	04/04 03:55 PM
<b>Tab 3</b>	<b>SB 1262 by Martin;</b> (Similar to CS/H 00639) Requirements for Special Food Service Licenses					
790784	A	S	RCS	RI, Martin	Delete L.57 - 59:	04/04 03:21 PM
533998	A	S	RCS	RI, Martin	btw L.259 - 260:	04/04 03:21 PM
<b>Tab 4</b>	<b>CS/SB 1282 by CA, Stewart;</b> (Similar to H 01257) Public Restroom Requirements					
<b>Tab 5</b>	<b>SB 1418 by Bradley;</b> (Similar to CS/H 00745) Emergency Communications					
342640	A	S	RCS	RI, Bradley	Delete L.708:	04/04 03:54 PM
<b>Tab 6</b>	<b>SB 1712 by Jones (CO-INTRODUCERS) Osgood;</b> (Identical to H 00361) Municipal Water and Sewer Utility Rates					
<b>Tab 7</b>	<b>SB 562 by Gruters;</b> (Identical to CS/H 00797) Notices of Commencement					
<b>Tab 8</b>	<b>SPB 7046 by RI;</b> Licensing Fee Relief					

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

**REGULATED INDUSTRIES**  
**Senator Gruters, Chair**  
**Senator Hooper, Vice Chair**

**MEETING DATE:** Tuesday, April 4, 2023

**TIME:** 2:00—4:00 p.m.

**PLACE:** James E. "Jim" King, Jr Committee Room, 401 Senate Building

**MEMBERS:** Senator Gruters, Chair; Senator Hooper, Vice Chair; Senators Bradley, Brodeur, Davis, Hutson, Jones, Osgood, Perry, and Simon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 534</b> Trumbull (Identical H 523)	Individual Wine Containers; Repealing provisions relating to the limitation of size of individual wine containers, etc.  RI 03/29/2023 Temporarily Postponed RI 04/04/2023 Favorable CM RC	Favorable Yeas 9 Nays 0
2	<b>SB 1114</b> Rodriguez (Compare CS/H 919)	Community Associations; Citing this act as the "Community Associations Bill of Rights"; prohibiting association funds and reserves from being used by specified persons or entities for certain reasons; prohibiting reserves from being used in prosecuting SLAPP suits; providing criminal penalties for certain actions by an officer or director of the association; specifying the types of violations for which an association may levy fines; requiring that the governing documents of an association be amended to modify or restrict parcel use; specifying the priority of payments made by a parcel owner to an association, etc.  RI 04/04/2023 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0
3	<b>SB 1262</b> Martin (Similar CS/H 639)	Requirements for Special Food Service Licenses; Revising requirements relating to the issuance of special food service licenses, etc.  RI 04/04/2023 Fav/CS AEG FP	Fav/CS Yeas 9 Nays 0
4	<b>CS/SB 1282</b> Community Affairs / Stewart (Similar H 1257)	Public Restroom Requirements; Requiring the Florida Building Commission to adopt certain requirements in the Florida Building Code for certain public restroom facilities newly constructed or renovated after a specified date, etc.  CA 03/22/2023 Fav/CS RI 04/04/2023 Favorable RC	Favorable Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Regulated Industries

Tuesday, April 4, 2023, 2:00—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 1418</b> Bradley (Similar CS/H 745)	Emergency Communications; Renaming the E911 Board as the Emergency Communications Board; authorizing the board to establish schedules for implementing certain wireless systems and improvements; revising the composition of a committee that reviews requests for proposals from the board regarding independent accounting firm selection; extending the date by which the Division of Telecommunications within the Department of Management Services is required to develop a plan to upgrade 911 public safety answering points, etc.  RI 04/04/2023 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0
6	<b>SB 1712</b> Jones (Identical H 361, Compare CS/H 1331)	Municipal Water and Sewer Utility Rates; Requiring a municipality to charge customers receiving its utility services in another municipality the same rates, fees, and charges as it charges consumers within its municipal boundaries under certain circumstances, etc.  RI 04/04/2023 Favorable CA RC	Favorable Yeas 9 Nays 0
7	<b>SB 562</b> Gruters (Identical CS/H 797)	Notices of Commencement; Requiring the Department of Business and Professional Regulation to furnish for distribution a uniform notice of commencement; requiring owners and authorized agents of owners to use such uniform notice, etc.  JU 03/29/2023 Favorable RI 04/04/2023 Favorable RC	Favorable Yeas 9 Nays 0
Consideration of proposed bill:			
8	<b>SPB 7046</b>	Licensing Fee Relief; Requiring the Department of Business and Professional Regulation to waive a portion of the initial license application fee and the renewal fee for certain licenses; providing a maximum waiver; providing for expiration; providing an appropriation; providing for the disposition of any unexpended balance etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
Other Related Meeting Documents			

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

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

---

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

---

BILL: SB 534

INTRODUCER: Senator Trumbull

SUBJECT: Individual Wine Containers

DATE: March 23, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Favorable</b>
2.			CM	
3.			RC	

---

**I. Summary:**

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

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

**II. Present Situation:**

**Division of Alcoholic Beverages and Tobacco**

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation administers and enforces<sup>1</sup> the Beverage Law,<sup>2</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor.<sup>3</sup> The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

**Wine**

The term “wine” means:<sup>4</sup>

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

---

<sup>1</sup> Section 561.02, F.S.

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

<sup>3</sup> See s. 561.14, F.S.

<sup>4</sup> Section 564.01(1), F.S.



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

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

### **Wine Container Size Limits**

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

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

### **III. Effect of Proposed Changes:**

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

The bill takes effect July 1, 2023.

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

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

None.

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

None.

---

<sup>5</sup> Section 564.01(2), F.S.

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

<sup>7</sup> 27 C.F.R. s. 4.70 *et seq.*

<sup>8</sup> 27 C.F.R. s. 4.71.

<sup>9</sup> 27 C.F.R. s. 4.72.

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

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 564.05 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Trumbull

2-00685-23

2023534\_\_

1                   A bill to be entitled  
2       An act relating to individual wine containers;  
3       repealing s. 564.05, F.S., relating to the limitation  
4       of size of individual wine containers; providing an  
5       effective date.  
6  
7   Be It Enacted by the Legislature of the State of Florida:  
8  
9       Section 1. Section 564.05, Florida Statutes, is repealed.  
10      Section 2. This act shall take effect July 1, 2023.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

**SELECT COMMITTEE:**  
Select Committee on Resiliency

**SENATOR JAY TRUMBULL**  
2nd District

February 22, 2023

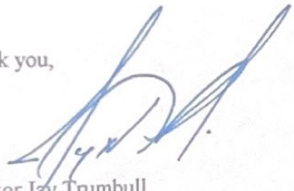
Re: SB 534

Dear Chair Gruters,

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

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

Thank you,

  
Senator Jay Trumbull  
District 2

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

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

KATHLEEN PASSIDOMO

DENNIS BAXLEY

4-4-23

Meeting Date

Regulated Industries

Committee

The Florida Senate

## APPEARANCE RECORD

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

SB 534

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jason Unger**

Phone **850-577-9090**

Address **301 S. Bronough St. #600**

Email **junger@gray-robinson.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

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

### PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**Seavin Florida Farm Wineries  
(Lakeridge & San Sebastian)**

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

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

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

S-001 (08/10/2021)

4 April 2023

Meeting Date

Regulated Industries

Committee

Name

Chris Stranburg

Address

107 E College Ave

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate  
**APPEARANCE RECORD**

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

534

Bill Number or Topic

Amendment Barcode (if applicable)

Phone

813-767-9667

Email

cstranburg@afphg.org

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

Americans for  
Prosperity

☐

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

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

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

S-001 (08/10/2021)

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

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

---

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

---

BILL: CS/SB 1114

INTRODUCER: Regulated Industries Committee and Senator Rodriguez

SUBJECT: Homeowners' Associations

DATE: April 5, 2023

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

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

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1114, which the bill provides may be cited as “Homeowners’ Association Bill of Rights,” revises the requirements for the governance and regulation of homeowners’ associations to:

- Provide that an officer or director must be removed from office, and their access to official records denied, if charged with the crimes of forgery of a ballot envelope or voting certificate used in a homeowners' association election, theft or embezzlement of association funds, destruction of or refusing to allow inspection of association records, if such records are accessible by association members, in furtherance of any crime; or obstruction of justice;
- Revise the requirements for the association’s use of a member’s e-mail to send notices, including allowing a member to designate an address different than the property address for all required notices;
- Require that, if an homeowners’ association collects a deposit from a member to pay for expenses that may be incurred as a result of construction on a member's parcel, or other reason for such deposit, such funds must not be comingled with any other association funds, the member may request an accounting of such funds, and the association must remit payment of unused funds within 30 days after completion;
- Provide criminal and civil penalties for an officer, director, or manager who accepts kickbacks;
- Require directors and officers of an association, including a developer-controlled association, to disclose specified activities which may pose a conflict of interest;
- Revise the notice requirements for imposing and collecting fines, including providing members notice of how to cure a violation, if applicable;

- Provide criminal prohibitions related to fraudulent voting activities that are punishable as first degree misdemeanors, including preventing members from voting, and menacing, threatening, or using bribery to directly or indirectly influence or deter a member from voting.

The bill takes effect October 1, 2023.

The bill may have a negative fiscal impact on the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business the Professional Regulation. See Section V. Fiscal Impact Statement, C. Government Sector Impact.

## **II. Present Situation:**

### **Homeowners' Associations**

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners' associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.<sup>1</sup>

A "homeowners' association" is defined as a:<sup>2</sup>

Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

Unless specifically stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.<sup>3</sup>

Homeowners' associations are administered by a board of directors whose members are elected.<sup>4</sup> The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.<sup>5</sup> The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.<sup>6</sup>

---

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

<sup>2</sup> Section 720.301(9), F.S.

<sup>3</sup> Section 720.302(5), F.S.

<sup>4</sup> See ss. 720.303 and 720.307, F.S.

<sup>5</sup> See ss. 720.301 and 720.303, F.S.

<sup>6</sup> Section 720.303(1), F.S.



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

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

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation has limited regulatory authority over homeowners' associations. The division's authority is limited to the arbitration of recall election disputes.<sup>7</sup>

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

### **III. Effect of Proposed Changes:**

Section 1 of the bill provides that the act may be cited as the "Homeowners' Association Bill of Rights."

#### **Director and Officer Fiduciary Duty and Prohibited Acts**

##### ***Present Situation***

#### **General Standards for Directors**

Section 617.0830(1), F.S., requires a director, including as a member of a committee, to discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the corporation.

---

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

### **Director Conflicts of Interest**

Section 617.0832, F.S., provides for the process for the disclosure and approval of conflicts of interest related to contracts between the board of a not-for-profit corporation and a member or members of the board. Section 617.0832(1), F.S., provides that such a contract is not void or voidable if:

- The relationship is disclosed to the board or committee that approves or ratifies the contract or transaction by a vote or consent that does not count the interested director or directors;
- The fact of such relationship or interest is disclosed or known to the members of the board or committee entitled to vote on such contract or transaction, if any, and they authorize, approve, or ratify it by vote or written consent; or
- The contract or transaction is fair and reasonable as to the corporation at the time it is authorized by the board, a committee, or the members.

Sections 617.0832(2) and (3), F.S., require an affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no relationship or interest in the transaction or contract. The contract or transaction may not be approved or ratified by a single director. A quorum is present for the purpose of taking action if a majority of the directors who have no relationship or interest in the transaction vote to authorize, approve, or ratify the transaction. The presence of, or a vote cast by, a director having a relationship or interest in the transaction does not invalidate the approval or ratification if the transaction is otherwise authorized, approved, or ratified as provided in s. 617.0832(1), F.S.

### **Civil Liability - Officers and Directors**

Section 617.0834, F.S., relates to the provisions for the civil liability of officers and director of not-for-profit corporations and associations.<sup>8</sup> Section 617.0834(1), F.S., provides that officers and directors of certain not-for-profit corporations and associations are not personally liable for monetary damages to any person for any statement, vote, decision, or failure to take an action, regarding organizational management or policy by an officer or director, unless the officer or director:

- Breached or failed to perform his or her duties as an officer or director; and
- Breached or failed to perform his or her duties, and the breach constitutes:
  - A criminal violation, unless he or she had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful.<sup>9</sup>
  - A transaction from which he or she derived an improper personal benefit, directly or indirectly; or
  - A recklessness or an act or omission committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

---

<sup>8</sup> Corporations that operate residential homeowners' associations are governed by ch. 720, F.S., relating to homeowners' associations, and are subject to part I of ch. 607, F.S., the Florida Business Corporation Act, or ch. 617, F.S., relating to corporations not for profit.

<sup>9</sup> Section 617.0834, F.S., does not provide criminal penalties or reference the criminal law that is violated by the officer's or director's breach or failure to perform his or her duties.

### **Fiduciary Duties in Homeowners' Associations**

Officers and directors of a homeowners' association have a fiduciary relationship to the unit owners, and may be sanctioned for breach of their fiduciary duty.<sup>10</sup>

Section 720.3033(2), F.S., requires homeowners' associations, if they enter into a contract or other transaction with any of their directors or a corporation, firm, or association that is not an affiliated homeowners' association, or other entity in which an association director is also a director or officer or is financially interested, to:

- Comply with conflict of interest procedures outlined in s. 617.0832, F.S.;
- Comply with disclosure requirements outlined in s. 617.0832, F.S.;
- Approve the contract or transaction by a two-thirds vote of the directors present; and
- Disclose the contract or transaction at the next regular or special meeting of the members.

If any member makes a motion to cancel the contract or transaction at the next regular or special meeting of the members, the contract may be canceled by a majority vote of the members present. If the contract is canceled, the association is only liable for the reasonable value of goods and services previously provided and is not liable for any fees or damages connected to the cancellation.<sup>11</sup>

Section 720.3033(3), F.S., prohibits officers, directors, and managers of a homeowners' association from soliciting or accepting anything of value for his or her benefit, or the benefit of any member of his or her immediate family, from any person providing or offering to provide goods or services to the association. The board must immediately remove from office any officer or director upon a finding by the board that the officer or director has violated this subsection. This prohibition does not apply to accepting food to be consumed at a business meeting with a value of less than \$25 per individual or services or items in connection to trade fairs or education programs.

Section 720.3033(4), F.S., requires a board to immediately remove from office any officer or director who is charged with felony theft or embezzlement involving association funds. If the charges are resolved without a finding of guilt or without acceptance of a plea of guilt or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office.

Section 720.3033(5), F.S., requires homeowners' associations to maintain insurance or fidelity bonding for anyone who controls or disburses association funds, which includes persons authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association. The association must bear the cost of the bond or insurance.

### ***Effect of Proposed Changes***

The bill amends s. 720.303(1)(b), F.S., to provide that an officer or director charged by information or indictment with one of the following crimes must be removed from office, and the

---

<sup>10</sup> Section 720.303(1), F.S.

<sup>11</sup> Section 720.3033(2), F.S.

vacancy must be filled as provided by s. 720.306(9), F.S., until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first:

- Forgery of a ballot envelope or voting certificate used in a homeowners' association election punishable as a felony crime as provided in s. 831.01, F.S.;<sup>12</sup>
- Theft or embezzlement of funds of a homeowners' association punishable as provided in s. 812.014, F.S.;<sup>13</sup> and
- Destruction of or refusal to allow inspection or copying of an official record of a homeowners' association that is accessible to parcel owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13, F.S.,<sup>14</sup> or as obstruction of justice as provided in ch. 843, F.S.

If a criminal charge is pending against an officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. An officer or director must be reinstated for the remainder of his or her term of office if the charges are resolved without a finding of guilt.

The revisions in the bill to s. 720.303(1), F.S., are substantially the same as the requirements in s. 720.3033(4), F.S., for the removal from office of a director or officer charged by information or indictment with fraud or embezzlement.

The bill amends s. 720.3033(3), F.S., to provide that an officer, director, or manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association is subject to a civil penalty under s. 718.501(1)(d), F.S.,<sup>15</sup> and, if applicable, a criminal penalty as provided in s. 718.111(1)(d), F.S.<sup>16</sup>

The bill creates s. 720.3033(6), F.S., to require directors and officers of an association who are appointed by the developer to disclose to the association their relationship to the developer each calendar year in which they serve as a director or an officer. Developer-appointed directors and

<sup>12</sup> Section 831.01, F.S., relates to the crime of forgery. A forgery violation is a felony of the third degree. Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years.

Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

<sup>13</sup> Section 812.014, F.S., relates to the crime of theft and provides penalties, including terms of incarceration and fines, based on the value of the stolen property, or the type of property.

<sup>14</sup> Section 718.306(9), F.S., relates to elections and vacancies on a board. It also prohibits convicted felons, including persons who've been convicted in another jurisdiction which would be considered a felony crime in Florida, of serving on a board for at least five years as of the date the person seeks election to the board, unless their civil rights have been restored.

<sup>15</sup> Section 718.501(1)(d), F.S., relating to condominium associations and the powers and duties of the division, authorizes the Division of Condominiums, Timeshares, and Mobile Homes to impose civil penalties on developers, bulk assignees, associations, and directors and officers of condominium associations. Before initiating formal agency action under ch. 120, F.S., the division must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed \$5,000.

<sup>16</sup> Section 718.111(1)(d), F.S., does not provide criminal penalties. In relevant part, this provision provides An officer, director, or agent shall be liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in s. 617.0834, F.S.

officers must disclose any other activity that may reasonably be construed to be a conflict of interest.

Under the bill, all directors and officers must disclose to the association any activity that may be reasonably construed to be a conflict of interest at least 14 days before voting on an issue or entering into a contract that is the subject of the conflict. The bill provides a rebuttable presumption of a conflict of interest exists if a director or officer performs any of the following acts without prior disclosure to the association:

- Entering into a contract for goods or services with the association.
- Holding an interest in a corporation, limited liability company, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

## **Official Records – Homeowners’ Associations**

### ***Present Situation***

Florida law specifies the official records that homeowners’ associations must maintain.<sup>17</sup> Generally, the official records must be maintained in Florida for at least seven years.<sup>18</sup> Certain of these records must be accessible to the members of an association.<sup>19</sup> Additionally, certain records are protected or restricted from disclosure to members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.<sup>20</sup>

The secretary of a corporation, such as a homeowners’ association, is the corporate officer to whom the board of directors has delegated responsibility to maintain the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.<sup>21</sup>

### ***Effect of Proposed Changes***

The bill amends s. 720.303(4)(g), F.S., to provide that a member’s designated mailing address is the member’s property address, unless the member has sent written notice to the association requesting that a different mailing address be used for all required notices. The bill does not specify that the “property address” means the address of the member’s parcel.

The bill changes the term “electronic mailing address” to “e-mail” throughout ss. 720.303(4) and (5), F.S. The bill requires associations to also maintain a member’s facsimile numbers, if provided, as one of the forms of electronic communication.

---

<sup>17</sup> See s. 720.303(5), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See s. 607.01401(65), F.S., defining the term “secretary.”

## **Association Funds - Commingling**

### ***Present Situation***

All homeowners' association funds held by a developer must be maintained separately in the association's name. Association reserve and operating funds must not be commingled prior to turnover except the association may jointly invest reserve funds if the funds are accounted for separately.<sup>22</sup>

A developer in control of a homeowners' association may not commingle any of the association's funds with the developer's funds or with the funds of any other homeowners' association or community association.<sup>23</sup>

Homeowners' association funds may not be used by a developer to defend a civil or criminal action, administrative proceeding, or arbitration proceeding that has been filed against the developer or directors appointed to the association's board by the developer, even when the subject of the action or proceeding concerns the operation of the developer-controlled association.<sup>24</sup>

### ***Effect of Proposed Changes***

The bill amends s. 720.303(8), F.S., to provide that, if a homeowners' association collects a deposit from a member to pay for expenses that may be incurred as a result of construction on a member's parcel, or other reason for such deposit, such funds must be maintained separately and may not be comingled with any other association funds. Upon completion of the member's construction project, or any other reason for such deposit, the member may request an accounting from the association of such funds that were deposited and the association must provide an accounting to the member within seven days after the member's request. An association must remit payment of any and all unused funds to the member within 30 days after receiving notice that the member's construction project, or any other reason for which a deposit was collected, is complete.

## **Homeowners' Association Fines**

### ***Present Situation***

Homeowners' associations may levy fines against a member or any member's tenant, guest, or invitee failing to comply with any provision in the association's declaration, bylaws, or rules. A fine by a homeowners' association of less than \$1,000 may not become a lien against the parcel.<sup>25</sup> A fine imposed by a homeowners' association may exceed \$1,000 in the aggregate if the association's governing documents authorize the fine.<sup>26</sup>

---

<sup>22</sup> Section 720.303(8)(a), F.S.

<sup>23</sup> Section 720.303(8)(b), F.S.

<sup>24</sup> Section 720.303(8)(c), F.S.

<sup>25</sup> Section 720.305(2), F.S.

<sup>26</sup> *Id.*

In comparison, a fine imposed by a condominium or cooperative association may not exceed \$100 per violation, and the total amount of a fine may not exceed \$1,000.<sup>27</sup> A fine imposed by a condominium or cooperative association may not become a lien against the unit.<sup>28</sup>

A homeowners' association's board may not impose a fine or suspension unless it gives at least 14 days' written notice of the fine or suspension, and an opportunity for a hearing. The hearing must be held before a committee of unit owners who are not board members or residing in a board member's household (review committee). The role of the committee is to determine whether to confirm or reject the fine or suspension.<sup>29</sup>

Payment of a fine approved by the committee is due five days after notice of the approved fine is provided to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner.<sup>30</sup>

### ***Effect of Proposed Changes***

The bill amends s. 720.305(2), F.S., to provide that association fines may levy fines for violations of the declaration, association bylaws, or reasonable rules of the association.

Section 720.305(2)(b), F.S., is revised by the bill to require the board of an association to mail the 14-day written notice for a review committee hearing to the parcel owner's designated mailing address or email address in the official records. The notice must include a description of the alleged violation, the specific action required to cure such violation, if applicable, and the date and location of the hearing. Under the bill, a parcel owner has the right to attend a hearing by telephone or other electronic means.

The bill creates s. 720.305(2)(d), F.S., to require a review committee to provide written notice after a hearing to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the parcel owner, of the review committee's findings related to the violation, including any applicable fines or suspensions that the committee approved or rejected. The notice must indicate how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation, if applicable.

The bill amends s. 720.305(2)(e), F.S., to clarify that the board must approve a fine by a majority vote.

Section 720.305(5), F.S., is revised by the bill to require a written notice to the parcel owner, and if applicable, to the parcel's occupant, licensee, or invitee by mail or hand delivery to the parcel's owner's designated mailing or e-mail address in the association's records.

---

<sup>27</sup> Sections 718.303(3) and 719.303(3), F.S.

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

<sup>29</sup> Sections 720.305(2)(b) and (c), F.S.

<sup>30</sup> *Id.*

## **Fraudulent Voting Activities**

### ***Present Situation***

Chapter 720, F.S., does not provide a criminal prohibition or penalties for fraudulent voting activity in homeowners' association elections.

### ***Present Situation***

The bill creates s. 720.3065, F.S., to provide that each of the following actions relating to homeowners' association elections is a fraudulent voting activity and constitutes a misdemeanor of the first degree:<sup>31</sup>

- Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.
- Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.
- Preventing a member from voting, or preventing a member from voting as he or she intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.
- Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when voting.
- Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This provision does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.
- Using or threatening to use, either directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on any particular ballot measure.

### **Effective Date**

The bill takes effect October 1, 2023.

## **IV. Constitutional Issues:**

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

None.

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

None.

---

<sup>31</sup> Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S. provides that a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.



C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

***Impairment of Contract***

The bill revises the requirements for the governance of homeowners' associations under ch. 720, F.S. The governing documents of condominium or homeowners' associations are a contract. To the extent the provisions of the bill affect previously recorded governing documents of an association, the bill may unconstitutionally impair a contract, under s. 10, Art. I, Fla. Const., which provides in relevant part, "No... law impairing the obligation of contracts shall be passed." This provision empowers the courts to strike laws that retroactively burden or alter contractual relations. Article I, s. 10 of the United States Constitution provides in relevant part that "No state shall . . . pass any . . . law impairing the obligation of contracts."

In *Pomponio v. Claridge of Pompano Condominium, Inc.*,<sup>32</sup> the Florida Supreme Court stated that some degree of flexibility has developed over the last century in interpreting the contract clause in order to ameliorate the harshness of the original rigid application used by the United States Supreme Court. The court set forth several factors in balancing whether a state law operates as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear. The court stated that if there is minimal alteration of contractual obligations the inquiry can end at its first stage. Severe impairment can push the inquiry to a careful examination of the nature and purpose of the state legislation. The factors to be considered are:<sup>33</sup>

- Was the law enacted to deal with a broad, generalized economic or social problem;
- Does the law operate in an area that was already subject to state regulation at the time the contract was entered into; and
- Is the law's effect on the contractual relationships temporary or is it severe, permanent, immediate, and retroactive.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

---

<sup>32</sup> *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 776 (Fla. 1979).

<sup>33</sup> *Id.* at 779.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of Business and Professional Regulation has not provided a fiscal analysis for CS/SB 1114. However, the DBPR may incur costs related to investigating homeowners' association to determine if the division may impose a civil penalty on an officer, director, or manager for a homeowners' association under the authority granted to it under s. 718.501(1)(d), F.S., to impose a civil penalty in condominium associations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:*****Directors and Officers***

The bill amends s. 720.303(1)(b), F.S., to provide that an officer or a director charged by information or indictment with specified crimes must be removed from office. The bill does not specify how an officer or a director is removed from office, or specify a timeframe for such removal.

The bill also amends s. 720.303(1), F.S., to provide for the removal from office of a director or officer for specified act, including a director or officer charged by information or indictment with fraud or embezzlement. These provisions are substantially the same as the current requirements in s. 720.3033(4), F.S., for the removal from office of a director or officer charged by information or indictment with fraud or embezzlement. The bill sponsor may want to consider revising s. 720.3033(4), F.S., instead of s. 720.303(1), F.S., to include the provisions in the bill.

The bill amends s. 720.3033(3), F.S., provide that an officer, a director, or a manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association is subject to a civil penalty under s. 718.501(1)(d), F.S.,<sup>34</sup> and, if applicable, a criminal penalty as provided in s. 718.111(1)(d), F.S. However, the Division of Condominiums, Timeshares, and Mobile Homes has limited authority over homeowners' associations under ch. 720, F.S.,<sup>35</sup> and no authority over homeowners' associations under ch. 718, F.S., except for

---

<sup>34</sup> Section 718.501(1)(d), F.S., relating to condominium associations and the powers and duties of the Division of Condominiums, Timeshares, and Mobile Homes, authorizes the division to impose civil penalties on developers,, bulk assignees, associations, and directors and officers of condominium associations. Before initiating formal agency action under ch. 120, F.S., the division must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of a continuing violation, but the penalty for any offense may not exceed \$5,000.

<sup>35</sup> See s. 720.501, F.S.

the arbitration of election recall disputes.<sup>36</sup> If a manager of an association violates prohibition under ch. 720, F.S., or ch. 718, F.S., he or she may be subject to discipline by the Regulatory Council of Community Association Managers, which regulates community association managers licensed under part VIII of ch. 468, F.S.

### ***Official Records***

The bill changes the term “electronic mailing address” to “e-mail” in s. 720.303(4)(g), F.S. However, the bill does not revise the term “electronic mailing addresses” in s. 720.303(5)(c), 5. F.S., relating to the official records exemption for specified personal identifying information.

The bill amends s. 720.303(4)(g), F.S., to provide that a member’s designated mailing address is the member’s “property address,” unless the member has sent written notice to the association requesting that a different mailing address be used for all required notices. The bill does not specify that the term “property address” means the address of the member’s parcel within the association.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 720.303, 720.3033, 720.304, and 720.305.

The bill creates section 720.3065 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 on April 4, 2023:**

The CS substantially changes the bill by removing the revisions to:

- Section 718.111, F.S., prohibiting association funds and reserves from being used by specified persons or entities for certain reasons; requiring the board of each association to appoint an official recordkeeper for the association with powers and duties authorized by the board, if necessary; and requiring certain information be posted on the association’s website or application and the Department of State website.
- Sections 718.1224 and 720.304, F.S., prohibiting reserves from being used in prosecuting “Strategic Lawsuits Against Public Participation” or “SLAPP” suits.
- Sections 718.501 and 720.302, F.S., providing the division with jurisdiction over homeowners’ association complaints and to forward complaints containing criminal allegation to the Florida Department of Law Enforcement.
- Section 720.303, F.S., providing criminal penalties for certain actions by an officer or director of the association; requiring that the governing documents of an association be amended to modify or restrict parcel use, requiring the board of each association to designate an official recordkeeper with powers and duties authorize by the board;

<sup>36</sup> See ss. 720.303(10) and 720.311(1), F.S.

requiring certain information be posted on the association's and the Department of State websites; revising the confidentiality of certain official records; and prohibiting the use of association funds and reserves by specified persons or entities for certain reasons.

- Section 720.305, F.S., restricting the levying of fines and attorney fees, specify the types of violations for which an association may levy fines; expanding the duties of the fine review committee, providing additional notice and requirements for the review committee, providing a parcel owner with an opportunity to cure a violation, and waive or reduce fines and attorney fees if a violation is cured within a specified timeframe.
- Section 720.306, F.S., requiring that the governing documents of an association be amended to modify or restrict parcel use.
- Section 720.3085, F.S., specifying how payments made by a parcel owner to an association must be applied to an outstanding debt, prohibit an association from bringing an action to foreclose a lien against a parcel, and limit the enforcement of liens on a parcel.
- Section 720.311, F.S., requiring the division to review complaints to determine if there are allegations of criminal conduct and to forward complaints containing criminal allegations to the FDLE, and revise the dispute resolution requirements.
- Section 720.402, F.S., prohibiting reserve funds from being used by a developer in the defense of actions related to false and misleading information in certain documents.
- Section 943.71, F.S.; as created by the bill, authorizing the FDLE to investigate violations of general law relating to condominium, cooperative, homeowners' associations and their boards of administration, officers, or directors.

In addition, the CS:

- Amends s. 720.303(8), F.S., to revise the requirements for the commingling of homeowners' association funds.
- Amends s. 720.3033(3), F.S., to provide criminal and civil penalties for soliciting, offering to accept, or accepting kickbacks.
- Amends s. 720.3033(6), F.S., to provide additional requirements for disclosing officer or director conflicts of interest, including those appointed by the developer.
- Creates s. 720.3065, F.S, to specify the actions relating to homeowners' association elections that are fraudulent voting activity and constitute a misdemeanor of the first degree.

**B. Amendments:**

None.



866366

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. This act may be cited as the "Homeowners'  
Associations Bill of Rights."

Section 2. Subsection (1) and paragraph (g) of subsection  
(4) of section 720.303, Florida Statutes, are amended, and  
paragraph (d) is added to subsection (8) of that section, to  
read:



866366

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

(1) POWERS AND DUTIES.—

(a) An association which operates a community as defined in s. 720.301~~7~~ must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be recorded in the official records of the county in which the community is located. An association may operate more than one community.

(b)1. The officers and directors of an association have a fiduciary relationship to the members who are served by the association.

2. An officer or a director charged by information or indictment with any of the following crimes must be removed from office, and the vacancy must be filled as provided in s. 720.306(9) until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first:

a. Forgery of a ballot envelope or voting certificate used in a homeowners' association election as provided in s. 831.01.

b. Theft or embezzlement of funds of a homeowners' association as provided in s. 812.014.

c. Destruction of or the refusal to allow inspection or copying of an official record of a homeowners' association that is accessible to parcel owners within the time periods required by general law in furtherance of any crime. Such act constitutes tampering with physical evidence as provided in s. 918.13.



866366

d. Obstruction of justice under chapter 843.

3. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

(c) The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this chapter, those set forth in the governing documents.

(d) After control of the association is obtained by members other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members, including, but not limited to, the common areas; roof or structural components of a building, or other improvements for which the association is responsible; mechanical, electrical, or plumbing elements serving an improvement or building for which the association is responsible; representations of the developer pertaining to any existing or proposed commonly used facility; and protesting ad valorem taxes on commonly used facilities. The association may defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation against any party in the name of the association involving amounts in controversy in excess of \$100,000, the association must obtain the affirmative



866366

approval of a majority of the voting interests at a meeting of the membership at which a quorum has been attained. This ~~paragraph subsection~~ does not limit any statutory or common-law right of any individual member or class of members to bring any action without participation by the association.

(e) A member does not have authority to act for the association by virtue of being a member. An association may have more than one class of members and may issue membership certificates.

(f) An association of 15 or fewer parcel owners may enforce only the requirements of those deed restrictions established prior to the purchase of each parcel upon an affected parcel owner or owners.

(4) OFFICIAL RECORDS.—The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(g) A current roster of all members and their designated mailing addresses and parcel identifications. A member's designated mailing address is the member's property address, unless the member has sent written notice to the association requesting that a different mailing address be used for all required notices. The association shall also maintain the e-mail ~~electronic mailing~~ addresses and the facsimile numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. A member's e-mail address is the e-mail address the member provided when consenting in writing to receiving notice by electronic transmission, unless the member has sent written notice to the association requesting that a





866366

different e-mail address be used for all required notices. The e-mail ~~electronic mailing~~ addresses and facsimile numbers provided by members ~~unit owners~~ to receive notice by electronic transmission must ~~shall~~ be removed from association records when the member revokes consent to receive notice by electronic transmission ~~is revoked~~. However, the association is not liable for an erroneous disclosure of the e-mail ~~electronic mail~~ address or the facsimile number for receiving electronic transmission of notices.

(8) ASSOCIATION FUNDS; COMMINGLING.—

(d) If an association collects a deposit from a member for any reason, including to pay for expenses that may be incurred as a result of construction on a member's parcel, such funds must be maintained separately and may not be comingled with any other association funds. Upon completion of the member's construction project, or other reason for which the deposit was collected, the member may request an accounting from the association of his or her funds that were deposited, and the association must provide such accounting to the member within 7 days after receiving the member's request. An association must remit payment of any unused funds to the member within 30 days after receiving notice that the member's construction project, or other reason for which the deposit was collected, is complete.

Section 3. Subsection (3) of section 720.3033, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

720.3033 Officers and directors.—

(3) An officer, a director, or a manager may not solicit,



866366

offer to accept, or accept any thing ~~good~~ or service of value for which consideration has not been provided for his or her benefit or for the benefit of a member of his or her immediate family from any person providing or proposing to provide goods or services to the association. An officer, a director, or a manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback in violation of this subsection in an amount less than \$1,000 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If such value or kickback is \$1,000 or more, the officer, director, or manager commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil penalty under s.

718.501(1)(d). If the board finds that an officer or a director has violated this subsection, the board shall immediately remove the officer or director from office. The vacancy shall be filled according to law until the end of the officer's or director's term of office. However, an officer, a director, or a manager may accept food to be consumed at a business meeting with a value of less than \$25 per individual or a service or good received in connection with trade fairs or education programs.

(6) Directors and officers of an association must disclose to the association any activity that may reasonably be construed to be a conflict of interest at least 14 days before voting on an issue or entering into a contract that is the subject of the conflict. A rebuttable presumption of a conflict of interest exists if any of the following acts occur without prior disclosure to the association:

(a) A director or an officer, or a relative of a director



866366

or an officer, enters into a contract for goods or services with the association.

(b) A director or an officer, or a relative of a director or an officer, holds an interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

Section 4. Subsections (1), (2), and (5) of section 720.305, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.—

(1) Each member and the member's tenants, guests, and invitees, and each association, are governed by, and must comply with, this chapter, the governing documents of the community, and the rules of the association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member against:

(a) The association;

(b) A member;

(c) Any director or officer of an association who willfully and knowingly fails to comply with these provisions; and

(d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney fees and costs as provided in



866366

paragraph (2)(e). A member prevailing in an action between the association and the member under this section, in addition to recovering his or her reasonable attorney fees, may recover additional amounts as determined by the court to be necessary to reimburse the member for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. This section does not deprive any person of any other available right or remedy.

(2) An association may levy reasonable fines for violations of the declaration, association's bylaws, or reasonable rules of the association. A fine may not exceed \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate ~~unless otherwise provided in the governing documents~~. A fine ~~of less than \$1,000~~ may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as provided in paragraph (e) ~~determined by the court~~.

(a) An association may suspend, for a reasonable period of time, the right of a member, or a member's tenant, guest, or invitee, to use common areas and facilities for the failure of



866366

the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. This paragraph does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(b) A fine or suspension levied for a violation by the board of administration may not be imposed unless the board first provides at least 30 14 days' notice to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the parcel owner, sought to be fined or suspended and ~~an opportunity for~~ a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The notice must include a description of the alleged violation, the specific action required to cure such violation, and the date and location of the hearing. A parcel owner has the right to attend a hearing by telephone or other electronic means.

(c) If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed. If the committee, by majority vote, determines that a violation does not exist, then no other action may be taken related to that alleged violation. The role of the committee is limited to determining whether a violation exists



866366

and whether to approve ~~confirm~~ or reject the fine or suspension levied by the board.

(d) After the hearing, the committee shall provide written notice to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the parcel owner, of the committee's findings related to the violation, including any applicable fines or suspensions that the committee approved or rejected, and how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation.

(e) Fines, suspensions, attorney fees, and costs are imposed as follows:

1. If a violation is found by the committee, but is cured before the hearing, a fine or suspension may not be imposed and attorney fees and costs may not be awarded.

2. If a violation is found and the proposed fine or suspension levied by the board is approved by the committee, the committee must decide, by majority vote, a date that the fine payment is due, which date must be at least 30 days after delivery of the written notice required in paragraph (d).

3. If a violation is found and the proposed fine or suspension levied by the board is approved by the committee, but the violation is cured within 30 days after delivery of the written notice required in paragraph (d), the fine must be reduced by 50 percent, any applicable suspensions must be lifted, and attorney fees and costs may not be awarded.

4. If a violation is found and the proposed fine or suspension levied by the board is approved by the committee and the violation is not cured or the fine is not paid within 30



866366

days after delivery of the written notice required in paragraph (d), reasonable attorney fees and costs may be awarded to the association.

(f) A parcel owner or any occupant, licensee, or invitee of the parcel owner may, at any time, make a written request for a detailed accounting of any amounts he or she owes to the association, and the board shall provide such information within 10 days after receipt of the written request. Failure by the board to respond to a written request for a detailed accounting constitutes a complete waiver of the violation.

(g) Upon receipt of a payment for any outstanding fines from a parcel owner or any occupant, licensee, or invitee of the parcel owner, the board must apply the payment first to the fine before satisfying any other amounts due to the association. Attorney fees and costs may not continue to accrue after a parcel owner or any occupant, licensee, or invitee of the parcel owner pays the fine.

~~(h) A parcel owner or any occupant, licensee, or invitee of the parcel owner may request a hearing before the board to dispute the reasonableness of the attorney fees and costs awarded to the association 5 days after notice of the approved fine is provided to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner. The association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner.~~

(5) All suspensions imposed under ~~pursuant to~~ subsection (3) or subsection (4) must be approved at a properly noticed



866366

board meeting. Upon approval, the board association must send written notice to ~~notify~~ the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery to the parcel owner's designated mailing or e-mail address in the association's official records.

(7) The failure of the association or committee to comply with this section constitutes a waiver of all fines or suspensions imposed or proposed for a violation. Any fine, fee, or other cost incurred by a parcel owner or any occupant, licensee, or invitee of the parcel owner which is related to a fine that is waived under this subsection must also be waived or paid by the association if such fine, fee, or other cost is not waivable.

Section 5. Section 720.3065, Florida Statutes, is created to read:

720.3065 Fraudulent voting activities relating to association elections; penalties.—Each of the following acts is a fraudulent voting activity relating to association elections and constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(1) Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.

(2) Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.

(3) Preventing a member from voting or preventing a member from voting as he or she intended by fraudulently changing or





866366

attempting to change a ballot, ballot envelope, vote, or voting  
certificate of the member.

(4) Menacing, threatening, or using bribery or any other  
corruption to attempt, directly or indirectly, to influence,  
deceive, or deter a member when the member is voting.

(5) Giving or promising, directly or indirectly, anything  
of value to another member with the intent to buy the vote of  
that member or another member or to corruptly influence that  
member or another member in casting his or her vote. This  
subsection does not apply to any food served which is to be  
consumed at an election rally or a meeting or to any item of  
nominal value which is used as an election advertisement,  
including a campaign message designed to be worn by a member.

(6) Using or threatening to use, directly or indirectly,  
force, violence, or intimidation or any tactic of coercion or  
intimidation to induce or compel a member to vote or refrain  
from voting in an election or on a particular ballot measure.

Section 6. This act shall take effect October 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to homeowners' associations; providing  
a short title; amending s. 720.303, F.S.; requiring  
certain officers or directors of an association to be  
removed from office under certain circumstances;  
specifying how a vacancy on the association board must



866366

be filled; providing restrictions on certain officers and directors; specifying when an officer or director is required to be reinstated; requiring an association to maintain designated addresses as official records; specifying what constitutes a designated address; conforming provisions to changes made by the act; prohibiting certain funds from being comingled with other association funds; authorizing a member to request an accounting from an association under certain circumstances; requiring an association to provide such accounting and remit unused funds to the member within specified timeframes; amending s. 720.3033, F.S.; providing criminal and civil penalties for certain actions by officers, directors, or managers of an association; requiring directors and officers of the association to disclose certain activity to the association within a specified timeframe; creating a rebuttable presumption of a conflict of interest if certain acts occur; amending s. 720.305, F.S.; restricting certain attorney fees and fines; specifying the types of violations for which an association may levy fines; providing a maximum aggregate fine amount; prohibiting a fine from becoming a lien on a parcel; revising the amount of notice the board of administration must give a parcel owner before imposing a fine or suspension; specifying where such notice must be delivered; providing requirements for such notice; authorizing parcel owners to attend certain hearings by telephone or



866366

other electronic means; expanding duties of a specified committee; requiring a specified notice after a hearing; specifying how fines, suspensions, attorney fees, and costs are determined; requiring that a detailed accounting of amounts due to the association be given to certain persons within a certain timeframe upon written request; providing for a complete waiver of a violation under certain circumstances; specifying the priority of payments made by a parcel owner to an association; prohibiting the accrual of attorney fees and costs after a specified time; authorizing certain persons to request a hearing to dispute certain fees and costs; providing for the waiver of certain fines or suspensions; requiring that certain fines, fees, or other costs be paid by an association; conforming provisions to changes made by the act; creating s. 720.3065, F.S.; providing criminal penalties for certain fraudulent voting activities; providing an effective date.



190622

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

---

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

**Senate Substitute for Amendment (866366) (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Homeowners' Associations Bill of Rights."

Section 2. Subsection (1) and paragraph (g) of subsection (4) of section 720.303, Florida Statutes, are amended, and paragraph (d) is added to subsection (8) of that section, to



190622

read:

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

(1) POWERS AND DUTIES.—

(a) An association which operates a community as defined in s. 720.301~~7~~ must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be recorded in the official records of the county in which the community is located. An association may operate more than one community.

(b)1. The officers and directors of an association have a fiduciary relationship to the members who are served by the association.

2. An officer or a director charged by information or indictment with any of the following crimes must be removed from office, and the vacancy must be filled as provided in s. 720.306(9) until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first:

a. Forgery of a ballot envelope or voting certificate used in a homeowners' association election as provided in s. 831.01.

b. Theft or embezzlement of funds of a homeowners' association as provided in s. 812.014.

c. Destruction of or the refusal to allow inspection or copying of an official record of a homeowners' association that is accessible to parcel owners within the time periods required by general law in furtherance of any crime. Such act constitutes



190622

tampering with physical evidence as provided in s. 918.13.

d. Obstruction of justice under chapter 843.

3. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

(c) The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this chapter, those set forth in the governing documents.

(d) After control of the association is obtained by members other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members, including, but not limited to, the common areas; roof or structural components of a building, or other improvements for which the association is responsible; mechanical, electrical, or plumbing elements serving an improvement or building for which the association is responsible; representations of the developer pertaining to any existing or proposed commonly used facility; and protesting ad valorem taxes on commonly used facilities. The association may defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation against any party in the name of the association involving amounts in controversy in



190622

69 excess of \$100,000, the association must obtain the affirmative  
70 approval of a majority of the voting interests at a meeting of  
71 the membership at which a quorum has been attained. This  
72 paragraph ~~subsection~~ does not limit any statutory or common-law  
73 right of any individual member or class of members to bring any  
74 action without participation by the association.

75 (e) A member does not have authority to act for the  
76 association by virtue of being a member. An association may have  
77 more than one class of members and may issue membership  
78 certificates.

79 (f) An association of 15 or fewer parcel owners may enforce  
80 only the requirements of those deed restrictions established  
81 prior to the purchase of each parcel upon an affected parcel  
82 owner or owners.

83 (4) OFFICIAL RECORDS.—The association shall maintain each  
84 of the following items, when applicable, which constitute the  
85 official records of the association:

86 (g) A current roster of all members and their designated  
87 mailing addresses and parcel identifications. A member's  
88 designated mailing address is the member's property address,  
89 unless the member has sent written notice to the association  
90 requesting that a different mailing address be used for all  
91 required notices. The association shall also maintain the e-mail  
92 electronic-mailing addresses and the facsimile numbers  
93 designated by members for receiving notice sent by electronic  
94 transmission of those members consenting to receive notice by  
95 electronic transmission. A member's e-mail address is the e-mail  
96 address the member provided when consenting in writing to  
97 receiving notice by electronic transmission, unless the member



190622

has sent written notice to the association requesting that a different e-mail address be used for all required notices. The e-mail ~~electronic mailing~~ addresses and facsimile numbers provided by members ~~unit owners~~ to receive notice by electronic transmission must ~~shall~~ be removed from association records when the member revokes consent to receive notice by electronic transmission ~~is revoked~~. However, the association is not liable for an erroneous disclosure of the e-mail ~~electronic mail~~ address or the facsimile number for receiving electronic transmission of notices.

(8) ASSOCIATION FUNDS; COMMINGLING.—

(d) If an association collects a deposit from a member for any reason, including to pay for expenses that may be incurred as a result of construction on a member's parcel, such funds must be maintained separately and may not be comingled with any other association funds. Upon completion of the member's construction project, or other reason for which the deposit was collected, the member may request an accounting from the association of his or her funds that were deposited, and the association must provide such accounting to the member within 7 days after receiving the member's request. An association must remit payment of any unused funds to the member within 30 days after receiving notice that the member's construction project, or other reason for which the deposit was collected, is complete.

Section 3. Subsection (3) of section 720.3033, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

720.3033 Officers and directors.—





190622

(3) An officer, a director, or a manager may not solicit, offer to accept, or accept any thing ~~good~~ or service of value for which consideration has not been provided for his or her benefit or for the benefit of a member of his or her immediate family from any person providing or proposing to provide goods or services to the association. An officer, a director, or a manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association is subject to a civil penalty under s. 718.501(1)(d) and, if applicable, a criminal penalty as provided in s. 718.111(1)(d). If the board finds that an officer or a director has violated this subsection, the board shall immediately remove the officer or director from office. The vacancy shall be filled according to law until the end of the officer's or director's term of office. However, an officer, a director, or a manager may accept food to be consumed at a business meeting with a value of less than \$25 per individual or a service or good received in connection with trade fairs or education programs.

(6)(a) Directors and officers of an association that are appointed by the developer must disclose to the association their relationship to the developer each calendar year in which they serve as a director or an officer. Directors and officers appointed by the developer must disclose any other activity that may reasonably be construed to be a conflict of interest pursuant to paragraph (b).

(b) Directors and officers must disclose to the association



190622

any activity that may be reasonably construed to be a conflict of interest at least 14 days before voting on an issue or entering into a contract that is the subject of the conflict. A rebuttable presumption of a conflict of interest exists if any of the following acts occur without prior disclosure to the association:

1. A director or an officer, or a relative of a director or an officer, enters into a contract for goods or services with the association.

2. A director or an officer, or a relative of a director or an officer, holds an interest in a corporation, limited liability company, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

Section 4. Subsections (1), (2), and (5) of section 720.305, Florida Statutes, are amended to read:

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.—

(1) Each member and the member's tenants, guests, and invitees, and each association, are governed by, and must comply with, this chapter, the governing documents of the community, and the rules of the association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member against:

(a) The association;

(b) A member;

(c) Any director or officer of an association who willfully



190622

and knowingly fails to comply with these provisions; and

(d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney fees and costs as provided in paragraph (2) (e). A member prevailing in an action between the association and the member under this section, in addition to recovering his or her reasonable attorney fees, may recover additional amounts as determined by the court to be necessary to reimburse the member for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. This section does not deprive any person of any other available right or remedy.

(2) An association may levy reasonable fines for violations of the declaration, association's bylaws, or reasonable rules of the association. A fine may not exceed \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is



190622

entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.

(a) An association may suspend, for a reasonable period of time, the right of a member, or a member's tenant, guest, or invitee, to use common areas and facilities for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. This paragraph does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' notice to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the parcel owner, sought to be fined or suspended and ~~an opportunity for~~ a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The notice must include a description of the alleged violation, the specific action required to cure such violation, if applicable, and the date and location of the hearing. A parcel owner has the right to attend a hearing by telephone or other electronic means.

(c) If the committee, by majority vote, does not approve a



190622

proposed fine or suspension, the proposed fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board.

(d) After the hearing, the committee shall provide written notice to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the parcel owner, of the committee's findings related to the violation, including any applicable fines or suspensions that the committee approved or rejected, and how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation, if applicable.

(e) If the proposed fine or suspension levied by the board is approved by the committee by a majority vote, the fine payment is due 5 days after notice of the approved fine required under paragraph (d) is provided to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner. The association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner.

(5) All suspensions imposed under ~~pursuant to~~ subsection (3) or subsection (4) must be approved at a properly noticed board meeting. Upon approval, the board association must send written notice to ~~notify~~ the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery to the parcel owner's designated mailing or e-mail address in the association's official records.



190622

Section 5. Section 720.3065, Florida Statutes, is created to read:

720.3065 Fraudulent voting activities relating to association elections; penalties.—Each of the following acts is a fraudulent voting activity relating to association elections and constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(1) Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.

(2) Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.

(3) Preventing a member from voting or preventing a member from voting as he or she intended by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.

(4) Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when the member is voting.

(5) Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This subsection does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.



190622

(6) Using or threatening to use, directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on a particular ballot measure.

Section 6. This act shall take effect October 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to homeowners' associations; providing a short title; amending s. 720.303, F.S.; requiring certain officers or directors of an association to be removed from office under certain circumstances; specifying how a vacancy on the association board must be filled; providing restrictions on certain officers and directors; specifying when an officer or director is required to be reinstated; requiring an association to maintain designated addresses as official records; specifying what constitutes a designated address; conforming provisions to changes made by the act; prohibiting certain funds from being comingled with other association funds; authorizing a member to request an accounting from an association under certain circumstances; requiring an association to provide such accounting and remit unused funds to the member within specified timeframes; amending s. 720.3033, F.S.; providing criminal and civil penalties



190622

for certain actions by officers, directors, or  
managers of an association; requiring directors and  
officers of the association to disclose certain  
activity and relationships to the association within a  
specified timeframe; creating a rebuttable presumption  
of a conflict of interest if certain acts occur;  
amending s. 720.305, F.S.; restricting certain  
attorney fees and fines; specifying the types of  
violations for which an association may levy fines;  
specifying where certain notice must be delivered;  
providing requirements for such notice; authorizing  
parcel owners to attend certain hearings by telephone  
or other electronic means; requiring a specified  
notice after a hearing; conforming provisions to  
changes made by the act; creating s. 720.3065, F.S.;  
providing criminal penalties for certain fraudulent  
voting activities; providing an effective date.



By Senator Rodriguez

40-00416B-23

20231114\_\_

1 A bill to be entitled  
 2 An act relating to community associations; providing a  
 3 short title; amending s. 718.111, F.S.; prohibiting  
 4 association funds and reserves from being used by  
 5 specified persons or entities for certain reasons;  
 6 requiring the board of each association to appoint an  
 7 official recordkeeper for the association; authorizing  
 8 the board to provide powers and duties to the  
 9 recordkeeper if necessary; removing obsolete language;  
 10 requiring that certain information be posted on the  
 11 association's website or application and the  
 12 Department of State website; amending ss. 718.1224 and  
 13 720.304, F.S.; prohibiting reserves from being used in  
 14 prosecuting SLAPP suits; amending ss. 718.501 and  
 15 720.302, F.S.; providing the Division of Florida  
 16 Condominiums, Timeshares, and Mobile Homes with  
 17 certain jurisdiction; requiring the division to  
 18 forward certain complaints to the Department of Law  
 19 Enforcement; requiring the division to review  
 20 complaints within a specified timeframe and take  
 21 specified actions; amending s. 720.303, F.S.;  
 22 providing criminal penalties for certain actions by an  
 23 officer or director of the association; requiring that  
 24 certain officers or directors be removed from office  
 25 for a certain time period under certain circumstances;  
 26 specifying how a vacancy on the board must be filled;  
 27 providing restrictions on certain officers and  
 28 directors; specifying when an officer or director may  
 29 be reinstated; requiring that the governing documents

Page 1 of 51

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

40-00416B-23

20231114\_\_

30 of an association be amended to modify or restrict  
 31 parcel use; requiring an association to maintain  
 32 designated mailing and e-mail addresses as official  
 33 records; specifying what constitutes a designated  
 34 address; making conforming changes; requiring the  
 35 board of each association to designate an official  
 36 recordkeeper for the association; authorizing the  
 37 board to provide powers and duties to the recordkeeper  
 38 if necessary; requiring certain information be posted  
 39 on the association's and the Department of State  
 40 websites; revising the confidentiality of certain  
 41 official records; conforming cross-references;  
 42 prohibiting association funds and reserves from being  
 43 used by specified persons or entities for certain  
 44 reasons; amending s. 720.305, F.S.; restricting  
 45 certain attorney fees and fines; specifying the types  
 46 of violations for which an association may levy fines;  
 47 providing a maximum fine amount; prohibiting fines  
 48 from being aggregated; revising the amount of notice  
 49 the board of administration must give a parcel owner  
 50 before imposing a fine or suspension; specifying where  
 51 such notice must be delivered; providing requirements  
 52 for such notice; authorizing parcel owners to attend  
 53 certain hearings by telephone or other electronic  
 54 means; expanding duties of a specified committee;  
 55 requiring a specified notice after a hearing;  
 56 specifying how fines, suspensions, attorney fees, and  
 57 costs are determined; requiring that a detailed  
 58 accounting of amounts due to the association be given

Page 2 of 51

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

40-00416B-23

20231114\_\_

59 to certain persons within a certain timeframe upon  
 60 written request; providing for a complete waiver of a  
 61 violation under certain circumstances; specifying the  
 62 priority of payments made by a parcel owner to an  
 63 association; prohibiting the accrual of attorney fees  
 64 and costs after a specified time; authorizing certain  
 65 persons to request a hearing to dispute certain fees  
 66 and costs; providing for the waiver of certain fines  
 67 or suspensions; requiring that certain fines, fees, or  
 68 other costs be paid by an association; conforming  
 69 provisions to changes made by the act; amending s.  
 70 720.306, F.S.; requiring that the governing documents  
 71 of an association be amended to modify or restrict  
 72 parcel use; amending s. 720.3085, F.S.; specifying the  
 73 priority of payments made by a parcel owner to an  
 74 association; prohibiting an association from bringing  
 75 an action to foreclose a lien against a parcel;  
 76 providing that such lien stays on the parcel until the  
 77 lien is paid, settled, or released; requiring that  
 78 certain actions be brought in the same lawsuit;  
 79 amending s. 720.311, F.S.; providing the division with  
 80 certain jurisdiction; requiring the division to  
 81 forward certain complaints to the Department of Law  
 82 Enforcement; requiring the division to review  
 83 complaints within a specified timeframe and take  
 84 specified actions; revising which disputes require  
 85 presuit mediation; revising the timeframe for a  
 86 responding party to respond to a demand for presuit  
 87 mediation; amending s. 720.402, F.S.; prohibiting

40-00416B-23

20231114\_\_

88 reserve funds from being used in the defense of  
 89 certain actions; creating s. 943.71, F.S.; authorizing  
 90 the Department of Law Enforcement to investigate  
 91 certain complaints relating to community associations  
 92 and their boards of administration, officers, or  
 93 directors; providing an effective date.  
 94

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

96  
 97 Section 1. This act may be cited as the "Community  
 98 Associations Bill of Rights."

99 Section 2. Paragraphs (b) and (g) of subsection (12) of  
 100 section 718.111, Florida Statutes, are amended and paragraph (g)  
 101 is added to subsection (3) of that section, to read:

102 718.111 The association.—

103 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,  
 104 SUE, AND BE SUED; CONFLICT OF INTEREST.—

105 (g) Association funds and reserve funds may not be used by  
 106 a developer, the association, or elected board members to defend  
 107 a civil or criminal action, an administrative proceeding, or an  
 108 arbitration proceeding or to pay for attorney fees relating to  
 109 such action or proceeding, even when the subject of the action  
 110 or proceeding concerns the operation of the developer-controlled  
 111 association.

112 (12) OFFICIAL RECORDS.—

113 (b) 1. The board of each community association shall appoint  
 114 an association member as a recordkeeper whose responsibility is  
 115 to maintain the official records of the association during the  
 116 time period of his or her appointment. The board must specify

40-00416B-23

20231114\_\_

the duration of such appointment and may grant the recordkeeper additional authority as needed. The name and contact information of the recordkeeper must be displayed on the association's website or application as required under paragraph (g) and the Department of State website.

2. The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in compliance with this chapter unless the association has an affirmative duty not to disclose such information under this chapter.

Page 5 of 51

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

40-00416B-23

20231114\_\_

(g)1. ~~By January 1, 2019,~~ An association managing a condominium with 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device. The name and contact information of the association's recordkeeper must be displayed on the association's website or application.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted

Page 6 of 51

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

40-00416B-23 20231114\_\_

175 in digital format on the association's website or application:

176 a. The recorded declaration of condominium of each

177 condominium operated by the association and each amendment to

178 each declaration.

179 b. The recorded bylaws of the association and each

180 amendment to the bylaws.

181 c. The articles of incorporation of the association, or

182 other documents creating the association, and each amendment to

183 the articles of incorporation or other documents. The copy

184 posted pursuant to this sub-subparagraph must be a copy of the

185 articles of incorporation filed with the Department of State.

186 d. The rules of the association.

187 e. A list of all executory contracts or documents to which

188 the association is a party or under which the association or the

189 unit owners have an obligation or responsibility and, after

190 bidding for the related materials, equipment, or services has

191 closed, a list of bids received by the association within the

192 past year. Summaries of bids for materials, equipment, or

193 services which exceed \$500 must be maintained on the website or

194 application for 1 year. In lieu of summaries, complete copies of

195 the bids may be posted.

196 f. The annual budget required by s. 718.112(2)(f) and any

197 proposed budget to be considered at the annual meeting.

198 g. The financial report required by subsection (13) and any

199 monthly income or expense statement to be considered at a

200 meeting.

201 h. The certification of each director required by s.

202 718.112(2)(d)4.b.

203 i. All contracts or transactions between the association

40-00416B-23 20231114\_\_

204 and any director, officer, corporation, firm, or association

205 that is not an affiliated condominium association or any other

206 entity in which an association director is also a director or

207 officer and financially interested.

208 j. Any contract or document regarding a conflict of

209 interest or possible conflict of interest as provided in ss.

210 468.436(2)(b)6. and 718.3027(3).

211 k. The notice of any unit owner meeting and the agenda for

212 the meeting, as required by s. 718.112(2)(d)3., no later than 14

213 days before the meeting. The notice must be posted in plain view

214 on the front page of the website or application, or on a

215 separate subpage of the website or application labeled "Notices"

216 which is conspicuously visible and linked from the front page.

217 The association must also post on its website or application any

218 document to be considered and voted on by the owners during the

219 meeting or any document listed on the agenda at least 7 days

220 before the meeting at which the document or the information

221 within the document will be considered.

222 1. Notice of any board meeting, the agenda, and any other

223 document required for the meeting as required by s.

224 718.112(2)(c), which must be posted no later than the date

225 required for notice under s. 718.112(2)(c).

226 m. The inspection reports described in ss. 553.899 and

227 718.301(4)(p) and any other inspection report relating to a

228 structural or life safety inspection of condominium property.

229 n. The association's most recent structural integrity

230 reserve study, if applicable.

231 3. The association shall ensure that the information and

232 records described in paragraph (c), which are not allowed to be

40-00416B-23

20231114

accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 3. Subsection (4) of section 718.1224, Florida Statutes, is amended to read:

718.1224 Prohibition against SLAPP suits.—

(4) Condominium associations may not expend association funds or reserve funds in prosecuting a SLAPP suit against a condominium unit owner.

Section 4. Subsection (1) of section 718.501, Florida Statutes, is amended to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the

40-00416B-23

20231114

procedural completion of milestone inspections under s. 553.899. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and unit owner access to association records under s. 718.111(12), and the procedural completion of structural integrity reserve studies under s. 718.112(2)(g). If the division receives a complaint alleging criminal activity, whether before or after turnover of the association, the division must forward the complaint to the Department of Law Enforcement.

(a)1. The division must, within 72 hours after receiving a complaint, review the complaint and determine whether the complaint, on its face, alleges any criminal activity. If the division determines that a complaint contains allegations of criminal activity, the division shall forward the complaint to the Department of Law Enforcement for investigation. The division is responsible for investigating all portions of the complaint that do not allege criminal activity.

2. The division may make necessary public or private investigations within or outside ~~the this~~ state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or

40-00416B-23

20231114\_\_

to aid in the adoption of rules or forms.

~~3.2-~~ The division may submit any official written report, worksheet, or other related paper, or a duly certified copy thereof, compiled, prepared, drafted, or otherwise made by and duly authenticated by a financial examiner or analyst to be admitted as competent evidence in any hearing in which the financial examiner or analyst is available for cross-examination and attests under oath that such documents were prepared as a result of an examination or inspection conducted pursuant to this chapter.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling compliance.

40-00416B-23

20231114\_\_

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of ~~any provision of~~ this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate ~~any provision of~~ this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue

40-00416B-23

20231114

an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

3. If a developer, bulk assignee, or bulk buyer fails to pay any restitution determined by the division to be owed, plus any accrued interest at the highest rate permitted by law, within 30 days after expiration of any appellate time period of a final order requiring payment of restitution or the conclusion of any appeal thereof, whichever is later, the division must bring an action in circuit or county court on behalf of any association, class of unit owners, lessees, or purchasers for restitution, declaratory relief, injunctive relief, or any other available remedy. The division may also temporarily revoke its acceptance of the filing for the developer to which the restitution relates until payment of restitution is made.

4. The division may petition the court for appointment of a receiver or conservator. If appointed, the receiver or conservator may take action to implement the court order to ensure the performance of the order and to remedy any breach thereof. In addition to all other means provided by law for the enforcement of an injunction or temporary restraining order, the circuit court may impound or sequester the property of a party defendant, including books, papers, documents, and related records, and allow the examination and use of the property by the division and a court-appointed receiver or conservator.

5. The division may apply to the circuit court for an order

40-00416B-23

20231114

of restitution whereby the defendant in an action brought under subparagraph 4. is ordered to make restitution of those sums shown by the division to have been obtained by the defendant in violation of this chapter. At the option of the court, such restitution is payable to the conservator or receiver appointed under subparagraph 4. or directly to the persons whose funds or assets were obtained in violation of this chapter.

6. The division may impose a civil penalty against a developer, bulk assignee, or bulk buyer, or association, or its assignee or agent, for any violation of this chapter or related rule. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly violates this chapter, an adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before initiating formal agency action under chapter 120, must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the

40-00416B-23 20231114\_\_

penalty for any offense may not exceed \$5,000. The division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, upon the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the

40-00416B-23 20231114\_\_

civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the division shall issue a subpoena requiring production of the requested records where the records are kept pursuant to s. 718.112.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (r). The civil penalty shall be at least \$500 but no more than \$5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also award reasonable costs of investigation.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers,



40-00416B-23 20231114\_\_

465 lessees, and developers of residential condominiums in assessing  
 466 the rights, privileges, and duties pertaining thereto.

467 (f) The division may adopt rules to administer and enforce  
 468 this chapter.

469 (g) The division shall establish procedures for providing  
 470 notice to an association and the developer, bulk assignee, or  
 471 bulk buyer during the period in which the developer, bulk  
 472 assignee, or bulk buyer controls the association if the division  
 473 is considering the issuance of a declaratory statement with  
 474 respect to the declaration of condominium or any related  
 475 document governing such condominium community.

476 (h) The division shall furnish each association that pays  
 477 the fees required by paragraph (2)(a) a copy of this chapter, as  
 478 amended, and the rules adopted thereto on an annual basis.

479 (i) The division shall annually provide each association  
 480 with a summary of declaratory statements and formal legal  
 481 opinions relating to the operations of condominiums which were  
 482 rendered by the division during the previous year.

483 (j) The division shall provide training and educational  
 484 programs for condominium association board members and unit  
 485 owners. The training may, in the division's discretion, include  
 486 web-based electronic media and live training and seminars in  
 487 various locations throughout the state. The division may review  
 488 and approve education and training programs for board members  
 489 and unit owners offered by providers and shall maintain a  
 490 current list of approved programs and providers and make such  
 491 list available to board members and unit owners in a reasonable  
 492 and cost-effective manner.

493 (k) The division shall maintain a toll-free telephone

40-00416B-23 20231114\_\_

494 number accessible to condominium unit owners.

495 (l) The division shall develop a program to certify both  
 496 volunteer and paid mediators to provide mediation of condominium  
 497 disputes. The division shall provide, upon request, a list of  
 498 such mediators to any association, unit owner, or other  
 499 participant in alternative dispute resolution proceedings under  
 500 s. 718.1255 requesting a copy of the list. The division shall  
 501 include on the list of volunteer mediators only the names of  
 502 persons who have received at least 20 hours of training in  
 503 mediation techniques or who have mediated at least 20 disputes.  
 504 In order to become initially certified by the division, paid  
 505 mediators must be certified by the Supreme Court to mediate  
 506 court cases in county or circuit courts. However, the division  
 507 may adopt, by rule, additional factors for the certification of  
 508 paid mediators, which must be related to experience, education,  
 509 or background. Any person initially certified as a paid mediator  
 510 by the division must, in order to continue to be certified,  
 511 comply with the factors or requirements adopted by rule.

512 (m) If a complaint is made, the division must conduct its  
 513 inquiry with due regard for the interests of the affected  
 514 parties. Within 30 days after receipt of a complaint, the  
 515 division shall acknowledge the complaint in writing and notify  
 516 the complainant whether the complaint is within the jurisdiction  
 517 of the division and whether additional information is needed by  
 518 the division from the complainant. The division shall conduct  
 519 its investigation and, within 90 days after receipt of the  
 520 original complaint or of timely requested additional  
 521 information, take action upon the complaint. However, the  
 522 failure to complete the investigation within 90 days does not

40-00416B-23

20231114\_\_

prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing under ss. 120.569 and 120.57. The division may adopt rules regarding the submission of a complaint against an association.

(n) Condominium association directors, officers, and employees; condominium developers; bulk assignees, bulk buyers, and community association managers; and community association management firms have an ongoing duty to reasonably cooperate with the division in any investigation under this section. The division shall refer to local law enforcement authorities any person whom the division believes has altered, destroyed, concealed, or removed any record, document, or thing required to be kept or maintained by this chapter with the purpose to impair its verity or availability in the department's investigation.

(o) The division may:

1. Contract with agencies in the ~~this~~ state or other jurisdictions to perform investigative functions; or
2. Accept grants-in-aid from any source.

(p) The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, public offering statements, advertising standards, and

40-00416B-23

20231114\_\_

rules and common administrative practices.

(q) The division shall consider notice to a developer, bulk assignee, or bulk buyer to be complete when it is delivered to the address of the developer, bulk assignee, or bulk buyer currently on file with the division.

(r) In addition to its enforcement authority, the division may issue a notice to show cause, which must provide for a hearing, upon written request, in accordance with chapter 120.

(s) The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

Section 5. Subsection (2) of section 720.302, Florida Statutes, is amended and subsection (6) is added to that section to read:

720.302 Purposes, scope, and application; jurisdiction of the division.—

(2) The Legislature recognizes that it is not in the best

40-00416B-23

20231114\_\_

581 interest of homeowners' associations or the individual  
 582 association members thereof to create or impose a bureau or  
 583 other agency of state government to regulate the affairs of  
 584 homeowners' associations. However, in accordance with s.  
 585 720.311, the Legislature finds that homeowners' associations and  
 586 their individual members will benefit from an expedited  
 587 alternative process for resolution of election and recall  
 588 disputes and presuit mediation of other disputes involving  
 589 covenant enforcement and authorizes the department to hear,  
 590 administer, and determine these disputes as more fully set forth  
 591 in this chapter. Further, the Legislature recognizes that  
 592 certain contract rights have been created for the benefit of  
 593 homeowners' associations and members thereof before the  
 594 effective date of this act and that ss. 720.301-720.407 are not  
 595 intended to impair such contract rights, including, but not  
 596 limited to, the rights of the developer to complete the  
 597 community as initially contemplated. Finally, the Legislature  
 598 recognizes that it is in the best interests of homeowners'  
 599 associations and the individual association members thereof that  
 600 complaints involving criminal activity be investigated  
 601 thoroughly.

602 (6) The division has jurisdiction to accept and review  
 603 complaints alleging criminal activity, whether before or after  
 604 turnover of the association, and shall follow the procedures  
 605 under s. 720.311(1)(b).

606 Section 6. Subsection (1), paragraphs (g) and (m) of  
 607 subsection (4), subsection (5), and paragraph (c) of subsection  
 608 (8) of section 720.303, Florida Statutes, are amended to read:  
 609 720.303 Association powers and duties; meetings of board;

40-00416B-23

20231114\_\_

610 official records; budgets; financial reporting; association  
 611 funds; recalls.—

612 (1) POWERS AND DUTIES.—

613 (a) An association which operates a community as defined in  
 614 s. 720.301, must be operated by an association that is a Florida  
 615 corporation. After October 1, 1995, the association must be  
 616 incorporated and the initial governing documents must be  
 617 recorded in the official records of the county in which the  
 618 community is located. An association may operate more than one  
 619 community.

620 (b) The officers and directors of an association have a  
 621 fiduciary relationship to the members who are served by the  
 622 association. As required by s. 617.0830, an officer or a  
 623 director shall discharge his or her duties in good faith, with  
 624 the care an ordinarily prudent person in a like position would  
 625 exercise under similar circumstances, and in a manner he or she  
 626 reasonably believes to be in the interests of the association.  
 627 An officer or a director is liable for monetary damages as  
 628 provided in s. 617.0834 if such officer or director breached or  
 629 failed to perform his or her duties and the breach of, or  
 630 failure to perform, his or her duties constitutes a violation of  
 631 criminal law as provided in s. 617.0834; constitutes a  
 632 transaction from which the officer or director derived an  
 633 improper personal benefit, either directly or indirectly; or  
 634 constitutes recklessness or an act or omission that was in bad  
 635 faith, with malicious purpose, or in a manner exhibiting wanton  
 636 and willful disregard of human rights, safety, or property.  
 637 Forgery of a ballot envelope or voting certificate used in a  
 638 homeowners' association election is punishable as provided in s.

40-00416B-23

20231114

831.01, the theft or embezzlement of funds of a homeowners' association is punishable as provided in s. 812.014, and the destruction of or the refusal to allow inspection or copying of an official record of a homeowners' association that is accessible to parcel owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13 or as obstruction of justice as provided in chapter 843. An officer or a director charged by information or indictment with a crime referenced in this paragraph must be removed from office, and the vacancy must be filled as provided in s. 720.306(9) until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

(c) The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this chapter, those set forth in the governing documents. An association may not modify or restrict the use of a parcel without amending its governing documents.

(d) After control of the association is obtained by members other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to

40-00416B-23

20231114

the members, including, but not limited to, the common areas; roof or structural components of a building, or other improvements for which the association is responsible; mechanical, electrical, or plumbing elements serving an improvement or building for which the association is responsible; representations of the developer pertaining to any existing or proposed commonly used facility; and protesting ad valorem taxes on commonly used facilities. The association may defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation against any party in the name of the association involving amounts in controversy in excess of \$100,000, the association must obtain the affirmative approval of a majority of the voting interests at a meeting of the membership at which a quorum has been attained. This paragraph ~~subsection~~ does not limit any statutory or common-law right of any individual member or class of members to bring any action without participation by the association.

(e) A member does not have authority to act for the association by virtue of being a member. An association may have more than one class of members and may issue membership certificates.

(f) An association of 15 or fewer parcel owners may enforce only the requirements of those deed restrictions established prior to the purchase of each parcel upon an affected parcel owner or owners.

(4) OFFICIAL RECORDS.—The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(g) A current roster of all members and their designated

40-00416B-23 20231114\_\_

mailing addresses and parcel identifications. A member's  
designated mailing address is the member's property address,  
 unless the member has sent written notice to the association  
requesting that a different mailing address be used for all  
required notices. The association shall also maintain the e-mail  
electronic-mailing addresses and the facsimile numbers  
 designated by members for receiving notice sent by electronic  
 transmission of those members consenting to receive notice by  
 electronic transmission. A member's e-mail address is the e-mail  
address the member provided when consenting in writing to  
receiving notice by electronic transmission unless the member  
has sent written notice to the association requesting that a  
different e-mail address be used for all required notices. The  
e-mail electronic-mailing addresses and facsimile numbers  
 provided by members ~~unit owners~~ to receive notice by electronic  
 transmission must ~~shall~~ be removed from association records when  
the member revokes consent to receive notice by electronic  
 transmission ~~is revoked~~. However, the association is not liable  
 for an erroneous disclosure of the e-mail electronic-mail  
 address or the facsimile number for receiving electronic  
 transmission of notices.

(m) All affirmative acknowledgments made pursuant to s.  
720.3085(4)(c)3 ~~s. 720.3085(3)(c)3~~.

(5) INSPECTION AND COPYING OF RECORDS.—The board of each  
homeowners' association shall appoint an association member as a  
recordkeeper whose responsibility is to maintain the official  
records of the association during the time period of his or her  
appointment. The board must specify the duration of such  
appointment and may grant the recordkeeper additional authority

40-00416B-23 20231114\_\_

as needed. The name and contact information of the recordkeeper  
must be displayed on the association's website and the  
Department of State website. The official records shall be  
 maintained within the state for at least 7 years and shall be  
 made available to a parcel owner for inspection or photocopying  
 within 45 miles of the community or within the county in which  
 the association is located within 10 business days after receipt  
 by the board or its designee of a written request. This  
 subsection may be complied with by having a copy of the official  
 records available for inspection or copying in the community or,  
 at the option of the association, by making the records  
 available to a parcel owner electronically via the Internet or  
 by allowing the records to be viewed in electronic format on a  
 computer screen and printed upon request. If the association has  
 a photocopy machine available where the records are maintained,  
 it must provide parcel owners with copies on request during the  
 inspection if the entire request is limited to no more than 25  
 pages. An association shall allow a member or his or her  
 authorized representative to use a portable device, including a  
 smartphone, tablet, portable scanner, or any other technology  
 capable of scanning or taking photographs, to make an electronic  
 copy of the official records in lieu of the association's  
 providing the member or his or her authorized representative  
 with a copy of such records. The association may not charge a  
 fee to a member or his or her authorized representative for the  
 use of a portable device.

(a) The failure of an association to provide access to the  
 records within 10 business days after receipt of a written  
 request submitted by certified mail, return receipt requested,

40-00416B-23

20231114\_\_

creates a rebuttable presumption that the association willfully failed to comply with this subsection.

(b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice. The association shall maintain an adequate number of copies of the recorded

40-00416B-23

20231114\_\_

governing documents, to ensure their availability to members and prospective members. Notwithstanding this paragraph, the following records are not accessible to members or parcel owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, a record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a parcel, but only to the extent the record contains protected personal identifying information or any other information that is protected by applicable state or federal privacy laws. Any such protected information must be redacted from the records by the association and the redacted records must be made available to a parcel owner for inspection or photocopying if requested.

3. Information an association obtains in a gated community in connection with guests' visits to parcel owners or community residents.

4. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this

40-00416B-23

20231114\_\_

subparagraph, the term "personnel records" does not include written employment agreements with an association or management company employee or budgetary or financial records that indicate the compensation paid to an association or management company employee.

5. Medical records of parcel owners or community residents.

6. Social security numbers, driver license numbers, credit card numbers, e-mail ~~electronic mailing~~ addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses for a parcel owner other than as provided for association notice requirements, and other personal identifying information of any person, excluding the person's name, parcel designation, mailing address, and property address.

Notwithstanding the restrictions in this subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

7. Any electronic security measure that is used by the association to safeguard data, including passwords.

8. The software and operating system used by the association which allows the manipulation of data, even if the

40-00416B-23

20231114\_\_

owner owns a copy of the same software used by the association. The data is part of the official records of the association.

9. All affirmative acknowledgments made pursuant to s. 720.3085(4)(c)3 ~~s. 720.3085(3)(c)3~~.

(d) The association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the residential subdivision or the association other than information or documents required by this chapter to be made available or disclosed. The association or its authorized agent may charge a reasonable fee to the prospective purchaser or lienholder or the current parcel owner or member for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, if the fee does not exceed \$150 plus the reasonable cost of photocopying and any attorney fees incurred by the association in connection with the response.

(8) ASSOCIATION FUNDS; COMMINGLING.—

(c) Association funds and reserve funds may not be used by a developer, the association, or elected board members to defend a civil or criminal action, administrative proceeding, or arbitration proceeding or to pay attorney fees relating to such action or proceeding ~~that has been filed against the developer or directors appointed to the association board by the developer~~, even when the subject of the action or proceeding concerns the operation of the developer-controlled association.

Section 7. Paragraph (d) of subsection (4) of section 720.304, Florida Statutes, is amended to read:

720.304 Right of owners to peaceably assemble; display of flag; SLAPP suits prohibited.—

40-00416B-23

20231114\_\_

871 (4) It is the intent of the Legislature to protect the  
 872 right of parcel owners to exercise their rights to instruct  
 873 their representatives and petition for redress of grievances  
 874 before the various governmental entities of this state as  
 875 protected by the First Amendment to the United States  
 876 Constitution and s. 5, Art. I of the State Constitution. The  
 877 Legislature recognizes that "Strategic Lawsuits Against Public  
 878 Participation" or "SLAPP" suits, as they are typically called,  
 879 have occurred when members are sued by individuals, business  
 880 entities, or governmental entities arising out of a parcel  
 881 owner's appearance and presentation before a governmental entity  
 882 on matters related to the homeowners' association. However, it  
 883 is the public policy of this state that government entities,  
 884 business organizations, and individuals not engage in SLAPP  
 885 suits because such actions are inconsistent with the right of  
 886 parcel owners to participate in the state's institutions of  
 887 government. Therefore, the Legislature finds and declares that  
 888 prohibiting such lawsuits by governmental entities, business  
 889 entities, and individuals against parcel owners who address  
 890 matters concerning their homeowners' association will preserve  
 891 this fundamental state policy, preserve the constitutional  
 892 rights of parcel owners, and assure the continuation of  
 893 representative government in this state. It is the intent of the  
 894 Legislature that such lawsuits be expeditiously disposed of by  
 895 the courts.

896 (d) Homeowners' associations may not expend association  
 897 funds or reserve funds in prosecuting a SLAPP suit against a  
 898 parcel owner.

899 Section 8. Subsections (1), (2), and (5) of section

Page 31 of 51

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

40-00416B-23

20231114\_\_

900 720.305, Florida Statutes, are amended, and subsection (7) is  
 901 added to that section to read:

902 720.305 Obligations of members; remedies at law or in  
 903 equity; levy of fines and suspension of use rights.—

904 (1) Each member and the member's tenants, guests, and  
 905 invitees, and each association, are governed by, and must comply  
 906 with, this chapter, the governing documents of the community,  
 907 and the rules of the association. Actions at law or in equity,  
 908 or both, to redress alleged failure or refusal to comply with  
 909 these provisions may be brought by the association or by any  
 910 member against:

911 (a) The association;

912 (b) A member;

913 (c) Any director or officer of an association who willfully  
 914 and knowingly fails to comply with these provisions; and

915 (d) Any tenants, guests, or invitees occupying a parcel or  
 916 using the common areas.

917  
 918 The prevailing party in any such litigation is entitled to  
 919 recover reasonable attorney fees and costs as provided in  
 920 paragraph (2) (e). A member prevailing in an action between the  
 921 association and the member under this section, in addition to  
 922 recovering his or her reasonable attorney fees, may recover  
 923 additional amounts as determined by the court to be necessary to  
 924 reimburse the member for his or her share of assessments levied  
 925 by the association to fund its expenses of the litigation. This  
 926 relief does not exclude other remedies provided by law. This  
 927 section does not deprive any person of any other available right  
 928 or remedy.

Page 32 of 51

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



40-00416B-23

20231114\_\_

929 (2) An association may levy reasonable fines for violations  
 930 of the declaration, association's bylaws, or reasonable rules of  
 931 the association. A fine may not exceed \$100 per violation  
 932 against any member or any member's tenant, guest, or invitee for  
 933 the failure of the owner of the parcel or its occupant,  
 934 licensee, or invitee to comply with any provision of the  
 935 declaration, the association bylaws, or reasonable rules of the  
 936 association unless otherwise provided in the governing  
 937 documents; however, a fine may not exceed \$1,000 per violation.  
 938 A fine may be levied by the board for each day of a continuing  
 939 violation, with a single notice and opportunity for hearing,  
 940 except that the fine may not exceed \$1,000 in the aggregate  
 941 unless otherwise provided in the governing documents. A fine of  
 942 less than \$1,000 or less may not become a lien against a parcel  
 943 and fines may not be aggregated to create a lien against a  
 944 parcel. In any action to recover a fine, the prevailing party is  
 945 entitled to reasonable attorney fees and costs from the  
 946 nonprevailing party as provided in paragraph (e) ~~determined by~~  
 947 ~~the court.~~

948 (a) An association may suspend, for a reasonable period of  
 949 time, the right of a member, or a member's tenant, guest, or  
 950 invitee, to use common areas and facilities for the failure of  
 951 the owner of the parcel or its occupant, licensee, or invitee to  
 952 comply with any provision of the declaration, the association  
 953 bylaws, or reasonable rules of the association. This paragraph  
 954 does not apply to that portion of common areas used to provide  
 955 access or utility services to the parcel. A suspension may not  
 956 prohibit an owner or tenant of a parcel from having vehicular  
 957 and pedestrian ingress to and egress from the parcel, including,

40-00416B-23

20231114\_\_

958 but not limited to, the right to park.

959 (b) A fine or suspension levied for a violation by the  
 960 board of administration may not be imposed unless the board  
 961 first provides at least 30 14 days' notice to the parcel owner  
 962 at his or her designated mailing or e-mail address in the  
 963 association's official records and, if applicable, any occupant,  
 964 licensee, or invitee of the parcel owner, sought to be fined or  
 965 suspended and ~~an opportunity for~~ a hearing before a committee of  
 966 at least three members appointed by the board who are not  
 967 officers, directors, or employees of the association, or the  
 968 spouse, parent, child, brother, or sister of an officer,  
 969 director, or employee. The notice must include a description of  
 970 the alleged violation, the specific action required to cure such  
 971 violation, and the date and location of the hearing. A parcel  
 972 owner has the right to attend a hearing by telephone or other  
 973 electronic means.

974 (c) If the committee, by majority vote, does not approve a  
 975 proposed fine or suspension, the proposed fine or suspension may  
 976 not be imposed. If the committee, by majority vote, determines  
 977 that a violation does not exist then no other action may be  
 978 taken related to that alleged violation. The role of the  
 979 committee is limited to determining whether a violation exists  
 980 and whether to approve ~~confirm~~ or reject the fine or suspension  
 981 levied by the board.

982 (d) After the hearing, the committee shall provide written  
 983 notice to the parcel owner at his or her designated mailing or  
 984 e-mail address in the association's official records and, if  
 985 applicable, any occupant, licensee, or invitee of the parcel  
 986 owner, of the committee's findings related to the violation,

40-00416B-23

20231114

including any applicable fines or suspensions that the committee approved or rejected, and how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation.

(e) Fines, suspensions, attorney fees, and costs are imposed as follows:

1. If a violation is found by the committee, but is cured before the hearing, a fine or suspension may not be imposed and attorney fees and costs may not be awarded.

2. If a violation is found and the proposed fine or suspension levied by the board is approved by the committee, the committee must decide, by majority vote, a date that the fine payment is due, which date must be at least 30 days after delivery of the written notice required in paragraph (d).

3. If a violation is found and the proposed fine or suspension levied by the board is approved by the committee, but the violation is cured within 30 days after delivery of the written notice required in paragraph (d), the fine must be reduced by 50 percent, any applicable suspensions must be lifted, and attorney fees and costs may not be awarded.

4. If a violation is found and the proposed fine or suspension levied by the board is approved by the committee and the violation is not cured or the fine is not paid within 30 days after delivery of the written notice required in paragraph (d), reasonable attorney fees and costs may be awarded to the association.

(f) A parcel owner or any occupant, licensee, or invitee of the parcel owner may, at any time, make a written request for a detailed accounting of any amounts he or she owes to the association and the board shall provide such information within

40-00416B-23

20231114

10 days after receipt of the written request. Failure by the board to respond to a written request for a detailed accounting constitutes a complete waiver of the violation.

(g) Upon receipt of a payment for any outstanding fines from a parcel owner or any occupant, licensee, or invitee of the parcel owner, the board must apply the payment first to the fine before satisfying any other amounts due to the association. Attorney fees and costs may not continue to accrue after a parcel owner or any occupant, licensee, or invitee of the parcel owner pays the fine.

(h) A parcel owner or any occupant, licensee, or invitee of the parcel owner may request a hearing before the board to dispute the reasonableness of the attorney fees and costs awarded to the association 5 days after notice of the approved fine is provided to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner. The association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner.

(5) All suspensions imposed ~~under pursuant to~~ subsection (3) or subsection (4) must be approved at a properly noticed board meeting. Upon approval, the ~~board association~~ must send written notice to ~~notify~~ the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery to the parcel owner's designated mailing or e-mail address in the association's official records.

(7) The failure of the association or committee to comply with this section constitutes a waiver of all fines or

40-00416B-23

20231114\_\_

suspensions imposed or proposed for a violation. Any fines, fees, or other costs incurred by a parcel owner or any occupant, licensee, or invitee of the parcel owner which is related to a fine that is waived under this subsection must also be waived or paid by the association if such fine, fee, or other cost is not waivable.

Section 9. Paragraph (c) of subsection (1) of section 720.306, Florida Statutes, is amended to read:

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

(1) QUORUM; AMENDMENTS.—

(c) An association may not modify or restrict the use of a parcel without amending its governing documents. Unless otherwise provided in the governing documents as originally recorded or permitted by this chapter or chapter 617, an amendment may not materially and adversely alter the proportionate voting interest appurtenant to a parcel or increase the proportion or percentage by which a parcel shares in the common expenses of the association unless the record parcel owner and all record owners of liens on the parcels join in the execution of the amendment. For purposes of this section, a change in quorum requirements is not an alteration of voting interests. The merger or consolidation of one or more associations under a plan of merger or consolidation under part I of chapter 607 or chapter 617 is not a material or adverse alteration of the proportionate voting interest appurtenant to a parcel.

Section 10. Present subsections (1) through (8) of section 720.3085, Florida Statutes, are redesignated as subsections (2)

40-00416B-23

20231114\_\_

through (9), respectively, a new subsection (1) is added to that section, and paragraph (c) of present subsection (1), present subsection (5), and paragraph (a) of present subsection (8) are amended, to read:

720.3085 Priority of payments; payment for assessments; lien claims.—

(1) An association must apply payments made by a parcel owner first to any outstanding amounts due as designated by the parcel owner on the payment instrument or otherwise in writing. If the parcel owner does not designate on the payment instrument or in writing to which outstanding amount the payment is for, the association must apply the payment to the parcel owner's outstanding amounts in the following order:

(a) Regularly occurring assessments.

(b) Special assessments.

(c) Fines.

(d) Interest.

(e) Other fees or costs charged by the association to the parcel owner, including attorney fees and costs.

(2)(1) When authorized by the governing documents, the association has a lien on each parcel to secure the payment of assessments and other amounts provided for by this section. Except as otherwise set forth in this section, the lien is effective from and shall relate back to the date on which the original declaration of the community was recorded. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the public records of the county in which the parcel is located. This subsection does not bestow upon any lien, mortgage, or certified judgment of record

40-00416B-23

20231114\_\_

on July 1, 2008, including the lien for unpaid assessments created in this section, a priority that, by law, the lien, mortgage, or judgment did not have before July 1, 2008.

(c) A lien against a parcel is not foreclosable and will stay on the parcel until it is paid, settled, or released. The association may not bring an action in its name to foreclose a lien for assessments in the same manner in which a mortgage of real property is foreclosed. The association and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien as long as the money judgment action is brought in the same lawsuit as the claim of lien. The association is entitled to recover its reasonable attorney ~~attorney's~~ fees incurred in ~~an action to foreclose a lien or an~~ action to recover a money judgment for unpaid assessments.

(6)(5) The association may bring an action in its name to foreclose a lien for unpaid assessments secured by a lien in the same manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The action to foreclose the lien may not be brought until 45 days after the parcel owner has been provided notice of the association's intent to foreclose and collect the unpaid amount. The notice must be given in the manner provided in paragraph (5)(b) ~~(4)(b)~~, and the notice may not be provided until the passage of the 45 days required in paragraph (5)(a) ~~(4)(a)~~. The notice must be in substantially the following form:

DELINQUENT ASSESSMENT

Page 39 of 51

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

40-00416B-23

20231114\_\_

This letter is to inform you a Claim of Lien has been filed against your property because you have not paid the ...(type of assessment)... assessment to ...(name of association).... The association intends to foreclose the lien and collect the unpaid amount within 45 days of this letter being provided to you.

You owe the interest accruing from ...(month/year)... to the present. As of the date of this letter, the total amount due with interest is \$..... All costs of any action and interest from this day forward will also be charged to your account.

Any questions concerning this matter should be directed to ...(insert name, addresses, and telephone numbers of association representative)....

(a) The association may recover any interest, late charges, costs, and reasonable attorney ~~attorney's~~ fees incurred in a lien foreclosure action or in an action to recover a money judgment for the unpaid assessments.

(b) The time limitations in this subsection do not apply if the parcel is subject to a foreclosure action or forced sale of another party, or if an owner of the parcel is a debtor in a bankruptcy proceeding.

(9)(a) ~~(8)(a)~~ If the parcel is occupied by a tenant and the parcel owner is delinquent in paying any monetary obligation due to the association, the association may demand that the tenant pay to the association the subsequent rental payments and continue to make such payments until all the monetary obligations of the parcel owner related to the parcel have been paid in full to the association and the association releases the

Page 40 of 51

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

40-00416B-23 20231114\_\_

tenant or until the tenant discontinues tenancy in the parcel.

1. The association must provide the tenant a notice, by hand delivery or United States mail, in substantially the following form:

Pursuant to section 720.3085(9) ~~720.3085(8)~~, Florida Statutes, we demand that you make your rent payments directly to the homeowners' association and continue doing so until the association notifies you otherwise.

Payment due the homeowners' association may be in the same form as you paid your landlord and must be sent by United States mail or hand delivery to ...(full address)..., payable to ...(name)....

Your obligation to pay your rent to the association begins immediately, unless you have already paid rent to your landlord for the current period before receiving this notice. In that case, you must provide the association written proof of your payment within 14 days after receiving this notice and your obligation to pay rent to the association would then begin with the next rental period.

Pursuant to section 720.3085(9) ~~720.3085(8)~~, Florida Statutes, your payment of rent to the association gives you complete immunity from any claim for the rent by your landlord.

2. A tenant is immune from any claim by the parcel owner related to the rent timely paid to the association after the

40-00416B-23 20231114\_\_

association has made written demand.

Section 11. Subsection (1) and paragraphs (a) and (b) of subsection (2) of section 720.311, Florida Statutes, are amended to read:

720.311 Dispute resolution; complaints alleging criminal activity.—

(1) (a) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration or the serving of a demand for presuit mediation as provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department under s. 720.303(10) shall be conducted by the department in accordance with the provisions of ss. 718.112(2)(1) and 718.1255 and the rules adopted by the division. In addition, the department shall conduct binding arbitration of election disputes between a member and an association in accordance with s. 718.1255 and rules adopted by the division. Election disputes and recall disputes are not eligible for presuit mediation; these disputes must be arbitrated by the department or filed in a court of competent jurisdiction. At the conclusion of an arbitration proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least \$200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding, and the prevailing party in an arbitration proceeding shall recover its

40-00416B-23

20231114\_\_

reasonable costs and attorney fees in an amount found reasonable by the arbitrator.

(b) The division must, within 72 hours after receiving a complaint, review the complaint and determine whether the complaint, on its face, alleges any criminal activity. If the division determines that a complaint contains allegations of criminal activity, the division shall forward the complaint to the Department of Law Enforcement for investigation.

(c) The department shall adopt rules to implement ~~effectuate the purposes of~~ this section.

(2) (a) Disputes between an association and a parcel owner regarding violations, fines, suspensions, or use of or changes to the parcel or the common areas and other covenant enforcement disputes; ~~r~~ disputes regarding amendments to the association documents; disputes related to an alleged violation of the governing documents and any fines related to the alleged violation which subsequently are deemed covered assessments; ~~and,~~ disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association ~~must~~ shall be the subject of a demand for presuit mediation served by an aggrieved party before the dispute is filed in court. Presuit mediation proceedings must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Disputes not subject to presuit mediation under this section ~~shall not~~ include the collection of any regular or special assessment; ~~fine, or other financial obligation, including attorney's fees~~

Page 43 of 51

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

40-00416B-23

20231114\_\_

~~and costs,~~ claimed to be due or any action to enforce a prior mediation settlement agreement between the parties. Also, in any dispute subject to presuit mediation under this section where emergency relief is required, a motion for temporary injunctive relief may be filed with the court without first complying with the presuit mediation requirements of this section. After any issues regarding emergency or temporary relief are resolved, the court may either refer the parties to a mediation program administered by the courts or require mediation under this section. An arbitrator or judge may not consider any information or evidence arising from the presuit mediation proceeding except in a proceeding to impose sanctions for failure to attend a presuit mediation session or to enforce a mediated settlement agreement. Persons who are not parties to the dispute may not attend the presuit mediation conference without the consent of all parties, except for counsel for the parties and a corporate representative designated by the association. When mediation is attended by a quorum of the board, such mediation is not a board meeting for purposes of notice and participation set forth in s. 720.303. An aggrieved party shall serve on the responding party a written demand to participate in presuit mediation in substantially the following form:

STATUTORY OFFER TO PARTICIPATE  
IN PRESUIT MEDIATION

The alleged aggrieved party, ....., hereby demands that ....., as the responding party, engage in mandatory presuit mediation in

Page 44 of 51

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

40-00416B-23

20231114\_\_

1277 connection with the following disputes, which by  
 1278 statute are of a type that are subject to presuit  
 1279 mediation:

1280  
 1281 (List specific nature of the dispute or disputes to be  
 1282 mediated and the authority supporting a finding of a  
 1283 violation as to each dispute.)

1284  
 1285 Pursuant to section 720.311, Florida Statutes, this  
 1286 demand to resolve the dispute through presuit  
 1287 mediation is required before a lawsuit can be filed  
 1288 concerning the dispute. Pursuant to the statute, the  
 1289 parties are required to engage in presuit mediation  
 1290 with a neutral third-party mediator in order to  
 1291 attempt to resolve this dispute without court action,  
 1292 and the aggrieved party demands that you likewise  
 1293 agree to this process. If you fail to participate in  
 1294 the mediation process, suit may be brought against you  
 1295 without further warning.

1296  
 1297 The process of mediation involves a supervised  
 1298 negotiation process in which a trained, neutral third-  
 1299 party mediator meets with both parties and assists  
 1300 them in exploring possible opportunities for resolving  
 1301 part or all of the dispute. By agreeing to participate  
 1302 in presuit mediation, you are not bound in any way to  
 1303 change your position. Furthermore, the mediator has no  
 1304 authority to make any decisions in this matter or to  
 1305 determine who is right or wrong and merely acts as a

40-00416B-23

20231114\_\_

1306 facilitator to ensure that each party understands the  
 1307 position of the other party and that all options for  
 1308 reasonable settlement are fully explored.

1309  
 1310 If an agreement is reached, it shall be reduced to  
 1311 writing and becomes a binding and enforceable  
 1312 commitment of the parties. A resolution of one or more  
 1313 disputes in this fashion avoids the need to litigate  
 1314 these issues in court. The failure to reach an  
 1315 agreement, or the failure of a party to participate in  
 1316 the process, results in the mediator declaring an  
 1317 impasse in the mediation, after which the aggrieved  
 1318 party may proceed to court on all outstanding,  
 1319 unsettled disputes. If you have failed or refused to  
 1320 participate in the entire mediation process, you will  
 1321 not be entitled to recover attorney ~~attorney's~~ fees,  
 1322 even if you prevail.

1323  
 1324 The aggrieved party has selected and hereby lists five  
 1325 certified mediators who we believe to be neutral and  
 1326 qualified to mediate the dispute. You have the right  
 1327 to select any one of these mediators. The fact that  
 1328 one party may be familiar with one or more of the  
 1329 listed mediators does not mean that the mediator  
 1330 cannot act as a neutral and impartial facilitator. Any  
 1331 mediator who cannot act in this capacity is required  
 1332 ethically to decline to accept engagement. The  
 1333 mediators that we suggest, and their current hourly  
 1334 rates, are as follows:

40-00416B-23

20231114\_\_

1335  
1336 (List the names, addresses, telephone numbers, and  
1337 hourly rates of the mediators. Other pertinent  
1338 information about the background of the mediators may  
1339 be included as an attachment.)

1340  
1341 You may contact the offices of these mediators to  
1342 confirm that the listed mediators will be neutral and  
1343 will not show any favoritism toward either party. The  
1344 Florida Supreme Court can provide you a list of  
1345 certified mediators.

1346  
1347 Unless otherwise agreed by the parties, section  
1348 720.311(2)(b), Florida Statutes, requires that the  
1349 parties share the costs of presuit mediation equally,  
1350 including the fee charged by the mediator. An average  
1351 mediation may require three to four hours of the  
1352 mediator's time, including some preparation time, and  
1353 the parties would need to share equally the mediator's  
1354 fees as well as their own attorney ~~attorney's~~ fees if  
1355 they choose to employ an attorney in connection with  
1356 the mediation. However, use of an attorney is not  
1357 required and is at the option of each party. The  
1358 mediators may require the advance payment of some or  
1359 all of the anticipated fees. The aggrieved party  
1360 hereby agrees to pay or prepay one-half of the  
1361 mediator's estimated fees and to forward this amount  
1362 or such other reasonable advance deposits as the  
1363 mediator requires for this purpose. Any funds

40-00416B-23

20231114\_\_

1364 deposited will be returned to you if these are in  
1365 excess of your share of the fees incurred.

1366  
1367 To begin your participation in presuit mediation to  
1368 try to resolve the dispute and avoid further legal  
1369 action, please sign below and clearly indicate which  
1370 mediator is acceptable to you. We will then ask the  
1371 mediator to schedule a mutually convenient time and  
1372 place for the mediation conference to be held. The  
1373 mediation conference must be held within 90 days after  
1374 ~~ninety (90) days of~~ this date, unless extended by  
1375 mutual written agreement. In the event that you fail  
1376 to respond within 45 ~~20~~ days after ~~from~~ the date of  
1377 this letter, or if you fail to agree to at least one  
1378 of the mediators that we have suggested or to pay or  
1379 prepay to the mediator one-half of the costs involved,  
1380 the aggrieved party will be authorized to proceed with  
1381 the filing of a lawsuit against you without further  
1382 notice and may seek an award of attorney ~~attorney's~~  
1383 fees or costs incurred in attempting to obtain  
1384 mediation.

1385  
1386 Therefore, please give this matter your immediate  
1387 attention. By law, your response must be mailed by  
1388 certified mail, return receipt requested, and by  
1389 first-class mail to the address shown on this demand.

1390 .....  
1391 .....  
1392 .....



40-00416B-23

20231114\_\_

1393  
1394  
1395  
1396  
1397  
1398  
1399  
1400  
1401  
1402  
1403  
1404  
1405  
1406  
1407  
1408  
1409  
1410  
1411  
1412  
1413  
1414  
1415  
1416  
1417  
1418  
1419  
1420  
1421

RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR  
AGREEMENT TO THAT CHOICE.

# AGREEMENT TO MEDIATE

The undersigned hereby agrees to participate in  
presuit mediation and agrees to attend a mediation  
conducted by the following mediator or mediators who  
are listed above as someone who would be acceptable to  
mediate this dispute:

(List acceptable mediator or mediators.)

I/we further agree to pay or prepay one-half of the  
mediator's fees and to forward such advance deposits  
as the mediator may require for this purpose.

.....

Signature of responding party #1

.....

Telephone contact information

.....

Signature and telephone contact information of  
responding party #2 (if applicable) (if property is  
owned by more than one person, all owners must sign)

40-00416B-23

20231114\_\_

1422  
1423  
1424  
1425  
1426  
1427  
1428  
1429  
1430  
1431  
1432  
1433  
1434  
1435  
1436  
1437  
1438  
1439  
1440  
1441  
1442  
1443  
1444  
1445  
1446  
1447  
1448  
1449  
1450

(b) Service of the statutory demand to participate in  
presuit mediation ~~is shall be~~ effected by sending a letter in  
substantial conformity with the above form by certified mail,  
return receipt requested, with an additional copy being sent by  
regular first-class mail, to the address of the responding party  
as it last appears on the books and records of the association.  
The responding party has 45 ~~20~~ days after ~~from~~ the date of the  
mailing of the statutory demand to serve a response to the  
aggrieved party in writing. The response must ~~shall~~ be served by  
certified mail, return receipt requested, with an additional  
copy being sent by regular first-class mail, to the address  
shown on the statutory demand. Notwithstanding the foregoing,  
once the parties have agreed on a mediator, the mediator may  
reschedule the mediation for a date and time mutually convenient  
to the parties. The parties shall share the costs of presuit  
mediation equally, including the fee charged by the mediator, if  
any, unless the parties agree otherwise, and the mediator may  
require advance payment of its reasonable fees and costs. The  
failure of any party to respond to a demand or response, to  
agree upon a mediator, to make payment of fees and costs within  
the time established by the mediator, or to appear for a  
scheduled mediation session without the approval of the  
mediator, ~~constitutes shall constitute the~~ failure or refusal to  
participate in the mediation process and operates ~~shall operate~~  
as an impasse in the presuit mediation by such party, entitling  
the other party to proceed in court and to seek an award of the  
costs and fees associated with the mediation. Additionally,  
notwithstanding the provisions of any other law or document,  
persons who fail or refuse to participate in the entire

40-00416B-23 20231114

mediation process may not recover ~~attorney~~ attorney's fees and costs in subsequent litigation relating to the dispute. If any presuit mediation session cannot be scheduled and conducted within 90 days after the offer to participate in mediation was filed, an impasse ~~is shall be~~ deemed to have occurred unless both parties agree to extend this deadline.

Section 12. Subsection (2) of section 720.402, Florida Statutes, is amended to read:

720.402 Publication of false and misleading information.—

(2) In any action for relief under this section, the prevailing party may recover reasonable attorney ~~attorney's~~ fees. A developer may not expend association funds or reserves in the defense of any suit under this section.

Section 13. Section 943.71, Florida Statutes, is created to read:

943.71 Powers related to community associations.—In order to ensure that the rights of unit owners and parcel owners of community associations are protected and violations of the law are expeditiously resolved, the department has the authority to investigate complaints alleging violations of general law by:

(1) A condominium association and its board of administration, as those terms are defined in s. 718.103(2) and (4), respectively.

(2) A cooperative association and its board of administration, as those terms are defined in s. 719.103(2) and (3), respectively.

(3) A homeowners' association as defined in s. 720.301 and its officers or board of directors.

Section 14. This act shall take effect October 1, 2023.



The Florida Senate

## Committee Agenda Request

**To:** Senator Joe Gruters, Chair  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** March 2, 2023

---

I respectfully request that **Senate Bill #1114**, relating to Community Associations, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 40



## ANALYSIS

## 2023 AGENCY LEGISLATIVE BILL

**AGENCY: Department of Business & Professional Regulation**

### BILL INFORMATION

<b>BILL NUMBER:</b>	HB 919
<b>BILL TITLE:</b>	Community Associations
<b>BILL SPONSOR:</b>	Porras
<b>EFFECTIVE DATE:</b>	10/01/2023

### COMMITTEES OF REFERENCE

1) Regulatory Reform & Economic Development Subcommittee
2) Appropriations Committee
3) Commerce Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Regulatory Reform & Economic Development Subcommittee
---

### SIMILAR BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	SB 1114
<b>SPONSOR:</b>	Sen. Rodriguez

### Is this bill part of an agency package?

No

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	2/17/2023
<b>LEAD AGENCY ANALYST:</b>	Chevonne Christian, CTMH, Division Director
<b>ADDITIONAL ANALYST(S):</b>	Tracy Dixon, Service Operations Brooke Adams, OGC Rules Robin Jordan, Technology

<b>LEGAL ANALYST:</b>	Daniel Brackett, OGC
<b>FISCAL ANALYST:</b>	Garrett Blanton, Office of Planning and Budget

## **POLICY ANALYSIS**

### **1. EXECUTIVE SUMMARY**

This bill is regarding the prohibition of association funds and reserves from being used by a developer, the association, or elected board member to defend a civil or criminal action, an administrative proceeding, or an arbitration proceeding or to pay for attorney fees relating to such action or proceeding, even when it's under developer control.

This bill requires that the board of each association to designate an official recordkeeper for the association and that certain information be posted on the association's website or application and the Department of State's website.

This bill requires that the division forward criminal complaints to the Department of Law Enforcement within a specified timeframe for both chapters 718, and 720, F.S. and authorizes the Department of Law Enforcement to investigate criminal complaints relating to community associations and their boards of administration, officers, or directors

### **2. SUBSTANTIVE BILL ANALYSIS**

#### **1. PRESENT SITUATION:**

Section 718.111(3), F.S., does not restrict associations, developers or board members from using association or reserve funds to defend a civil or criminal action, an administrative proceeding, or an arbitration proceeding or to pay for attorney fees relating to such action or proceeding.

Section 718.111(12), F.S., does not require that the association appoint a recordkeeper to maintain the official records and does not require the recordkeeper to display their name and contact information on the association's website, application, or Department of State website.

Section 718.1224, F.S., does not identify reserve funds as being prohibited from use in prosecuting a SLAPP suit against a condominium unit owner.

Section 718.501(1), F.S., does not require review of complaints alleging criminal activity or forwarding to the Department of Law Enforcement within a specific timeframe. Section 718.501(1), F.S., does require that for developer controlled associations, the division has complete jurisdiction to investigate complaints and enforce compliance involving improper turnover or failure to turnover. Section 718.501(1), F.S. does require that after turnover occurs, the division has jurisdiction to investigate complaints related to financial issues, elections, maintenance of and access to association records, and the procedural completion of the structural integrity reserve study.

Section 720.302(2), F.S., indicates that it is not in the best interest of homeowners' associations to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. Additionally, since homeowners' associations are not regulated by any state agency, they are not required to contribute to any trust fund.

#### **2. EFFECT OF THE BILL:**

##### **Chapter 718, F.S.:**

The bill amends section 718.111(3)(g), F.S., to add that association funds and reserve funds may no longer be used by a developer, the association, or elected board member to defend a civil or criminal action, an administrative proceeding, or an arbitration proceeding or to pay for attorney fees relating to such action or

proceeding, even when it's under developer control. This is an area for which the division does not have regulatory jurisdiction. If not paid for by association funds, it is unclear how in which an association, developer or board may pay for the expenses associated with litigation.

The bill amends section 718.111(12)(b)1., F.S., to add the requirement that the board of each community association shall appoint an association member as a recordkeeper whose responsibility it is to maintain the official records of the association during the time period of his or her appointment. However, this provision presents concerns because, without the requirement of the recordkeeper having to also be an elected board member, there are no fiduciary obligations or responsibilities of that association member/recordkeeper to the association as they are merely a member and not an elected board officer. Moreover, there is no criteria to be appointed as a recordkeeper; meanwhile, there are specific statutorily delineated requirements to become a board member. Most significantly, because the recordkeeper is merely an association member – as opposed to a board officer – that person may not be held liable individually, civilly, criminally, or administratively; furthermore, regarding administrative liability, the division only has jurisdictional authority over the association as a corporate entity, rather than individual unit owners/association members. Also significantly, the requirement that the association member/recordkeeper maintain the association's official records creates a concern as to the location in which the records will be maintained and the efficiency of providing access to unit owners who request access to records of the association. For example, if the records are being maintained in the recordkeeper's home so as to provide access within the statutorily required 10 working days, and whether that might pose any issues.

Additionally, the bill amends s. 718.111(12)(b)1., F.S., to add that the board must specify the duration of the recordkeeper's appointment and may grant the recordkeeper additional authority as needed. The bill requires that the name and contact information of the recordkeeper be displayed on the association's website or application as required under paragraph (g) and the Department of State website. Further, section 718.111(12)(g)1., F.S., is amended to add that the name and contact information of the association's recordkeeper must be displayed on the association's website or application.

The bill amends section 718.501(1), F.S., to add that if the division receives a complaint alleging criminal activity, whether before or after turnover of the association, the division must forward the complaint to the Department of Law Enforcement. Additionally, the bill adds that the division must, within 72 hours after receiving a complaint, review the complaint and determine whether the complaint, on its face, alleges any criminal activity. Further, the bill adds that if the division determines that a complaint contains allegations of criminal activity, the division shall forward the complaint to the Department of Law Enforcement for investigation under s. 20.201(3). In addition, the bill adds that the division is responsible for investigating all portions of the complaint that do not allege criminal activity.

In order to implement such a mandate, the division will need to dedicate a team of staff to review complaints to determine if any criminal activity is alleged – likely at the initial filing of the complaint – which would require at least 5 additional FTE to include 3 paralegals, an administrative assistant and one attorney supervisor. Paralegals will be best suited to review the potentially lengthy and complex complaints as they have the knowledge, training and understanding of what constitutes an allegation of criminal activity. Additionally, the staff of paralegals would be best supervised by an attorney who can properly ascertain what constitutes an alleged criminal violation.

The division's current complaint processing procedures require completion of an initial review of submitted complaints within 7 days of receipt. Complaints are often voluminous and extremely detailed; therefore, completing an initial review within 72 hours is somewhat impracticable as it does not contemplate or consider receipt of a complaint, particularly a voluminous one. If a complaint is received late on a Friday, that would give the investigator one business day to review a voluminous complaint and meet the statutorily required 72 hour referral period. The division wishes to ensure that it is making the correct call on the initial review of all cases so that it is referring the appropriate cases to FDLE. Such a review would require a more reasonable length of time. It would be more practicable to impose a requirement to complete an initial review of a complaint for criminal referral within a certain number of working or business days instead. Additionally, the bill does not define the phrase "criminal activity". In order to appropriately carryout the legislative intent of this bill, this phrase may need to be defined by statute. This could lead to confusion about what is included in criminal activity and it may be easier for the division to review complaints if the phrase is defined. Moreover, the division

would require rule-making authority to be able to outline its new referral process to FDLE. Finally, the bill adds that the division is responsible for investigating all portions of the complaint that do not allege criminal activity; however, for clarity, the division would be responsible for investigating all *jurisdictional* portions of the complaint that do not allege criminal activity, as the division has limited regulatory authority over unit owner-run associations.

#### Chapter 720, F.S.:

The bill amends section 720.302, F.S., to add “jurisdiction of the division” to the title; adding that the legislature recognizes that it is in the best interests of homeowners’ association and the individual association members thereof that complaints involving criminal activity be investigated thoroughly and adds that the “division” has jurisdiction to accept and review complaints alleging criminal activity, whether before or after turnover of the association, and shall follow the procedures under s. 720.311(1)(b).

Importantly, it would appear most efficient and effective to have complainants refer these types of complaints (crimes) directly to FDLE or local law enforcement in that: 1) these agencies already have the authority to investigate crimes/criminal activity and 2) the division has no regulatory authority over homeowners’ associations, which ostensibly then creates confusion regarding what the division does and does not have authority to regulate with regard to homeowners’ associations.

Also, for clarity, the bill should specify the name of the division for which the bill is referring. Additionally, the bill does not define the phrase “criminal activity”. In order to carry out the legislative intent of this bill, this phrase may need to be defined by statute.

If it is the legislative intent of this bill that the division be responsible for reviewing homeowners’ association complaints relating to criminal activity, the division will need to dedicate a team of staff to review said complaints to determine if any criminal activity is alleged, likely at the initial filing of the complaint, which would require at least 18 additional FTE. To include 8 paralegals; 2 attorney supervisors, and 2 administrative assistants to serve as intake for the incoming chapter 720 complaints. Paralegals will be best suited to review the potentially lengthy and complex complaints as they have the knowledge, training and understanding of what constitutes an allegation of criminal activity. Additionally, the staff of paralegals would be best supervised by an attorney who can properly ascertain what constitutes an alleged criminal violation. The division would need an additional public records liaison to handle any and all public records request regarding chapter 720. Additionally, the division will need an education team dedicated solely to assisting both walk in constituents in our south Florida offices, as well as answering any inquiries regarding chapter 720. This team would be located in our Doral and Fort Lauderdale offices and would consist of 3 research and training specialist, an education supervisor (Senior Management Analyst) and an administrative assistant. However, the number of employees needed is more challenging to determine and would be somewhat speculative since homeowners’ associations are not regulated by an entity. Accordingly, there is no way in which to determine the exact number of homeowners’ associations existing in the state of Florida and thus, no way to know exactly how many criminal complaints the division might receive.

But, a Google search result indicates that there are approximately 50,000 homeowners’ associations in Florida, which is likely a more conservative estimate. On the other hand, there are 27,000 registered condominium associations in the state of Florida, for which the division’s 102 statewide staff try its best to manage with the resources currently allocated. So, with nearly twice as many (conservatively estimated) homeowners’ associations in the state of Florida, the division will need an adequate number of staff to review the homeowners’ association criminal complaints.

Consequently, an additional appropriation would be needed, as the division does not have any statutory jurisdiction over chapter 720, F.S.

Because there is no existing homeowners’ association trust fund from which to draw, the only way in which to pay for division staff to review homeowners’ association criminal activity complaints is to use the appropriation provided by the condominium program area trust fund. Pursuant to chapter 718, F.S., condominium unit owners pay an annual fee to the division to receive regulatory oversight. However, homeowners’ associations’ expend no such cost to the division because the division does not regulate these entities.

It is not clear if the legislative intent is for the division to utilize the condominium unit owner trust fund to pay for the cost of regulating homeowners' associations, which would seem to be incongruent with the statutory intent of the condominium trust fund, as laid out in chapter 718, F.S. This may need clarification since it is not clear where necessary funds to pay for the cost of regulating homeowners' associations will come from.

Also, the bill amends section 720.303(1)(b), F.S., to add that an officer or director: shall discharge his or her duties in good faith and is liable for monetary damages for certain instances. The bill adds that forgery of a ballot envelope or voting certificate used in a homeowners' association election is punishable as provided in s. 831.01, the theft or embezzlement of funds of a homeowners' association is punishable as provided in s. 812.014, and the destruction of or the refusal to allow inspection or copying of an association record of a homeowners' association that is accessible to parcel owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13 or as obstruction of justice as provided in chapter 843. Further, the bill adds that an officer or director charged by information or indictment with a crime referenced in this paragraph must be removed from office, and the vacancy must be filled as provided in s. 720.306(9) until the end of the officer's or director's period of suspension or the end of his or her term in office and if a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of the association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any. The division does not have jurisdictional authority over any of the above provisions. It's unclear whether this section pertains to a recordkeeper.

The bill amends the title of section 720.311, F.S., to add "complaints alleging criminal activity". The bill adds s. 720.311(1)(b), F.S., to require that the division must, within 72 hours after receiving a complaint, review the complaint and determine whether the complaint, on its face, alleges any criminal activity. Further, the bill adds that if the division determines that a complaint contains allegations of criminal activity, the division shall forward the complaint to the Department of Law Enforcement for investigation under s. 20.201(3).

Moreover, the division's current procedure requires completion of an initial review of complaints within 7 days of receipt. Additionally, complaints are often voluminous and extremely detailed; therefore, completing an initial review within 72 hours is somewhat impracticable as it does not contemplate or consider receipt of a complaint, particularly a voluminous one, during a time at which, for example, there is a state holiday. If a complaint is received late on a Friday, that would give the investigator one business day to review a voluminous complaint and meet the statutorily required 72 hour referral period. The division wishes to ensure that it is making the correct call on the initial review of all cases so that it is referring the appropriate cases to FDLE. Such a review would require a reasonable length of time. It would be more practicable to impose a requirement to complete an initial review of a complaint for criminal referral within a certain number of working or business days instead.

Importantly, the phrase "criminal activity" may need to be defined by statute. The division would also require rule-making authority in order to outline its referral process to FDLE.

The bill also amends section 720.311(1)(c), F.S., to add that the "department" shall adopt rules to implement this section. For clarity, the bill should specify the department the language is referencing.

The bill has an effective date of October 1, 2023. This would not be an adequate length of time within which the division may create, technologically as well as substantively, an entirely new criminal referral unit for homeowners' associations – a chapter for which the division has no existing regulatory authority. In order to create and competently staff an entirely new investigative unit, the division would need a more reasonable length of time to implement such a provision.

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

If yes, explain:	The bill does not provide any rulemaking authority.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>



Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.
--	----------------------------------

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

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

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**Y ☐ N ☒

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

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

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

**FISCAL ANALYSIS****1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**Y ☒ N ☐

Revenues:	None.
Expenditures:	<p>Increase in staff and labor within the Division of Condominiums, Timeshares, and Mobile Homes and the Division of Service Operations in order to receive complaints for HOA's, the administrative process that follows up any complaints, and for the additional analysis of certain reserves of community associations. This increase would require an additional appropriation of:</p> <ul style="list-style-type: none"> <li>• General Revenue: \$1,515,982 (\$197,457 nonrecurring)</li> <li>• CTMH TF (2289): \$439,238 (\$33,423 nonrecurring)</li> <li>• Admin TF (2021): \$402,565 (\$43,856 nonrecurring)</li> </ul> <p><b>TOTAL FISCAL IMPACT: \$2,357,785 (\$197,457 nonrecurring)</b></p>
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	Click or tap here to enter text.

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**Y ☐ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

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

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

## TECHNOLOGY IMPACT

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

Y ☒ N ☐

<p>If yes, describe the anticipated impact to the agency including any fiscal impact.</p>	<p>This bill will require configuration changes to setup a new transaction for collecting criminal complaints and reporting them to FDLE.</p> <ul style="list-style-type: none"> <li>VO - 100 hours</li> <li>VR - 100 hours</li> <li>OnBase - 100 hours</li> </ul> <p>This can be accomplished with existing resources.</p> <p><u>Infrastructure and Licensing Costs</u></p> <p>Additional staffing required to implement the provisions of this bill (see Additional Comments below) would result in technology infrastructure and licensing costs. Assuming employees are located in office space outside of existing offices, additional undetermined infrastructure costs will be incurred based on number, location and suitability</p> <p>For 5 additional call center staff (Regulatory Specialist III):</p> <ul style="list-style-type: none"> <li>o Non-recurring costs for network drop - \$750.00</li> <li>o Non-recurring costs software licenses – \$18,555.70</li> <li>• Recurring software license maintenance - \$3,506.30</li> </ul> <p>For 23 additional CTMH (11 paralegals; 3 attorney supervisors, and 4 administrative assistants, 3 research and training specialist, 1 public records liaison, 1 education supervisor (Senior Management Analyst):</p> <ul style="list-style-type: none"> <li>Non-recurring costs for network drop - \$3,450.00</li> <li>Non-recurring costs software licenses – \$38,965.45</li> <li>Recurring software license maintenance - \$6,928.98</li> </ul> <p>If specialized software and hardware is required for the additional CTMH staff, additional costs could be incurred.</p>
---	---

## FEDERAL IMPACT

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

Y ☐ N ☒

<p>If yes, describe the anticipated impact including any fiscal impact.</p>	<p>Click or tap here to enter text.</p>
---	---

## ADDITIONAL COMMENTS

**DSO:** The impact to the Call Center (CCC) will be significant. Based on the conservative estimate of 50,000 homeowner's associations indicated in the analysis, the CCC will need to request an additional 5 Regulatory Specialist III positions to answer incoming complaint phone calls.

**OGC Rules:** No additional comments, other than noting the potential confusion as to which "department" "shall adopt rules to implement this section."

**Office of Planning and Budget:** There is a significant budget need in order to implement the provisions outlined in this bill both in the Division of Florida Condominiums, Timeshares, and Mobile Homes and in the Division of Service Operations.

The Division of Florida Condominiums, Timeshares, and Mobile Homes will need an additional 23 FTE with a corresponding 463,097 of rate and \$1,645,624 of Salaries and Benefits budget authority, as well as \$301,740 of Expense budget authority. Of this:

- 5 FTE with 162,713 of rate, \$371,813 of Salaries and Benefits budget authority, and \$65,717 of Expense budget authority are to be requested from the Florida Condominiums, Timeshares, and Mobile Homes Trust Fund; and

-18 FTE with 300,384 of rate, \$1,273,811 of Salaries and Benefits budget authority, and \$236,023 of Expense budget authority are to be requested from General Revenue Fund.

The Division of Service Operations will need an additional 5 FTE with a corresponding 41,496 of rate and \$320,710 of Salaries and Benefits budget authority, as well as \$79,187 of Expense budget authority within the Administrative Trust Fund.

TOTAL FISCAL IMPACT of \$2,357,785 of budget authority (\$2,160,328 recurring and \$197,457 nonrecurring).

	Recurring	Nonrecurring	Total
CTMH TF (2289)	\$405,815	\$33,423	\$439,238
Admin TF (2021)	\$358,709	\$43,856	\$402,565
General Revenue	\$1,395,804	\$120,178	\$1,515,982
Total	\$2,160,328	\$197,457	\$2,357,785

### LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
---------------------------	-------------------------

# The Florida Senate APPEARANCE RECORD

1114

Bill Number or Topic

Meeting Date

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

Committee

Amendment Barcode (if applicable)

Name Jess M. McCarty, Executive Assistant County Attorney Phone 305-979-7110

Address 111 N.W. 1st Street Suite 2800 Email jmm2@miamidade.gov  
*Street*

Miami FL 33128  
*City State Zip*

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

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**Miami-Dade County**

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

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

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

S-001 (08/10/2021)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

April 14, 2023  
Meeting Date

1114  
Bill Number (if applicable)

190622 SDA  
Amendment Barcode (if applicable)

Topic Community Associations

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Parkway  
Street

Phone 850-567-1073

Tallahassee FL 32317  
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 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)

**APPEARANCE RECORD**

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Street

Email

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

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

Community Association Managers

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

The Florida Senate

# APPEARANCE RECORD

4/4/23

Meeting Date

Reg Industries

Committee

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

1114

Bill Number or Topic

190622

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Street

Email travis@moore-relations.com

St. Petersburg FL

City

State

33731

Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Community Associations Institute  
And FirstService Residential

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

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

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

S-001 (08/10/2021)



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

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

---

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

---

BILL: CS/SB 1262

INTRODUCER: Regulated Industries Committee and Senator Martin

SUBJECT: Issuance of Special Beverage Licenses

DATE: April 5, 2023

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

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

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1262 reduces the number of persons a bona fide special food service establishment licensee must be equipped to serve meals at one time from 150 persons to 120 persons and decreases the minimum square feet of service area required for a special food service establishment license from 2,500 square feet of service area to 2,000 square feet of service area. The bill also requires that the establishments hold themselves out as restaurants and have at least 120 exclusively dedicated seats that are available for patrons to use during operating hours.

A special food service establishment license, known as an SFS license, is an exception to the limit on the number of alcoholic beverage licenses for the sale of distilled spirits permitted per county (quota licenses). Under current law, a special food service establishment must have at least 2,500 square feet of service area, be equipped to serve 150 persons at one time, and derive at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages, during the first 60-day operating period and each 12-month operating period thereafter.

The bill also revises the alcoholic beverage license requirements for a bona fide beach or cabana club to include bathroom facilities among the list of facilities that a beach or cabana club must have to qualify for a special club license. Current law requires such businesses to have beach facilities, and locker rooms for at least 100 persons. The amendment repeals the requirements that a beach or cabana club must have a restaurant with seats at tables for at least 100 persons. Instead it requires that the beach or cabana club include a public food service establishment as

defined in s. 509.013(5), F.S. The bill maintains the requirement in current law that a beach or cabana club must have an area of at least 5,000 square feet located on a contiguous tract of land of in excess of 1 acre.

The bill takes effect July 1, 2023.

## **II. Present Situation:**

### **Division of Alcoholic Beverages and Tobacco**

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law,<sup>1</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor.<sup>2</sup> The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

### **Quota Licenses**

Section 561.20(1), F.S., limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses may also be issued when a county initially changes its status from a county that does not permit the sale of intoxicating liquor to one that permits such sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation. There are several exceptions for special licenses.<sup>3</sup> There are several exceptions or exemptions to the limitation by local or special law.<sup>4</sup>

### **Special Beverage Licenses**

#### ***Special Food Service Licenses***

The limitation on the number of quota licenses per county does not apply to a food service establishment that has at least 2,500 square feet of service area, is equipped to serve 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages, during the first 60-day operating period and each 12-month operating period thereafter.<sup>5</sup> This type of license is known as a “special food service establishment license” or an “SFS license.”<sup>6</sup>

---

<sup>1</sup> Section 561.02, F.S.

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

<sup>3</sup> See s. 561.20(2), (7), (9), and (11), F.S., and s. 565.02(2) through (11), F.S.

<sup>4</sup> See s. 561.561.20(4), F.S., and the Section VII, Related Issues, of this analysis.

<sup>5</sup> Section 561.20(2)(a)4., F.S. The required square footage and number of persons the restaurant must be equipped to serve may be different for county or municipality jurisdictions due to special acts enacted by the Legislature that affect these requirements for the county or municipality. For a list of the special act requirements for counties and municipalities, including the applicable act in the Laws of Florida, see: Division of Alcoholic Beverages and Tobacco, *General Laws of Local Application and Special Acts*, available at [www.myfloridalicense.com/dbpr/abt/documents/GENLAWS.pdf](http://www.myfloridalicense.com/dbpr/abt/documents/GENLAWS.pdf) (last visited Mar. 31, 2023).

<sup>6</sup> The SFS license was previously known as an “SRX” or “Special Restaurant License,” and these licenses are still commonly referred to as “SRX” licenses.

Failure by a licensee to satisfy the requirements as to the percentages of food and nonalcoholic beverages results in revocation of the SFS license. A licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation.<sup>7</sup>

The annual fee for an SFS license varies from \$624 to \$1,820, depending upon the population of the county in which the food service establishment is located.<sup>8</sup>

### ***Beach and Cabana Club Special Licenses***

The limitation on the number of quota licenses per county does not apply to any corporation, partnership, or individual operating a club which owns or leases and maintains any bona fide beach or cabana club consisting of beach facilities, swimming pool, locker rooms with facilities for at least 100 persons, and a restaurant with seats at tables for at least 100 persons. The beach or cabana club must have an area of at least 5,000 square feet located on a contiguous tract of land of in excess of 1 acre. A beach or cabana club that fails to maintain these facilities may have their alcoholic beverage license revoked.<sup>9</sup>

### **Off-Premises Sales by SFS Licensees**

A food service establishment holding an SFS license issued after January 1, 1958, may not operate a package store under the license and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed.

However, an SFS licensee may sell manufacturer-sealed containers of beer and wine for off-premises consumption. An SFS licensee may sell and deliver alcoholic beverage drinks in containers sealed by the licensee, but is prohibited from selling bottles of distilled spirits for off-premises consumption.

Alcoholic beverage drinks prepared by the licensee must be sealed by the licensee with an unbroken seal that prevents the beverage from being consumed, and placed in a bag or other container secured in such a manner that it is visibly apparent if the container has been opened or tampered with. A dated receipt for the beverage and meal must be provided and attached to the container. Alcoholic beverages prepared and sealed by the licensee that are delivered or transported by motor vehicle must be placed in a locked compartment, locked trunk, or other area behind the last upright seat of the motor vehicle.

Additionally, an SFS licensee who allows a person under 21 years of age to deliver an alcoholic beverage on its behalf violates the prohibition against selling, giving, or serving alcoholic beverages to a person under 21 years of age. An alcoholic beverage vendor or an agent or employee of a vendor must verify that the person making a delivery of an alcoholic beverage is at least 21 years of age.

---

<sup>7</sup> Section 561.20(2)(a)4., F.S.

<sup>8</sup> Section 565.02(1)(b)-(f), F.S.

<sup>9</sup> Section 561.20(7)(d), F.S.

**III. Effect of Proposed Changes:**

The bill amends s. 561.20(2)(a)4., F.S., to reduce the number of persons to which an SFS licensee must be equipped to serve meals at one time from 150 persons to 120 persons, and decreases the minimum square feet of service area required for a special food service establishment license from 2,500 square feet of service area to 2,000 square feet of service area. The bill also requires that the establishments hold themselves out as restaurants and have at least 120 exclusively dedicated seats that are available for patrons to use during operating hours.

The bill amends s. 561.20(7)(d), F.S., to revise the alcoholic beverage license requirements for a bona fide beach or cabana club to include bathroom facilities among the list of facilities that a beach or cabana club must have to qualify for a special club license. Current law requires such businesses to have beach facilities, and locker rooms for at least 100 persons. The amendment repeals the requirements that a beach or cabana club must have a restaurant with seats at tables for at least 100 persons. Instead it requires that the beach or cabana club include a public food service establishment as defined in s. 509.013(5), F.S. The bill maintains the requirement in current law that a beach or cabana club must have an area of at least 5,000 square feet located on a contiguous tract of land of in excess of 1 acre.

The bill takes effect July 1, 2023.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Special food service licensees in several counties, cities, or districts are subject to special acts that require a food service establishment to be equipped to serve meals at one time to more than the 150 persons required under general law as a condition for the sale of alcoholic beverages.<sup>10</sup> For example, a licensee must be equipped to serve at one time 200 persons in Hendry County<sup>11</sup> and 250 persons in Lake County.<sup>12</sup> Other counties, cities, or districts permit the sale of alcoholic beverages under an SFS license if fewer than 150 persons may be served at one time by the establishment. Examples include service for 100 persons in Alachua and Hillsborough counties,<sup>13</sup> and 80 persons in the City of Orlando's "downtown restaurant area" and "main street small restaurant incentive area."<sup>14</sup>

Several counties or cities are also subject to special acts that provide for fewer square feet of service area than required under current law. For example, 1,800 square feet of service area in Alachua County<sup>15</sup> and in the cities of Jacksonville and Kissimmee;<sup>16</sup> 2,000 square feet of service area in Highlands County;<sup>17</sup> and 1,500 square feet of service area in the City of St. Cloud.<sup>18</sup> Some jurisdictions are subject to a minimum square feet of service area that is greater than required under general law, e.g., 4,000 square feet of service area in Hendry, Osceola, Sumter, Walton counties and the City of Maitland.<sup>19</sup>

---

<sup>10</sup> DBPR, *General Laws of Local Application and Special Acts Relating to Food Service Establishments*, at: [http://www.myfloridalicense.com/dbpr/abt/documents/General\\_Laws\\_and\\_Special\\_Acts\\_for\\_Food\\_Service\\_Establishments.pdf](http://www.myfloridalicense.com/dbpr/abt/documents/General_Laws_and_Special_Acts_for_Food_Service_Establishments.pdf) (last visited Mar. 22, 2023).

<sup>11</sup> Chapter 71-660, Laws of Fla.

<sup>12</sup> Chapter 2021-244, Laws of Fla., relating to Lake County.

<sup>13</sup> Chapter 70-574, Laws of Fla., relating to Alachua County; and ch. 2016-264, Laws of Fla., relating to Hillsborough County.

<sup>14</sup> Chapter 65-1873, Laws of Fla., for the City of Orlando's "downtown restaurant area," and ch. 2021-265, Laws of Fla., for the City of Orlando's "main street small restaurant incentive area."

<sup>15</sup> Chapter 70-574, Laws of Fla., relating to Alachua County.

<sup>16</sup> Chapter 2016-248, Laws of Fla., relating to the City of Jacksonville; and 2019-178, Laws of Fla., relating to the City of Kissimmee.

<sup>17</sup> Chapter 69-782, Laws of Fla.

<sup>18</sup> Chapter 2019-182, Laws of Fla.

<sup>19</sup> Chapter 71-660, Laws of Fla., relating to Hendry County; ch. 69-793, Laws of Fla., relating to Osceola County; ch. 2021-44, relating to Sumter County; and ch. 67-2164, Laws of Fla., relating to Walton County.

The bill does not affect counties, cities, or districts that are subject to special acts that provide seating and square footage restrictions other than those provided under the bill.<sup>20</sup>

#### **VIII. Statutes Affected:**

This bill substantially amends sections 561.20 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 on April 4, 2023:**

The CS changes the bill's title from "an act relating to requirements for special food service licenses" to "an act relating to the issuance of special beverage licenses."

The CS increases the reduces the number of persons a special food service establishment licensee must be equipped to serve meals at one time from 150 persons to 120 persons, decreases the minimum square feet of service area required for a special food service establishment license from 2,500 square feet of service area to 2,000 square feet of service area, and requires that the establishments hold themselves out as restaurants and have at least 120 exclusively dedicated seats that are available for patrons to use during operating hours.

The CS also amends s. 561.20(7)(d), F.S., to revise the alcoholic beverages license requirements for bona fide beach or cabana clubs.

##### **B. Amendments:**

None.

---

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

---

---

<sup>20</sup> See s. 561.20(4), F.S.



790784

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

---

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

**Senate Amendment**

Delete lines 57 - 59  
and insert:

4. A bona fide food service establishment that has a  
minimum of 2,000 ~~2,500~~ square feet of service area, is equipped  
to serve meals to 120 ~~150~~ persons at one time, has at least 120  
exclusively dedicated seats that are available for patrons to  
use during operating hours, holds itself out as a restaurant,  
and derives at least 51 percent of its



533998

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

---

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

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

Between lines 259 and 260

insert:

(7)

(d) Any corporation, partnership, or individual operating a club which owns or leases and which maintains any bona fide beach or cabana club consisting of beach facilities, swimming pool, locker rooms or bathroom ~~with~~ facilities for at least 100 persons, and a public food service establishment as defined in





533998

s. 509.013(5) ~~restaurant with seats at tables for at least 100 persons,~~ comprising in all an area of at least 5,000 square feet located on a contiguous tract of land of in excess of 1 acre may be issued a license under s. 565.02(4). The failure of such club to maintain the facilities shall be a ground for revocation of the license.

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

And the directory clause is amended as follows:

Delete line 12

and insert:

Section 1. Paragraph (a) of subsection (2) and paragraph (d) of subsection (7) of section

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

And the title is amended as follows:

Delete lines 2 - 5

and insert:

An act relating to the issuance of special beverage licenses; amending s. 561.20, F.S.; revising requirements relating to the issuance of special food service licenses and certain club licenses; reenacting s. 565.045(1)(c), F.S.,

By Senator Martin

33-00532-23

20231262\_\_

A bill to be entitled

An act relating to requirements for special food service licenses; amending s. 561.20, F.S.; revising requirements relating to the issuance of special food service licenses; reenacting s. 565.045(1)(c), F.S., relating to regulations for consumption on premises, to incorporate the amendment made to s. 561.20, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 561.20, Florida Statutes, is amended to read:

561.20 Limitation upon number of licenses issued.—

(2)(a) The limitation of the number of licenses as provided in this section does not prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure, as defined in s. 561.01(20), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. 561.01(20), in a municipality that

Page 1 of 10

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

33-00532-23

20231262\_\_

on the effective date of this act has a population, according to the University of Florida's Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; provided that this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

2. Any condominium accommodation of which no fewer than 100 condominium units are wholly rentable to transients and which is licensed under chapter 509, except that the license shall be issued only to the person or corporation that operates the hotel or motel operation and not to the association of condominium owners;

3. Any condominium accommodation of which no fewer than 50 condominium units are wholly rentable to transients, which is licensed under chapter 509, and which is located in any county having home rule under s. 10 or s. 11, Art. VIII of the State Constitution of 1885, as amended, and incorporated by reference in s. 6(e), Art. VIII of the State Constitution, except that the license shall be issued only to the person or corporation that operates the hotel or motel operation and not to the association of condominium owners;

4. A food service establishment that has 1,800 ~~2,500~~ square feet of service area, is equipped to serve meals to 100 ~~150~~

Page 2 of 10

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

33-00532-23

20231262\_\_

persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 120-day operating period and the first 12-month operating period thereafter. Subsequent audit timeframes must be based upon the audit percentage established by the most recent audit and conducted on a staggered scale as follows: level 1, 51 percent to 60 percent, every year; level 2, 61 percent to 75 percent, every 2 years; level 3, 76 percent to 90 percent, every 3 years; and level 4, 91 percent to 100 percent, every 4 years. A licensee under this subparagraph may sell or deliver alcoholic beverages in a sealed container for off-premises consumption if the sale or delivery is accompanied by the sale of food within the same order. Such authorized sale or delivery includes wine-based and liquor-based beverages prepared by the licensee or its employee and packaged in a container sealed by the licensee or its employee. This subparagraph may not be construed to authorize public food service establishments licensed under this subparagraph to sell a bottle of distilled spirits sealed by a manufacturer. Any sale or delivery of malt beverages must comply with the container size, labeling, and filling requirements imposed under s. 563.06. Any delivery of an alcoholic beverage under this subparagraph must comply with s. 561.57. An alcoholic beverage drink prepared by the vendor and sold or delivered for consumption off the premises must be placed in a container securely sealed by the licensee or its employees with an unbroken seal that prevents the beverage from being immediately consumed before removal from the premises. Such alcoholic beverage also must be placed in a bag or other container that is

33-00532-23

20231262\_\_

secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the alcoholic beverage and food must be provided by the licensee and attached to the bag or container. If transported in a motor vehicle, an alcoholic beverage that is not in a container sealed by the manufacturer must be placed in a locked compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle. It is a violation of the prohibition in s. 562.11 to allow any person under the age of 21 to deliver alcoholic beverages on behalf of a vendor. The vendor or the agent or employee of the vendor must verify the age of the person making the delivery of the alcoholic beverage before allowing any person to take possession of an alcoholic beverage for the purpose of making a delivery on behalf of a vendor under this section. A food service establishment granted a special license on or after January 1, 1958, pursuant to general or special law may not operate as a package store and may not sell intoxicating beverages under such license after the hours of serving or consumption of food have elapsed. Failure by a licensee to meet the required percentage of food and nonalcoholic beverage gross revenues during the covered operating period shall result in revocation of the license or denial of the pending license application. A licensee whose license is revoked or an applicant whose pending application is denied, or any person required to qualify on the special license application, is ineligible to have any interest in a subsequent application for such a license for a period of 120 days after the date of the final denial or revocation;

5. Any caterer, deriving at least 51 percent of its gross

33-00532-23

20231262\_\_

117 food and beverage revenue from the sale of food and nonalcoholic  
 118 beverages at each catered event, licensed by the Division of  
 119 Hotels and Restaurants under chapter 509. This subparagraph does  
 120 not apply to a culinary education program, as defined in s.  
 121 381.0072(2), which is licensed as a public food service  
 122 establishment by the Division of Hotels and Restaurants and  
 123 provides catering services. Notwithstanding any law to the  
 124 contrary, a licensee under this subparagraph shall sell or serve  
 125 alcoholic beverages only for consumption on the premises of a  
 126 catered event at which the licensee is also providing prepared  
 127 food, and shall prominently display its license at any catered  
 128 event at which the caterer is selling or serving alcoholic  
 129 beverages. A licensee under this subparagraph shall purchase all  
 130 alcoholic beverages it sells or serves at a catered event from a  
 131 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed  
 132 under s. 565.02(1) subject to the limitation imposed in  
 133 subsection (1), as appropriate. A licensee under this  
 134 subparagraph may not store any alcoholic beverages to be sold or  
 135 served at a catered event. Any alcoholic beverages purchased by  
 136 a licensee under this subparagraph for a catered event that are  
 137 not used at that event must remain with the customer; provided  
 138 that if the vendor accepts unopened alcoholic beverages, the  
 139 licensee may return such alcoholic beverages to the vendor for a  
 140 credit or reimbursement. Regardless of the county or counties in  
 141 which the licensee operates, a licensee under this subparagraph  
 142 shall pay the annual state license tax set forth in s.  
 143 565.02(1)(b). A licensee under this subparagraph must maintain  
 144 for a period of 3 years all records and receipts for each  
 145 catered event, including all contracts, customers' names, event

Page 5 of 10

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

33-00532-23

20231262\_\_

146 locations, event dates, food purchases and sales, alcoholic  
 147 beverage purchases and sales, nonalcoholic beverage purchases  
 148 and sales, and any other records required by the department by  
 149 rule to demonstrate compliance with the requirements of this  
 150 subparagraph. Notwithstanding any law to the contrary, any  
 151 vendor licensed under s. 565.02(1) subject to the limitation  
 152 imposed in subsection (1), may, without any additional licensure  
 153 under this subparagraph, serve or sell alcoholic beverages for  
 154 consumption on the premises of a catered event at which prepared  
 155 food is provided by a caterer licensed under chapter 509. If a  
 156 licensee under this subparagraph also possesses any other  
 157 license under the Beverage Law, the license issued under this  
 158 subparagraph may not authorize the holder to conduct activities  
 159 on the premises to which the other license or licenses apply  
 160 that would otherwise be prohibited by the terms of that license  
 161 or the Beverage Law. This section does not permit the licensee  
 162 to conduct activities that are otherwise prohibited by the  
 163 Beverage Law or local law. The Division of Alcoholic Beverages  
 164 and Tobacco is hereby authorized to adopt rules to administer  
 165 the license created in this subparagraph, to include rules  
 166 governing licensure, recordkeeping, and enforcement. The first  
 167 \$300,000 in fees collected by the division each fiscal year  
 168 pursuant to this subparagraph shall be deposited in the  
 169 Department of Children and Families' Operations and Maintenance  
 170 Trust Fund to be used only for alcohol and drug abuse education,  
 171 treatment, and prevention programs. The remainder of the fees  
 172 collected shall be deposited into the Hotel and Restaurant Trust  
 173 Fund created pursuant to s. 509.072; or  
 174 6. A culinary education program as defined in s.

Page 6 of 10

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

33-00532-23 20231262\_\_

175 381.0072(2) which is licensed as a public food service  
 176 establishment by the Division of Hotels and Restaurants.  
 177 a. This special license shall allow the sale and  
 178 consumption of alcoholic beverages on the licensed premises of  
 179 the culinary education program. The culinary education program  
 180 shall specify designated areas in the facility where the  
 181 alcoholic beverages may be consumed at the time of application.  
 182 Alcoholic beverages sold for consumption on the premises may be  
 183 consumed only in areas designated under s. 561.01(11) and may  
 184 not be removed from the designated area. Such license shall be  
 185 applicable only in and for designated areas used by the culinary  
 186 education program.  
 187 b. If the culinary education program provides catering  
 188 services, this special license shall also allow the sale and  
 189 consumption of alcoholic beverages on the premises of a catered  
 190 event at which the licensee is also providing prepared food. A  
 191 culinary education program that provides catering services is  
 192 not required to derive at least 51 percent of its gross revenue  
 193 from the sale of food and nonalcoholic beverages.  
 194 Notwithstanding any law to the contrary, a licensee that  
 195 provides catering services under this sub-subparagraph shall  
 196 prominently display its beverage license at any catered event at  
 197 which the caterer is selling or serving alcoholic beverages.  
 198 Regardless of the county or counties in which the licensee  
 199 operates, a licensee under this sub-subparagraph shall pay the  
 200 annual state license tax set forth in s. 565.02(1)(b). A  
 201 licensee under this sub-subparagraph must maintain for a period  
 202 of 3 years all records required by the department by rule to  
 203 demonstrate compliance with the requirements of this sub-

33-00532-23 20231262\_\_

204 subparagraph.  
 205 c. If a licensee under this subparagraph also possesses any  
 206 other license under the Beverage Law, the license issued under  
 207 this subparagraph does not authorize the holder to conduct  
 208 activities on the premises to which the other license or  
 209 licenses apply that would otherwise be prohibited by the terms  
 210 of that license or the Beverage Law. This subparagraph does not  
 211 permit the licensee to conduct activities that are otherwise  
 212 prohibited by the Beverage Law or local law. Any culinary  
 213 education program that holds a license to sell alcoholic  
 214 beverages shall comply with the age requirements set forth in  
 215 ss. 562.11(4), 562.111(2), and 562.13.  
 216 d. The Division of Alcoholic Beverages and Tobacco may  
 217 adopt rules to administer the license created in this  
 218 subparagraph, to include rules governing licensure,  
 219 recordkeeping, and enforcement.  
 220 e. A license issued pursuant to this subparagraph does not  
 221 permit the licensee to sell alcoholic beverages by the package  
 222 for off-premises consumption.  
 223  
 224 However, any license heretofore issued to any such hotel, motel,  
 225 motor court, or restaurant or hereafter issued to any such  
 226 hotel, motel, or motor court, including a condominium  
 227 accommodation, under the general law may not be moved to a new  
 228 location, such license being valid only on the premises of such  
 229 hotel, motel, motor court, or restaurant. Licenses issued to  
 230 hotels, motels, motor courts, or restaurants under the general  
 231 law and held by such hotels, motels, motor courts, or  
 232 restaurants on May 24, 1947, shall be counted in the quota

33-00532-23

20231262

limitation contained in subsection (1). Any license issued for any hotel, motel, or motor court under this law shall be issued only to the owner of the hotel, motel, or motor court or, in the event the hotel, motel, or motor court is leased, to the lessee of the hotel, motel, or motor court; and the license shall remain in the name of the owner or lessee so long as the license is in existence. Any special license now in existence heretofore issued under this law cannot be renewed except in the name of the owner of the hotel, motel, motor court, or restaurant or, in the event the hotel, motel, motor court, or restaurant is leased, in the name of the lessee of the hotel, motel, motor court, or restaurant in which the license is located and must remain in the name of the owner or lessee so long as the license is in existence. Any license issued under this section shall be marked "Special," and nothing herein provided shall limit, restrict, or prevent the issuance of a special license for any restaurant or motel which shall hereafter meet the requirements of the law existing immediately before the effective date of this act, if construction of such restaurant has commenced before the effective date of this act and is completed within 30 days thereafter, or if an application is on file for such special license at the time this act takes effect; and any such licenses issued under this proviso may be annually renewed as now provided by law. Nothing herein prevents an application for transfer of a license to a bona fide purchaser of any hotel, motel, motor court, or restaurant by the purchaser of such facility or the transfer of such license pursuant to law.

Section 2. For the purpose of incorporating the amendment made by this act to section 561.20, Florida Statutes, in a

33-00532-23

20231262

reference thereto, paragraph (c) of subsection (1) of section 565.045, Florida Statutes, is reenacted to read:

565.045 Regulations for consumption on premises; penalty; exemptions.—

(1) Vendors licensed under s. 565.02(1)(b)-(f):

(c) May sell or deliver alcoholic beverages prepared by the licensee for off-premises consumption if the alcoholic beverage is in a container sealed by the licensee. All sales or deliveries of alcoholic beverages made pursuant to this paragraph must satisfy the following requirements:

1. The vendor must be licensed as a public food service establishment under chapter 509;

2. The sale or delivery must be accompanied by the sale of food within the same order;

3. The charge for the sale of food and nonalcoholic beverages must be at least 40 percent of the total charge for the order, excluding the charge for any manufacturer-sealed containers of alcoholic beverages included in the order; and

4. Sales and deliveries of the alcoholic beverages may not occur after the vendor ceases preparing food on the licensed premises for the day or after midnight, whichever is earlier.

The requirement in subparagraph 3. does not apply to vendors licensed under s. 561.20(2)(a)4.

Section 3. This act shall take effect July 1, 2023.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Criminal Justice, *Chair*  
Appropriations  
Appropriations Committee on Criminal and Civil Justice  
Appropriations Committee on Health and Human Services  
Community Affairs  
Environment and Natural Resources  
Ethics and Elections

## SELECT COMMITTEE:

Select Committee on Resiliency

## SENATOR JONATHAN MARTIN

33rd District

March 6, 2023

The Honorable Joe Gruters  
Senate Regulated Industries Committee, Chair  
525 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 1262 - An act relating to Requirements for Special Food Service Licenses

Dear Chair Gruters:

Please allow this letter to serve as my respectful request to place SB 1262, relating to Requirements for Special Food Services Licenses, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin  
Senate District 33

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

## REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore

## APPEARANCE RECORD

4/4/23

Meeting Date

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

SB 1262

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Samantha Padgett

Phone 850-224-0250

Address 230 S Adams St.

Street

Email spadgett@fria.org

Tallahassee

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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

S-001 (08/10/2021)



The Florida Senate

4/4/2023

Meeting Date

Regulated Industries

Committee

**APPEARANCE RECORD**

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

SB 1262

Bill Number or Topic

Amendment 790784

Amendment Barcode (if applicable)

Name **Gary Rutledge**

Phone **850-681-6788**

Address **119 S Monroe Street Suite 202**

Email **Gary@Rutledge-Ecenia.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

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

**Realtymasters Licensing**

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4/4/23

Meeting Date

REGULATED INDUSTRIES

Committee

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

1262

Bill Number or Topic

#790784

Amendment Barcode (if applicable)

Name

DAVID ROBERTS

Phone

850-443-4820

Address

210 S. MONROE ST.

Street

Email

david@norrob.com

City

TALLAHASSEE FL

State

Zip

32302

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

☐

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

FLORIDA INDEPENDENT SPIRITS ASSOCIATION

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

Meeting Date

04-04-23

Committee

Reg. Industries

Name

Scott Dick

Phone

850 545-4526

Address

210 S. Monroe

Email

Scott@SKdgrp.com

Street

Atlanta

State

FL

Zip

32301

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

ABC FINE WINE & SPIRITS

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

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

4/4/23

Meeting Date

Reg. Industries

Committee

SB 1262

Bill Number or Topic

1790784

Amendment Barcode (if applicable)

Name

Samantha Padgett

Phone

850-224-2250

Address

230 S. Adams St.

Street

Email

spadgett@fsla.org

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

Florida Restaurant & Lodging  
Association

☐

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

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

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

S-001 (08/10/2021)



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

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

---

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

---

BILL: CS/SB 1282

INTRODUCER: Community Affairs Committee and Senator Stewart

SUBJECT: Public Restroom Requirements

DATE: April 3, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	<b>Fav/CS</b>
2.	Kraemer	Imhof	RI	<b>Favorable</b>
3.			RC	

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

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/SB 1282 directs the Florida Building Commission to incorporate into the Florida Building Code the installation of a hook in wheelchair accessible public restroom facilities that is within the reach of an average-sized person while the person is sitting on a toilet seat. Such hook must be installed in public restroom facilities with an accessible toilet compartment or single-user toilet room that is newly constructed or renovated after July 1, 2023.

The bill takes effect July 1, 2023.

**II. Present Situation:**

**The Florida Building Code**

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.<sup>1</sup>

---

<sup>1</sup> The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, at 4, available at [http://www.floridabuilding.org/fbc/publications/2006\\_Legislature\\_Rpt\\_rev2.pdf](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf) (last visited March 10, 2023).

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Building Code, and that first edition replaced all local codes on March 1, 2002.<sup>2</sup>

The Building Code is updated every three years. The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.<sup>3</sup> The next edition of the Building Code will take effect on December 31, 2023.

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.<sup>4</sup>

The Florida Building Commission (commission) was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The commission reviews International Codes published by the International Code Council,<sup>5</sup> the National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.<sup>6</sup>

### ***Building Construction Standards for Public Restrooms***

As directed by s. 553.86, F.S., the commission incorporated into the Florida Building Code a ratio of public restroom facilities for men and women for all buildings with public restrooms newly constructed after September 30, 1992.<sup>7</sup> The Building Code requires the plumbing fixtures ratio for each fixture type to be applied to the occupant load of each sex in accordance with the classification of the building space.<sup>8</sup>

---

<sup>2</sup> *Id.*; DBPR, *Building Code Information System*, available at: <https://floridabuilding.org/c/default.aspx#> (last visited Mar. 28, 2023).

<sup>3</sup> *Id.*

<sup>4</sup> Section 553.72(1), F.S.

<sup>5</sup> The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Mar. 28, 2023).

<sup>6</sup> Sections 553.73 and 553.74, F.S.

<sup>7</sup> The requirement does not apply to establishments licensed under ch. 509, F.S., if the establishment does not provide meeting or banquet rooms accommodating more than 150 persons and has at least the same number of water closets for women as the combined total of water closets and urinals for men. *Id.*

<sup>8</sup> See ch. 4, *Fixtures, Faucets and Fixture Fittings*, [https://codes.iccsafe.org/content/FLPC2020P1/chapter-4-fixtures-faucets-and-fixture-fittings#FLPC2020P1\\_Ch04\\_Sec401](https://codes.iccsafe.org/content/FLPC2020P1/chapter-4-fixtures-faucets-and-fixture-fittings#FLPC2020P1_Ch04_Sec401), and the accompanying Minimum Plumbing Facilities Table 403.1 (last visited Mar. 28, 2023). See also ss. 403.1.1 (Fixture Calculations), 402.1.3 (Potty Parity), 403.2 (Separate Facilities), and 403.3 (Required Public Toilet Facilities).

## **Local Enforcement of the Florida Building Code**

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.<sup>9</sup>

Every local government must enforce the Building Code and issue building permits.<sup>10</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>11</sup> Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.<sup>12</sup> Construction work may not be done beyond a certain point until it passes an inspection.

## **Florida Accessibility Code for Building Construction**

The 1993 Legislature created the Florida Americans with Disabilities Accessibility Implementation Act (Act)<sup>13</sup> which incorporated the architectural accessibility requirements of the Americans with Disabilities Act of 1990 and maintained existing provisions of Florida law thought to be more stringent than the ADA accessibility guidelines.<sup>14</sup>

The Act establishes the Florida Accessibility Code for Building Construction (Accessibility Code).<sup>15</sup> The law was amended in 2011 and its resulting requirements were integrated into the Florida Building Code.<sup>16</sup> The Accessibility Code contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities.<sup>17</sup> The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements.<sup>18</sup>

Chapter 6 of the Accessibility Code regulates wheelchair accessible toilet compartments including size, doors, approach, grab bars, and location within a restroom.<sup>19</sup> Chapter 3 of the Accessibility Code regulates reach ranges for building elements such as coat hooks, lockers, and other operable parts of a building.<sup>20</sup> Requirements include the height of forward reach, side reach, and obstructed reach for persons in a wheelchair.<sup>21</sup>

---

<sup>9</sup> Section 553.72, F.S.

<sup>10</sup> Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

<sup>11</sup> Sections 125.56(4)(a), 553.79(1), F.S.

<sup>12</sup> Section 110, 2020 Florida Building Code, Building, 7<sup>th</sup> Edition.

<sup>13</sup> Section 553.501, F.S.

<sup>14</sup> Preface to the 2020 Florida Building Code, Accessibility, 7<sup>th</sup> Edition.

<sup>15</sup> Section 553.503, F.S.

<sup>16</sup> Ch. 2011-222, Laws of Fla.

<sup>17</sup> The Accessibility Code is available at <https://codes.iccsafe.org/content/FLAC2020P1> (last visited Mar. 29, 2023).

<sup>18</sup> Section 101.1, 2020 Florida Building Code, Accessibility, 7<sup>th</sup> Edition.

<sup>19</sup> Chapter 6: Plumbing Elements and Facilities, 2020 Florida Building Code, Accessibility, 7<sup>th</sup> Edition.

<sup>20</sup> Chapter 3: Building Blocks, 2020 Florida Building Code, Accessibility, 7<sup>th</sup> Edition.

<sup>21</sup> *Id.*

**III. Effect of Proposed Changes:**

The bill amends s. 553.86, F.S., to direct the Florida Building Commission to require in the Florida Building Code the installation of a hook in wheelchair accessible public restroom facilities that is within the reach of an average-sized person while the person is sitting on a toilet seat. Such hook must be installed in public restroom facilities with an accessible toilet compartment or single-user toilet room which are newly constructed or renovated after July 1, 2023.

Such public restroom facilities must otherwise be in compliance with Florida Americans with Disabilities Accessibility Implementation Act and all applicable requirements set forth in the Florida Accessibility Code for Building Construction.

The bill takes effect July 1, 2023.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

There may be a minimal fiscal impact to construction of new restroom facilities that must comply with the provisions of the bill.



**C. Government Sector Impact:**

There may be a small, likely insignificant, fiscal impact on the Florida Building Commission to integrate the required changes. To date, no analysis by the DBPR of the impact of the bill on its respective operations, revenue, and expenditures has been provided.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 553.86 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 on March 22, 2023:**

The CS makes a technical change by clarifying that the bill applies to “wheelchair” accessible toilet compartments.

- B. Amendments:**

None.

By the Committee on Community Affairs; and Senator Stewart

578-02920-23

20231282c1

A bill to be entitled

An act relating to public restroom requirements; amending s. 553.86, F.S.; requiring the Florida Building Commission to adopt certain requirements in the Florida Building Code for certain public restroom facilities newly constructed or renovated after a specified date; providing an effective date.

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

Section 1. Section 553.86, Florida Statutes, is amended to read:

553.86 Public restroom requirements ~~restrooms~~; ratio of facilities for men and women; ~~application; incorporation into the Florida Building Code.~~—The Florida Building Commission shall incorporate into the Florida Building Code, to be adopted by rule pursuant to s. 553.73(1):~~r~~

(1) A ratio of public restroom facilities for men and women which must be provided in all buildings that are newly constructed after September 30, 1992, and that have restrooms open to the public. This subsection ~~section~~ does not apply to establishments licensed under chapter 509 if the establishment does not provide meeting or banquet rooms which accommodate more than 150 persons and the establishment has at least the same number of water closets for women as the combined total of water closets and urinals for men.

(2) For public restroom facilities with a wheelchair accessible toilet compartment or a single-user toilet room which are newly constructed or renovated after July 1, 2023, the

Page 1 of 2

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

578-02920-23

20231282c1

installation of a hook within the reach range of an average-sized person while the person is sitting on the toilet seat, and that such public restroom facilities must otherwise be in compliance with ss. 553.501-553.313 and all applicable requirements set forth in the Florida Accessibility Code for Building Construction.

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

Page 2 of 2

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

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

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

---

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

---

BILL: CS/SB 1418

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Emergency Communications

DATE: April 3, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	<b>Fav/CS</b>
2.			AEG	
3.			FP	

---

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

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/SB 1418 revises Florida law to support and reflect the transition from enhanced 911 (E911) to Next Generation 911 (NG911) and to revise the composition, name, and duties of the current E911 Board. The bill also revises the distribution of revenue collected from a monthly fee to fund 911 services assessed on voice communications services in the state, removes county exceptions to the state's uniform rate for this fee, and revises the expenditures that are eligible to be paid by revenue collected from this fee.

The bill has an effective date of July 1, 2023.

**II. Present Situation:**

**Division of Telecommunications**

The Division of Telecommunications (division) is created by s. 20.22, F.S., within Florida's Department of Management Services (DMS). The division is responsible for providing contracts for voice and data services to agency customers while also managing the state's public safety communications. As part of its voice and data contract duties, the division oversees master contracts to provide telecommunications and technology service offerings. The division also, as part of these duties, handles invoicing and billing, streamlining processes.<sup>1</sup>

---

<sup>1</sup> Department of Management Services, *Telecommunications*,  
[https://www.dms.myflorida.com/business\\_operations/telecommunications](https://www.dms.myflorida.com/business_operations/telecommunications) (last visited: Mar 29, 2023).

In managing the state’s public safety communications, the “division manages the Statewide Law Enforcement Radio System (SLERS), provides operational assistance to the State E911 Board, and supports Florida’s Next Generation 911 efforts in partnership with local government entities.”<sup>2</sup>

### ***Florida E911 System***

Since 1973, the state of Florida, in conjunction with Florida’s counties, has funded technological advancements in statewide emergency number systems (i.e. 911 systems) for emergency communications between citizens and visitors and emergency services. Basic 911 service was established statewide in 1997. In 2005, wireline enhanced E911 service was implemented in all of Florida’s 67 counties to obtain a 911 caller’s telephone number and address. In 2007, Florida’s wireless 911 board transitioned to the E911 Board with the intent of implementing enhanced 911 services. Phase I of the enhanced services provided call back numbers and the location of cell sites utilized for making the call into 911, Phase II provided location information for the actual cellular caller. These enhancements were completed March 31, 2008. Currently, Florida’s counties are working on technical, funding, and deployment issues in an effort to provide statewide text-to-911 services.<sup>3</sup> As of February 2023, 60 of Florida’s 67 counties offer text-to-911 service.<sup>4</sup>

### ***Division Management of the E911 System***

The division oversees the E911 system in Florida, and is required to develop, maintain, and implement appropriate modifications for a statewide emergency communications E911 system plan. The plan must provide for:

- The public agency emergency communications requirements for each entity of local government<sup>5</sup> in the state.
- A system to meet specific local government requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and emergency management services.
- Identification of the mutual aid agreements necessary to obtain an effective E911 system.
- A funding provision that identifies the cost necessary to implement the E911 system.<sup>6</sup>

---

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

<sup>3</sup> Department of Management Services, *Florida 911*, [https://www.dms.myflorida.com/business\\_operations/telecommunications/public\\_safety\\_communications/florida\\_911](https://www.dms.myflorida.com/business_operations/telecommunications/public_safety_communications/florida_911) (last visited: Mar. 29, 2023).

<sup>4</sup> Florida E911 Board, *2022 Annual Report*, 10, February 28, 2023 (available at: <https://www.dms.myflorida.com/content/download/155677/1033501/20212022E911BoardAnnualReportVersionFINAL.pdf>).

<sup>5</sup> The term “local government” means any city, county, or political subdivision of the state and its agencies. Section 365.171(3)(b), F.S.

<sup>6</sup> Section 365.171(4), F.S.

The division is responsible for the implementation and coordination of the plan, and must adopt any necessary rules and schedules related to public agencies<sup>7</sup> for implementing and coordinating the plan, under the provisions of ch. 120, F.S.<sup>8</sup>

***Current Authorized Expenditures for E911 Funds***

Section 365.172, F.S., specifies the expenditures that may be made with E911 funds. Generally, all costs directly attributable to the establishment or provision of E911 service and contracting for E911 services are eligible. Specifically, these costs may include the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and E911 service features, as defined in the providers' published schedules, or the acquisition, installation, and maintenance of other E911 equipment, including:

- Circuits;
- Call answering equipment;
- Call transfer equipment;
- Automatic Number Identification (ANI) or Automatic Location Identification (ALI) controllers;
- ANI or ALI displays;
- Station instruments;
- E911 telecommunications systems;
- Visual call information and storage devices;
- Recording equipment;
- Telephone devices and other equipment for the hearing impaired used in the E911 system;
- PSAP backup power systems;
- Consoles;
- Automatic call distributors, and interfaces, including hardware and software, for computer-aided dispatch (CAD) systems;
- Integrated CAD systems for that portion of the systems used for E911 call taking;
- GIS system and software equipment and information displays; network clocks;
- Salary and associated expenses for E911 call takers for that portion of their time spent taking and transferring E911 calls, salary, and associated expenses for a county to employ a full-time equivalent E911 coordinator position and a full-time equivalent mapping or geographical data position, and technical system maintenance, database, and administration personnel for the portion of their time spent administrating the E911 system;
- Emergency medical, fire, and law enforcement prearrival instruction software;
- Charts and training costs;
- Training costs for PSAP call takers, supervisors, and managers in the proper methods and techniques used in taking and transferring E911 calls;
- Costs to train and educate PSAP employees regarding E911 service or E911 equipment, including fees collected by the Department of Health for the certification and recertification of 911 public safety telecommunicators as required under s. 401.465, F.S.;

---

<sup>7</sup> The term "public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services. Section 365.171(3)(c), F.S.

<sup>8</sup> Section 365.171(4), F.S.

- Expenses required to develop and maintain all information, including ALI and ANI databases and other information source repositories, necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the E911 call-taking and transferring function; and
- Next-generation E911 network services, next-generation E911 database services, next-generation E911 equipment, and wireless E911 routing systems.

### ***E911 Board***

In 2007, the Florida Legislature established the E911 Board, which is composed of eleven members. The secretary of the DMS designates the chair of the E911 Board. The Governor appoints five members who are county 911 coordinators and five members from the telecommunications industry.<sup>9</sup> The E911 Board “provides coordination, support, and technical assistance to counties to promote the deployment of advanced 911 and E911 systems.”<sup>10</sup> The E911 Board also “provides coordination, technical and financial support for educational opportunities related to Florida's E911 issues for the 911 public safety communities.”<sup>11</sup>

In addition to the above, one of the E911 Board’s primary functions is to administer funds generated from a monthly fee for voice communications services within the state (fee).<sup>12</sup> Under s. 365.172(3)(cc), F.S., “voice communications services” means:

Two-way voice service, through the use of any technology, which actually provides access to E911 services, and includes communications services, as defined in s. 202.11,<sup>13</sup> which actually provide access to E911 services and which are required to be included in the provision of E911 services pursuant to orders and rules adopted by the Federal Communications Commission. The term includes voice-over-Internet-protocol service [(VoIP)]...

The fee is assessed on a service identifier basis (i.e., from each active phone line or number with access to the E911 system) and billed by the provider of the voice communication service. Sellers of prepaid wireless service must collect this fee from customers with each retail transaction in the state.<sup>14</sup>

Section 365.172(8)(f), F.S., provides that, effective January 1, 2015, the fee is set uniformly across the state at 40 cents per month for each service identifier. However, in counties that,

---

<sup>9</sup> Section 365.172(5)(b), F.S., and Department of Management Services, *E911 Board*, [https://www.dms.myflorida.com/business\\_operations/telecommunications/public\\_safety\\_communications/florida\\_911/e911\\_board](https://www.dms.myflorida.com/business_operations/telecommunications/public_safety_communications/florida_911/e911_board) (last visited Mar. 29, 2023).

<sup>10</sup> Department of Management Services, *E911 Board*, *supra* note 9.

<sup>11</sup> *Id.*

<sup>12</sup> Regarding this fee, the E911 Board must also provide an annual report to the Governor and Legislature regarding the amounts collected and expended, the purposes for which expenditures have been made, and the status of Florida E911 service. Section 365.172(5)(a), F.S.

<sup>13</sup> Section 202.11, F.S., defines communications services, in part, as “the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.”

<sup>14</sup> Section 365.172(9), F.S. For prepaid wireless transactions which involve a “single, nonitemized price with a prepaid wireless service of 10 minutes or less or \$5 or less,” the seller may choose not to collect the fee.

before July 1, 2007, had adopted an ordinance or resolution establishing a fee less than 50 cents per month per access line may maintain such rate. For such counties, any future changes to the rate may only be to the uniform 40-cent rate. Three counties have this higher rate for local exchange carriers (LECs): Duval (44 cents per month), Lee (44 cents per month), and Volusia (41 cents per month).<sup>15</sup>

The E911 Board makes disbursements from the Emergency Communications Number E911 System Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S. Table 1 below shows the most recent published E911 free revenue allocation percentages breakdown from the E911 Board's 2022 annual report:<sup>16</sup>

---

<sup>15</sup> See Florida E911 Board, *supra* note 4, at 8, and *infra* Table 1.

<sup>16</sup> Source: Florida E911 Board, 2022 Annual Report, 8, February 28, 2023 (available at: <https://www.dms.myflorida.com/content/download/155677/1033501/20212022E911BoardAnnualReportVersionFINAL.pdf>).

Table 1. E911 Breakdown of Fee Revenue Allocation Percentages Breakdown.

**Non-wireless E911 Fee****Based on a \$0.40 Fee Rate**

(includes LEC &amp; VoIP. Three counties have a higher fee on LEC, Duval (\$0.44), Lee (\$0.44) &amp; Volusia (\$0.41))

Fee Collected	County Monthly Share 96%	Rural County Grant Program 3%	Board Administration 1%
\$0.40	\$0.3840	\$0.0120	\$0.0040

**Wireless E911 Fee****Based on a \$0.40 Fee Rate**

Fee Collected	County Monthly Share 94.75%	Wireless Service Providers Reimbursements .25%	Rural County Grant Program 4%	Board Administration 1%
\$0.40	\$0.3790	\$0.0010	\$0.0160	\$0.0040

**Prepaid E911 Fee****Based on a \$0.40 Fee Rate**

Fee Collected	County Monthly Share 61%	Statewide Next Generation & Services Grant Program 35%	Rural County Grant Program 3%	Board Administration 1%
\$0.40	\$0.2440	\$0.1400	\$0.0120	\$0.0040

Wireless allocation effective Oct 12, 2021

Currently, the E911 Board's mission statement is to:

Promote and support the development, coordination, and integration for an evolved, fully-functional, seamless [NG-199] system that is accessible anytime, anywhere, from any device in order to realize the full potential for 911 to provide emergency services, enable interoperability between systems, protect human life, preserve property, and maintain public safety for the residents, visitors, and first responders in the State of Florida.

***Next Generation 911***

NG911 is a digital, internet protocol (IP)-based system that is intended to replace the nation's analog 911 infrastructure that has been in place for decades.<sup>17</sup> The National Telecommunications

<sup>17</sup> 911.gov, *Next Generation 911*, <https://www.911.gov/issues/ng911/> (last visited Mar. 29, 2023).



and Information Administration (NTIA), part of the United States Department of Commerce, states that fully-deploying NG911, “will enhance emergency number services by creating a faster, more resilient system that allows digital information (e.g., voice, photos, videos, text messages) to flow seamlessly from the public, through the 911 network and eventually, directly to first responders.” The technology will also, “enable 911 call centers to transfer 911 calls to other call centers, and help them deal with call overload, disasters, and day-to-day transfer of 911 calls to other jurisdictions.”<sup>18</sup>

Most 911 systems were originally built with analog instead of digital technologies. The transition from older, analog 911 technologies, to digital technologies requires new computer hardware and software, and the coordination of a variety of emergency communication, public safety, legislative and governing entities.<sup>19</sup>

Many states and localities are in the process of making the transition to NG911. The National 911 Program keeps a database of state self-reported NG911 data on NG911 progress. The National 911 Program provides that “the collection and use of data helps 911 systems plan for the future, benchmark against other states, measure progress on enhancing 911, and share important information with non-911 stakeholders such as legislators and [other] elected officials.”<sup>20</sup>

### ***Current Next Generation 911 Progress in Florida***

Florida’s counties continue to maintain their E911 systems; however, some counties have taken steps to transition to NG911 equipment and services. The E911 Board states that, “E911 monthly fee revenue disbursements to the counties support routine service and maintenance costs of E911 equipment and networks, but often fall short of upgrading systems and implementing advanced [NG911] technologies, requiring additional financial assistance.”<sup>21</sup>

Transitioning to NG911 in Florida requires the complete replacement of legacy 911 systems with IP networks and core services that will allow for geospatial 911 call routing. Counties in Florida have taken a regional approach to NG911 transition, which offers longer-term grant program assistance. Counties that have more financial resources have been starting the NG911 transition without grant or other supplemental funding sources and are also joining regional solutions. The E911 Board and DMS have been encouraging this regional solutions process and have been working closely with counties on how best to achieve NG911 through such regional solutions. The E911 Board has expressed some concern, however, that while regionalization provides some cost savings and flexibility, potential challenges to this regionalization may include procurement and reaching agreement on jurisdictional control across boundaries. The E911 Board also expressed a number of additional challenges in progressing to NG911, including data readiness, cybersecurity, and funding.<sup>22</sup>

---

<sup>18</sup> National Telecommunications and Information Administration, *Next Generation 911*, <https://ntia.gov/category/next-generation-911> (last visited Mar. 29, 2023).

<sup>19</sup> 911.gov, *Next Generation*, *supra* note 17.

<sup>20</sup> 911.gov, 911 Profile Database, <https://www.911.gov/projects/911-profile-database/>. This page provides links to the database, along with a summarized version of the data in the National 911 Annual Report.

<sup>21</sup> Florida E911 Board, *supra* note 4, at 10.

<sup>22</sup> *Id.* at 11.

Progress towards NG911 varies widely from county-to-county, with some Florida counties having taken no progressive action at all and others in differing stages of planning and transition. The E911 Board states that, in order to achieve NG911 on a statewide basis, they expect a comprehensive and flexible plan, with a detailed timeline, is need. Such a plan, “would accommodate potential changes in revenue sources, 911 fee adjustments, changes in the language of Florida legislation that reflect new technologies, changes in E911 Board composition and authority, and support of the Florida Legislature as it pertains to budget authority.”<sup>23</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 365.172, F.S., to reflect a move away from using the term “Enhanced 911” (or “E911”) in statute. The section is renamed the “Emergency Communications Act” (act) and the bill removes most references to Enhanced 911 and E911. Similar revisions are also made to ss. 365.171 through 365.174, 365.177, and 212.05965, F.S. in the bill.

The definitions provided in s. 365.172(3), F.S., which are also utilized in ss. 365.171, 365.173, 365.174, and 365.177, F.S., are updated by the bill with conforming and technical changes. In addition, the bill makes the following revisions:

- Providing a definition for “computer-aided dispatch” or “CAD” to mean “a computerized system for entering, tracking, dispatching, and resolving requests for public safety services.”
- Re-naming “fee” to “public safety emergency communications systems fee (PSECS Fee).”
- Defining “Next Generation 911” or “NG911” to mean “an Internet protocol (IP)-based system comprised of managed emergency services IP networks (ESInets), functional elements such as applications, and databases that replicate traditional E911 features and functions and provides additional capabilities.” The definition also provides that “the NG911 system is designed to provide access to emergency services from all connected communications sources and provide multimedia data capabilities for public safety access points [(PSAPs)] and other emergency service organizations.”

The bill modifies the statement of legislative intent in 365.172(2), F.S., to state that the act is intended to:

- Establish and implement a comprehensive statewide emergency communications and response capability using modern technologies and methods.
- Provide funds to counties and state agencies that operate 911 centers to pay costs associated with such counties’ and agencies’ public safety emergency response capabilities and costs incurred to purchase, upgrade, and maintain 911 systems, computer-aided dispatch, and systems to create interoperable radio communications systems.
- Levy a reasonable fee on users of voice communications services, unless otherwise provided in this section, to accomplish these purposes.
- Provide for an Emergency Communications Board (EC Board)<sup>24</sup> to administer the fee, with oversight by the Division of Telecommunications (division), in a manner that is competitively and technologically neutral as to all communications services providers.

<sup>23</sup> *Id.* at 12.

<sup>24</sup> The bill renames the “E911 Board” to be the “Emergency Communications Board.”

- Ensure that the fee established for emergency communications systems is used exclusively by counties and state agencies that operate 911 centers for costs associated with developing and maintaining emergency communications systems and networks in a manner that is competitively and technologically neutral as to all communications services providers.
- It is further the intent of the Legislature that the fee authorized or imposed by this section not necessarily provide the total funding required for establishing or providing emergency communications systems and services.

The bill establishes new duties for the EC Board to:

- Administer governance for how emergency infrastructure and information, such as voice, text, data, and images, are handled from receipt at a PSAP and routing to first responders;
- Establish a financial model for the state and local governments to use existing revenue sources to invest in public safety communication and technology for first responders; and
- Administer a financially sustainable model dedicated to public safety communications and technology which will benefit the state and local governments and all state residents and visitors.

The EC Board's public safety funding must focus on, but is not limited to:

- NG911;
- ESInet;
- Computer-aided dispatch;
- Interfaces, including: Land mobile radio; smart city technology data; and in-building coverage;
- Public safety broadband networks; and
- Cybersecurity.

The EC Board is also restructured by the bill to have nine members (from previously having 11), all of which must be Florida residents. The secretary of the DMS continues to designate the chair of the EC Board and the Governor appoints the remaining members. In making selections for the EC Board, consideration must be given to having "members from rural, medium, and large counties and from a broad range of fields, including, but not limited to, members who have experience in law enforcement, fire response, emergency medical services, 911 coordination, public safety dispatch, and telecommunications." The bill also updates how the Governor may initially appoint EC Board members, by staggering the terms the initial EC Board members' terms.

The bill also delegates to the EC Board the responsibility to ensure interoperability and connectivity between public safety communication systems, including, but not limited to:

- Call routing accuracy and timeliness of response;
- Improved interagency communication and situational awareness;
- Improved interagency system connectivity;
- Improved response times;
- Maximized use of emerging technologies;
- Improved lifecycle management of the systems, equipment, and services that enable responders and public safety officials to share information securely;
- Developed governance, policy, and procedure across public safety agencies; and

- Established resilient and secure emergency communications systems to reduce cybersecurity threats and vulnerabilities.

The bill also authorizes the EC Board to create advisory subcommittees and makes the EC Board responsible for administering the PSECS Fee—formerly known as the E911 fee. These responsibilities include receiving revenues; making disbursements; accounting for receipts, distributions, and income; and providing annual reports for review and submission to the Governor and the Legislature.

Under the bill, the EC Board is authorized to establish a schedule for implementing wireless NG911 systems, public safety radio communications systems, and other public safety communications improvements.

Revenues from the PSECS Fee are deposited into the Emergency Communications Fund (EC Fund). EC Fund disbursements are significantly reworked under the bill. The revised process provided in the bill requires that the EC Board provide 90 days' written notice to all counties and state agencies that operate 911 centers and publish electronically an approved application process. Priority is based on funding availability, current system life expectancy, and system replacement needs. The EC Board must ensure that county recipients of funds only use such funds for under which they have been provided. The EC Board may use any actions under its authority to recover improperly used funds.

In managing the EC Fund, the EC Board may also implement changes to the allocation percentages or adjust the PSECS Fee pursuant to s. 365.173, F.S. The bill also specifies that the EC Board must meet quarterly<sup>25</sup> to review and authorize the schedule of PSECS Fee allocation transfers and distributions to the counties and state agencies that operate 911 centers.

Current law requires that the EC Board establish a committee to review requests for proposals (RFPs). The bill eliminates that one member of the committee is a member of the EC Board that is a county 911 coordinator and one member of the committee is a member of the EC Board who represents a voice communications services provider.

The bill removes the provision under current law that allows Duval (44 cents per month), Lee (44 cents per month), and Volusia (41 cents per month) counties to charge a PSECS Fee rate higher than the state uniform 40 cents per month PSECS Fee. The bill also deletes a provision that requires the EC Board, when setting percentages or contemplating any adjustments to the PSECS Fee, to consider revenues currently allocated for wireless service provider costs for implementing E911 service and projected costs for implementing E911 service (including recurring costs for Phase I and Phase II and the effect of new technologies).

In regards to the eligible expenditure of moneys derived from the PSECS Fee, the bill provides that emergency communications and 911 service includes the functions relating to the receipt and transfer of requests for emergency assistance, of database management, call taking, and location verification. The bill also revises s. 365.172(10), F.S., which provides the eligible expenditures for moneys derived from the PSECS Fee, and requires that these costs be

---

<sup>25</sup> Under current law, the Board is directed to meet monthly.

attributable to emergency communications equipment and services related to a primary or secondary PSAP. The eligible expenditures, as revised under the bill, would include the acquisition, implementation, and maintenance of PSAP equipment and features, as defined in the providers' published schedules or the acquisition, installation, and maintenance of other equipment, including:

- Circuits;
- Call answering equipment;
- Call transfer equipment;
- Automatic Number Identification (ANI) or Automatic Location Identification (ALI);
- ANI or ALI displays;
- Station instruments;
- NG911 telecommunications systems;
- ESInet;
- Visual call information and storage devices;
- Recording equipment;
- Telephone devices and other equipment for the hearing impaired used in the E911 system; PSAP backup power systems;
- Consoles;
- Automatic call distributors;
- Interfaces, including hardware and software, for CAD systems, for public safety land mobile radio systems and radio consoles that provide two-way radio communication with responders, and for in-building coverage;
- GIS system and software equipment and information displays; network clocks;
- Cybersecurity, including hardware, software, and services;
- Salary and associated expenses for 911 call takers and emergency dispatchers, salary, and associated expenses for a county to employ a full-time equivalent 911 coordinator position and a full-time equivalent mapping or geographical data position, and technical system maintenance, database, and administration personnel for the portion of their time spent administrating the emergency communications system;
- Emergency medical, fire, and law enforcement prearrival instruction software;
- Charts and training costs; training costs for PSAP call takers, dispatchers, supervisors, and managers in the proper methods and techniques used in taking and transferring 911 calls;
- Costs to train and educate PSAP employees regarding 911 and radio service or NG911 equipment, including fees collected by the Department of Health for the certification and recertification of 911 public safety telecommunicators as required under s. 401.465, F.S.; and
- Expenses required to develop and maintain all information, including ALI and ANI databases and other information source repositories, necessary to properly inform call takers as to location address, type of emergency, smart city technology data, public safety broadband networks, and other information directly relevant to the processing of a request for emergency assistance.

The bill specifies that costs for utilities are not an eligible expenditure for moneys derived from the PSECS Fee.

The bill makes additional conforming and technical revisions, and deletes obsolete provisions.

**Section 2** of the bill makes technical and conforming changes. This section of the bill also changes the statutory allocation of the EC Fund in the wireless category to provide that:

- Ninety-four percent of the moneys in the EC Fund be distributed each month to counties (increased from seventy-six in current law), based on the total number of service identifiers in each county; and
- One percent must be distributed each month to state agencies that operate 911 centers.

The bill also removes an authorization that such moneys may be used for compliance with certain 911-service related rules and orders from the Federal Communications Commission (FCC).<sup>26</sup> The bill maintains the provision in current law that such moneys may exclusively be used for the expenditures authorized in s. 365.172(10), F.S (as that subsection was amended by Section 1 of the bill).

In addition, the bill maintains the provision in current law that three percent of the moneys in each of the three categories (wireless, nonwireless, and prepaid wireless) of the EC Fund must be used to make monthly distributions to rural counties for the purpose of providing facilities and network and service enhancements and assistance for the emergency communications systems operated by rural counties and for the provision of grants by the division to rural counties for upgrading and replacing emergency communications systems. The bill requires that an additional one percent of the moneys collected in the wireless category also be provided for this purpose.

The bill also provides that the EC Board will no longer transfer twenty percent of the moneys in the wireless category of the EC Fund to wireless providers for the cost of operating 911 or E911 services.

**Section 3** of the bill extends the date, from February 1, 2020, to December 30, 2023, by which the division is required to develop a plan to upgrade 911 public safety answering points.

**Sections 4, 5, and 6** make technical and conforming changes.

**Section 7** provides an effective date for the bill of July 1, 2023.

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

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

The Revenue Estimating Conference has not yet conducted an analysis of the bill.

---

<sup>26</sup> Specifically, pursuant to Section 365.172(3)(t), F.S., the rules and orders are those issued by the FCC in FCC Docket No. 94-102:

- Order adopted on June 12, 1996, with an effective date of October 1, 1996, the amendments to s. 47 CFR s. 20.03 and the creation of 47 CFR s. 20.18 adopted by the FCC pursuant to such order.
- Memorandum and Order No. FCC 97-402 adopted on December 23, 1997.
- Order No. FCC DA 98-2323 adopted on November 13, 1998.
- Order No. FCC 98-345 adopted December 31, 1998.

Also included are the orders and rules subsequently adopted by the FCC relating to the provision of 911 services, including Order Number FCC-05-116, adopted May 19, 2005.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

Under the bill, Duval and Lee counties (from 44 cents down to 40 cents per service identifier), and Volusia County (from 41 cents down to 40 cents per service identifier), will see a reduction in monthly public safety emergency communications systems fee (PSECS Fee) revenues from local exchange carriers (LECs). This will bring their PSECS fee rate amounts into alignment with the statewide 40-cent uniform rate. In its analysis of the bill, the Department of Management Services stated that the decrease in revenue for these counties will be mitigated by the increase of wireless and VoIP subscribers as LEC subscribers upgrade to newer technology.<sup>27</sup>

**B. Private Sector Impact:**

The bill eliminates the distribution of twenty percent of the moneys in the wireless category in the Emergency Communications Fund (EC Fund) to wireless providers for the cost of operating 911 or E911 services. Thus, the bill may have a negative financial impact on such wireless providers.

**C. Government Sector Impact:**

The bill may increase revenues to state agencies that operate 911 call centers through the provision in the bill that directs one percent of the moneys in the wireless category of the EC Fund by distributed to state agencies that operate such centers. The bill may also increase revenues to local governments by increasing the allocation of funds from the wireless category of the EC Fund to counties from 76 percent to 94 percent.

---

<sup>27</sup> Florida Department of Management Services, *Bill Analysis for SB 1418* (Mar. 17, 2023) (on file with the Senate Regulated Industries Committee).

**VI. Technical Deficiencies:**

The bill uses the term “smart city technology data,” but does not provide a definition for this term. The sponsor may want to include a definition for this term as this may not be a commonly used phrase and may be open to multiple interpretations.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 365.172, 365.173, 365.177, 212.05965, 365.171, and 365.174.

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

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

**CS by Regulated Industries on March 4, 2023:**

The committee substitute makes a technical revision to SB1418 to remove an erroneous cross-reference change in the bill.

**B. Amendments:**

None.





342640

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

---

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

**Senate Amendment**

Delete line 708  
and insert:  
adjust the amount of the fee as provided in paragraph (g) if

By Senator Bradley

6-01245C-23

20231418\_\_

1 A bill to be entitled  
 2 An act relating to emergency communications; amending  
 3 s. 365.172, F.S.; revising a short title; revising  
 4 legislative intent; revising and defining terms;  
 5 renaming the E911 Board as the Emergency  
 6 Communications Board; providing the purpose of the  
 7 board; revising the composition of the board;  
 8 establishing board responsibilities; requiring the  
 9 board to administer fees; authorizing the board to  
 10 create subcommittees; authorizing the board to  
 11 establish schedules for implementing certain wireless  
 12 systems and improvements; establishing notice and  
 13 publication requirements before distribution of  
 14 revenues; providing for priority of county  
 15 applications for funds; requiring board oversight of  
 16 such funds; eliminating certain authority of the  
 17 board; providing for the board's authority to  
 18 implement changes to the allocation percentages or to  
 19 adjust the fee; revising the frequency of board  
 20 meetings and the business to be conducted at such  
 21 meetings; revising the composition of a committee that  
 22 reviews requests for proposals from the board  
 23 regarding independent accounting firm selection;  
 24 revising provisions relating to the public safety  
 25 emergency communications systems fee; requiring  
 26 uniform application and imposition of the fee;  
 27 revising the factors that the board considers when  
 28 setting percentages or contemplating adjustments to  
 29 the fee; updating provisions relating to the prepaid

Page 1 of 60

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

6-01245C-23

20231418\_\_

30 wireless public safety emergency communications  
 31 systems fee; revising emergency communications and 911  
 32 service functions; revising the types of emergency  
 33 communications equipment and services that are  
 34 eligible for expenditure of moneys derived from the  
 35 fee; amending s. 365.173, F.S.; renaming the  
 36 Communications Number E911 System Fund as the  
 37 Emergency Communications Fund; revising the percent  
 38 distribution of the fund; deleting the percent  
 39 distribution of wireless providers; adding a specified  
 40 percent distribution to rural counties; amending s.  
 41 365.177, F.S.; extending the date by which the  
 42 Division of Telecommunications within the Department  
 43 of Management Services is required to develop a plan  
 44 to upgrade 911 public safety answering points;  
 45 amending ss. 212.05965, 365.171, and 365.174, F.S.;  
 46 conforming provisions to changes made by the act;  
 47 providing an effective date.

48  
 49 Be It Enacted by the Legislature of the State of Florida:

50  
 51 Section 1. Section 365.172, Florida Statutes, is amended to  
 52 read:

53 365.172 Emergency communications. ~~number "E911."~~

54 (1) SHORT TITLE.—This section may be cited as the

55 "Emergency Communications ~~Number E911~~ Act."

56 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature

57 to:

58 (a) Establish and implement a comprehensive statewide

Page 2 of 60

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

6-01245C-23

20231418

emergency communications and response capability using modern technologies and methods. ~~telecommunications number system that will provide users of voice communications services within the state rapid direct access to public safety agencies by accessing the telephone number "911."~~

(b) Provide funds to counties and state agencies that operate 911 centers to pay certain costs associated with their public safety emergency response capabilities and costs incurred to purchase, upgrade, and maintain 911 systems, computer-aided dispatch, and systems to create interoperable radio communications systems ~~E911 or 911 systems, to contract for E911 services, and to reimburse wireless telephone service providers for costs incurred to provide 911 or E911 services.~~

(c) Levy a reasonable fee on users of voice communications services, unless otherwise provided in this section, to accomplish these purposes.

(d) Provide for an Emergency Communications Board ~~E911 board~~ to administer the fee, with oversight by the office, in a manner that is competitively and technologically neutral as to all ~~voice~~ communications services providers.

(e) Ensure that the fee established for emergency communications systems is used exclusively ~~for recovery by wireless providers and~~ by counties and state agencies that operate 911 centers for costs associated with developing and maintaining emergency communications ~~E911~~ systems and networks in a manner that is competitively and technologically neutral as to all ~~voice~~ communications services providers.

It is further the intent of the Legislature that the fee

6-01245C-23

20231418

authorized or imposed by this section not necessarily provide the total funding required for establishing or providing emergency communications systems and services ~~E911 service.~~

(3) DEFINITIONS.—Only as used in this section and ss. 365.171, 365.173, 365.174, and 365.177, the term:

(a) "Authorized expenditures" means expenditures of the fee, as specified in subsection (10).

(b) "Automatic location identification" means the capability of the E911 service which enables the automatic display of information that defines the approximate geographic location of the wireless telephone, or the location of the address of the wireline telephone, used to place a 911 call.

(c) "Automatic number identification" means the capability of the E911 service which enables the automatic display of the service number used to place a 911 call.

(d) "Board" or "Emergency Communications Board" ~~"E911 Board"~~ means the board ~~of directors of the E911 Board~~ established in subsection (5).

(e) "Building permit review" means a review for compliance with building construction standards adopted by the local government under chapter 553 and does not include a review for compliance with land development regulations.

(f) "Colocation" ~~"Collocation"~~ means the situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennae. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennae.

6-01245C-23

20231418\_\_

(g) "Computer-aided dispatch" or "CAD" means a computerized system for entering, tracking, dispatching, and resolving requests for public safety services.

(h)~~(g)~~ "Designed service" means the configuration and manner of deployment of service the wireless provider has designed for an area as part of its network.

(i)~~(h)~~ "Enhanced 911" or "E911" means an enhanced 911 system or enhanced 911 service that is an emergency telephone system or service that provides a subscriber with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, or as otherwise provided in the state plan under s. 365.171, and that provides for automatic number identification and automatic location-identification features. A 911 E911 service provided by a wireless provider means E911 as defined in the order.

(j)~~(i)~~ "Existing structure" means a structure that exists at the time an application for permission to place antennae on a structure is filed with a local government. The term includes any structure that can structurally support the attachment of antennae in compliance with applicable codes.

(k)~~(j)~~ "Fee" or "public safety emergency communications systems fee" means the ~~E911~~ fee authorized and imposed under subsections (8) and (9).

(l)~~(k)~~ "Fund" means the Emergency Communications ~~Number E911-System~~ Fund established in s. 365.173 and maintained under this section for the purpose of recovering the costs associated with providing emergency communications 911 service or ~~E911 service~~, including the costs of implementing the order. The fund

6-01245C-23

20231418\_\_

shall be segregated into wireless, prepaid wireless, and nonwireless categories.

(m)~~(l)~~ "Historic building, structure, site, object, or district" means any building, structure, site, object, or district that has been officially designated as a historic building, historic structure, historic site, historic object, or historic district through a federal, state, or local designation program.

(n)~~(m)~~ "Land development regulations" means any ordinance enacted by a local government for the regulation of any aspect of development, including an ordinance governing zoning, subdivisions, landscaping, tree protection, or signs, the local government's comprehensive plan, or any other ordinance concerning any aspect of the development of land. The term does not include any building construction standard adopted under and in compliance with chapter 553.

(o)~~(n)~~ "Local exchange carrier" means a "competitive local exchange telecommunications company" or a "local exchange telecommunications company" as defined in s. 364.02.

(p)~~(o)~~ "Local government" means any municipality, county, or political subdivision or agency of a municipality, county, or political subdivision.

(q)~~(p)~~ "Medium county" means any county that has a population of 75,000 or more but less than 750,000.

(r)~~(q)~~ "Mobile telephone number" or "MTN" means the telephone number assigned to a wireless telephone at the time of initial activation.

(s) "Next Generation 911" or "NG911" means an Internet protocol (IP)-based system comprised of managed emergency

6-01245C-23

20231418\_\_

175 services IP networks (ESInets), functional elements such as  
 176 applications, and databases that replicate traditional E911  
 177 features and functions and provides additional capabilities. The  
 178 NG911 system is designed to provide access to emergency services  
 179 from all connected communications sources and provide multimedia  
 180 data capabilities for public safety answering points (PSAPs) and  
 181 other emergency service organizations.

182 (t)-(\*) "Nonwireless category" means the revenues to the  
 183 fund received from voice communications services providers other  
 184 than wireless providers.

185 (u)-(\*) "Office" means the Division of Telecommunications  
 186 within the Department of Management Services, as designated by  
 187 the secretary of the department.

188 (v)-(t) "Order" means:

189 1. The following orders and rules of the Federal  
 190 Communications Commission issued in FCC Docket No. 94-102:

191 a. Order adopted on June 12, 1996, with an effective date  
 192 of October 1, 1996, the amendments to s. 20.03 and the creation  
 193 of s. 20.18 of Title 47 of the Code of Federal Regulations  
 194 adopted by the Federal Communications Commission pursuant to  
 195 such order.

196 b. Memorandum and Order No. FCC 97-402 adopted on December  
 197 23, 1997.

198 c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

199 d. Order No. FCC 98-345 adopted December 31, 1998.

200 2. Orders and rules subsequently adopted by the Federal  
 201 Communications Commission relating to the provision of 911  
 202 services, including Order Number FCC-05-116, adopted May 19,  
 203 2005.

6-01245C-23

20231418\_\_

204 (w)-(\*) "Prepaid wireless category" means all revenues in  
 205 the fund received through the Department of Revenue from the fee  
 206 authorized and imposed under subsection (9).

207 (x)-(\*) "Prepaid wireless service" means a right to access  
 208 wireless service that allows a caller to contact and interact  
 209 with 911 to access the 911 system, which service must be paid  
 210 for in advance and is sold in predetermined units or dollars,  
 211 which units or dollars expire on a predetermined schedule or are  
 212 decremented on a predetermined basis in exchange for the right  
 213 to access wireless service.

214 (y)-(\*) "Public agency" means the state and any  
 215 municipality, county, municipal corporation, or other  
 216 governmental entity, public district, or public authority  
 217 located in whole or in part within this state which provides, or  
 218 has authority to provide, firefighting, law enforcement,  
 219 ambulance, medical, or other emergency services.

220 (z)-(\*) "Public safety agency" means a functional division  
 221 of a public agency which provides firefighting, law enforcement,  
 222 medical, or other emergency services.

223 (aa)-(\*) "Public safety answering point," "PSAP," or  
 224 "answering point" means the public safety agency that receives  
 225 incoming 911 requests for assistance and dispatches appropriate  
 226 public safety agencies to respond to the requests in accordance  
 227 with the state E911 plan.

228 (bb)-(\*) "Rural county" means any county that has a  
 229 population of fewer than 75,000.

230 (cc)-(aa) "Service identifier" means the service number,  
 231 access line, or other unique identifier assigned to a subscriber  
 232 and established by the Federal Communications Commission for

6-01245C-23 20231418\_\_

purposes of routing calls whereby the subscriber has access to the E911 system.

~~(dd)-(bb)~~ "Tower" means any structure designed primarily to support a wireless provider's antennae.

~~(ee)-(cc)~~ "Voice communications services" means two-way voice service, through the use of any technology, which actually provides access to 911 ~~E911~~ services, and includes communications services, as defined in s. 202.11, which actually provide access to 911 ~~E911~~ services and which are required to be included in the provision of 911 ~~E911~~ services pursuant to orders and rules adopted by the Federal Communications Commission. The term includes voice-over-Internet-protocol service. For the purposes of this section, the term "voice-over-Internet-protocol service" or "VoIP service" means interconnected VoIP services having the following characteristics:

1. The service enables real-time, two-way voice communications;

2. The service requires a broadband connection from the user's locations;

3. The service requires IP-compatible customer premises equipment; and

4. The service offering allows users generally to receive calls that originate on the public switched telephone network and to terminate calls on the public switched telephone network.

~~(ff)-(dd)~~ "Voice communications services provider" or "provider" means any person or entity providing voice communications services, except that the term does not include any person or entity that resells voice communications services

6-01245C-23 20231418\_\_

and was assessed the fee authorized and imposed under subsection (8) by its resale supplier.

~~(gg)-(ee)~~ "Wireless 911 system" or "wireless 911 service" means an emergency telephone system or service that provides a subscriber with the ability to reach an answering point by accessing the digits 911.

~~(hh)-(ff)~~ "Wireless category" means the revenues to the fund received from a wireless provider from the fee authorized and imposed under subsection (8).

~~(ii)-(gg)~~ "Wireless communications facility" means any equipment or facility used to provide service and may include, but is not limited to, antennae, towers, equipment enclosures, cabling, antenna brackets, and other such equipment. Placing a wireless communications facility on an existing structure does not cause the existing structure to become a wireless communications facility.

~~(jj)-(hh)~~ "Wireless provider" means a person who provides wireless service and:

1. Is subject to the requirements of the order; or

2. Elects to provide wireless 911 service, ~~or~~ E911 service, or NG911 service in this state.

~~(kk)-(ii)~~ "Wireless service" means "commercial mobile radio service" as provided under ss. 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. ss. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, August 10, 1993, 107 Stat. 312. The term includes service provided by any wireless real-time two-way wire communication device, including radio-telephone communications used in cellular telephone service; personal communications service; or

6-01245C-23 20231418\_\_

291 the functional or competitive equivalent of a radio-telephone  
 292 communications line used in cellular telephone service, a  
 293 personal communications service, or a network radio access line.  
 294 The term does not include wireless providers that offer mainly  
 295 dispatch service in a more localized, noncellular configuration;  
 296 providers offering only data, one-way, or stored-voice services  
 297 on an interconnected basis; providers of air-to-ground services;  
 298 or public coast stations.

299 (4) POWERS AND DUTIES OF THE OFFICE.—The office shall  
 300 oversee the administration of the fee authorized and imposed  
 301 under subsections (8) and (9).

302 (5) THE EMERGENCY COMMUNICATIONS ~~E911~~ BOARD.—

303 (a) The Emergency Communications ~~E911~~ Board is established  
 304 ~~to administer~~, with oversight by the office, to:

305 1. Administer governance for how emergency infrastructure  
 306 and information, such as voice, text, data, and images, are  
 307 handled from receipt at a PSAP and routing to first responders;

308 2. Establish a financial model for the state and local  
 309 governments to use existing revenue sources to invest in public  
 310 safety communication and technology for first responders; and

311 3. Administer a financially sustainable model dedicated to  
 312 public safety communications and technology which will benefit  
 313 the state and local governments and all state residents and  
 314 visitors.

315 (b) Public safety funding under paragraph (a) must focus  
 316 on, but not be limited to:

317 1. Next Generation 911.

318 2. Emergency services IP network (ESInet).

319 3. Computer-aided dispatch (CAD).

6-01245C-23 20231418\_\_

320 4. Interfaces, including:

321 a. Land mobile radio (LMR);

322 b. Smart city technology data; and

323 c. In-building coverage.

324 5. Public safety broadband networks.

325 6. Cybersecurity.

326 ~~, with oversight by the office, the fee imposed under~~  
 327 ~~subsections (8) and (9), including receiving revenues derived~~  
 328 ~~from the fee; distributing portions of the revenues to wireless~~  
 329 ~~providers, counties, and the office; accounting for receipts,~~  
 330 ~~distributions, and income derived by the funds maintained in the~~  
 331 ~~fund; and providing annual reports to the Governor and the~~  
 332 ~~Legislature for submission by the office on amounts collected~~  
 333 ~~and expended, the purposes for which expenditures have been~~  
 334 ~~made, and the status of E911 service in this state. In order to~~  
 335 ~~advise and assist the office in implementing the purposes of~~  
 336 ~~this section, the board, which has the power of a body~~  
 337 ~~corporate, has the powers enumerated in subsection (6).~~

338 (c) ~~(b)~~ The board shall consist of nine ~~11~~ members, one of  
 339 whom must be the system director designated under s. 365.171(5),  
 340 or his or her designee, who shall serve as the chair of the  
 341 board. The remaining ~~eight~~ ~~10~~ members of the board shall be  
 342 appointed by the Governor. All members shall be Florida  
 343 residents. Consideration shall be given to members from rural,  
 344 medium, and large counties and from a broad range of fields,  
 345 including, but not limited to, members who have experience in  
 346 law enforcement, fire response, emergency medical services, 911  
 347 coordination, public safety dispatch, and telecommunications ~~and~~  
 348 ~~must be composed of 5 county 911 coordinators, consisting of a~~

6-01245C-23

20231418

~~representative from a rural county, a representative from a medium county, a representative from a large county, and 2 at-large representatives recommended by the Florida Association of Counties in consultation with the county 911 coordinators; 3 local exchange carrier member representatives, one of whom must be a representative of the local exchange carrier having the greatest number of access lines in the state and one of whom must be a representative of a certificated competitive local exchange telecommunications company; and 2 member representatives from the wireless telecommunications industry, with consideration given to wireless providers that are not affiliated with local exchange carriers. Not more than one member may be appointed to represent any single provider on the board.~~

~~(d)~~ (e) The system director, designated under s. 365.171(5), or his or her designee, must be a permanent member of the board. Each of the remaining eight ~~10~~ members of the board shall be appointed to a 4-year term and may not be appointed to more than two successive terms. However, for the purpose of staggering terms, three ~~two~~ of the original board members shall be appointed to terms of 4 years, three ~~two~~ shall be appointed to terms of 3 years, and two ~~four~~ shall be appointed to terms of 2 years, as designated by the Governor. A vacancy on the board shall be filled in the same manner as the original appointment.

(e) The board shall be responsible for ensuring interoperability of and connectivity between public safety communication systems within this state, including, but not limited to, the following:

1. Call routing accuracy and timeliness of response.

6-01245C-23

20231418

2. Improved interagency communication and situational awareness.

3. Improved interagency system connectivity.

4. Improved response times.

5. Maximized use of emerging technologies.

6. Improved lifecycle management of the systems, equipment, and services that enable responders and public safety officials to share information securely.

7. Developed governance, policy, and procedure across public safety agencies.

8. Established resilient and secure emergency communications systems to reduce cybersecurity threats and vulnerabilities.

(f) The board shall administer the fee imposed under subsections (8) and (9), including receiving revenues derived from the fee; distributing portions of the revenues to counties, state agencies that operate 911 centers, and the office; accounting for receipts, distributions, and income derived by the funds maintained in the fund; and providing annual reports for review and submission to the Governor and the Legislature on amounts collected and expended, the purposes for which expenditures have been made, and the status of emergency communications services in this state.

(g) The board may create subcommittees to advise the board, as needed.

(6) AUTHORITY OF THE BOARD; ANNUAL REPORT.—

(a) The board shall:

1. Administer the public safety emergency communications systems ~~E911~~ fee.



6-01245C-23

20231418\_\_

2. Implement, maintain, and oversee the fund.

3. Review and oversee the disbursement of the revenues deposited into the fund as provided in s. 365.173.

a. The board may establish a schedule for implementing wireless NG911 systems, public safety radio communications systems, and other public safety communications improvements ~~E911 service by service area~~, and prioritize disbursements of revenues from the fund to ~~providers and~~ rural counties as provided in s. 365.173(2)(f) ~~s. 365.173(2)(e) and (g)~~ pursuant to the schedule, in order to implement 911 ~~E911~~ services in the most efficient and cost-effective manner.

b. The board shall provide 90 days' written notice to all counties and state agencies that operate 911 centers and publish electronically an approved application process. Applications shall be prioritized based on the availability of funds, current system life expectancy, and system replacement needs. The board shall take all actions within its authority to ensure that county recipients of such funds use these funds only for the purpose under which they have been provided and may take any actions within its authority to secure county repayment of revenues upon a determination that the funds were not used for the purpose for which the funds were dispersed.

~~b. Revenues in the fund which have not been disbursed because sworn invoices as required by s. 365.173(2)(e) have not been submitted to the board may be used by the board as needed to provide grants to counties for the purpose of upgrading E911 systems. The counties must use the funds only for capital expenditures or remotely provided hosted 911 answering point call-taking equipment and network services directly attributable~~

6-01245C-23

20231418\_\_

~~to establishing and provisioning E911 services, which may include next-generation deployment. Prior to the distribution of grants, the board shall provide 90 days' written notice to all counties and publish electronically an approved application process. County grant applications shall be prioritized based on the availability of funds, current system life expectancy, system replacement needs, and Phase II compliance per the Federal Communications Commission. No grants will be available to any county for next-generation deployment until all counties are Phase II complete. The board shall take all actions within its authority to ensure that county recipients of such grants use these funds only for the purpose under which they have been provided and may take any actions within its authority to secure county repayment of grant revenues upon determination that the funds were not used for the purpose under which they were provided.~~

~~c. When determining the funding provided in a state 911 grant application request, the board shall take into account information on the amount of carryforward funds retained by the counties. The information will be based on the amount of county carryforward funds reported in the financial audit required in s. 365.173(2)(d). E911 State Grant Program funding requests will be limited by any county carryforward funds in excess of the allowable 30 percent amount of fee revenue calculated on a 2-year basis.~~

~~d. The board shall reimburse all costs of a wireless provider in accordance with s. 365.173(2)(e) before taking any action to transfer additional funds.~~

~~e. After taking the action required in sub-subparagraphs~~

6-01245C-23

20231418

~~a.-d., the board may review and, with all members participating in the vote, adjust the percentage allocations or adjust the amount of the fee as provided under paragraph (8) (g), and, if the board determines that the revenues in the wireless category exceed the amount needed to reimburse wireless providers for the cost to implement E911 services, the board may transfer revenue to the counties from the existing funds within the wireless category. The board shall disburse the funds equitably to all counties using a timeframe and distribution methodology established by the board.~~

4. Review documentation submitted by wireless providers which reflects current and projected funds derived from the fee, and the expenses incurred and expected to be incurred in order to comply with the E911 service requirements contained in the order for the purposes of:

a. ~~Ensuring that wireless providers receive fair and equitable distributions of funds from the fund.~~

b. ~~Ensuring that wireless providers are not provided disbursements from the fund which exceed the costs of providing E911 service, including the costs of complying with the order.~~

c. ~~Ascertaining the projected costs of compliance with the requirements of the order and projected collections of the fee.~~

d. ~~Implementing changes to the allocation percentages or adjusting the fee under paragraph (8) (h).~~

5. Implement changes to the allocation percentages or adjust the fee pursuant to s. 365.173.

6.5- Meet quarterly ~~monthly~~ in the most efficient and cost-effective manner, including telephonically when practical, for the business to be conducted, to review and authorize the

6-01245C-23

20231418

schedule of fee allocation transfer and distribution to the counties and state agencies that operate 911 centers ~~approve or reject, in whole or in part, applications submitted by wireless providers for recovery of moneys deposited into the wireless category, and to authorize the transfer of, and distribute, the fee allocation to the counties.~~

7.6- Hire and retain employees, which may include an independent executive director who shall possess experience in the area of telecommunications and emergency 911 issues, for the purposes of performing the technical and administrative functions for the board.

8.7- Make and enter into contracts, pursuant to chapter 287, and execute other instruments necessary or convenient for the exercise of the powers and functions of the board.

9.8- Sue and be sued, and appear and defend in all actions and proceedings, in its corporate name to the same extent as a natural person.

10.9- Adopt, use, and alter a common corporate seal.

11.10- Elect or appoint the officers and agents that are required by the affairs of the board.

12.11- The board may adopt rules under ss. 120.536(1) and 120.54 to implement this section and ss. 365.173 and 365.174.

13.12- Provide coordination, support, and technical assistance to counties to promote the deployment of advanced public safety emergency communications 911 and E911 systems in the state.

14.13- Provide coordination and support for educational opportunities related to 911 E911 issues for the public safety emergency communications E911 community in this state.

6-01245C-23

20231418\_\_

523 15.14. Act as an advocate for issues related to public  
 524 safety emergency communications ~~E911~~ system functions, features,  
 525 and operations to improve the delivery of public safety  
 526 emergency communications ~~E911~~ services to the residents of and  
 527 visitors to this state.

528 16.15. Coordinate input from this state at national forums  
 529 and associations, to ensure that policies related to public  
 530 safety emergency communications ~~E911~~ systems and services are  
 531 consistent with the policies of the public safety emergency  
 532 communications ~~E911~~ community in this state.

533 17.16. Work cooperatively with the system director  
 534 established in s. 365.171(5) to enhance the state of public  
 535 safety emergency communications ~~E911~~ services in this state and  
 536 to provide unified leadership for all public safety emergency  
 537 communications ~~E911~~ issues through planning and coordination.

538 18.17. Do all acts and things necessary or convenient to  
 539 carry out the powers granted in this section in a manner that is  
 540 competitively and technologically neutral as to all voice  
 541 communications services providers, including, but not limited  
 542 to, consideration of emerging technology and related cost  
 543 savings, while taking into account embedded costs in current  
 544 systems.

545 19.18. Have the authority to secure the services of an  
 546 independent, private attorney via invitation to bid, request for  
 547 proposals, invitation to negotiate, or professional contracts  
 548 for legal services already established at the Division of  
 549 Purchasing of the Department of Management Services.

550 (b) Board members shall serve without compensation;  
 551 however, members are entitled to per diem and travel expenses as

6-01245C-23

20231418\_\_

552 provided in s. 112.061.

553 (c) By February 28 of each year, the board shall prepare a  
 554 report for submission by the office to the Governor, the  
 555 President of the Senate, and the Speaker of the House of  
 556 Representatives which addresses for the immediately preceding  
 557 state fiscal year and county fiscal year:

558 1. The annual receipts, including the total amount of fee  
 559 revenues collected by each provider, the total disbursements of  
 560 money in the fund, ~~including the amount of fund-reimbursed~~  
 561 ~~expenses incurred by each wireless provider to comply with the~~  
 562 ~~order,~~ and the amount of moneys on deposit in the fund.

563 2. Whether the amount of the fee and the allocation  
 564 percentages set forth in s. 365.173 have been or should be  
 565 adjusted to comply with the ~~requirements of the order or other~~  
 566 provisions of this chapter, and the reasons for making or not  
 567 making a recommended adjustment to the fee.

568 3. Any other issues related to providing emergency  
 569 communications ~~E911~~ services.

570 4. The status of public safety emergency communications  
 571 ~~E911~~ services in this state.

572 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING FIRM.-

573 (a) The board shall issue a request for proposals as  
 574 provided in chapter 287 for the purpose of retaining an  
 575 independent accounting firm. The independent accounting firm  
 576 shall perform all material administrative and accounting tasks  
 577 and functions required for administering the fee. The request  
 578 for proposals must include, but need not be limited to:

579 1. A description of the scope and general requirements of  
 580 the services requested.

6-01245C-23

20231418\_\_

2. A description of the specific accounting and reporting services required for administering the fund, including processing checks and distributing funds as directed by the board under s. 365.173.

3. A description of information to be provided by the proposer, including the proposer's background and qualifications and the proposed cost of the services to be provided.

(b) The board shall establish a committee to review requests for proposals which must include the statewide emergency communications systems ~~E911 system~~ director designated under s. 365.171(5), or his or her designee, and two members of the board, ~~one of whom is a county 911 coordinator and one of whom represents a voice communications services provider~~. The review committee shall review the proposals received by the board and recommend an independent accounting firm to the board for final selection. By agreeing to serve on the review committee, each member of the review committee shall verify that he or she does not have any interest or employment, directly or indirectly, with potential proposers which conflicts in any manner or degree with his or her performance on the committee.

(c) The board may secure the services of an independent accounting firm via invitation to bid, request for proposals, invitation to negotiate, or professional contracts already established at the Division of Purchasing, Department of Management Services, for certified public accounting firms, or the board may hire and retain professional accounting staff to accomplish these functions.

(8) PUBLIC SAFETY EMERGENCY COMMUNICATIONS SYSTEMS ~~E911~~ FEE.—

6-01245C-23

20231418\_\_

(a) Each voice communications services provider shall collect the fee described in this subsection, except that the fee for prepaid wireless service shall be collected in the manner set forth in subsection (9). Each provider, as part of its monthly billing process, shall bill the fee as follows. The fee shall not be assessed on any pay telephone in the state.

1. Each voice communications service provider other than a wireless provider shall bill the fee to a subscriber based on the number of access lines having access to the 911 ~~E911~~ system, on a service-identifier basis, up to a maximum of 25 access lines per account bill rendered.

2. Each voice communications service provider other than a wireless provider shall bill the fee to a subscriber on a basis of five service-identified access lines for each digital transmission link, including primary rate interface service or equivalent Digital-Signal-1-level service, which can be channelized and split into 23 or 24 voice-grade or data-grade channels for communications, up to a maximum of 25 access lines per account bill rendered.

3. Except in the case of prepaid wireless service, each wireless provider shall bill the fee to a subscriber on a per-service-identifier basis for service identifiers whose primary place of use is within this state. The fee may ~~shall~~ not be assessed on or collected from a provider with respect to an end user's service if that end user's service is a prepaid wireless service sold before January 1, 2015.

4. Except in the case of prepaid wireless service, each voice communications services provider not addressed under subparagraphs 1., 2., and 3. shall bill the fee on a per-

6-01245C-23 20231418\_\_

639 service-identifier basis for service identifiers whose primary  
640 place of use is within the state up to a maximum of 25 service  
641 identifiers for each account bill rendered.

642  
643 The provider may list the fee as a separate entry on each bill,  
644 in which case the fee must be identified as a fee for 911 ~~E911~~  
645 services. A provider shall remit the fee to the board only if  
646 the fee is paid by the subscriber. If a provider receives a  
647 partial payment for a monthly bill from a subscriber, the amount  
648 received shall first be applied to the payment due the provider  
649 for providing voice communications service.

650 (b) A provider is not obligated to take any legal action to  
651 enforce collection of the fees for which any subscriber is  
652 billed. A county subscribing to 911 service remains liable to  
653 the provider delivering the 911 service or equipment for any 911  
654 service, equipment, operation, or maintenance charge owed by the  
655 county to the provider.

656 (c) For purposes of this subsection, the state and local  
657 governments are not subscribers.

658 (d) Each provider may retain 1 percent of the amount of the  
659 fees collected as reimbursement for the administrative costs  
660 incurred by the provider to bill, collect, and remit the fee.  
661 The remainder shall be delivered to the board and deposited by  
662 the board into the fund. The board shall distribute the  
663 remainder pursuant to s. 365.173.

664 (e) Voice communications services providers billing the fee  
665 to subscribers shall deliver revenues from the fee to the board  
666 within 60 days after the end of the month in which the fee was  
667 billed, together with a monthly report of the number of service

6-01245C-23 20231418\_\_

668 identifiers in each county. Each wireless provider and other  
669 applicable provider identified in subparagraph (a)4. shall  
670 report the number of service identifiers for subscribers whose  
671 place of primary use is in each county. All provider subscriber  
672 information provided to the board is subject to s. 365.174. If a  
673 provider chooses to remit any fee amounts to the board before  
674 they are paid by the subscribers, a provider may apply to the  
675 board for a refund of, or may take a credit for, any such fees  
676 remitted to the board which are not collected by the provider  
677 within 6 months following the month in which the fees are  
678 charged off for federal income tax purposes as bad debt.

679 (f) The rate of the fee may not exceed 50 cents per month  
680 for each service identifier. Effective January 1, 2015, the fee  
681 shall be 40 cents per month for each service identifier. The fee  
682 shall apply uniformly and be imposed throughout the state,  
683 ~~except for those counties that, before July 1, 2007, had adopted~~  
684 ~~an ordinance or resolution establishing a fee less than 50 cents~~  
685 ~~per month per access line. In those counties the fee established~~  
686 ~~by ordinance may be changed only to the uniform statewide rate~~  
687 ~~no sooner than 30 days after notification is made by the~~  
688 ~~county's board of county commissioners to the board.~~

689 (g) The board may adjust the allocation percentages for  
690 distribution of the fund as provided in s. 365.173. ~~No sooner~~  
691 ~~than June 1, 2015, the board may adjust the rate of the fee~~  
692 ~~under paragraph (f) based on the criteria in this paragraph and~~  
693 ~~paragraph (h).~~ Any adjustment in the rate must be approved by a  
694 two-thirds vote of the total number of ~~E911~~ board members. When  
695 setting the percentages or contemplating any adjustments to the  
696 fee, the board shall consider the following:

6-01245C-23

20231418\_\_

1. ~~The revenues currently allocated for wireless service provider costs for implementing E911 service and projected costs for implementing E911 service, including recurring costs for Phase I and Phase II and the effect of new technologies.~~

2. The appropriate level of funding needed to fund the rural grant program provided for in s. 365.173(2)(f) ~~or 365.173(2)(g)~~; and

~~2.3.~~ The need to fund statewide, regional, and county grants in accordance with sub-subparagraph (6)(a)3.b. and s. 365.173(2)(g) ~~s. 365.173(2)(h)~~.

(h) The board may adjust the allocation percentages or adjust the amount of the fee as provided in paragraph (f) ~~(g)~~ if necessary to ensure full cost recovery or prevent over recovery ~~overrecovery~~ of costs incurred in the provision of 911 ~~E911~~ service, including costs incurred or projected to be incurred ~~to~~ comply with the order. Any new allocation percentages or reduced or increased fee may not be adjusted for 1 year. In no event shall the fee exceed 50 cents per month for each service identifier. The fee, and any board adjustment of the fee, shall be uniform throughout the state, ~~except for the counties identified in paragraph (f)~~. No less than 90 days before the effective date of any adjustment to the fee, the board shall provide written notice of the adjusted fee amount and effective date to each voice communications services provider from which the board is then receiving the fee.

(i) It is the intent of the Legislature that all revenue from the fee be used as specified in s. 365.173(2)(a)-(h) ~~or 365.173(2)(a)-(i)~~.

(j) State and local taxes do not apply to the fee. The

6-01245C-23

20231418\_\_

amount of the ~~E911~~ fee collected by a provider may not be included in the base for imposition of any tax, fee, surcharge, or other charge imposed by this state, any political subdivision of this state, or any intergovernmental agency.

(k) A local government may not levy the fee or any additional fee on providers or subscribers for the provision of 911 ~~E911~~ service.

(l) For purposes of this section, the definitions contained in s. 202.11 and the provisions of s. 202.155 apply in the same manner and to the same extent as the definitions and provisions apply to the taxes levied under chapter 202 on mobile communications services.

(9) PREPAID WIRELESS PUBLIC SAFETY EMERGENCY COMMUNICATIONS SYSTEMS ~~E911~~ FEE.—

(a) ~~Effective January 1, 2015, a prepaid wireless E911 fee is imposed per retail transaction at the rate established in paragraph (8)(f). In order to allow sellers of all sizes and technological capabilities adequate time to comply with this subsection, a seller of prepaid wireless service operating in this state before the prepaid wireless E911 fee is imposed shall retain 100 percent of the fee collected under this paragraph for the first 2 months to offset the cost of setup.~~

~~(b)~~ Effective July 1, 2023 ~~March 1, 2015~~, the prepaid wireless ~~E911~~ fee ~~imposed under paragraph (a)~~ shall be subject to remittance in accordance with paragraph (f) ~~(g)~~. In no event shall the fee exceed 50 cents for each retail transaction. At least 90 days before the effective date of any adjustment to the fee under paragraph (8)(g), the Department of Revenue shall provide written notice of the adjusted fee amount and its

6-01245C-23

20231418\_\_

effective date to each seller from which the department is then receiving the fee. At least 120 days before the effective date of any adjustment to the fee imposed under this subsection, the board shall provide notice to the Department of Revenue of the adjusted fee amount and effective date of the adjustment.

(b) ~~(e)~~ The prepaid wireless ~~E911~~ fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless ~~E911~~ fee shall be separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller or otherwise disclosed to the consumer.

(c) ~~(d)~~ For purposes of paragraph (b) ~~(e)~~, a retail transaction that takes place in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state. Such transaction is deemed to have occurred in the county of the business location. When a retail transaction does not take place at the seller's business location, the transaction shall be treated as taking place at the consumer's shipping address or, if no item is shipped, at the consumer's address or the location associated with the consumer's mobile telephone number. Such transaction is deemed to have occurred in the county of the consumer's shipping address when items are shipped to the consumer or, when no items are shipped, the county of the consumer's address or the location associated with the consumer's mobile telephone number. A transaction for which the specific Florida county cannot be determined shall be treated as nonspecific.

(d) ~~(e)~~ If a prepaid wireless device is sold for a single,

6-01245C-23

20231418\_\_

nonitemized price with a prepaid wireless service of 10 minutes or less or \$5 or less, the seller may elect not to apply the prepaid wireless ~~E911~~ fee to the transaction.

(e) ~~(f)~~ The amount of the prepaid wireless ~~E911~~ fee that is collected by a seller from a consumer and that is separately stated on an invoice, receipt, or similar document provided to the consumer by the seller, may not be included in the base for imposition of any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

(f) ~~(g)~~ Beginning July 1, 2023 ~~April 1, 2015~~, each seller shall file a return and remit the prepaid wireless ~~E911~~ fees collected in the previous month to the Department of Revenue on or before the 20th day of the month. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns are due on the next succeeding day that is not a Saturday, Sunday, or legal holiday observed by federal or state agencies as defined in chapter 683 and s. 7503 of the Internal Revenue Code of 1986, as amended. A seller may remit the prepaid wireless ~~E911~~ fee by electronic funds transfer and file a fee return with the Department of Revenue that is initiated through an electronic data interchange.

1. When a seller is authorized by the Department of Revenue pursuant to s. 212.11(1)(c) or (d) to file a sales and use tax return on a quarterly, semiannual, or annual reporting basis, the seller may file a return and remit the prepaid wireless ~~E911~~ fees on or before the 20th day of the month following the authorized reporting period for sales and use tax.

2. A seller collecting less than \$50 per month of prepaid

6-01245C-23 20231418\_\_

wireless ~~E911~~ fees may file a quarterly return for the calendar quarters ending in March, June, September, and December. The seller must file a return and remit the prepaid wireless ~~E911~~ fees collected during each calendar quarter on or before the 20th day of the month following that calendar quarter.

3. A seller must provide the following information on each prepaid wireless ~~E911~~ fee return filed with the Department of Revenue:

a. The seller's name, federal identification number, taxpayer identification number issued by the Department of Revenue, business location address and mailing address, and county of the business location in accordance with paragraph (c) ~~(d)~~;

b. The reporting period;

c. The number of prepaid wireless services sold during the reporting period;

d. The amount of prepaid wireless ~~E911~~ fees collected and the amount of any adjustments to the fees collected;

e. The amount of any retailer collection allowance deducted from the amount of prepaid wireless ~~E911~~ fees collected; and

f. The amount to be remitted to the Department of Revenue.

4. A seller who operates two or more business locations for which returns are required to be filed with the Department of Revenue may file a consolidated return reporting and remitting the prepaid wireless ~~E911~~ fee for all business locations. Such sellers must report the prepaid wireless ~~E911~~ fees collected in each county, in accordance with paragraph (c) ~~(d)~~, on a reporting schedule filed with the fee return.

5. A return is not required for a reporting period when no

6-01245C-23 20231418\_\_

prepaid wireless ~~E911~~ fee is to be remitted for that period.

6. Except as provided in this section, the Department of Revenue shall administer, collect, and enforce the fee under this subsection pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212. The provisions of chapter 212 regarding authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The provisions of estimated tax liability in s. 212.11(1)(a) do not apply to the prepaid wireless ~~E911~~ fee.

(g) ~~(h)~~ A seller of prepaid wireless services in this state must register with the Department of Revenue for each place of business as required by s. 212.18(3) and the Department of Revenue's administrative rule regarding registration as a sales and use tax dealer. A separate application is required for each place of business. A valid certificate of registration issued by the Department of Revenue to a seller for sales and use tax purposes is sufficient for purposes of the registration requirement of this subsection. There is no fee for registration for remittance of the prepaid wireless ~~E911~~ fee.

(h) ~~(i)~~ The Department of Revenue shall deposit the funds remitted under this subsection into the Audit and Warrant Clearing Trust Fund established in s. 215.199 and retain up to 3.2 percent of the funds remitted under this subsection to reimburse its direct costs of administering the collection and remittance of prepaid wireless ~~E911~~ fees. Thereafter, the Department of Revenue shall transfer all remaining funds remitted under this subsection to the Emergency Communications ~~Number E911 System~~ Fund monthly for use as provided in s.



6-01245C-23

20231418\_\_

871 365.173.

872 ~~(i)-(j)~~ Beginning March 1, 2015, a seller may retain 5  
 873 percent of the prepaid wireless ~~E911~~ fees that are collected by  
 874 the seller from consumers as a retailer collection allowance.

875 ~~(j)-(k)~~ A provider or seller of prepaid wireless service is  
 876 not liable for damages to any person resulting from or incurred  
 877 in connection with providing or failing to provide emergency  
 878 communications and 911 ~~or E911~~ service or for identifying or  
 879 failing to identify the telephone number, address, location, or  
 880 name associated with any person or device that is accessing or  
 881 attempting to access emergency communications and 911 ~~or E911~~  
 882 service.

883 ~~(k)-(l)~~ A provider or seller of prepaid wireless service is  
 884 not liable for damages to any person resulting from or incurred  
 885 in connection with providing any lawful assistance to any  
 886 investigative or law enforcement officer of the United States,  
 887 any state, or any political subdivision of any state in  
 888 connection with any lawful investigation or other law  
 889 enforcement activity by such law enforcement officer.

890 ~~(l)-(m)~~ The limitations of liability under this subsection  
 891 for providers and sellers are in addition to any other  
 892 limitation of liability provided for under this section.

893 ~~(m)-(n)~~ A local government may not levy the fee or any  
 894 additional fee on providers or sellers of prepaid wireless  
 895 service for the provision of 911 ~~E911~~ service.

896 ~~(n)-(o)~~ For purposes of this section, the state and local  
 897 governments are not consumers.

898 ~~(o)-(p)~~ For purposes of this subsection, the term:

899 1. "Consumer" means a person who purchases prepaid wireless

6-01245C-23

20231418\_\_

900 service in a retail sale.

901 2. "Prepaid wireless ~~E911~~ fee" means the fee that is  
 902 required to be collected by a seller from a consumer as provided  
 903 in this subsection.

904 3. "Provider" means a person that provides prepaid wireless  
 905 service pursuant to a license issued by the Federal  
 906 Communications Commission.

907 4. "Retail transaction" means the purchase by a consumer  
 908 from a seller of prepaid wireless service that may be applied to  
 909 a single service identifier for use by the consumer. If a  
 910 consumer makes a purchase of multiple prepaid wireless services  
 911 in a single transaction, each individual prepaid wireless  
 912 service shall be considered a separate retail transaction for  
 913 purposes of calculating the prepaid wireless ~~E911~~ fee.

914 5. "Seller" means a person who makes retail sales of  
 915 prepaid wireless services to a consumer.

916 (10) AUTHORIZED EXPENDITURES OF PUBLIC SAFETY EMERGENCY  
 917 COMMUNICATIONS SYSTEMS ~~E911~~ FEE.—

918 (a) For purposes of this section, emergency communications  
 919 and 911 ~~E911~~ service includes the functions relating to the  
 920 receipt and transfer of requests for emergency assistance, of  
 921 database management, call taking, and location verification, ~~and~~  
 922 ~~call transfer~~. Department of Health certification and  
 923 recertification and training costs for ~~911~~ public safety  
 924 telecommunications, including dispatching, are functions of  
 925 public safety emergency telecommunications ~~911~~ services.

926 (b) All costs directly attributable to the establishment or  
 927 provision of emergency communications equipment ~~E911 service~~ and  
 928 ~~contracting for E911 services~~ related to a primary or secondary

6-01245C-23

20231418\_\_

929 public safety answering point (PSAP) are eligible for  
 930 expenditure of moneys derived from imposition of the fee  
 931 authorized by subsections (8) and (9). These costs include the  
 932 acquisition, implementation, and maintenance of PSAP Public  
 933 ~~Safety Answering Point (PSAP)~~ equipment and ~~E911 service~~  
 934 features, as defined in the providers' published schedules or  
 935 the acquisition, installation, and maintenance of other ~~E911~~  
 936 equipment, including: circuits; call answering equipment; call  
 937 transfer equipment; ANI or ALI controllers; ANI or ALI displays;  
 938 station instruments; NG911 ~~E911~~ telecommunications systems;  
 939 emergency services IP network (ESInet); visual call information  
 940 and storage devices; recording equipment; telephone devices and  
 941 other equipment for the hearing impaired used in the ~~E911~~  
 942 system; PSAP backup power systems; consoles; automatic call  
 943 distributors; ~~and~~ interfaces, including hardware and software,  
 944 for computer-aided dispatch (CAD) systems, for public safety  
 945 land mobile radio systems (LMR) and radio consoles that provide  
 946 two-way radio communication with responders, and for in-building  
 947 coverage; integrated CAD systems for that portion of the systems  
 948 used for E911 call taking; GIS system and software equipment and  
 949 information displays; network clocks; cybersecurity, including  
 950 hardware, software, and services; salary and associated expenses  
 951 for 911 ~~E911~~ call takers and emergency dispatchers for that  
 952 ~~portion of their time spent taking and transferring E911 calls,~~  
 953 salary, and associated expenses for a county to employ a full-  
 954 time equivalent 911 ~~E911~~ coordinator position and a full-time  
 955 equivalent mapping or geographical data position, and technical  
 956 system maintenance, database, and administration personnel for  
 957 the portion of their time spent administrating the emergency

Page 33 of 60

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

6-01245C-23

20231418\_\_

958 communications ~~E911~~ system; emergency medical, fire, and law  
 959 enforcement prearrival instruction software; charts and training  
 960 costs; training costs for PSAP call takers, dispatchers,  
 961 supervisors, and managers in the proper methods and techniques  
 962 used in taking and transferring 911 ~~E911~~ calls; costs to train  
 963 and educate PSAP employees regarding 911 and radio ~~E911~~ service  
 964 or NG911 ~~E911~~ equipment, including fees collected by the  
 965 Department of Health for the certification and recertification  
 966 of 911 public safety telecommunicators as required under s.  
 967 401.465; and expenses required to develop and maintain all  
 968 information, including ALI and ANI databases and other  
 969 information source repositories, necessary to properly inform  
 970 call takers as to location address, type of emergency, smart  
 971 city technology data, public safety broadband networks, and  
 972 other information directly relevant to the processing of a  
 973 request for emergency assistance ~~E911 call-taking and~~  
 974 ~~transferring function. Moneys derived from the fee may also be~~  
 975 ~~used for next-generation E911 network services, next-generation~~  
 976 ~~E911 database services, next-generation E911 equipment, and~~  
 977 ~~wireless E911 routing systems.~~

978 (c) The moneys may not be used to pay for any item not  
 979 listed in this subsection, including, but not limited to, any  
 980 capital or operational ~~costs for emergency responses which occur~~  
 981 ~~after the call transfer to the responding public safety entity~~  
 982 ~~and the costs for~~ utilities, constructing, leasing, maintaining,  
 983 or renovating buildings, except for those building modifications  
 984 necessary to maintain the security and environmental integrity  
 985 of the PSAP and emergency communications ~~E911~~ equipment rooms.

986 (11) LIABILITY OF COUNTIES.—A county subscribing to 911

Page 34 of 60

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

6-01245C-23 20231418\_\_

service remains liable to the local exchange carrier for any 911 service, equipment, operation, or maintenance charge owed by the county to the local exchange carrier. As used in this subsection, the term "local exchange carrier" means a local exchange telecommunications service provider of 911 service or equipment to any county within its certificated area.

(12) INDEMNIFICATION AND LIMITATION OF LIABILITY.—A local government may indemnify local exchange carriers against liability in accordance with the published schedules of the company. Notwithstanding an indemnification agreement, a local exchange carrier, voice communications services provider, or other service provider that provides 911, ~~or~~ E911, or NG911 service on a retail or wholesale basis is not liable for damages resulting from or in connection with 911, ~~or~~ E911, or NG911 service, or for identification of the telephone number, or address, or name associated with any person accessing 911, ~~or~~ E911, or NG911 service, unless the carrier or provider acted with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of a person when providing such services. A carrier or provider is not liable for damages to any person resulting from or in connection with the carrier's or provider's provision of any lawful assistance to any investigative or law enforcement officer of the United States, this state, or a political subdivision thereof, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer. For purposes of this subsection, the term "911, ~~or~~ E911, or NG911 service" means a telecommunications service, voice or nonvoice

6-01245C-23 20231418\_\_

communications service, or other wireline or wireless service, including, but not limited to, a service using Internet protocol, which provides, in whole or in part, any of the following functions: providing members of the public with the ability to reach an answering point by using the digits 9-1-1; directing 911 calls to answering points by selective routing; providing for automatic number identification and automatic location-identification features; or providing wireless E911 services as defined in the order.

(13) FACILITATING EMERGENCY COMMUNICATIONS ~~E911~~ SERVICE IMPLEMENTATION.—To balance the public need for reliable emergency communications ~~E911~~ services through reliable wireless systems and the public interest served by governmental zoning and land development regulations and notwithstanding any other law or local ordinance to the contrary, the following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility. This subsection shall not, however, be construed to waive or alter the provisions of s. 286.011 or s. 286.0115. For the purposes of this subsection only, "local government" shall mean any municipality or county and any agency of a municipality or county only. The term "local government" does not, however, include any airport, as defined by s. 330.27(2), even if it is owned or controlled by or through a municipality, county, or agency of a municipality or county. Further, notwithstanding anything in this section to the contrary, this subsection does not apply to or control a local government's actions as a property or structure owner in the use of any property or

6-01245C-23

20231418\_\_

structure owned by such entity for the placement, construction, or modification of wireless communications facilities. In the use of property or structures owned by the local government, however, a local government may not use its regulatory authority so as to avoid compliance with, or in a manner that does not advance, the provisions of this subsection.

(a) Colocation ~~Collocation~~ among wireless providers is encouraged by the state.

1.a. Colocations ~~Collocations~~ on towers, including nonconforming towers, that meet the requirements in sub-sub-paragraphs (I), (II), and (III), are subject to only building permit review, which may include a review for compliance with this subparagraph. Such colocations ~~collocations~~ are not subject to any design or placement requirements of the local government's land development regulations in effect at the time of the colocation ~~collocation~~ that are more restrictive than those in effect at the time of the initial antennae placement approval, to any other portion of the land development regulations, or to public hearing review. This sub-subparagraph shall not preclude a public hearing for any appeal of the decision on the colocation ~~collocation~~ application.

(I) The colocation ~~collocation~~ does not increase the height of the tower to which the antennae are to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower;

(II) The colocation ~~collocation~~ does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities; and

6-01245C-23

20231418\_\_

(III) The colocation ~~collocation~~ consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennae placed on the tower and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the tower supporting the antennae. Such regulations may include the design and aesthetic requirements, but not procedural requirements, other than those authorized by this section, of the local government's land development regulations in effect at the time the initial antennae placement was approved.

b. Except for a historic building, structure, site, object, or district, or a tower included in sub-subparagraph a., colocations ~~collocations~~ on all other existing structures that meet the requirements in sub-sub-paragraphs (I)-(IV) shall be subject to no more than building permit review, and an administrative review for compliance with this subparagraph. Such colocations ~~collocations~~ are not subject to any portion of the local government's land development regulations not addressed herein, or to public hearing review. This sub-subparagraph shall not preclude a public hearing for any appeal of the decision on the colocation ~~collocation~~ application.

(I) The colocation ~~collocation~~ does not increase the height of the existing structure to which the antennae are to be attached, measured to the highest point of any part of the structure or any existing antenna attached to the structure;

(II) The colocation ~~collocation~~ does not increase the ground space area, otherwise known as the compound, if any,

6-01245C-23 20231418\_\_

approved in the site plan for equipment enclosures and ancillary facilities;

(III) The colocation ~~collocation~~ consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure, but not prohibitions or restrictions on the placement of additional colocations ~~collocations~~ on the existing structure or procedural requirements, other than those authorized by this section, of the local government's land development regulations in effect at the time of the colocation ~~collocation~~ application; and

(IV) The colocation ~~collocation~~ consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with sub-sub-paragraph (III) and were applied to the initial antennae placed on the structure and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the structure supporting the antennae.

c. Regulations, restrictions, conditions, or permits of the local government, acting in its regulatory capacity, that limit the number of colocations ~~collocations~~ or require review processes inconsistent with this subsection shall not apply to colocations ~~collocations~~ addressed in this subparagraph.

d. If only a portion of the colocation ~~collocation~~ does not meet the requirements of this subparagraph, such as an increase in the height of the proposed antennae over the existing structure height or a proposal to expand the ground space

6-01245C-23 20231418\_\_

approved in the site plan for the equipment enclosure, where all other portions of the colocation ~~collocation~~ meet the requirements of this subparagraph, that portion of the colocation ~~collocation~~ only may be reviewed under the local government's regulations applicable to an initial placement of that portion of the facility, including, but not limited to, its land development regulations, and within the review timeframes of subparagraph (d)2., and the rest of the colocation ~~collocation~~ shall be reviewed in accordance with this subparagraph. A colocation ~~collocation~~ proposal under this subparagraph that increases the ground space area, otherwise known as the compound, approved in the original site plan for equipment enclosures and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the local government's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing review. This sub-subparagraph shall not preclude a public hearing for any appeal of the decision on the colocation ~~collocation~~ application.

2. If a colocation ~~collocation~~ does not meet the requirements of subparagraph 1., the local government may review the application under the local government's regulations, including, but not limited to, land development regulations, applicable to the placement of initial antennae and their accompanying equipment enclosure and ancillary facilities.

3. If a colocation ~~collocation~~ meets the requirements of subparagraph 1., the colocation is ~~collocation shall not be~~

6-01245C-23

20231418\_\_

1161 ~~considered~~ a modification to an existing structure or an  
 1162 impermissible modification of a nonconforming structure.

1163 4. The owner of the existing tower on which the proposed  
 1164 antennae are to be ~~colocated~~ collocated shall remain responsible  
 1165 for compliance with any applicable condition or requirement of a  
 1166 permit or agreement, or any applicable condition or requirement  
 1167 of the land development regulations to which the existing tower  
 1168 had to comply at the time the tower was permitted, including any  
 1169 aesthetic requirements, provided the condition or requirement is  
 1170 not inconsistent with this paragraph.

1171 5. An existing tower, including a nonconforming tower, may  
 1172 be structurally modified in order to permit colocation  
 1173 ~~collocation~~ or may be replaced through no more than  
 1174 administrative review and building permit review, and is not  
 1175 subject to public hearing review, if the overall height of the  
 1176 tower is not increased and, if a replacement, the replacement  
 1177 tower is a monopole tower or, if the existing tower is a  
 1178 camouflaged tower, the replacement tower is a like-camouflaged  
 1179 tower. This subparagraph shall not preclude a public hearing for  
 1180 any appeal of the decision on the application.

1181 (b)1. A local government's land development and  
 1182 construction regulations for wireless communications facilities  
 1183 and the local government's review of an application for the  
 1184 placement, construction, or modification of a wireless  
 1185 communications facility shall only address land development or  
 1186 zoning issues. In such local government regulations or review,  
 1187 the local government may not require information on or evaluate  
 1188 a wireless provider's business decisions about its service,  
 1189 customer demand for its service, or quality of its service to or

6-01245C-23

20231418\_\_

1190 from a particular area or site, unless the wireless provider  
 1191 voluntarily offers this information to the local government. In  
 1192 such local government regulations or review, a local government  
 1193 may not require information on or evaluate the wireless  
 1194 provider's designed service unless the information or materials  
 1195 are directly related to an identified land development or zoning  
 1196 issue or unless the wireless provider voluntarily offers the  
 1197 information. Information or materials directly related to an  
 1198 identified land development or zoning issue may include, but are  
 1199 not limited to, evidence that no existing structure can  
 1200 reasonably be used for the antennae placement instead of the  
 1201 construction of a new tower, that residential areas cannot be  
 1202 served from outside the residential area, as addressed in  
 1203 subparagraph 3., or that the proposed height of a new tower or  
 1204 initial antennae placement or a proposed height increase of a  
 1205 modified tower, replacement tower, or colocation ~~collocation~~ is  
 1206 necessary to provide the provider's designed service. Nothing in  
 1207 this paragraph shall limit the local government from reviewing  
 1208 any applicable land development or zoning issue addressed in its  
 1209 adopted regulations that does not conflict with this section,  
 1210 including, but not limited to, aesthetics, landscaping, land  
 1211 use-based ~~land-use-based~~ location priorities, structural design,  
 1212 and setbacks.

1213 2. Any setback or distance separation required of a tower  
 1214 may not exceed the minimum distance necessary, as determined by  
 1215 the local government, to satisfy the structural safety or  
 1216 aesthetic concerns that are to be protected by the setback or  
 1217 distance separation.

1218 3. A local government may exclude the placement of wireless

6-01245C-23 20231418\_\_

communications facilities in a residential area or residential zoning district but only in a manner that does not constitute an actual or effective prohibition of the provider's service in that residential area or zoning district. If a wireless provider demonstrates to the satisfaction of the local government that the provider cannot reasonably provide its service to the residential area or zone from outside the residential area or zone, the municipality or county and provider shall cooperate to determine an appropriate location for a wireless communications facility of an appropriate design within the residential area or zone. The local government may require that the wireless provider reimburse the reasonable costs incurred by the local government for this cooperative determination. An application for such cooperative determination shall not be considered an application under paragraph (d).

4. A local government may impose a reasonable fee on applications to place, construct, or modify a wireless communications facility only if a similar fee is imposed on applicants seeking other similar types of zoning, land use, or building permit review. A local government may impose fees for the review of applications for wireless communications facilities by consultants or experts who conduct code compliance review for the local government but any fee is limited to specifically identified reasonable expenses incurred in the review. A local government may impose reasonable surety requirements to ensure the removal of wireless communications facilities that are no longer being used.

5. A local government may impose design requirements, such as requirements for designing towers to support colocation

6-01245C-23 20231418\_\_

~~collocation~~ or aesthetic requirements, except as otherwise limited in this section, but shall not impose or require information on compliance with building code type standards for the construction or modification of wireless communications facilities beyond those adopted by the local government under chapter 553 and that apply to all similar types of construction.

(c) Local governments may not require wireless providers to provide evidence of a wireless communications facility's compliance with federal regulations, except evidence of compliance with applicable Federal Aviation Administration requirements under 14 C.F.R. part 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use, but may request the Federal Communications Commission to provide information as to a wireless provider's compliance with federal regulations, as authorized by federal law.

(d)1. A local government shall grant or deny each properly completed application for a colocation ~~collocation~~ under subparagraph (a)1. based on the application's compliance with the local government's applicable regulations, as provided for in subparagraph (a)1. and consistent with this subsection, and within the normal timeframe for a similar building permit review but in no case later than 45 business days after the date the application is determined to be properly completed in accordance with this paragraph.

2. A local government shall grant or deny each properly completed application for any other wireless communications facility based on the application's compliance with the local

6-01245C-23

20231418\_\_

government's applicable regulations, including but not limited to land development regulations, consistent with this subsection and within the normal timeframe for a similar type review but in no case later than 90 business days after the date the application is determined to be properly completed in accordance with this paragraph.

3.a. An application is deemed submitted or resubmitted on the date the application is received by the local government. If the local government does not notify the applicant in writing that the application is not completed in compliance with the local government's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the application. If the application is not completed in compliance with the local government's regulations, the local government shall so notify the applicant in writing and the notification must indicate with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the local government shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. Deficiencies in document type or content not specified by the local government do not make the application incomplete. Notwithstanding this sub-subparagraph,

6-01245C-23

20231418\_\_

if a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the local government may continue to request the information until such time as the specified deficiency is cured. The local government may establish reasonable timeframes within which the required information to cure the application deficiency is to be provided or the application will be considered withdrawn or closed.

b. If the local government fails to grant or deny a properly completed application for a wireless communications facility within the timeframes set forth in this paragraph, the application shall be deemed automatically approved and the applicant may proceed with placement of the facilities without interference or penalty. The timeframes specified in subparagraph 2. may be extended only to the extent that the application has not been granted or denied because the local government's procedures generally applicable to all other similar types of applications require action by the governing body and such action has not taken place within the timeframes specified in subparagraph 2. Under such circumstances, the local government must act to either grant or deny the application at its next regularly scheduled meeting or, otherwise, the application is deemed to be automatically approved.

c. To be effective, a waiver of the timeframes set forth in this paragraph must be voluntarily agreed to by the applicant and the local government. A local government may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state, or



6-01245C-23 20231418\_\_

1335 federal emergency that directly affects the administration of  
1336 all permitting activities of the local government.

1337 (e) The replacement of or modification to a wireless  
1338 communications facility, except a tower, that results in a  
1339 wireless communications facility not readily discernibly  
1340 different in size, type, and appearance when viewed from ground  
1341 level from surrounding properties, and the replacement or  
1342 modification of equipment that is not visible from surrounding  
1343 properties, all as reasonably determined by the local  
1344 government, are subject to no more than applicable building  
1345 permit review.

1346 (f) Any other law to the contrary notwithstanding, the  
1347 Department of Management Services shall negotiate, in the name  
1348 of the state, leases for wireless communications facilities that  
1349 provide access to state government-owned property not acquired  
1350 for transportation purposes, and the Department of  
1351 Transportation shall negotiate, in the name of the state, leases  
1352 for wireless communications facilities that provide access to  
1353 property acquired for state rights-of-way. On property acquired  
1354 for transportation purposes, leases shall be granted in  
1355 accordance with s. 337.251. On other state government-owned  
1356 property, leases shall be granted on a space available, first-  
1357 come, first-served basis. Payments required by state government  
1358 under a lease must be reasonable and must reflect the market  
1359 rate for the use of the state government-owned property. The  
1360 Department of Management Services and the Department of  
1361 Transportation are authorized to adopt rules for the terms and  
1362 conditions and granting of any such leases.

1363 (g) If any person adversely affected by any action, or

6-01245C-23 20231418\_\_

1364 failure to act, or regulation, or requirement of a local  
1365 government in the review or regulation of the wireless  
1366 communication facilities files an appeal or brings an  
1367 appropriate action in a court or venue of competent  
1368 jurisdiction, following the exhaustion of all administrative  
1369 remedies, the matter shall be considered on an expedited basis.

1370 (14) MISUSE OF 911, ~~OR~~ E911, OR NG911 SYSTEM; PENALTY.—911,  
1371 ~~and E911, and NG911~~ service must be used solely for emergency  
1372 communications by the public. Any person who accesses the number  
1373 911 for the purpose of making a false alarm or complaint or  
1374 reporting false information that could result in the emergency  
1375 response of any public safety agency; any person who knowingly  
1376 uses or attempts to use such service for a purpose other than  
1377 obtaining public safety assistance; or any person who knowingly  
1378 uses or attempts to use such service in an effort to avoid any  
1379 charge for service, commits a misdemeanor of the first degree,  
1380 punishable as provided in s. 775.082 or s. 775.083. After being  
1381 convicted of unauthorized use of such service four times, a  
1382 person who continues to engage in such unauthorized use commits  
1383 a felony of the third degree, punishable as provided in s.  
1384 775.082, s. 775.083, or s. 775.084. In addition, if the value of  
1385 the service or the service charge obtained in a manner  
1386 prohibited by this subsection exceeds \$100, the person  
1387 committing the offense commits a felony of the third degree,  
1388 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1389 (15) TEXT-TO-911 SERVICE.—Each county shall develop a  
1390 countywide implementation plan addressing text-to-911 services  
1391 and, by January 1, 2022, enact a system to allow text-to-911  
1392 services.

6-01245C-23

20231418\_\_

1393 (16) STATE LAW NOT PREEMPTED.—This section and ss. 365.173  
 1394 and 365.174 do not alter any state law that otherwise regulates  
 1395 voice communications services providers.

1396 Section 2. Section 365.173, Florida Statutes, is amended to  
 1397 read:

1398 365.173 Emergency Communications ~~Number E911 System~~ Fund.—

1399 (1) REVENUES.—

1400 (a) Revenues derived from the fee levied on subscribers  
 1401 under s. 365.172(8) must be paid by the board into the State  
 1402 Treasury on or before the 15th day of each month. Such moneys  
 1403 must be accounted for in a special fund to be designated as the  
 1404 Emergency Communications ~~Number E911 System~~ Fund, a fund created  
 1405 in the Division of Telecommunications, or other office as  
 1406 designated by the Secretary of Management Services.

1407 (b) Revenues derived from the fee levied on prepaid  
 1408 wireless service under s. 365.172(9), less the costs of  
 1409 administering collection of the fee, must be transferred by the  
 1410 Department of Revenue to the Emergency Communications ~~Number~~  
 1411 ~~E911 System~~ Fund on or before the 25th day of each month  
 1412 following the month of receipt.

1413 (c) For accounting purposes, the Emergency Communications  
 1414 ~~Number E911 System~~ Fund must be segregated into three separate  
 1415 categories:

- 1416 1. The wireless category;
- 1417 2. The nonwireless category; and
- 1418 3. The prepaid wireless category.

1419 (d) All moneys must be invested by the Chief Financial  
 1420 Officer pursuant to s. 17.61. All moneys in such fund are to be  
 1421 expended by the office for the purposes provided in this section

6-01245C-23

20231418\_\_

1422 and s. 365.172. These funds are not subject to s. 215.20.

1423 (2) DISTRIBUTION AND USE OF FUNDS.—As determined by the  
 1424 board pursuant to s. 365.172(8)(g), and subject to any  
 1425 modifications approved by the board pursuant to s.

1426 365.172(6)(a)3. or (8)(h), the moneys in the fund shall be  
 1427 distributed and used only as follows:

1428 (a) Ninety-four ~~Seventy-six~~ percent of the moneys in the  
 1429 wireless category shall be distributed each month to counties,  
 1430 based on the total number of service identifiers in each county,  
 1431 and 1 percent shall be distributed each month to state agencies  
 1432 that operate 911 centers. The distributions ~~and~~ shall be used  
 1433 exclusively for payment of:

1434 ~~1. authorized expenditures, as specified in s. 365.172(10).~~

1435 ~~2. Costs to comply with the requirements for E911 service~~  
 1436 ~~contained in the order and any future rules related to the~~  
 1437 ~~order.~~

1438 (b) Ninety-six percent of the moneys in the nonwireless  
 1439 category shall be distributed each month to counties based on  
 1440 the total number of service identifiers in each county and shall  
 1441 be used exclusively for payment of authorized expenditures, as  
 1442 specified in s. 365.172(10).

1443 (c) Sixty-one percent of the moneys in the prepaid wireless  
 1444 category shall be distributed each month to counties based on  
 1445 the total amount of fees reported and paid in each county and  
 1446 shall be used exclusively for payment of authorized  
 1447 expenditures, as specified in s. 365.172(10). The moneys from  
 1448 prepaid wireless ~~E911~~ fees identified as nonspecific in  
 1449 accordance with s. 365.172(9) shall be distributed as determined  
 1450 by the Emergency Communications ~~E911~~ Board.

6-01245C-23

20231418\_\_

1451 (d) Any county that receives funds under paragraphs (a),  
 1452 (b), and (c) shall establish a fund to be used exclusively for  
 1453 the receipt and expenditure of the revenues collected under  
 1454 paragraphs (a), (b), and (c). All fees placed in the fund and  
 1455 any interest accrued shall be used solely for costs described in  
 1456 subparagraphs (a)1. and 2. and may not be reduced, withheld, or  
 1457 allocated for other purposes. The money collected and interest  
 1458 earned in this fund shall be appropriated for these purposes by  
 1459 the county commissioners and incorporated into the annual county  
 1460 budget. The fund shall be included within the financial audit  
 1461 performed in accordance with s. 218.39. The financial audit  
 1462 shall assure that all emergency communications ~~E911~~ fee  
 1463 revenues, interest, and emergency communications ~~E911~~ grant  
 1464 funding are used for payment of authorized expenditures, as  
 1465 specified in s. 365.172(10) and as specified in the Emergency  
 1466 Communications ~~E911~~ Board grant and special disbursement  
 1467 programs. The county is responsible for all expenditures of  
 1468 revenues distributed from the county emergency communications  
 1469 ~~E911~~ fund and shall submit the financial audit reports to the  
 1470 board for review. A county may carry forward up to 30 percent of  
 1471 the total funds disbursed to the county by the board during a  
 1472 county fiscal year for expenditures for capital outlay, capital  
 1473 improvements, equipment replacement, or implementation of a  
 1474 hosted system if such expenditures are made for the purposes  
 1475 specified in subparagraphs (a)1. and 2.; however, the 30-percent  
 1476 limitation does not apply to funds disbursed to a county under  
 1477 s. 365.172(6)(a)3., and a county may carry forward any  
 1478 percentage of the funds, except that any grant provided shall  
 1479 continue to be subject to any condition imposed by the board. In

Page 51 of 60

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

6-01245C-23

20231418\_\_

1480 order to prevent an excess recovery of costs incurred in  
 1481 providing emergency communications ~~E911~~ service, a county that  
 1482 receives funds greater than the permissible emergency  
 1483 communications ~~E911~~ costs described in s. 365.172(10), including  
 1484 the 30-percent carryforward allowance, must return the excess  
 1485 funds to the ~~E911~~ board to be allocated under s. 365.172(6)(a).  
 1486 (e) ~~Twenty percent of the moneys in the wireless category~~  
 1487 ~~shall be distributed to wireless providers in response to sworn~~  
 1488 ~~invoices submitted to the board by wireless providers to~~  
 1489 ~~reimburse such wireless providers for the actual costs incurred~~  
 1490 ~~to provide 911 or E911 service, including the costs of complying~~  
 1491 ~~with the order. Such costs include costs and expenses incurred~~  
 1492 ~~by wireless providers to design, purchase, lease, program,~~  
 1493 ~~install, test, upgrade, operate, and maintain all necessary~~  
 1494 ~~data, hardware, and software required to provide E911 service.~~  
 1495 ~~Each wireless provider shall submit to the board, by August 1 of~~  
 1496 ~~each year, a detailed estimate of the capital and operating~~  
 1497 ~~expenses for which it anticipates that it will seek~~  
 1498 ~~reimbursement under this paragraph during the ensuing state~~  
 1499 ~~fiscal year. In order to be eligible for recovery during any~~  
 1500 ~~ensuing state fiscal year, a wireless provider must submit all~~  
 1501 ~~sworn invoices for allowable purchases made within the previous~~  
 1502 ~~calendar year no later than March 31 of the fiscal year. By~~  
 1503 ~~September 15 of each year, the board shall submit to the~~  
 1504 ~~Legislature its legislative budget request for funds to be~~  
 1505 ~~allocated to wireless providers under this paragraph during the~~  
 1506 ~~ensuing state fiscal year. The budget request shall be based on~~  
 1507 ~~the information submitted by the wireless providers and~~  
 1508 ~~estimated surcharge revenues. Distributions of moneys in the~~

Page 52 of 60

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

6-01245C-23

20231418\_\_

fund by the board to wireless providers must be fair and nondiscriminatory. If the total amount of moneys requested by wireless providers pursuant to invoices submitted to the board and approved for payment exceeds the amount in the fund in any month, wireless providers that have invoices approved for payment shall receive a pro rata share of moneys in the fund and the balance of the payments shall be carried over to the following month or months until all of the approved payments are made. The board may adopt rules necessary to address the manner in which pro rata distributions are made when the total amount of funds requested by wireless providers pursuant to invoices submitted to the board exceeds the total amount of moneys on deposit in the fund.

(f) One percent of the moneys in each category of the fund shall be retained by the board to be applied to costs and expenses incurred for the purposes of managing, administering, and overseeing the receipts and disbursements from the fund and other activities as defined in s. 365.172(6). Any funds retained for such purposes in a calendar year which are not applied to such costs and expenses by March 31 of the following year shall be redistributed as determined by the board.

(f)(g) Three percent of the moneys in each category of the fund and an additional 1 percent of the moneys collected in the wireless category shall be used to make monthly distributions to rural counties for the purpose of providing facilities and network and service enhancements and assistance for the emergency communications 911 or E911 systems operated by rural counties and for the provision of grants by the office to rural counties for upgrading and replacing emergency communications

6-01245C-23

20231418\_\_

E911 systems.

(g)(h) Thirty-five percent of the moneys in the prepaid wireless category shall be retained by the board to provide state emergency communications E911 grants to be awarded in accordance with the following order of priority:

1. For all large, medium, and rural counties to upgrade or replace emergency communications E911 systems.

2. For all large, medium, and rural counties to develop and maintain statewide 911 routing, geographic, and management information systems.

3. For all large, medium, and rural counties to develop and maintain next-generation 911 services and equipment.

(h)(i) If the wireless category has funds remaining in it on December 31 after disbursements have been made during the calendar year immediately before prior to December 31, the board may disburse the excess funds in the wireless category in accordance with s. 365.172(6)(a)3.b.

(3) The Legislature recognizes that the fee authorized under s. 365.172 may not necessarily provide the total funding required for establishing or providing the emergency communications E911 service. It is the intent of the Legislature that all revenue from the fee be used as specified in subsection (2).

Section 3. Subsection (1) of section 365.177, Florida Statutes, is amended to read:

365.177 Transfer of E911 calls between systems.—

(1) The office shall develop a plan by December 30, 2023 February 1, 2020, to upgrade 911 public safety answering points within the state to allow the transfer of an emergency call from

6-01245C-23 20231418\_\_

1567 one local, multijurisdictional, or regional E911 system to  
 1568 another local, multijurisdictional, or regional E911 system in  
 1569 the state. Such transfer should include voice, text message,  
 1570 image, video, caller identification information, location  
 1571 information, and additional standards-based 911 call  
 1572 information.

1573 Section 4. Subsection (10) of section 212.05965, Florida  
 1574 Statutes, is amended to read:

1575 212.05965 Taxation of marketplace sales.—

1576 (10) Notwithstanding any other law, the marketplace  
 1577 provider is also responsible for collecting and remitting any  
 1578 prepaid wireless public safety emergency communications systems  
 1579 ~~E911~~ fee under s. 365.172, waste tire fee under s. 403.718, and  
 1580 lead-acid battery fee under s. 403.7185 at the time of sale for  
 1581 taxable retail sales made through its marketplace.

1582 Section 5. Section 365.171, Florida Statutes, is amended to  
 1583 read:

1584 365.171 Emergency communications ~~number~~ ~~E911~~ state plan.—

1585 (1) SHORT TITLE.—This section may be cited as the “Florida  
 1586 Emergency Communications ~~Number~~ ~~E911~~ State Plan Act.”

1587 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature  
 1588 that the communications number “911” be the designated emergency  
 1589 communications number. A public safety agency may not advertise  
 1590 or otherwise promote the use of any communications number for  
 1591 emergency response services other than “911.” It is further the  
 1592 intent of the Legislature to implement and continually update a  
 1593 cohesive statewide emergency communications ~~number~~ ~~“E911”~~ plan  
 1594 for enhanced 911 services which will provide citizens with rapid  
 1595 direct access to public safety agencies by accessing “911” with

6-01245C-23 20231418\_\_

1596 the objective of reducing the response time to situations  
 1597 requiring law enforcement, fire, medical, rescue, and other  
 1598 emergency services.

1599 (3) DEFINITIONS.—As used in this section, the term:

1600 (a) “Office” means the Division of Telecommunications  
 1601 within the Department of Management Services, as designated by  
 1602 the secretary of the department.

1603 (b) “Local government” means any city, county, or political  
 1604 subdivision of the state and its agencies.

1605 (c) “Public agency” means the state and any city, county,  
 1606 city and county, municipal corporation, chartered organization,  
 1607 public district, or public authority located in whole or in part  
 1608 within this state which provides, or has authority to provide,  
 1609 firefighting, law enforcement, ambulance, medical, or other  
 1610 emergency services.

1611 (d) “Public safety agency” means a functional division of a  
 1612 public agency which provides firefighting, law enforcement,  
 1613 medical, or other emergency services.

1614 (4) STATE PLAN.—The office shall develop, maintain, and  
 1615 implement appropriate modifications for a statewide emergency  
 1616 communications ~~E911 system~~ plan. The plan shall provide for:

1617 (a) The public agency emergency communications requirements  
 1618 for each entity of local government in the state.

1619 (b) A system to meet specific local government  
 1620 requirements. Such system shall include law enforcement,  
 1621 firefighting, and emergency medical services and may include  
 1622 other emergency services such as poison control, suicide  
 1623 prevention, and emergency management services.

1624 (c) Identification of the mutual aid agreements necessary

6-01245C-23 20231418\_\_

1625 to obtain an effective emergency communications systems ~~E911~~  
1626 ~~system~~.

1627 (d) A funding provision that identifies the cost necessary  
1628 to implement the emergency communications ~~E911~~ system.

1629

1630 The office shall be responsible for the implementation and  
1631 coordination of such plan. The office shall adopt any necessary  
1632 rules and schedules related to public agencies for implementing  
1633 and coordinating the plan, pursuant to chapter 120.

1634 (5) SYSTEM DIRECTOR.—The secretary of the department or his  
1635 or her designee is designated as the director of the statewide  
1636 emergency communications ~~number E911~~ system and, for the purpose  
1637 of carrying out the provisions of this section, is authorized to  
1638 coordinate the activities of the system with state, county,  
1639 local, and private agencies. The director in implementing the  
1640 system shall consult, cooperate, and coordinate with local law  
1641 enforcement agencies.

1642 (6) REGIONAL SYSTEMS.—This section does not prohibit or  
1643 discourage the formation of multijurisdictional or regional  
1644 systems; and any system established pursuant to this section may  
1645 include the jurisdiction, or any portion thereof, of more than  
1646 one public agency. It is the intent of the Legislature that  
1647 emergency communications services ~~E911 service~~ be available  
1648 throughout the state. Expenditure by counties of the ~~E911~~ fee  
1649 authorized and imposed under s. 365.172 should support this  
1650 intent to the greatest extent feasible within the context of  
1651 local service needs and fiscal capability. This section does not  
1652 prohibit two or more counties from establishing a combined  
1653 emergency ~~E911~~ communications service by an interlocal agreement

6-01245C-23 20231418\_\_

1654 and using the fees authorized and imposed by s. 365.172 for such  
1655 combined ~~E911~~ service.

1656 (7) TELECOMMUNICATIONS INDUSTRY COORDINATION.—The office  
1657 shall coordinate with the Florida Public Service Commission  
1658 which shall encourage the Florida telecommunications industry to  
1659 activate facility modification plans for timely emergency  
1660 communications services ~~E911~~ implementation.

1661 (8) COIN TELEPHONES.—The Florida Public Service Commission  
1662 shall establish rules to be followed by the telecommunications  
1663 companies in this state designed toward encouraging the  
1664 provision of coin-free dialing of "911" calls wherever  
1665 economically practicable and in the public interest.

1666 (9) SYSTEM APPROVAL.—No emergency communications number  
1667 E911 system shall be established and no present system shall be  
1668 expanded without prior approval of the office.

1669 (10) COMPLIANCE.—All public agencies shall assist the  
1670 office in their efforts to carry out the intent of this section,  
1671 and such agencies shall comply with the developed plan.

1672 (11) FEDERAL ASSISTANCE.—The secretary of the department or  
1673 his or her designee may apply for and accept federal funding  
1674 assistance in the development and implementation of a statewide  
1675 emergency communications ~~number E911~~ system.

1676 (12) CONFIDENTIALITY OF RECORDS.—

1677 (a) Any record, recording, or information, or portions  
1678 thereof, obtained by a public agency or a public safety agency  
1679 for the purpose of providing services in an emergency and which  
1680 reveals the name, address, telephone number, or personal  
1681 information about, or information which may identify any person  
1682 requesting emergency service or reporting an emergency by

6-01245C-23

20231418\_\_

1683 accessing an emergency communications ~~E911~~ system is  
 1684 confidential and exempt from the provisions of s. 119.07(1) and  
 1685 s. 24(a), Art. I of the State Constitution, except that such  
 1686 record or information may be disclosed to a public safety  
 1687 agency. The exemption applies only to the name, address,  
 1688 telephone number or personal information about, or information  
 1689 which may identify any person requesting emergency services or  
 1690 reporting an emergency while such information is in the custody  
 1691 of the public agency or public safety agency providing emergency  
 1692 services. A telecommunications company or commercial mobile  
 1693 radio service provider shall not be liable for damages to any  
 1694 person resulting from or in connection with such telephone  
 1695 company's or commercial mobile radio service provider's  
 1696 provision of any lawful assistance to any investigative or law  
 1697 enforcement officer of the State of Florida or political  
 1698 subdivisions thereof, of the United States, or of any other  
 1699 state or political subdivision thereof, in connection with any  
 1700 lawful investigation or other law enforcement activity by such  
 1701 law enforcement officer unless the telecommunications company or  
 1702 commercial mobile radio service provider acted in a wanton and  
 1703 willful manner.

1704 (b) Notwithstanding paragraph (a), a 911 public safety  
 1705 telecommunicator, as defined in s. 401.465, may contact any  
 1706 private person or entity that owns an automated external  
 1707 defibrillator who has notified the local emergency medical  
 1708 services medical director or public safety answering point of  
 1709 such ownership if a confirmed coronary emergency call is taking  
 1710 place and the location of the coronary emergency is within a  
 1711 reasonable distance from the location of the defibrillator, and

Page 59 of 60

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

6-01245C-23

20231418\_\_

1712 may provide the location of the coronary emergency to that  
 1713 person or entity.

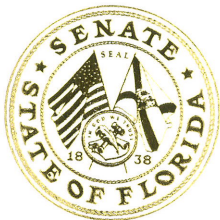
1714 Section 6. Paragraph (b) of subsection (2) of section  
 1715 365.174, Florida Statutes, is amended to read:

1716 365.174 Proprietary confidential business information.—  
 1717 (2)

1718 (b) The Department of Revenue may provide information  
 1719 relative to s. 365.172(9) to the Secretary of Management  
 1720 Services, or his or her authorized agent, or to the Emergency  
 1721 Communications ~~E911~~ Board established in s. 365.172(5) for use  
 1722 in the conduct of the official business of the Department of  
 1723 Management Services or the Emergency Communications ~~E911~~ Board.  
 1724 Section 7. This act shall take effect July 1, 2023.

Page 60 of 60

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



**SENATOR JENNIFER BRADLEY**  
6th District

## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Committee on Criminal  
and Civil Justice, *Chair*  
Criminal Justice, *Vice Chair*  
Appropriations  
Appropriations Committee on Health  
and Human Services  
Children, Families, and Elder Affairs  
Community Affairs  
Regulated Industries

**SELECT COMMITTEE:**  
Select Committee on Resiliency

March 13, 2023

Senator Joe Gruters, Chairman  
Senate Committee on Regulated Industries  
316 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Gruters:

I respectfully request that Senate Bill 1418 be placed on the committee's agenda at your earliest convenience. This bill relates to emergency communications.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

cc: Booter Imhof, Staff Director  
Susan Datres, Administrative Assistant

**REPLY TO:**

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore



The Florida Senate

**APPEARANCE RECORD**

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

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Committee

Name

Phone

Address

Street

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

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

Association of 911 Coordinators + 911 Dispatchers

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

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

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

4-4-23

Meeting Date

1418

Bill Number or Topic

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

Regulatory Industries  
Committee

Amendment Barcode (if applicable)

Name Commander James Cunningham

Phone 239-203-3935

Address 3319 Tamiami Tr E  
Street

Email 0830@CollierSheriff.org

Naples, FL 34112  
City State Zip

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

## PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

SB 1418

Bill Number or Topic

4/4/2023

Meeting Date

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

Bob McKee

Phone

850 766-1952

Address

100 S Monroe

Email

bmk@fl-congress.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

Florida Association of  
Congress

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

4/4/23

Meeting Date

1418

Bill Number or Topic

Reg Industries

Committee

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

Amendment Barcode (if applicable)

Name

Casey Reed / ATT

Phone

591-6002

Address

150 S. Monroe St Suite 400

Email

CZ8243@ATT.com

Street

Tallahassee

State

FL

32312

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing: ATT

☐

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

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

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

S-001 (08/10/2021)

**APPEARANCE RECORD**

4/4/23

Meeting Date

SB 1418

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name

Charles Dudley

Phone

850 681 0024

Address

108 S. Monroe St.

Email

cdw@flapartners.com

Street

Tall.

FL

32301

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

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

FL Internet + Television Assoc.

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

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

S-001 (08/10/2021)



4/4/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

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

1418

Bill Number or Topic

Regulated Industries

Committee

Name **Jeff Ivey**

Amendment Barcode (if applicable)  
Phone **850-487-7001**

Address **4050 Esplanade Way**

Street

Email **jeff.ivey@dms.fl.gov**

**Tallahassee**

**FL**

**32399**

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**Department of Management  
Services**

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

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

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

S-001 (08/10/2021)

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

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

---

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

---

BILL: SB 1712

INTRODUCER: Senator Jones

SUBJECT: Municipal Water and Sewer Utility Rates

DATE: April 3, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	<b>Favorable</b>
2.			CA	
3.			RC	

---

## **I. Summary:**

SB 1712 creates an exception to the maximum rates that may be charged to municipal water and wastewater utility customers that are outside of the corresponding municipality's boundaries. The bill provides that if a municipal electric utility provides water and sewer services to another municipality, and serves that other municipality using a facility or water or sewer plant within that other municipality, the utility must charge its customers within that other municipality the same rates, fees, and charges as those customers within its own municipal boundaries.

The bill has an effective date of the bill of July 1, 2023.

## **II. Present Situation:**

### **Florida Public Service Commission**

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.<sup>1</sup> The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.<sup>2</sup> In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.

### **Water and Wastewater Utilities**

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over

---

<sup>1</sup> Section 350.001, F.S.

<sup>2</sup> See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Mar 31, 2023).

each utility with respect to its authority, service, and rates. For the chapter, a “utility” is defined as “a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.” In 2021, the PSC had jurisdiction over 124 investor-owned water and/or waste-water utilities in 38 of Florida’s 67 counties.<sup>3</sup>

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide “service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation.”<sup>4</sup> The PSC also does not regulate utilities in counties that have exempted themselves from PSC regulation pursuant to s. 367.171, F.S. However, under 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

According to a 2017 research report from the University of North Carolina there were 1,647 community water systems in Florida. Of those, 973 are privately owned. Florida had 371 publicly owned treatment works facilities. The privately owned community water systems served almost 1.4 million people, the government owned community water systems served more than 18.4 million people, and the publicly owned treatment works facilities served just over 13 million people.<sup>5</sup>

### **Municipal Water and Sewer Utilities in Florida**

A municipality<sup>6</sup> may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.<sup>7</sup>

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality’s corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon.

---

<sup>3</sup> Florida Public Service Commission, *2022 Facts and Figures of the Florida Utility Industry*, <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202022.pdf> (last visited Apr. 1, 2023).

<sup>4</sup> Section 367.022(2), F.S.

<sup>5</sup> University of North Carolina Environmental Finance Center, *Navigating Legal Pathways to Rate-Funded Customer Assistance Programs, A Guide for Water and Wastewater Utilities* (2017), available at <https://efc.sog.unc.edu/wp-content/uploads/sites/1172/2021/06/Nagivating-Pathways-to-Rate-Funded-CAPs.pdf> (last visited Apr. 1, 2023).

<sup>6</sup> Defined by s. 180.01, F.S. “as any city, town, or village duly incorporated under the laws of the state.”

<sup>7</sup> Section 180.02, F.S.



### ***Municipal Water and Sewer Utility Rate Setting***

The PSC does not have jurisdiction over municipal water and sewer utilities, and as such, has no authority over the rates for such utilities. Municipally-owned water and wastewater utility rates and revenues are regulated by their respective local governments, sometimes through a utility board or commission.

### ***Municipal Water and Sewer Utility Rates for Customers Outside of Corporate Limits***

Section 180.191, F.S., provides limitations on the rates that can be charged to customers outside their municipal boundaries. The first option is that such a municipality may charge the same rates inside as outside its municipal boundaries, but may add a 25 percent surcharge to those outside the boundaries.<sup>8</sup>

In the alternative, a municipality may charge rates that are just and equitable and based upon the same factors used in fixing the rates for the customers within the boundaries of the municipality. In addition, the municipality may add a 25 percent surcharge. When a municipality uses this methodology, the total of all rates, fees, and charges for the services charged to customers outside the municipal boundaries may not be more than 50 percent in excess of the total amount the municipality charges consumers within its municipal boundaries, for corresponding service.<sup>9</sup>

## **III. Effect of Proposed Changes:**

**Section 1** of the bill creates an exception to the maximum rates that may be charged to municipal water and wastewater utility customers that are outside of the corresponding municipality's boundaries in s. 180.191, F.S. The bill provides that if a municipal electric utility provides water and sewer services to a second municipality, and serves that second municipality using a facility or water or sewer plant located within that second municipality, must charge its customers within that second municipality the same rates, fees, and charges as the customers within its own municipal boundaries.

**Section 2** of the bill provides an effective date of the bill of July 1, 2023.

## **IV. Constitutional Issues:**

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

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of Art. VII, s. 18 of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the

---

<sup>8</sup> Section 180.191(1)(a), F.S.

<sup>9</sup> Section 180.191(1)(b), F.S.

mandates requirements do not apply to laws having an insignificant impact,<sup>10</sup> which is \$2.3 million or less for Fiscal Year 2023-2024.<sup>11</sup>

The Revenue Estimating Conference has not yet determined the financial impact of the on local revenues. Therefore, it is unknown at this time whether the mandates provision would apply to this bill.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Municipal water and sewer utility customers that are located in a different municipality than the municipality that operates the utility may see a water and sewer rate reduction under the provisions of the bill if that customer's municipality contains facilities or water or sewer plants for the utility.

**C. Government Sector Impact:**

Municipal governments that operate a municipal water and sewer utility, and who have facilities or water or sewer plants in a second municipality, may see a reduction in utility revenue under the provisions of the bill.

---

<sup>10</sup> FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 31, 2023).

<sup>11</sup> Based on the Demographic Estimating Conference's estimated population adopted on July 18, 2022. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/archives/220718demographic.pdf> (last visited Mar. 31, 2023).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The sponsor may wish to clarify the meaning of “facility” as it is used on line 56 of the bill. It is potentially ambiguous what kind of utility infrastructure would qualify as a “facility.” Also, to remove a potential ambiguity in the bill as to whether a facility or plant is “providing service” to customers, the sponsor may wish to revise the bill to state that any facility or water or sewer plant located in a second municipality would give rise to the rate-restriction provisions of the bill.

**VIII. Statutes Affected:**

This bill substantially amends section 180.191 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Jones

34-00974-23

20231712\_\_

A bill to be entitled

An act relating to municipal water and sewer utility rates; amending s. 180.191, F.S.; requiring a municipality to charge customers receiving its utility services in another municipality the same rates, fees, and charges as it charges consumers within its municipal boundaries under certain circumstances; providing an effective date.

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

Section 1. Present subsections (2), (3), and (4) of section 180.191, Florida Statutes, are redesignated as subsections (3), (4), and (5), respectively, a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

180.191 Limitation on rates charged consumer outside city limits.—

(1) Any municipality within this ~~the~~ state operating a water or sewer utility outside of the boundaries of such municipality shall charge consumers outside the boundaries rates, fees, and charges determined in one of the following manners:

(a) It may charge the same rates, fees, and charges as consumers inside the municipal boundaries. However, in addition ~~thereto~~, the municipality may add a surcharge of not more than 25 percent of such rates, fees, and charges to consumers outside the boundaries, except as provided in subsection (2). Fixing of such rates, fees, and charges in this manner does ~~shall~~ not

Page 1 of 3

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

34-00974-23

20231712\_\_

require a public hearing except as may be provided for service to consumers inside the municipality.

(b) It may charge rates, fees, and charges that are just and equitable and ~~that which~~ are based on the same factors used in fixing the rates, fees, and charges for consumers inside the municipal boundaries, except as provided in subsection (2). In addition ~~thereto~~, the municipality may add a surcharge not to exceed 25 percent of such rates, fees, and charges for said services to consumers outside the boundaries. However, the total of all such rates, fees, and charges for the services to consumers outside the boundaries may ~~shall~~ not be more than 50 percent in excess of the total amount the municipality charges consumers served within the municipality for corresponding service. ~~No~~ Such rates, fees, and charges may not ~~shall~~ be fixed until after a public hearing at which all of the users of the water or sewer systems; owners, tenants, or occupants of property served or to be served thereby; and all others interested shall have an opportunity to be heard concerning the proposed rates, fees, and charges. Any change or revision of such rates, fees, or charges may be made in the same manner as such rates, fees, or charges were originally established, but if such change or revision is to be made substantially pro rata as to all classes of service, both inside and outside the municipality, no hearing or notice shall be required.

(2) Any municipality within this state that operates a water or sewer utility providing service to customers in another recipient municipality using a facility or water or sewer plant located in the recipient municipality shall charge consumers in the recipient municipality the same rates, fees, and charges as

Page 2 of 3

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

34-00974-23

20231712\_\_

59 it does the consumers inside its own municipal boundaries.

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



The Florida Senate

## Committee Agenda Request

Senator Shevrin D. "Shev" Jones  
218 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

**To:** Chair Joe Gruters  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** March 14, 2023

---

I respectfully request that **SB 1712: Municipal Water and Sewer Utility Rates**, be placed on the:

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

A handwritten signature in blue ink, appearing to be "Shev", is written over a horizontal line.

Senator Shevrin Jones  
Florida Senate, District 34

The Florida Senate  
**APPEARANCE RECORD**

1712  
DUPLICATE

Meeting Date

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jess M. McCarty, Executive Assistant County Attorney Phone 305-979-7110

Address 111 N.W. 1st Street Suite 2800 Email jmm2@miamidade.gov  
Street

Miami FL 33128  
City State Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**Miami-Dade County**

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

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

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

S-001 (08/10/2021)

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

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

---

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

---

BILL: SB 562

INTRODUCER: Senator Gruters

SUBJECT: Notices of Commencement

DATE: April 3, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	<b>Favorable</b>
2.	Kraemer	Imhof	RI	<b>Favorable</b>
3.			RC	

---

## **I. Summary:**

SB 562 amends s. 713.13, F.S., the notice of commencement statute, to:

- Direct the Department of Business and Professional Regulation to furnish for distribution a uniform notice of commencement;
- Establish the existing statutory notice of commencement form as the uniform notice of commencement to be distributed by the department; and
- Require owners and their authorized agents to use the uniform notice of commencement to comply with associated statutory requirements.

The bill takes effect July 1, 2023.

## **II. Present Situation:**

### **Payment on Construction Projects**

During a construction project, the owner of the property to be improved has an interest in ensuring that the contractor performs the construction work in the time and manner described in the construction contract. Contractors and subcontractors, sub-subcontractors, laborers, and materialmen have an interest in receiving payment for their work. Those individuals have a lien or prospective lien on the property improved and are known as lienors. Mechanisms that address these interests of property owners and lienors are set forth in the Construction Lien Law, codified in part I of chapter 713, F.S.,<sup>1</sup> for private construction contracts.

These mechanisms ensure payment and are especially important where many lienors who are not in privity with the owner perform work on a construction project. A lienor not in privity with the owner has a contract with the contractor or a subcontractor, but no direct contractual relationship

---

<sup>1</sup> See s. 713.001, F.S.



with the owner. As a result, a lienor's identity, work, and charges for services might be unknown to the owner or contractor unless the lienor complies with the notice requirements of the Construction Lien Law. Additionally, compliance with the notice requirements by the various deadlines is a prerequisite to enforcing a lien or pursuing a claim against a payment bond.

A property owner who contracts for the construction of an improvement must carefully follow the requirements of the Construction Lien Law or the owner may become liable for a contractor's failure to pay subcontractors and others. These requirements include the requirements to post and record a notice of commencement.

### *Notices of Commencement*

Construction work generally begins once a "notice of commencement" is posted on the job site and recorded in the court clerk's office.<sup>2</sup> This notice identifies who owns the property to be improved or who is responsible for the construction project. Accordingly, the notice of commencement will list the name and address of the owner of the property, the fee simple titleholder if different from the owner, the contractor, any lessees, the lender, and the surety.<sup>3</sup> Although notices of commencement must substantially follow the sample form provided by statute,<sup>4</sup> they are not currently required to be uniform throughout the state.

Lienors use the contact information in the notice of commencement to keep the property owner or lessee informed of their identity, work on the construction project, and need to be paid. A notice of commencement generally has a duration of one year after it is recorded.<sup>5</sup> Any construction liens recorded while the notice of commencement is in effect generally attach and take effect on the date that the notice of commencement is recorded.<sup>6</sup> Any payment made by the owner after the notice of commencement expires is considered an improper payment.<sup>7</sup>

### **III. Effect of Proposed Changes:**

SB 562 amends s. 713.13, F.S., the notice of commencement statute, to:

- Direct the Department of Business and Professional Regulation to furnish for distribution a uniform notice of commencement.
- Establish the existing statutory notice of commencement form, without modification, as the uniform notice of commencement to be distributed by the department.
- Require owners and their authorized agents to use the uniform notice of commencement to comply with associated statutory requirements.

The bill takes effect July 1, 2023.

---

<sup>2</sup> Section 713.13(1)(a), F.S.

<sup>3</sup> Section 713.13(1)(a) and (d), F.S.

<sup>4</sup> See s. 713.13(1)(d), F.S. (providing that "[a] notice of commencement must be in substantially the following form").

<sup>5</sup> Section 713.13(1)(c), F.S.

<sup>6</sup> Section 713.07(2), F.S.

<sup>7</sup> Section 713.13(1)(c), F.S.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of Business and Professional Regulation anticipates that it will require an indeterminate amount of staff time to develop the uniform notice of commencement in compliance with the bill. However, the department indicates that this can likely be completed using existing resources.<sup>8</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

---

<sup>8</sup> Department of Business and Professional Regulation, *2023 Agency Legislative Bill Analysis for SB 562*, at 4 (Feb. 13, 2023) (on file with the Senate Committee on Regulated Industries).

**VIII. Statutes Affected:**

This bill substantially amends s. 713.13 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

---

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

---

By Senator Gruters

22-00544A-23

2023562\_\_

1 A bill to be entitled  
 2 An act relating to notices of commencement; amending  
 3 s. 713.13, F.S.; requiring the Department of Business  
 4 and Professional Regulation to furnish for  
 5 distribution a uniform notice of commencement;  
 6 requiring owners and authorized agents of owners to  
 7 use such uniform notice; providing an effective date.  
 8  
 9 Be It Enacted by the Legislature of the State of Florida:  
 10  
 11 Section 1. Paragraph (d) of subsection (1) of section  
 12 713.13, Florida Statutes, is amended to read:  
 13 713.13 Notice of commencement.—  
 14 (1)  
 15 (d) The Department of Business and Professional Regulation  
 16 shall furnish for distribution a uniform notice of commencement  
 17 must be in substantially the following form, and an owner or an  
 18 owner's authorized agent must use such uniform notice of  
 19 commencement for the purposes of this subsection:  
 20  
 21 Permit No..... Tax Folio No.....  
 22 NOTICE OF COMMENCEMENT  
 23 State of....  
 24 County of....  
 25  
 26 The undersigned hereby gives notice that improvement will be  
 27 made to certain real property, and in accordance with Chapter  
 28 713, Florida Statutes, the following information is provided in  
 29 this Notice of Commencement.

Page 1 of 4

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

22-00544A-23

2023562\_\_

30 1. Description of property: ...(legal description of the  
 31 property, and street address if available)....  
 32 2. General description of improvement:.....  
 33 3. Owner information or Lessee information if the Lessee  
 34 contracted for the improvement:  
 35 a. Name and address:.....  
 36 b. Interest in property:.....  
 37 c. Name and address of fee simple titleholder (if different  
 38 from Owner listed above):.....  
 39 4.a. Contractor: ...(name and address)....  
 40 b. Contractor's phone number:.....  
 41 5. Surety (if applicable, a copy of the payment bond is  
 42 attached):  
 43 a. Name and address:.....  
 44 b. Phone number:.....  
 45 c. Amount of bond: \$.....  
 46 6.a. Lender: ...(name and address)....  
 47 b. Lender's phone number:.....  
 48 7. Persons within the State of Florida designated by Owner  
 49 upon whom notices or other documents may be served as provided  
 50 by Section 713.13(1)(a)7., Florida Statutes:  
 51 a. Name and address:.....  
 52 b. Phone numbers of designated persons:.....  
 53 8.a. In addition to himself or herself, Owner designates  
 54 ..... of ..... to receive a copy of the Lienor's  
 55 Notice as provided in Section 713.13(1)(b), Florida Statutes.  
 56 b. Phone number of person or entity designated by  
 57 owner:.....  
 58 9. Expiration date of notice of commencement (the

Page 2 of 4

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

22-00544A-23

2023562\_\_

expiration date will be 1 year from the date of recording unless  
a different date is specified).....

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE  
EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER  
PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA  
STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS  
TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND  
POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU  
INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN  
ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF  
COMMENCEMENT.

...(Signature of Owner or Lessee, or Owner's or Lessee's  
Authorized Officer/Director/Partner/Manager)...

...(Signatory's Title/Office)...

The foregoing instrument was acknowledged before me this ....  
day of ...., ...(year)...., by ...(name of person)... as ...(type  
of authority, . . . e.g. officer, trustee, attorney in fact)...  
for ...(name of party on behalf of whom instrument was  
executed)....

...(Signature of Notary Public - State of Florida)...

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

Personally Known .... OR Produced Identification ....

Page 3 of 4

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

22-00544A-23

2023562\_\_

Type of Identification Produced.....

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

Page 4 of 4

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



## 2023 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of Business & Professional Regulation**

### BILL INFORMATION

<b>BILL NUMBER:</b>	<u>SB 562</u>
<b>BILL TITLE:</b>	<u>Notices of Commencement</u>
<b>BILL SPONSOR:</b>	<u>Sen. Gruters</u>
<b>EFFECTIVE DATE:</b>	<u>07/01/2023</u>

### COMMITTEES OF REFERENCE

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

### CURRENT COMMITTEE

Click or tap here to enter text.

### SIMILAR BILLS

<b>BILL NUMBER:</b>	HB 797
<b>SPONSOR:</b>	Griffitts

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### **Is this bill part of an agency package?**

No

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	2/13/2023
<b>LEAD AGENCY ANALYST:</b>	Thomas Campbell, Executive Director, Florida Building Commission
<b>ADDITIONAL ANALYST(S):</b>	W. Justin Vogel (for OGC Rules) Robin Jordan, Technology Tracy Dixon, Service Operations
<b>LEGAL ANALYST:</b>	Click or tap here to enter text.
<b>FISCAL ANALYST:</b>	Garrett Blanton, Office of Planning and Budget

--	--

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

The bill requires the Department of Business and Professional Regulation to furnish for distribution a uniform notice of commencement. The bill requires an owner or an owner's authorized agent to use the Department's uniform notice of commencement for compliance with the requirements of subsection 713.13(1), Florida Statutes.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

Chapter 713, Florida Statutes, contains requirements for construction liens in Florida.

Section 713.13, F.S., contains requirements for notices of commencement.

Subsection 713.13(1), F.S., requires an owner or their authorized agent to record a notice of commencement in the clerk's office and post a certified copy or notarized statement thereof at the property being improved prior to construction commencing on the project. A notice of commencement is required to contain the following information:

- A description sufficient for the identification of the real property being improved.
- A general description of the improvement/work being completed at the property.
- Name and address of the owner, the owner's interest in the property being improved.
- Name and address of the contractor.
- Name and address of any surety on the payment bond, if any.
- Name and address of any person making a loan for the construction work being completed at the property.
- Any designated representative of the owner who may be served documents pursuant to chapter 713, F.S., part I.
- The name and address of any designated representative of the owner who is designated to receive the lienor's notice pursuant to section 713.06(2)(b), F.S.

Subsection 713.13(1)(d), F.S., provides a sample notice of commencement form. All notice of commencements used in Florida must be substantially in the same form as the sample notice provided in subsection 713.13(1)(d), F.S.

Subsection 713.13(1)(e), F.S., requires a copy of any payment bond be attached to the notice of commencement at the time the notice of commencement is recorded.

Subsection 713.13(1)(f), F.S., states that the notice of commencement becomes effective when it is filed with the clerk's office.

Subsection 713.13(1)(g), F.S., states that the owner must sign the notice of commencement. No other individual is permitted to sign for the owner.

Subsection 713.13(2), F.S., states that if construction work doesn't commence within 90 days of the filing of the notice of commencement the filed notice of commencement becomes null and void.

Subsection 713.13(3), F.S., states that the filing of a notice of commencement does not constitute a lien, cloud, or encumbrance on real property.

Subsection 713.13(4), F.S., exempts construction work described in section 713.04, F.S., from notice of commencement requirements.

Subsection 713.13(5), F.S., contains requirements related to amending a notice of commencement.

Subsection 713.13(6), F.S., states that a notice of commencement, a new notice of commencement, or an amended notice of commencement is not effectual in law or equity against a conveyance, transfer, mortgage of, or lien on the real property described in the notice, if one year has passed since the recording of the notice of commencement at the clerk's office.

Subsection 713.13(7), F.S., requires a lender to file a notice of commencement at the county clerk's office prior to distributing construction funds to a contractor for a construction project. However, it remains the owner's obligation to post the notice of commencement at the property undergoing construction. If a lender fails to file a notice of commencement they are liable for any damages sustained by the owner because of the failure to file the notice of commencement.

Subsection 713.132, F.S., contains requirements an owner must follow in order to file a notice of termination. A notice of termination is used to terminate the effective period of a notice of commencement.

Subsection 713.135, F.S., requires the local authority having jurisdiction to issue building permits to include notice of commencement requirements, construction lien requirements, and warnings about construction liens on building permits. It also requires local governments to provide permit applicants with two or more copies of a notice of commencement that meets the requirements of subsection 713.13, F.S., if the direct construction costs for the construction work is \$2,500.00 or more. Additionally, the local authority having jurisdiction to issue building permits is authorized to charge a fee less than or equal to \$5 for the costs associated with providing the notice of commencement to building permit applicants.

## 2. EFFECT OF THE BILL:

The bill amends subsection 713.13(1)(d) F.S., to require the Department of Business and Professional Regulation to furnish for distribution a uniform notice of commencement consistent with the sample form found in subsection 713.13(1)(d), F.S. Additionally, the bill requires owners and their authorized agents to use the uniform notice of commencement developed by the Department of Business and Professional Regulation in order to comply with the requirements of subsection 713.13, F.S.

The bill's effective date is July 1, 2023.

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

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	None.

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

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A

## 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

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

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

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A



Bill Section Number(s):	N/A
-------------------------	-----

## FISCAL ANALYSIS

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

Y ☒ N ☐

Revenues:	N/A
Expenditures:	Indeterminate amount of staff time and process changes to incorporate the Department's uniform notice of commencement into existing processes.
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

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

Y ☒ N ☐

Revenues:	N/A
Expenditures:	Indeterminate amount of staff time to develop the uniform notice of commencement. However, the development of the uniform notice of commencement can likely be completed utilizing existing resources.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

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

Y ☒ N ☐

Revenues:	N/A
Expenditures:	Indeterminate amount of staff time and process changes to incorporate the Department's uniform notice of commencement into existing processes.
Other:	Click or tap here to enter text.

### 4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

## TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	The uniform notice of commencement will likely need to be posted on the Department's website and emailed out to various stakeholder groups. <i>** Division of Technology Comments**</i> There will be minimal impact to the division.
--	---

## FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	N/A
--	-----

## ADDITIONAL COMMENTS

Professions-The uniform notice of commencement may not be available for distribution by July 1, 2023 and likely will not be integrated into local permitting authorities' processes by the bill's effective date of July 1, 2023. It might also be helpful to clarify if lenders of construction funds will be required to use the Department's uniform notice of commencement.

OGC Rules: No additional comment.

DSO: The impact to the division is minimal and will be accommodated with existing resources.

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

## LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.
---------------------------	----------------------------------



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

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

---

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

---

BILL: SPB 7046

INTRODUCER: Regulated Industries Committee

SUBJECT: Licensing Fee Relief

DATE: April 5, 2023

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

ANALYST

Kraemer

STAFF DIRECTOR

Imhof

REFERENCE

ACTION

**RI Submitted as Committee Bill**

---

## **I. Summary:**

SPB 7046 requires the Department of Business and Professional Regulation (DBPR) to waive certain license application and license fees until July 1, 2025.

Under the bill, the following fees must be waived during Fiscal Year 2023-2024 and Fiscal Year 2024-2025:

- 50 percent of the initial licensing fee for an applicant applying for an initial license for a profession, up to \$200 per year per license.
- 50 percent of a licensee's license renewal fee, up to \$200 per year per license.

The bill provides that waived fees may not include any applicable unlicensed activity fees or background check fees.

The above provisions expire July 1, 2025.

There is a \$50 million appropriation from the General Revenue Fund to the Professional Regulation Trust Fund. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2023.

## **II. Present Situation:**

Background information about the DBPR and the professions it regulates is provided below.

### **Organization of the DBPR**

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 11 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;

- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

The Florida Athletic Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.<sup>1</sup> The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.<sup>2</sup>

### **Powers and Duties of the DBPR**

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”<sup>3</sup> The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.<sup>4</sup> The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”<sup>5</sup> Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.<sup>6</sup>

However, “neither the [DBPR] nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those desiring to engage in a profession or occupation from finding employment.<sup>7</sup>

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.<sup>8</sup> When a

---

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

<sup>2</sup> See Parts I and III of ch. 450, F.S.

<sup>3</sup> Section 455.01(6), F.S.

<sup>4</sup> See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

<sup>5</sup> Section 455.201(2), F.S.

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

<sup>7</sup> Section 455.201(4)(b), F.S.

<sup>8</sup> See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.<sup>9</sup>

### ***License Fees***

Section 455.219, F.S., requires each board within the DBPR to determine by rule the amount of license fees for its profession, based upon DBPR-prepared long-range estimates of the revenue required for the DBPR and the boards to implement all laws relating to regulated professions. Renewal fees may be imposed for a two-year (biennial) or four-year license, if authorized by the DBPR.<sup>10</sup>

If the DBPR determines, based on the long-range estimates, that a profession’s trust fund moneys exceed the amount required to cover the necessary functions of its board, or the DBPR when there is no board, the DBPR may adopt rules to waive license renewal fees for that profession for a period not to exceed two years, as determined by the DBPR.<sup>11</sup> Each board, or the DBPR when there is no board, must ensure license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by DBPR rule, with advice of the applicable board.

### ***License Fee Waivers***

Under s. 455.213, F.S., the DBPR must waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran or his or her spouse at the time of discharge, if he or she applies to the DBPR for a license within 60 months after being honorably discharged from any branch of the United States Armed Forces.

Section 455.219, F.S., requires the DBPR, or the applicable board, to waive the initial licensing fee, upon appropriate documentation to support eligibility for the waiver, for:

- A member of the Armed Services of the United States who has served on active duty;
- The spouse of a member of the Armed Services of the United States who was married to the member during a period of active duty;
- The surviving spouse of a member of the Armed Services of the United States who at the time of death was serving on active duty; or
- A low-income individual<sup>12</sup> upon application by the individual in a format prescribed by the DBPR.

The DBPR or applicable board must process an application for a fee waiver within 30 days of receiving it from the applicant.

---

<sup>9</sup> Section 455.01(4) and (5), F.S.

<sup>10</sup> See s. 455.203(1), F.S.

<sup>11</sup> See s. 455.219(1), F.S. If retired professionals apply for and meet the requirements for issuance of a limited license, and their employers certify no monetary compensation for professional services will be paid to the applicant, the application fee and all licensure fees must be waived. See s. 455.214, F.S.

<sup>12</sup> The term “low-income individual” means a person whose household income, before taxes, is at or below 130 percent of the federal poverty guidelines prescribed for the family’s household size by the United States Department of Health and Human Services; enrollment in a state or federal public assistance program that requires participants to be at or below 130 percent of the federal poverty guidelines to qualify, serves as proof of meeting these guidelines.

***Unlicensed Activity Fees***

Section 455.2281, F.S. requires the DBPR to impose, upon initial licensure and each subsequent renewal, an unlicensed activity fee of \$5 per licensee, to combat unlicensed activity, unless the profession's unlicensed fee account balance is more than twice the total of unlicensed activity enforcement expenditures in the prior two years.

***Division of Certified Public Accounting***

In Fiscal Year 2021-2022, there were 38,541 active licensees in the DBPR's Division of Certified Public Accounting.<sup>13</sup>

***Division of Professions***

In Fiscal Year 2021-2022, in the DBPR's Division of Professions, which regulates all licensees, there were 937,960 active licensees (of which 38,541 were licensed accountants; 66,936 were licensed engineers, and 345,026 were real estate-related licensees), including:<sup>14</sup>

- Accountants (CPAs);
- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Engineers;
- Geologists;
- Home inspectors;
- Harbor pilots (pilot commissioners);
- Landscape architects;
- Mold-related services;
- Real estate appraisers;
- Real estate (brokers/associates)
- Talent agencies; and
- Veterinarians.

---

<sup>13</sup> See Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2021-2022*, at 10, at <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf> (last visited Mar. 21, 2023).

<sup>14</sup> *Id.*

***Division of Real Estate***

In Fiscal Year 2021-2022, there were 345,026 active licensees in the DBPR's Division of Real Estate.<sup>15</sup>

**III. Effect of Proposed Changes:**

The bill requires the DBPR to waive, for licenses for professions subject to ch. 455, F.S., the following fees during Fiscal Year 2023-2024 and Fiscal Year 2024-2025:

- 50 percent of the initial licensing fee for an applicant applying for an initial license for a profession, up to \$200 per year per license.
- 50 percent of a licensee's license renewal fee, up to \$200 per year per license.

The bill provides that waived fees may not include any applicable unlicensed activity fees<sup>16</sup> or background check fees. The requirement to waive the above fees expires July 1, 2025.

The bill is effective July 1, 2023.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

---

<sup>15</sup> *Id.*

<sup>16</sup> Upon initial licensure and each subsequent renewal, the DBPR is required to impose an unlicensed activity fee of \$5 per licensee, to combat unlicensed activity, unless the unlicensed fee account balance is more than twice the total of unlicensed activity enforcement expenditures in the prior two years. *See* s. 455.2281, F.S.



**B. Private Sector Impact:**

During Fiscal Years 2023-2024 and 2024-2025, applicants and licensees for professions regulated by the DBPR will have the benefit of a reduction in application fees and license renewal fee that would otherwise be payable.

**C. Government Sector Impact:**

The bill provides an appropriation for the licensing fees that may be waived, in the sum of \$50 million in nonrecurring funds from the General Revenue Fund to the DBPR to be deposited into the Professional Regulation Trust Fund for Fiscal Year 2023-2024. Any unexpended balance of funds remaining on June 30, 2024 will revert and is appropriated to the DBPR for Fiscal Year 2024-2025 for the same purpose.

To date, no analysis by the DBPR of the impact of the bill on their respective operations, revenue, and expenditures has been provided.

The bill provides an effective date of July 1, 2023.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 455.213 of the Florida Statutes.

**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.

FOR CONSIDERATION By the Committee on Regulated Industries

580-02607-23

20237046pb

A bill to be entitled

An act relating to licensing fee relief; amending s. 455.213, F.S.; requiring the Department of Business and Professional Regulation to waive a portion of the initial license application fee and the renewal fee for certain licenses; providing a maximum waiver; providing for expiration; providing an appropriation; providing for the disposition of any unexpended balance; providing an effective date.

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

Section 1. Subsection (15) is added to section 455.213, Florida Statutes, to read:

455.213 General licensing provisions.—

(15) For the 2023-2024 and 2024-2025 fiscal years, the department shall waive 50 percent of the initial licensing fee for an applicant applying for an initial license for a profession under this chapter, with such waiver limited to a maximum of \$200 per year per license. The department shall waive 50 percent of a licensee's license renewal fee for a profession under this chapter, with such waiver limited to a maximum of \$200 per year per license. Such fee waivers shall not include any applicable unlicensed activity or background check fees. This subsection expires July 1, 2025.

Section 2. For the 2023-2024 fiscal year, the sum of \$50 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Business and Professional Regulation to be deposited into the Professional Regulation

Page 1 of 2

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

580-02607-23

20237046pb

Trust Fund to implement this act. Any unexpended balance of funds from this appropriation remaining on June 30, 2024, shall revert and is appropriated to the Department of Business and Professional Regulation for the 2024-2025 fiscal year for the same purpose.

Section 3. This act shall take effect July 1, 2023.

Page 2 of 2

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Committee on Education, *Vice Chair*  
Commerce and Tourism  
Education Postsecondary  
Education Pre-K -12  
Finance and Tax  
Fiscal Policy  
Regulated Industries  
Rules

**SENATOR SHEVRIN D. "SHEV" JONES**

District 34

April 4, 2023

Hon. Joe Gruters  
Chair, Florida Senate Committee on Regulated Industries  
316 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chair Gruters,

I respectfully request an excused absence from the meeting of the Committee on Regulated Industries scheduled for today Wednesday, April 5, 2023.

Thank you in advance for your consideration of this request. If I may be of assistance to answer any questions, comments, or concerns, please do not hesitate to contact me or my office.

Sincerely,

A handwritten signature in blue ink, appearing to be "Shev" followed by a stylized "Jones".

Shevrin D. "Shev" Jones  
Florida State Senator – Senate District 34

### REPLY TO:

☐ Capitol Office, 218 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 · (850) 487-5034  
☐ District Office, 606 NW 183rd Street, Miami Gardens, FL 33169 · (305) 493-6002

Website: [www.flsenate.gov/Senators/S34](http://www.flsenate.gov/Senators/S34)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** SB 401  
**Case No.:**  
**Caption:** Senate Regulated Industries Committee

**Type:**  
**Judge:**

**Started:** 4/4/2023 2:01:26 PM  
**Ends:** 4/4/2023 2:30:56 PM **Length:** 00:29:31

2:01:31 PM Meeting called to order  
2:01:35 PM Roll Call  
2:01:55 PM Chair Gruters makes introductory comments  
2:02:08 PM Tab 1 - SB 534 Individual Wine Containers by Senator Trumbull  
2:02:20 PM Senator Trumbull presenting  
2:02:40 PM Appearance Cards:  
2:02:46 PM Jason Unger, Seavin Florida Farm Wineries waives in support  
2:02:54 PM Senator Trumbull to close on the bill  
2:02:59 PM Roll call on SB 534  
2:03:18 PM SB 534 is reported favorably  
2:03:35 PM Tab 3 - SB 1262 Requirements for Special Food Service Licenses by Senator Martin  
2:03:48 PM Senator Martin presenting  
2:04:08 PM Amendment 790784  
2:04:35 PM Appearance Cards:  
2:04:36 PM Chair reads appearance cards waiving  
2:05:07 PM Samantha Padgett, Florida Restaurant & Lodging Assoc.  
2:07:13 PM Questions:  
2:07:18 PM Senator Davis  
2:07:22 PM Samantha Padgett  
2:08:02 PM Gary Rutledge, Realtymasters Licensing  
2:09:58 PM Senator Martin closes on 790784  
2:10:35 PM Amendment 790784 is adopted  
2:10:47 PM Amendment 533998  
2:11:41 PM Amendment 533998 is adopted  
2:11:53 PM Senator Martin closes on the bill  
2:12:52 PM Roll call on CS/SB 1262  
2:13:02 PM CS/SB 1262 is reported favorably  
2:13:18 PM Tab 4 - CS/SB 1282 Public Restroom Requirements by Senator Stewart  
2:13:34 PM Senator Stewart presenting  
2:14:17 PM Senator Stewart waives close on the bill  
2:14:24 PM Roll call on CS/SB 1282  
2:14:32 PM CS/SB 1282 is reported favorably  
2:14:42 PM Senator Gruters hands gavel to Senator Bradley  
2:15:15 PM Tab 7 - SB 562 Notices of Commencement by Senator Gruters  
2:15:28 PM Senator Gruters presenting  
2:15:54 PM Senator Gruters waives close on the bill  
2:16:02 PM Roll call on SB 562  
2:16:06 PM SB 562 is reported favorably  
2:16:32 PM Tab 6 SB 1712 Municipal Water and Sewer Utility by Senator Jones  
2:17:27 PM Senator Osgood presenting  
2:17:58 PM Appearance card waiving in support  
2:18:06 PM Senator Osgood waives close  
2:18:10 PM Roll call on SB 1712  
2:18:20 PM SB 1712 is reported favorably  
2:19:03 PM Senator Bradley turns chair over to Senator Hooper  
2:19:21 PM Tab 2 - SB 1114 Community Associations by Senator Rodriguez  
2:19:35 PM Senator Rodriguez presenting  
2:19:45 PM Substitute delete-all 190622  
2:22:00 PM Appearance cards:  
2:22:06 PM Chair Hooper reads cards waiving in support  
2:22:15 PM 190622 is adopted  
2:22:58 PM Senator Rodriguez closes on the bill

**2:23:58 PM** Roll call on CS/SB 1114  
**2:24:03 PM** CS/SB 1114 is reported favorably  
**2:24:24 PM** Tab 5 - SB 1418 Emergency Communications by Senator Bradley  
**2:24:36 PM** Senator Bradley presenting  
**2:25:23 PM** Barcode 342640  
**2:25:33 PM** 342640 is adopted  
**2:25:53 PM** Chair reads appearance cards waiving  
**2:26:52 PM** Senator Bradley closes on the bill  
**2:27:41 PM** Roll call on CS/SB 1418  
**2:27:54 PM** CS/SB 1418 is reported favorably  
**2:28:03 PM** Tab 8 - SPB 7046 Licensing Fee Relief by Regulated Industries  
**2:28:21 PM** Presented by Mary Kraemer committee staff  
**2:28:22 PM** Mary Kraemer to explain the bill  
**2:29:36 PM** Senator Hudson moves SPB 7046 as a committee bill  
**2:29:46 PM** Roll call on SPB 7046  
**2:29:57 PM** SPB 7046 is reported favorably as a committee bill  
**2:30:15 PM** Senator Simon records missed vote  
**2:30:25 PM** Senator Hooper records missed votes  
**2:30:38 PM** Senator Davis moves to adjourn  
**2:30:43 PM** Without objection