

Agenda Order

<b>Tab 6</b>	<b>CS/SB 26</b> by <b>JU, Gruters</b> ; Similar to H 06513 Relief of Kristen and Lia McIntosh by the Department of Agriculture and Consumer Services					
<b>Tab 7</b>	<b>CS/SB 196</b> by <b>RI, Gruters</b> ; Compare to H 00525 Chemicals in Consumer Products					
773420	A	S	RCS	AEG, Gruters	Delete L.83 - 155:	04/10 02:23 PM
<b>Tab 8</b>	<b>SB 320</b> by <b>Gaetz</b> ; Similar to CS/H 00339 Licensure Requirements for Surveyors and Mappers					
938766	A	S	TP	AEG, Gaetz	Delete L.49:	04/10 12:58 PM
<b>Tab 9</b>	<b>SB 880</b> by <b>Garcia</b> ; Identical to H 00081 Designation of the State Birds					
<b>Tab 10</b>	<b>SB 1300</b> by <b>Simon (CO-INTRODUCERS) Brodeur</b> ; Similar to H 01143 Permits for Drilling, Exploration, and Extraction of Oil and Gas Resources					
<b>Tab 11</b>	<b>SB 1388</b> by <b>Trumbull</b> ; Identical to H 01001 Vessels					
243006	D	S	RCS	AEG, Trumbull	Delete everything after	04/10 02:23 PM
<b>Tab 12</b>	<b>CS/SB 490</b> by <b>CJ, Collins</b> ; Similar to CS/CS/H 00383 Concealed Carry Licensing Requirements for Law Enforcement Officers, Correctional Officers, Correctional Probation Officers, and Military Servicemembers					
<b>Tab 13</b>	<b>SB 492</b> by <b>McClain</b> ; Compare to CS/CS/H 01175 Mitigation Banking					
694246	D	S	RCS	AEG, McClain	Delete everything after	04/10 02:23 PM
<b>Tab 14</b>	<b>SB 830</b> by <b>Rodriguez</b> ; Similar to CS/H 01285 Lost or Abandoned Property					
912704	D	S	RCS	AEG, Rodriguez	Delete everything after	04/10 02:23 PM
<b>Tab 15</b>	<b>CS/SB 1326</b> by <b>EN, Rodriguez</b> ; Similar to CS/CS/H 00995 Areas of Critical State Concern					
848396	A	S	RCS	AEG, Rodriguez	Delete L.31 - 188:	04/10 02:23 PM
<b>Tab 16</b>	<b>CS/SB 978</b> by <b>EN, Berman</b> ; Similar to H 00861 Advanced Wastewater Treatment					
<b>Tab 17</b>	<b>CS/SB 988</b> by <b>BI, Truenow</b> ; Similar to CS/CS/H 00379 Securities					
<b>Tab 18</b>	<b>CS/SB 1212</b> by <b>BI, DiCeglie (CO-INTRODUCERS) Sharief, Calatayud, Bernard, Arrington, Pizzo, Osgood, Smith, Collins</b> ; Similar to CS/H 00929 Firefighter Health and Safety					
<b>Tab 19</b>	<b>CS/SB 1612</b> by <b>BI, Grall</b> ; Identical to CS/H 01549 Financial Institutions					

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

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

**MEETING DATE:** Thursday, April 10, 2025  
**TIME:** 11:00 a.m.—1:00 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Brodeur, Chair; Senator Berman, Vice Chair; Senators Arrington, Burton, Collins, DiCeglie, Grall, McClain, Pizzo, Rodriguez, Sharief, and Truenow

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<b>Senate Confirmation Hearing:</b> A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
<b>Governing Board of the St. Johns River Water Management District</b>			
	Bradley, Rob ()	03/01/2028	Recommend Confirm Yeas 11 Nays 0
2	Bournique, Douglas C. (Vero Beach)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
<b>Governing Board of the Northwest Florida Water Management District</b>			
1	Ralston, Kellie Rebello (Tallahassee)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
	Upton, Anna H. (Tallahassee)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
<b>Governing Board of the South Florida Water Management District</b>			
3	Butler, Benjamin L. (Lorida)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
	Martinez, Carlos "Charlie" E. (Miami)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
<b>Governing Board of the Southwest Florida Water Management District</b>			
4	Gamblin, Josh B. (Arcadia)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
	Williamson, Michelle D. (Dover)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
	Mitten, John Richard (Brooksville)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
<b>Governing Board of the Suwannee River Water Management District</b>			
5	Smith, Harry (Lake City)	03/01/2028	Recommend Confirm Yeas 11 Nays 0
	Wheeler, George A., Jr. (Madison)	03/01/2027	Recommend Confirm Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Agriculture, Environment, and General Government  
 Thursday, April 10, 2025, 11:00 a.m.—1:00 p.m.

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Thompson, Larry K. (Bell)	03/01/2028	Recommend Confirm Yeas 11 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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6	<b>CS/SB 26</b> Judiciary / Gruters (Similar H 6513)	Relief of Kristen and Lia McIntosh by the Department of Agriculture and Consumer Services; Providing for the relief of Kristen and Lia McIntosh; providing an appropriation to compensate Kristen and Lia McIntosh for injuries and damages sustained as a result of the negligence of an employee of the Department of Agriculture and Consumer Services; providing a limitation on the payment of compensation and attorney fees, etc.  SM JU 03/19/2025 Fav/CS AEG 04/10/2025 Favorable AP	Favorable Yeas 11 Nays 0
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7	<b>CS/SB 196</b> Regulated Industries / Gruters (Compare H 525, S 1744)	Chemicals in Consumer Products; Revising the definition of the term "drug"; defining the term "vaccine or vaccine material"; prohibiting, beginning on a specified date, the manufacture, sale, offer or distribution for sale, or distribution for use of cosmetics that contain specified added chemical ingredients; deeming a drug misbranded if it is a food containing a vaccine or vaccine material, but its label does not include specified information, etc.  RI 03/19/2025 Fav/CS AEG 04/10/2025 Fav/CS RC	Fav/CS Yeas 11 Nays 0
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8	<b>SB 320</b> Gaetz (Similar CS/H 339)	Licensure Requirements for Surveyors and Mappers; Requiring the Board of Professional Surveyors and Mappers to establish and administer the 1st Step Florida Surveyors and Mappers Credentialing and Licensing Protocol as an alternative pathway to temporary licensure; providing requirements for eligibility to take the surveyor and mapper licensure examination under the protocol; providing for the expiration of licenses granted pursuant to the protocol, etc.  CM 02/18/2025 Favorable AEG 04/10/2025 Temporarily Postponed RC	Temporarily Postponed
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Appropriations Committee on Agriculture, Environment, and General Government  
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	<b>SB 880</b> Garcia (Identical H 81)	Designation of the State Birds; Designating the American flamingo as the official state bird and the Florida scrub-jay as the official state songbird; providing that such designations supersede the designation of the mockingbird as the official Florida state bird, etc.  EN 03/25/2025 Favorable AEG 04/10/2025 Favorable RC	Favorable Yeas 11 Nays 0
10	<b>SB 1300</b> Simon (Similar H 1143)	Permits for Drilling, Exploration, and Extraction of Oil and Gas Resources; Requiring the Department of Environmental Protection to consider certain factors when determining whether the natural resources of certain bodies of water and shore areas are adequately protected from a potential accident or blowout; providing requirements for a balancing test to make such a determination, etc.  EN 03/25/2025 Favorable AEG 04/10/2025 Favorable RC	Favorable Yeas 11 Nays 0
11	<b>SB 1388</b> Trumbull (Identical H 1001, Compare H 735, S 1162)	Vessels; Citing this act as the "Boater Freedom Act"; including Clean Marine Manufacturers within the Clean Marine Program; authorizing certain grants to be awarded for the construction and maintenance of publicly owned parking for boat-hauling vehicles and trailers; prohibiting certain officers from performing a vessel stop or boarding a vessel without probable cause or specified knowledge; requiring the Florida Fish and Wildlife Commission, in coordination with the Department of Highway Safety and Motor Vehicles, to create the "Florida Freedom Boater" safety inspection decal for specified purposes; creating the "Watercraft Energy Source Freedom Act", etc.  EN 03/25/2025 Favorable AEG 04/10/2025 Fav/CS FP	Fav/CS Yeas 11 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	<b>CS/SB 490</b> Criminal Justice / Collins (Similar CS/CS/H 383)	<p>Concealed Carry Licensing Requirements for Law Enforcement Officers, Correctional Officers, Correctional Probation Officers, and Military Servicemembers; Specifying that correctional probation officers have the right to carry concealed firearms, during off-duty hours, at the discretion of their superior officers; authorizing correctional probation officers to perform certain law enforcement functions under limited circumstances; revising the exceptions to the required 3-day waiting period between purchase and delivery of a firearm, etc.</p> <p>CJ 03/04/2025 Fav/CS            AEG 04/10/2025 Favorable            FP</p>	<p>Favorable            Yeas 10 Nays 1</p>
13	<b>SB 492</b> McClain (Compare CS/CS/H 1175)	<p>Mitigation Banking; Revising the schedule to which the Department of Environmental Protection and water management districts are required to adhere for the release of credits awarded by a mitigation bank permit; prohibiting the release of mitigation credits for freshwater wetland creation until certain criteria are met; authorizing certain projects or activities to use credits released from a bank to offset impacts if certain requirements are met, etc.</p> <p>EN 03/11/2025 Favorable            AEG 04/10/2025 Fav/CS            FP</p>	<p>Fav/CS            Yeas 11 Nays 0</p>
14	<b>SB 830</b> Rodriguez (Similar CS/H 1285)	<p>Lost or Abandoned Property; Defining the terms "irregularly constructed vessel" and "migrant vessel"; prohibiting persons, firms, and corporations from leaving any migrant vessel upon the waters of this state; authorizing the Fish and Wildlife Conservation Commission to implement a plan to procure federal disaster funds to remove migrant vessels; requiring law enforcement officers to place a certain notice on migrant vessels under certain circumstances, etc.</p> <p>EN 03/17/2025 Favorable            AEG 04/10/2025 Fav/CS            FP</p>	<p>Fav/CS            Yeas 11 Nays 0</p>

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	<b>CS/SB 1326</b> Environment and Natural Resources / Rodriguez (Similar CS/CS/H 995, Compare CS/CS/S 180, CS/CS/S 1730)	Areas of Critical State Concern; Revising conditions under which certain property may be considered property used for a charitable purpose; exempting a person entering into a construction contract with Habitat for Humanity International, Inc., or any of its affiliates from executing a payment and performance bond under certain circumstances; extending the timeframe for specific Florida Forever appropriations to be used for the purchase of lands in the Florida Keys Area of Critical State Concern; providing a limitation for additional building permit allocations, etc.  EN 03/25/2025 Fav/CS AEG 04/10/2025 Fav/CS RC	Fav/CS Yeas 11 Nays 0
16	<b>CS/SB 978</b> Environment and Natural Resources / Berman (Similar H 861)	Advanced Wastewater Treatment; Requiring the Department of Environmental Protection, in consultation with water management districts and wastewater facilities, to submit to the Governor and the Legislature specified reports on certain sewage disposal facilities in this state by specified dates, etc.  EN 03/17/2025 Fav/CS AEG 04/10/2025 Favorable FP	Favorable Yeas 11 Nays 0
17	<b>CS/SB 988</b> Banking and Insurance / Truenow (Similar CS/CS/H 379)	Securities; Revising the circumstances under which securities transactions are exempt from registration requirements; revising the filing requirements for securities issuers under the Florida Invest Local Exemption law; revising the list of persons who must submit fingerprints for live-scan processing for registration applications; defining the term "restitution order", etc.  BI 03/10/2025 Fav/CS AEG 04/10/2025 Favorable FP	Favorable Yeas 11 Nays 0
18	<b>CS/SB 1212</b> Banking and Insurance / DiCeglie (Similar CS/H 929)	Firefighter Health and Safety; Requiring the Division of State Fire Marshal within the Department of Financial Services to assist in decreasing the frequency and severity of fatalities; authorizing the division to recommend a phased approach in adopting certain rules related to firefighting gear; requiring the division to adopt rules relating to education on chemical hazards and toxic substances in protective gear and mental health best practices, etc.  BI 03/17/2025 Fav/CS AEG 04/10/2025 Favorable FP	Favorable Yeas 11 Nays 0

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19	<b>CS/SB 1612</b> Banking and Insurance / Grall (Identical CS/H 1549)	Financial Institutions; Requiring state financial institutions to pay a semiannual assessment for specified time periods; authorizing the office to issue a specified certificate under certain circumstances; authorizing elected officers, directors, or committee members of a credit union to be reimbursed for certain expenses, etc.  BI 03/17/2025 Fav/CS AEG 04/10/2025 Favorable FP	Favorable Yeas 11 Nays 0

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Other Related Meeting Documents

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10 April 2025

The Florida Senate  
**APPEARANCE RECORD**

Water Management District Governing Board Confirmations

Meeting Date

Approps. Cmte. on Agriculture, Environment & General Gov't

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Kahreem Golden**

Phone **850-345-7108**

Address **1035 S. Semoran Blvd, Suite 2-1021B**

Email **kahreem.golden@tnc.org**

Street

**Winter Park**

**FL**

**32792**

City

State

Zip

*TNC supports these appointments, especially Kellie Ralston, Doug Bournique, and Benjamin Butler.*

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**The Nature Conservancy**

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

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

S-001 (08/10/2021)



10 April 2025

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S-001 (08/10/2021)

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S-001 (08/10/2021)



**THE FLORIDA SENATE**  
**SPECIAL MASTER ON CLAIM BILLS**

**Location**  
409 The Capitol

**Mailing Address**  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5229

DATE	COMM	ACTION
3/14/25	SM	Favorable
3/19/25	JU	Fav/CS
4/9/25	AEG	Favorable
	AP	

March 14, 2025

The Honorable Ben Albritton  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **CS/SB 26** – Committee on Judiciary and Senator Gruters  
**HB 6513** – Representative Busatta  
Relief of Kristen and Lia McIntosh by the Department of Agriculture and  
Consumer Services

**SPECIAL MASTER'S FINAL REPORT**

THIS IS AN UNCONTESTED CLAIM BILL FOR \$2.252 MILLION IN ACCORDANCE WITH A CONSENT JUDGMENT RENDERED BY THE CIRCUIT COURT. KRISTEN AND LIA MCINTOSH SEEK DAMAGES FROM GENERAL REVENUE FUNDS FOR PERSONAL INJURIES CAUSED BY THE NEGLIGENT OPERATION OF A VEHICLE DRIVEN BY AN EMPLOYEE OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

FINDINGS OF FACT:

**Accident and Investigation**

On February 12, 2022, Ronald Thornton was driving his 2010 Ford F-150 on I-95 South in Nassau County.<sup>1</sup> Ronald Thornton's wife Elizabeth Thornton was seated in the front passenger seat, and their daughters, Kristen and Lia McIntosh (Claimants), who were 17 and 13 years old at the time, respectively, were in the rear seats.<sup>2</sup> Lia was sitting on

<sup>1</sup> Claimants' Ex. Deposition of Ronald Thornton at 23-24 (Sept. 15, 2023).

<sup>2</sup> *Id.* at 24.

the left behind Ronald Thornton and Kristen was on the right behind Elizabeth Thornton.<sup>3</sup> Both were wearing seatbelts.<sup>4</sup>

At approximately 8:33 p.m., James Michael McWhorter, a law enforcement officer with the Department of Agriculture and Consumer Services' (DACS) Office of Agricultural Law Enforcement (OALE), was driving his patrol vehicle from an OALE inspection station on the northbound side of I-95 to an inspection station on the southbound side.<sup>5</sup> The OALE officer drove over the paved median and crossed the southbound lanes directly in the path of Ronald Thornton's vehicle.<sup>6</sup> The front of Ronald Thornton's vehicle collided with the passenger side of the officer's vehicle.<sup>7</sup> The officer passed away at the scene.<sup>8</sup> All four occupants of Ronald Thornton's vehicle were transported by ambulance to Shands Hospital (UF Health) in Jacksonville.<sup>9</sup> Kristen and Lia's injuries are discussed in more detail below.

Following an investigation, the Florida Highway Patrol (FHP) determined that neither driver was under the influence of drugs or alcohol at the time of the accident.<sup>10</sup> FHP concluded that the OALE officer violated section 316.1925(1), of the Florida Statutes, (careless driving), and section 316.614(4)(b), of the Florida Statutes, (Florida Safety Belt Law) and was responsible for his own untimely death and the injuries to Kristen and Lia McIntosh.<sup>11</sup>

#### **Physical Injuries: Kristen McIntosh**

The responding ambulance transported Kristen to UF Health in Jacksonville,<sup>12</sup> where she was treated for injuries, including:

- Concussion;
- Cervical ligamentous sprain;
- Small intestine injury;
- Unstable compression and burst fractures in her lumbar spine; and

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<sup>3</sup> Claimants' Ex. 43, Deposition of Ronald Thornton (Sept. 15, 2023).

<sup>4</sup> Claimants' Ex. 1, Florida Highway Patrol (FHP) Traffic Homicide Report, 17 (Sept. 22, 2022).

<sup>5</sup> *Id.* at 4, 13.

<sup>6</sup> *Id.* at 13.

<sup>7</sup> *Id.* at 13, 31.

<sup>8</sup> *Id.* at 33.

<sup>9</sup> *Id.* at 11.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> *Id.* at 33.

<sup>12</sup> See Claimants' Ex. 27, Nassau County Fire Rescue Medical Records for Kristen McIntosh at 1.

- Dislocation of facet joints in her thoracic-lumbar spine.<sup>13</sup>

Kristen underwent emergency lumbar spinal fusion surgery and had hardware inserted into her spine.<sup>14</sup> She remained in the hospital until February 16, 2022.<sup>15</sup> Thereafter she received follow-up care at First Coast Medical Center from September 2022 through November 2022 where she was treated for her ongoing pain and received trigger point injections.<sup>16</sup>

#### **Medical Expenses: Kristen McIntosh**

Kristen has been billed \$376,495 for medical expenses related to the accident,<sup>17</sup> with her insurance providing benefits of \$143,724.<sup>18</sup> Kristen was insured under their family automobile policy through State Farm, which provided uninsured motorist coverage with limits of \$50,000 per person or \$100,000 per accident. State Farm tendered the \$100,000 per accident limit to the family. This was distributed evenly between the four injured family members. Of the total amount sought and agreed to by Kristen and DACS, only \$1,000 has been paid to Kristen.<sup>19</sup> DACS paid the statutory cap of \$300,000 to Ronald and Elizabeth Thornton, who each received \$150,000.<sup>20</sup>

In November 2023, Craig Lichtblau, M.D., conducted a comprehensive rehabilitation evaluation of Kristen McIntosh.<sup>21</sup> Based on this evaluation, he determined that Kristen's injuries, including lumbar myofascial pain syndrome and an acute chance fracture, would result in chronic pain; when she experiences a flare up of that pain, she will require short courses in an outpatient physical medication program, trigger point injections, and medications.<sup>22</sup> He explained she will likely need to see a neurosurgeon once a year for five years, an orthopedic surgeon once a year for five years, and

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<sup>13</sup> Claimants' Ex. 28, UF Health Jacksonville Medical Records for Kristen McIntosh.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Claimants' Ex. 30, First Coast Medical Care medical records for Kristen McIntosh, 9, 18, 37.

<sup>17</sup> Claimants' Exs. 33-38, Kristen's Medical Bills; Claimants' Ex. 39, BlueCross BlueShield of Illinois Lien at 4.

<sup>18</sup> Claimants' Ex. 39, BlueCross BlueShield of Illinois Lien.

<sup>19</sup> Claimants' Attorney's Affidavit, Attachment A.

<sup>20</sup> Claimants' Ex. 48, Mediation Settlement Agreement at 1-2.

<sup>21</sup> Claimants' Ex. 41, Preliminary Comprehensive Rehabilitation Evaluation of Kristen McIntosh (Craig H. Lichtblau, MD) (Nov. 18, 2023).

<sup>22</sup> Claimants' Ex. 45, Deposition Transcript of Craig H. Lichtblau, MD, 17, 18, 20 (Dec. 17, 2024).

a physical therapist at least twice a year.<sup>23</sup> She will also require an MRI scan every five to ten years and will need treatment from a physical medicine and rehabilitation physician or chronic pain specialist.<sup>24</sup> Dr. Lichtblau opined that Kristen will eventually develop adjacent segment disease that will require future surgical intervention and post-operative therapy.<sup>25</sup> Due to her injuries, Dr. Lichtblau determined that Kristen had an eight percent partial impairment of her whole person (one percent impairment for a cervical soft tissue injury and seven percent for posterior fusion, secondary to a chance fracture).<sup>26</sup>

Based on a life expectancy of 61.6 more years, Dr. Lichtblau estimated Kristen’s future medical expense will be between \$278,122 (best-case scenario) and \$492,627 (worst-case scenario).<sup>27</sup> Below is a breakdown of the estimated medical expenses under the worst-case scenario:

<b>Kristen’s Estimated Future Medical Expenses<sup>28</sup></b>	<b>Best-Case Scenario</b>	<b>Worst-Case Scenario</b>
Neurosurgeon	\$1,000	\$3,000
Orthopedic Surgeon	\$1,000	\$2,500
Physiatrist	\$34,466	\$66,498
MRI Scan Lumbar	\$3,080	\$6,160
Physical Therapy Evaluation	\$14,784	\$14,784
Physical Therapy Treatments	\$118,272	\$118,272
Trigger Point Injections	\$13,860	\$138,600
Epidural Steroid Injections	\$18,000	\$27,000
Microdiscectomy and Fusion	\$67,140	\$107,692
Post-op Physical Therapy Eval.	\$120	\$120
Post-op Protocol	\$6,400	\$8,000
<b>TOTAL</b>	<b>\$278,122</b>	<b>\$492,627</b>

<sup>23</sup> *Id.* at 17-18; Claimants’ Ex. 41, Preliminary Comprehensive Rehabilitation Evaluation of Kristen McIntosh (Craig H. Lichtblau, MD).

<sup>24</sup> Claimants’ Ex. 45, Deposition Transcript of Craig H. Lichtblau, MD, 17 (Dec. 17, 2024).

<sup>25</sup> *Id.* at 19.

<sup>26</sup> Claimants’ Ex. 41, Preliminary Comprehensive Rehabilitation Evaluation of Kristen McIntosh (Craig H. Lichtblau, MD) at 15-17. This does not include any impairment for depression (as a component of chronic pain), which the doctor opined exists.

<sup>27</sup> Claimants’ Ex. 41, Preliminary Comprehensive Rehabilitation Evaluation of Kristen McIntosh (Craig H. Lichtblau, MD) at 24-25; Claimants’ Ex. 42, Amended Comprehensive Rehabilitation Evaluation of Kristen McIntosh, 8-11 (Dec. 6, 2024); Claimants’ Ex. 45, Deposition Transcript of Craig H. Lichtblau, MD, at 17-19; Claimants’ Ex. 58, Opening Statement Presentation, 51-52.

<sup>28</sup> Claimants’ Ex. 58, Opening Statement Presentation at 50-51; Claimants’ Ex. 42, Amended Comprehensive Evaluation of Kristen McIntosh (Craig H. Lichtblau, MD) at 8-9.



**Non-Economic Damages: Kristen McIntosh**

During a hearing held before the Senate and House Special Masters, Ronald and Elizabeth Thornton testified about how the accident impacted their daughters' lives. They testified that Kristen and Lia were bedridden for a period of time following the accident and needed assistance with everyday tasks such as bathing, eating, and getting around the house. They also needed help putting on and removing the back braces they were required to wear for four months after the accident. Elizabeth Thornton, who was herself injured from the accident, took six months off work to care for her daughters.

Ronald Thornton testified about the mental impact of the accident as well. He explained that Kristen used to be outgoing and happy before the accident, but her limited ability to do physical activity has left her depressed.

During the hearing, Kristen testified that before the accident she wanted to become a combat nurse in the military after graduating high school. However, she learned from an army recruiter that the hardware in her back and physical limitations would prevent her from being recruited. Kristen testified that she then decided to pursue a nursing career outside the military, but she soon discovered that she would be unable to meet the physical demands of such a position, which would require standing for long periods of time and physically moving patients and medical supplies.

Kristen testified that future injuries or falls could cause further damage to her back or paralyze her. She avoids strenuous activity and lifting heavy objects, and she can no longer enjoy her hobbies for fear of paralysis. Prior to sustaining the injuries in the car accident, Kristen enjoyed driving her dirt bike, riding rollercoasters, and playing volleyball and flag football. She is no longer able to participate in these activities due to her ongoing pain and fear of exacerbating her injuries. She testified that this fear and the knowledge that she may require more surgery in the future has caused her to suffer from anxiety.

Kristen testified that she still lives with constant neck and back pain, rating her pain as 10 out of 10, and numbness in her right hip. She testified that she has not had a pain-free day since the accident. In his report on his evaluation of Kristen,

Dr. Lichtblau opined that Kristen is going to suffer from acute, intermittent exacerbations of chronic pain; he concluded that she will have good days, bad days, and missed days of work.<sup>29</sup>

**Physical Injuries: Lia McIntosh**

Like Kristen, the responding ambulance transported Lia to Shands Hospital in Jacksonville,<sup>30</sup> where she was treated for injuries, including:

- A broken sternum;
- Compressed vertebrae in her lower (lumbar) spine;
- An intestinal tear (i.e., a serosal and partial thickness mesenteric tear);
- A collapsed right lung.<sup>31</sup>

Lia was taken to the operating room for a diagnostic laparoscopy and to repair the tear in her intestine.<sup>32</sup> She was discharged from the hospital on February 16, 2022.<sup>33</sup> Thereafter she received follow-up care for ongoing knee pain and headaches at Baptist Health.<sup>34</sup> An x-ray in May 2022 revealed she had a small effusion (excess fluid) in her right knee, and she later received a cortisone injection.<sup>35</sup> She also received treatment at Jacksonville Orthopedic Institute for her knee pain.<sup>36</sup>

In November 2023, Craig Lichtblau, M.D., conducted a comprehensive rehabilitation evaluation of Lia. Dr. Lichtblau reported that Lia was suffering from intermittent low back and right knee pain and constant abdominal pain where the surgical incision was made.<sup>37</sup> Dr. Lichtblau opined that, like Kristen, Lia would have to live with chronic pain that will require short courses in an outpatient physical medicine program, trigger point injections, and medications for flareups

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<sup>29</sup> Claimants' Ex. 41, Preliminary Comprehensive Rehabilitation Evaluation of Kristen McIntosh (Craig H. Lichtblau, MD) (Nov. 18, 2023).

<sup>30</sup> See Claimants' Ex. 13, Medical Records: Lia McIntosh (Nassau County Fire Rescue) at 1.

<sup>31</sup> Claimants' Ex. 14, Medical Records: Lia McIntosh (UF Health) at 5.

<sup>32</sup> *Id.* at 58-59.

<sup>33</sup> See generally *id.*

<sup>34</sup> Claimants' Ex. 16, Baptist Health Medical Records for Lia McIntosh at 5.

<sup>35</sup> *Id.* at 5, 37.

<sup>36</sup> Claimants' Ex. 17, Jacksonville Orthopedic Institute Medical Records for Lia McIntosh; Claimants' Ex. 18, Jacksonville Orthopedic Institute Rehabilitation.

<sup>37</sup> Claimants' Ex. 40, Comprehensive Rehabilitation Evaluation of Lia McIntosh (Craig H. Lichtblau, MD), 1 (Nov. 18, 2023).

of her pain.<sup>38</sup> He determined that Lia's future treatment would include the need to see a physical therapist twice a year and a chronic pain specialist, whether it is a physiatrist, a neurologist, or an internist, at least one to two times a year.<sup>39</sup> She will also need an MRI of her lumbar spine every five to ten years.<sup>40</sup> Dr. Lichtblau opined that Lia has an eight percent permanent partial impairment of her whole person.<sup>41</sup>

#### **Medical Expenses: Lia McIntosh**

Lia has been billed \$140,659 for medical expenses related to the accident,<sup>42</sup> with her insurance providing benefits of \$70,555.<sup>43</sup>

Lia was insured under Mr. Thornton's automobile policy through State Farm, which provided uninsured motorist coverage with limits of \$50,000 per person or \$100,000 per accident. As noted above, State Farm tendered the \$100,000 per accident limit to the family, which was distributed evenly between the four injured family members. Of the total amount sought and agreed to by Lia McIntosh and DACS, DACS has paid a total of \$1,000 to Lia for this claim (\$2,000 total, including the payment to Kristen).<sup>44</sup> DACS paid the statutory cap of \$300,000 to Ronald and Elizabeth Thornton, who each received \$150,000.<sup>45</sup>

Dr. Lichtblau estimated that Lia's future medical requirements will cost between approximately \$191,427 (best case scenario) and \$283,427 (worst case scenario) based on a life expectancy of 65.5 more years.<sup>46</sup> This does not include the cost of surgery to remove abdominal adhesions that Lia likely suffered from her laparotomy surgery to repair her intestinal injuries.<sup>47</sup> After laparotomy, almost 95 percent of patients

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<sup>38</sup> *Id.* at 21-24; Claimants' Ex. 45, Deposition Transcript of Craig H. Lichtblau, MD, at 28.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Claimants' Ex. 40, Comprehensive Rehabilitation Evaluation of Lia McIntosh (Craig H. Lichtblau, MD) at 13-14; Claimants' Ex. 45, Deposition Transcript of Craig H. Lichtblau, MD, at 28.

<sup>42</sup> Claimants' Exs. 19-25, Lia's Medical Bills; Claimants' Ex. 26, BlueCross BlueShield of Illinois Lien at 4. The lien indicates that Lia was billed \$265,147.22; however, Claimants' attorney advised the correct figure is \$140,659. See Claimants' Ex. 58, Opening Statement Presentation at 28.

<sup>43</sup> Claimants' Attorney's Affidavit, Attachment A.

<sup>44</sup> *Id.*

<sup>45</sup> Claimants' Ex. 48, Mediation Settlement Agreement at 1-2.

<sup>46</sup> Claimants' Ex. 40, Comprehensive Rehabilitation Evaluation of Lia McIntosh (Craig H. Lichtblau, MD) at 21-24; Claimants' Ex. 58, Opening Statement Presentation at 30-31.

<sup>47</sup> *Id.*

develop abdominal adhesions.<sup>48</sup> Adhesions are internal “scars” that form after trauma through complex processes, involving injured tissues and the peritoneum.<sup>49</sup> Dr. Lichtblau opined that Lia was at a much greater risk than the general population to develop such adhesions and bowel obstruction that will require treatment and surgery.<sup>50</sup>

Below is a breakdown of the estimated medical expenses under the worst-case scenario:

<b>Lia’s Estimated Future Medical Expenses<sup>51</sup></b>	<b>Best-Case Scenario</b>	<b>Worst-Case Scenario</b>
Orthopedic Surgeon	\$200	\$500
Physiatrist	\$36,647	\$36,647
MRI Scan Lumbar	\$3,275	\$6,550
Physical Therapy Evaluation	\$15,720	\$15,720
Physical Therapy Treatments	\$125,760	\$125,760
Trigger Point Injections	\$9,825	\$98,250
Surgery for removal of abdominal adhesions	Undetermined	Undetermined
<b>TOTAL</b>	<b>\$191,427</b>	<b>\$283,427</b>

Dr. Lichtblau opined that Lia is too young to determine whether she will experience any physical deficits in her ability to participate in gainful employment in the competitive open labor market.<sup>52</sup>

**Non-Economic Damages: Lia McIntosh**

During a hearing held before the Senate and House Special Masters, Ronald and Elizabeth Thornton testified about how the accident impacted their daughters’ lives. As discussed above, they testified that Kristen and Lia were bedridden for a period of time following the accident and needed assistance with everyday tasks such as bathing, eating, and getting around the house. They also needed help putting on and removing the back braces they were required to wear for four months after the accident.

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<sup>48</sup> Claimants’ Ex. 40, Comprehensive Rehabilitation Evaluation of Lia McIntosh (Craig H. Lichtblau, MD) at 5.

<sup>49</sup> *Id.*

<sup>50</sup> Claimants’ Ex. 45, Deposition Transcript of Craig H. Lichtblau, MD, at 31.

<sup>51</sup> Claimants’ Ex. 40, Comprehensive Rehabilitation Evaluation of Lia McIntosh (Craig H. Lichtblau, MD) at 21-24; Claimants’ Ex. 58, Opening Statement Presentation at 30-31.

<sup>52</sup> Claimants’ Ex. 40, Comprehensive Rehabilitation Evaluation of Lia McIntosh (Craig H. Lichtblau, MD) at 11.

Ronald Thornton testified that Lia now suffers from nightmares and rarely leaves the house. He explained that, for a while, she refused to ride in cars, except to go to doctors' appointments, and even now she is always hyper vigilante for the presence of other vehicles on the road.

Lia testified that, prior to sustaining the injuries in the car accident, she attended school and enjoyed riding her dirt bike and swimming but is no longer able to enjoy these activities and has attended school virtually (rather than in-person) since the accident.

Since the accident, Lia occasionally has difficulty falling and staying asleep, often resulting in feeling tired in the afternoon.<sup>53</sup> Her back pain has caused her to feel depressed about her situation.<sup>54</sup> Lia also testified at a hearing before the Senate and House Special Masters that she still experiences back and stomach pain, rating her pain as six to seven out of ten.<sup>55</sup>

## LITIGATION HISTORY:

### **Litigation and Settlement**

On January 12, 2023, Claimants filed a complaint in the Fourth Judicial Circuit, in and for Nassau County, against the Florida Department of Agriculture and Consumer Services (DACS). The case went to mediation on January 29, 2024, and the parties reached a settlement agreement.<sup>56</sup> The parties agreed, among other things, that DACS would pay Ronald and Elizabeth Thornton \$150,000 each and support a claim bill filed by Kristen McIntosh and Elizabeth Thornton (as parent and natural guardian of Lia McIntosh).<sup>57</sup> On May 7, 2024, the court entered a consent judgment for the following amounts:

- Elizabeth Thornton (as parent and natural guardian of Lia McIntosh): \$1,251,000
- Kristen McIntosh: \$1,001,000.<sup>58</sup>

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<sup>53</sup> *Id.* at 1.

<sup>54</sup> *Id.*

<sup>55</sup> *See generally* Claimants' Ex. 18, Jacksonville Orthopedic Institute Rehabilitation; Claimants' Ex. 17, Jacksonville Orthopedic Institute; Claimants' Ex. 16, Baptist Health; and Lia's Final Hearing Testimony.

<sup>56</sup> Claimants' Ex. 48, Mediation Settlement Agreement at 1.

<sup>57</sup> *Id.* at 1-2.

<sup>58</sup> Claimants' Ex. 49, Consent Final Judgment at 1-2.

On January 8, 2025, a hearing was held before the House and Senate special masters. Kristen and Lia McIntosh submitted 57 exhibits for consideration, including, among other things, the FHP traffic report, Kristen and Lia's medical records, and video deposition testimony of Craig Lichtblau, MD. The exhibits were received without objection by DACS.

Both Kristen and Lia McIntosh, as well as Elizabeth and Ronald Thornton, testified at the hearing regarding the Claimants' injuries, their quality of life before the accident, and their decreased quality of life after the accident. Their testimony is discussed in detail above.

The attorney for DACS did not present any evidence at the hearing but stated DACS supported the relief sought through the claim bill for Kristen and Lia McIntosh.

CONCLUSIONS OF LAW:

A *de novo* hearing was held as the Legislature is not bound by settlements or jury verdicts when considering a claim bill, passage of which is an act of legislative grace.

Section 768.28, of the Florida Statutes, waives sovereign immunity for tort liability up to \$200,000 per person and \$300,000 for all claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

In this matter, Kristen and Lia McIntosh allege that Officer James McWhorter, a DACS employee who drove the vehicle that injured Kristen and Lia, was negligent. DACS is liable for a negligent act committed by an employee acting within the scope of employment. Officer McWhorter was driving from one inspection station to another within the scope of his employment with DACS. Thus, if Officer McWhorter was negligent when driving into the path of Ronald Thornton's vehicle, Officer McWhorter's negligence is imputed to DACS.

After completing its investigation, the Florida Highway Patrol cited the DACS officer for careless driving pursuant to section 316.1925(1), of the Florida Statutes.<sup>59</sup> DACS agreed to a

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<sup>59</sup> Claimants' Ex. 1, FHP Homicide Traffic Report, 33 (Sept. 22, 2022).

judgment entered in favor of Kristen and Lia McIntosh and against DACS in the amount of \$2,252,000.<sup>60</sup>

No evidence suggests that Ronald Thornton or Claimants failed to exercise due care with regard to the accident.

### **Negligence**

There are four elements to a negligence claim: (1) duty—where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach—which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation—where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages—actual harm.<sup>61</sup>

#### *Duty*

Motorists have a duty to use reasonable care on the roadways to avoid accidents and injury to themselves or others.<sup>62</sup>

#### *Breach*

The DACS officer carelessly operated his vehicle, in violation of section 316.1925(1), of the Florida Statutes, and drove directly into the path of Ronald Thornton's vehicle. The officer, and therefore DACS, breached its duty of care toward Kristen and Lia McIntosh.

#### *Causation*

The DACS officer's failure to exercise due care directly caused the collision with Ronald Thornton's vehicle, which did not have time to stop before striking the officer's vehicle. It is foreseeable that driving directly into the path of oncoming traffic would cause injury and subject a survivor to the medical expenses and pain and suffering experienced by Kristen and Lia McIntosh.

#### *Damages*

The standard jury instruction for personal injury guides the determination of damages for non-economic loss and includes "[a]ny bodily injury sustained by [name] and any resulting pain and suffering, disability or physical impairment,

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<sup>60</sup> Claimants' Ex. 49, Consent Final Judgment.

<sup>61</sup> *Williams v. Davis*, 974 So. 2d 1052, 1056–57 (Fla. 2007).

<sup>62</sup> *Id.* at 1063.

disfigurement, mental anguish, inconvenience or loss of capacity for the enjoyment of life experienced in the past, or to be experienced in the future. There is no exact standard for measuring such damage. The amount should be fair and just, in the light of the evidence.”<sup>63</sup>

The evidence presented at the hearing established that as a direct consequence of the accident: (1) Kristen McIntosh suffered damages in the form of current and anticipated medical expenses of \$869,122, and will suffer from chronic pain for the rest of her life; and (2) Lia McIntosh suffered damages in the form of current and anticipated medical expenses of \$424,086 and will suffer from chronic pain for the rest of her life. Claimants have also incurred \$42,637 in outstanding costs related to this litigation.<sup>64</sup>

DACS agreed to the consent judgment of \$2,252,000 (\$1,001,000 for Kristen and \$1,251,000 for Lia) against DACS.<sup>65</sup> This amount is conservative in comparison with other jury verdicts that have considered similar injuries. The amount is reasonable in light of the Claimants' past and present injuries, their persistent pain and fear of the need for future surgeries, and their continuing diminished physical abilities as reported through the testimony at the hearing and the deposition of and evidence prepared by Craig Lichtblau, MD.

ATTORNEY FEES:

Language in the bill states attorney fees may not exceed 25 percent of the amount awarded. Counsel for Claimants indicates attorney fees will be 25 percent of the total funds awarded through the claim bill, and lobbying fees will be 7.5 percent.<sup>66</sup> It appears from the affidavit of costs and fees submitted by counsel for Claimants that the lobbying fees are in addition to the attorney fees.

RECOMMENDATIONS:

Based upon the information provided before, during, and after the special master hearing, the undersigned finds that Kristen and Lia McIntosh have demonstrated negligence on behalf of the Department of Agriculture and Consumer Services, and that the amount sought is reasonable. Based upon the

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<sup>63</sup> Fla. Std. Jury Instr. (Civ.) 501.3d, *Injury, pain, disability, disfigurement, loss of capacity for enjoyment of life.*

<sup>64</sup> Claimants' Attorney's Affidavit, Attachments A and C.

<sup>65</sup> Claimants' Ex. 49, Consent Final Judgment at 1.

<sup>66</sup> Claimants' Attorney's Affidavit as to Costs and Fees.



foregoing, the undersigned recommends that SB 26 be reported FAVORABLY.

Respectfully submitted,

Janelle Barriero  
Senate Special Master

cc: Secretary of the Senate

**CS by Judiciary**

The committee substitute added a provision to the bill which provides for the funds awarded to Lia McIntosh, a minor, to be deposited into a trust for her benefit.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 21, 2025

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I respectfully request that **Senate Bill # 26**, relating to Relief of Kristen and Lia McIntosh by the Department of Agriculture and Consumer Services, be placed on the:

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

A handwritten signature in black ink that reads "Joe Gruters".

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Senator Joe Gruters  
Florida Senate, District 22

**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/CS/SB 196

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government;  
Regulated Industries Committee and Senator Gruters

SUBJECT: Chemicals in Consumer Products

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baird</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Wiseheart</u>	<u>Betta</u>	<u>AEG</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 196 sets forth labeling requirements for specific food products containing “vaccine or vaccine material” and broadens the definition of “drug” in ch. 499, F.S., to include those food items.

The bill further establishes that any food product containing vaccine or vaccine material without required labeling is a misbranded drug.

CS/CS/SB 196 creates a new section for labeling requirements of certain ingredients in cosmetics. The bill defines certain terms and chemicals. The bill also requires specific chemicals or chemical classes that are intentionally added into cosmetics manufactured, sold, offered, or distributed for sale in Florida, to be noticed on such cosmetics’ single-use packaging. The bill allows for in-state retailers in possession of cosmetics containing these chemicals to exhaust existing stock, through sales to the public until July 1, 2027. A violation of the newly created section would be subject to disciplinary action under s. 499.066, F.S. Additionally, the bill exempts cosmetic products regulated as drugs by the United States Food and Drug Administration (FDA). The bill requires the Department of Business and Professional Regulation (DBPR) to adopt rules for implementation.

The bill defines what an “mRNA vaccine” is and it also prohibits the use of a fruit or vegetable as a delivery mechanism for an mRNA vaccine.

Finally, the bill would deem those food products containing vaccine or vaccine material without required labeling as misbranded foods under ch. 500, F.S.

The bill has an indeterminate negative fiscal impact on state expenditures. See Section V. Fiscal Impact Statement below.

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

## II. Present Situation:

### State and Federal Regulation of Drugs, Devices, and Cosmetics

The regulation of drugs and cosmetics is addressed in ch. 499, F.S., which regulates drugs, devices, and cosmetics by the DBPR.<sup>1</sup> The Florida Drug and Cosmetic Act (the act)<sup>2</sup> is intended to safeguard public health and promote public welfare by protecting against injuries and merchandising deceit involving drugs, devices, and cosmetics or the use of such products. The Division of Drugs, Devices, and Cosmetics (the division) under the DBPR handles Florida regulations. Within the division, s. 499.01211, F.S., created the Drug Wholesale Distributor Advisory Council that provides input to the division and the DBPR regarding all proposed rules regarding the distribution of drugs.

Administration of the act must conform to the Federal Food, Drug, and Cosmetic Act<sup>3</sup> and the applicable portions of the Federal Trade Commission Act<sup>4</sup> which prohibit the false advertising of drugs, devices, and cosmetics. The Florida Drug and Cosmetic Act conforms to the FDA's drug laws and regulations and authorizes the DBPR to issue permits to Florida drug manufacturers and wholesale distributors and register drugs manufactured, packaged, repackaged, labeled, or relabeled in Florida.<sup>5</sup> The FDA preempts the state of Florida from regulating certain areas regarding drugs and cosmetics, including generally, the pre-market approval of drugs and the post-market surveillance of cosmetics, in both instances monitoring for safety issues for the American people.

The FDA process for new or innovative drugs is rigorous and requires an extensive series of clinical trials, first on animals and then on humans, before the new drug application can be formally filed with the FDA.<sup>6</sup> The company then sends the FDA the evidence from these trials to prove the drug is safe and effective for its intended use. The FDA's physicians, statisticians, chemists, pharmacologists, and other scientists review the company's data and proposed labeling. The FDA will only approve a new drug application if it determines that the drug is safe and

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<sup>1</sup> The Drug, Device, and Cosmetic program was transferred to the Department of Business and Professional Regulation from the Department of Health effective November 1, 2012. See ch. 2012-184, Law of Fla., s. 122, at <http://laws.flrules.org/2012/184> (last visited March 18, 2025).

<sup>2</sup> See ss. 499.001-499.081, F.S.

<sup>3</sup> Section 499.003(20), F.S., defines the federal act referencing 21 U.S.C. ss. 301 *et seq.* and 52 Stat. 1040 *et seq.*

<sup>4</sup> See 15 U.S.C. ss. 41-58, as amended.

<sup>5</sup> Section 499.01, F.S.

<sup>6</sup> U.S. Food & Drug Administration, New Drug Application (NDA), <https://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/NewDrugApplicationNDA/default.htm> (last visited March 19, 2025).

effective for its proposed use and that the benefits of the drug appear to outweigh the known risks.<sup>7</sup>

The DBPR has broad authority to inspect and discipline permittees for violations of state or federal laws and regulations, which can include seizure and condemnation of adulterated or misbranded drugs or suspension or revocation of a permit.<sup>8</sup>

Florida currently does not have a routine process in place for the testing of cosmetics products or a facility for testing cosmetic products.

## **Cosmetics**

Florida currently has a limited scope of state-level enforcement regarding cosmetics. The predominant regulation is done by the FDA and whatever is not preempted Florida can regulate. The FDA prohibits misbranded and adulterated products, however most of this regulation is done on the post-production level, leaving a regulatory landscape that is seeing the emergence of state-level regulation initiatives regarding cosmetics. The burden of ensuring product safety largely falls on cosmetic manufacturers and their adherence to the guidelines set by the FDA.

States like California, Colorado, Maryland, Minnesota, Oregon, and Washington have recently enacted legislation regarding the regulation of toxic chemicals in cosmetics. For example, the state of Washington created a program that prohibits the use of over 20 toxic chemicals in cosmetics, including lead (at 1 part per million) and formaldehyde, citing research that shows these chemicals can cause cancer in humans.<sup>9</sup>

## **Drugs and Devices**

### ***General Prohibitions***

The act prohibits any person from:<sup>10</sup>

- Offering for sale any drug, device, or cosmetic, that is adulterated or misbranded.
- Disseminating any false or misleading advertisement of a drug, device, or cosmetic.
- Refusing from letting the DBPR to enter or inspect an establishment in which drugs, devices, or cosmetics are manufactured, processed, repackaged, sold, brokered, or held.
- Committing any act that causes a drug, device, or cosmetic to be a counterfeit drug, device, or cosmetic; or selling, dispensing, or holding for sale a counterfeit drug, device, or cosmetic.
- Committing an alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a drug, device, or cosmetic, or the doing of any other act with respect to a drug, device, or cosmetic, if the act is done while the drug, device, or cosmetic is held for sale and the act results in the drug, device, or cosmetic being misbranded.

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<sup>7</sup> *Id.*

<sup>8</sup> Sections 499.051, 499.062, 499.065, 499.066, 499.0661, and 499.067, F.S.

<sup>9</sup> Daniel Fortin, *Washington State Proposes Ban on Cancer-Linked Chemicals in Cosmetics*, NBC Right Now Tri-Cities Yakima, available at [https://www.nbcrighnow.com/regional/washington-state-proposes-ban-on-cancer-linked-chemicals-in-cosmetics/article\\_9938e436-ec55-5963-bdc1-bb6bf9593155.html](https://www.nbcrighnow.com/regional/washington-state-proposes-ban-on-cancer-linked-chemicals-in-cosmetics/article_9938e436-ec55-5963-bdc1-bb6bf9593155.html) (last visited March 19, 2025).

<sup>10</sup> *See* Section 499.005, F.S.

- Forging, counterfeiting, simulating, falsely representing any drug, device, or cosmetic, or without the authority of the manufacturer, using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under this part.
- Using, on the labeling of any drug or in any advertisement relating to such drug, any representation or suggestion that an application of the drug is effective when it is not or that the drug complies with this part when it does not.
- Possessing any drug in violation of part I, ch. 499, F.S.
- Failing to maintain records as required by law and rules adopted under ch. 499, F.S.
- Providing the DBPR with false or fraudulent records, or making false or fraudulent statements, regarding any matter within the provisions of the act.
- Failing to obtain a permit or registration, or operating without a valid permit when a permit or registration is required by the act for that activity.
- Obtaining or attempting to obtain a prescription drug or device by fraud, deceit, misrepresentation or subterfuge, or engaging in misrepresentation or fraud in the distribution of a drug or device.

Some of these prohibitions will raise to the level of criminal acts under s. 499.0051, F.S.

### ***Misbranding of Drugs***

The act specifies that a drug or device is deemed misbranded if:<sup>11</sup>

- Its labeling is in any way false or misleading.
- In package form, it does not bear a label containing certain requirements prescribed by law.
- Any word, statement, or other information required by the act, that appears on the label or labeling is not prominently placed with such conspicuousness as to render the word, statement, or other information likely to be read and understood under customary conditions of purchase and use.
- It is a drug and is not designated solely by a name recognized in an official compendium and its label does not bear certain requirements prescribed by the act.
- It purports to be a drug the name of which is recognized in the official compendium and is not packaged and labeled as prescribed therein. However, the method of packaging may be modified with the consent of the DBPR.
- It is dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling of the drug.
- It purports to be, or is represented, as a drug composed wholly or partly of insulin and it is not from a batch with respect to which a certificate has been issued pursuant to s. 506 of the federal act, which certificate is in effect with respect to the drug.
- It purports to be, or is represented, as a drug composed wholly or partly of any kind of antibiotic requiring certification under the federal act and it is not from a batch with respect to which a certificate has been issued pursuant to s. 507 of the federal act, which certificate is in effect with respect to the drug. However, this subsection does not apply to any drug or class of drugs exempted by regulations adopted under s. 507(c) or (d) of the federal act.

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<sup>11</sup> See Section 499.007, F.S.

## Misbranding or Misrepresenting Food

In Florida, a food is deemed to be misbranded:<sup>12</sup>

- If its labeling is false or misleading in any particular manner;
- If it is offered for sale under the name of another food;
- If it is an imitation of another food, with exception;
- If its container is so made, formed, or filled as to be misleading;
- If in package form, unless it bears a label containing certain information;<sup>13</sup>
- If any word, statement, or other information required by or under authority of ch. 500, F.S., does not meet certain requirements;<sup>14</sup>
- If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by statute or by rule;
- If it purports to be or is represented as:
  - A food for which a standard of quality has been prescribed by rules as provided by s. 500.09, F.S., and its quality falls below such standard unless its label bears a statement that it falls below such standard; or
  - A food for which a standard or standards or fill of container have been provided by rule as provided by s. 500.09, F.S., and it falls below the standard or fill container unless its label bears a statement that it falls below such standard.
- Unless the label bears the common or usual name of the food and specific requirements if it is fabricated from two or more ingredients.<sup>15</sup>
- If it purports to be or is represented for special dietary uses, unless its label contains certain information.<sup>16</sup>
- If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact.
- If it is a fresh fruit or vegetable, package of honey, or bee pollen not labeled in accordance with the provisions of s. 504.012, F.S., or not otherwise labeled in such a manner as to indicate to an ultimate purchaser the country of origin.
- If it is offered for sale and its label or labeling does not comply with federal requirements pertaining to nutrition or allergen information.
- If it is offered for sale and its label or labeling does not comply with federal labeling requirements pertaining to nutritional content claims and health claims.
- If it is bottled water and does not meet certain labeling requirements.<sup>17</sup>
- If it is an animal product that fails to have directly thereon or on its container the official USDA inspection legend.

An operator may not knowingly and willfully misrepresent the identity of any food or food product to any of the patrons of such establishment. The identity of a food product is misrepresented if:

- The description of the food or food product is false or misleading;

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<sup>12</sup> Section 500.11, F.S.

<sup>13</sup> Section 500.11(1)(e), F.S.

<sup>14</sup> Section 500.11(1)(f), F.S.

<sup>15</sup> Section 500.11(1)(i), F.S.

<sup>16</sup> Section 500.11(1)(j), F.S.

<sup>17</sup> Section 500.11(1)(o), F.S.

- The food or food product is served, sold, or distributed under the name of another food or food product; or
- The food or food product purports to be or is represented as a food or food product that does not conform to a definition of identity and standard of quality if such standard has been established by custom and usage.<sup>18</sup>

## Vaccines

### *General Regulation*

The Advisory Committee on Immunization Practices (ACIP) develops recommendations on the use of vaccines in the United States.<sup>19</sup> The ACIP is comprised of medical and public health experts, and works with professional organizations, such as the American Academy of Pediatrics, the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, and the American College of Physicians to develop annual childhood and adult immunization schedules.<sup>20</sup>

The Centers for Disease Control and Prevention (CDC) reviews the ACIP's recommendations; once approved by the CDC Director and the U.S. Department of Health and Human Services, they are published as the CDC's official recommendations for immunizations of the U.S. population.<sup>21</sup> New vaccines are considered for addition to the schedule after licensure by the United States Food and Drug Administration (FDA).<sup>22</sup>

The FDA oversees the safety, effectiveness, and quality of vaccines used in the United States. Once a vaccine is developed, the pre-clinical phase begins, which consists of laboratory research and testing on animals. If the pre-clinical phase shows the vaccine is likely to be safe and work well in humans, it is tested on humans through clinical trials. While clinical trials are underway, the FDA assesses the manufacturing process to ensure that the vaccine can be produced reliably and consistently. Once a manufacturing process is developed and pre-clinical and clinical trials are successfully completed, developers submit a Biologics License Application to the FDA, which includes details on the manufacturing process and data from pre-clinical and clinical trials. The FDA evaluates the application and decides whether to license the vaccine for use in the United States. The FDA continues to monitor and regulate vaccines and manufacturers after licensing.<sup>23</sup>

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<sup>18</sup> Section 509.292(1), F.S.

<sup>19</sup> Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *General Committee-Related Information*, available at <https://www.cdc.gov/vaccines/acip/committee/index.html> (last visited March 18, 2025). Established under Title 42 U.S.C. § 217a, ACIP members are appointed by the Secretary of the U.S. Department of Health and Human Services and consist of a mix of medical and public health experts from private industry and the public sector. There are 15 voting members (14 are industry experts and one consumer member), 6 non-voting, ex-officio members consisting of specific federal government employees, and 30 non-voting representatives from professional health care organizations.

<sup>20</sup> Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *ACIP Recommendations*, available at <https://www.cdc.gov/vaccines/acip/recommendations.html> (last visited March 18, 2025).

<sup>21</sup> *Id.*

<sup>22</sup> College of Physicians of Philadelphia, *The History of Vaccines: The Development of the Immunization Schedule*, available at <http://www.historyofvaccines.org/content/articles/development-immunization-schedule> (last visited March 18, 2025).

<sup>23</sup> U.S. Food and Drug Administration, *Vaccine Development – 101*, <https://www.fda.gov/vaccines-blood-biologics/development-approval-process-cber/vaccine-development-101> (last visited March 15, 2025).



All vaccines must be licensed (approved) by the FDA in order to be marketed in the United States.<sup>24</sup> However, during public health emergencies, the FDA may authorize vaccines for emergency use, which speeds up the process of bringing a vaccine to market.<sup>25</sup>

### **Plant-Based mRNA Vaccines**

In 2021, scientists at UC Riverside were awarded a \$500,000 grant from the National Science Foundation to study plant-based messenger ribonucleic acid (mRNA) vaccines. The research projected was charged with covering three concepts:<sup>26</sup>

- Showing that DNA containing the mRNA vaccine can be successfully delivered into the part of plant cells where it will replicate;
- Demonstrating that plants can produce enough mRNA to rival a traditional vaccine shot; and
- If findings prove possible, determining the right dosage.

Prior to the \$500,000 grant, Juan Pablo Giraldo, an associate professor at UC Riverside, was granted over \$1,000,000 to develop a project that is using nanomaterials to deliver nitrogen into chloroplasts through their leaves and control its release.<sup>27</sup> The \$500,000 grant provided by the National Science Foundation, was awarded to further Giraldo's original research for repurposing naturally occurring nanoparticles for gene delivery to plants.<sup>28</sup> However, since this study began in 2021, there are still many unsolved difficulties in the research, including optimizing plant growth for consistent antigen yield, preventing dosage variability, and more importantly actually being able to reproduce a safe human vaccine in a plant.

If the research proves successful, potential advantages of plant-based mRNA vaccines would be cheaper costs associated with producing and storage of vaccines. A current challenge that was well-reported during the COVID-19 Pandemic was the expiration of the mRNA vaccines that needed to be stored at cold temperatures.<sup>29</sup> (Plant-based mRNA vaccines could be stored at room temperature).

As of the beginning of 2025, there are no approved plant-based mRNA vaccines.

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<sup>24</sup> U.S. Food and Drug Administration, *Ensuring the Safety of Vaccines in the United States*, <https://www.fda.gov/files/vaccines,%20blood%20&%20biologics/published/Ensuring-the-Safety-of-Vaccines-in-the-United-States.pdf> (last visited March 18, 2025).

<sup>25</sup> Food and Drug Administration, *Emergency Use Authorization*, <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization> (last visited March 15, 2025). Medical countermeasures are FDA-regulated products (biologics, drugs, and devices) that may be used in the event of a public health emergency.

<sup>26</sup> UC Riverside, *Grow and Eat your own Vaccines?*, Jules Bernsein, September 16, 2021, available at <https://www.universityofcalifornia.edu/news/grow-and-eat-your-own-vaccines> (last visited March 18, 2025).

<sup>27</sup> *Id.*

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

<sup>29</sup> See Mohammad Uddin, *Challenges of Storage and Stability of mRNA-Based COVID-19 Vaccines*, Vaccines (Basel), September 2021, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC8473088/pdf/vaccines-09-01033.pdf> (last visited March 18, 2025).

### III. Effect of Proposed Changes:

**Section 1** amends s. 499.003, F.S., to expand the definition of “drug” to also mean a “food as defined in s. 500.03, [F.S.] which contains a vaccine or vaccine material.” This would allow foods that contain a vaccine or vaccine material to be defined as a drug; those foods would have the same regulations as drugs.

Further, the bill defines a “vaccine or vaccine material” to mean: “a substance authorized or approved by the United States Food and Drug Administration which is intended for use **in humans** to stimulate the production of antibodies and provide immunity against disease and which is prepared from the causative agent of a disease, its products, or a synthetic substitute and is treated to act as an antigen without inducing the disease.”

**Section 2** amends s. 499.007, F.S., to provide what qualifies as a misbranded drug. The bill provides that a drug is misbranded if “it is a food as defined in s. 500.03,[F.S.] and contains a vaccine or vaccine material, but its label does not bear, in type of uniform size and prominence, the words “contains vaccine or vaccine material” and does not specify that the food is classified as a drug under the Florida Drug and Cosmetic Act.”

**Section 3** of the bill creates a new section of law that requires notice of certain ingredients on cosmetics single-use packaging. The bill:

- Defines certain terms and chemicals.
- Requires specific chemicals or chemical classes that are intentionally added into cosmetics manufactured, sold, offered, or distributed for sale or use in Florida, to be noticed on such cosmetics’ single-use packaging. Allows an in-state retailer in possession of cosmetics containing these chemicals that do not comply as of July 1, 2026 to exhaust its existing stock through sales to the public until July 1, 2027.
- Allows that a violation of the newly created section would be subject to disciplinary action under s. 499.066, F.S.
- Exempts cosmetic products regulated as drugs by the FDA.
- Requires the DBPR to adopt necessary rules for implementation.

**Section 4** of the bill defines “mRNA vaccine” to mean “a vaccine that uses laboratory-produced messenger ribonucleic acid to trigger the human body’s immune system to generate an immune response.”

**Section 5** prohibits “the use of fruit or vegetable as a delivery mechanism for an mRNA vaccine.”

**Section 6** of the bill amends what qualifies as misbranded food. The bill provides that food is deemed to be misbranded if “it contains a vaccine or vaccine material as defined in s. 499.003, F.S.] unless its label bears, in type of uniform size and prominence, the words “contains vaccine or vaccine material” and specifies that the food is classified as a drug under the Florida Drug and Cosmetic Act”

**Sections 7 and 8** conform cross-references to amendments made by the bill.

**Section 9** of the bill provides an effective date of July 1, 2025.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Potential impact due to updating packaging and labeling of cosmetics containing certain ingredients

C. Government Sector Impact:

The bill has an indeterminate negative fiscal impact on state expenditures for both the DBPR and potentially the Department of Agriculture and Consumer Services. If targeted laboratory testing of food products for specific vaccines or vaccine materials, or cosmetic products for restricted chemicals is required, additional expenditures would be necessary to establish the testing methods, maintain adequate staffing and account for any additional product samples.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 499.003, 499.007, 500.03, 500.04, and 500.11.

The bill creates section 499.0095 of Florida Statute.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations Committee on Agriculture, Environment, and General Government on April 10, 2025:**

The committee substitute does the following:

- Defines the terms “Incidental ingredient” and “ingredient”.
- Replaces the prohibition of certain chemicals in cosmetics manufactured, sold, offered or distributed for sale, or distributed for use in the state with a notice requirement for certain ingredients on such cosmetics’ single-use packaging.
- Removes the requirement that the Department of Business and Professional Regulation (department) identify, assess, and publicize the hazards of chemical or chemical classes that could provide the same or similar function as those to be prohibited.
- Removes the requirement that the department identify chemicals used in cosmetics which release formaldehyde which would be subject to restriction.
- Exempts cosmetic products regulated as drugs by the U.S. Food and Drug Administration from the notice requirements.

**CS by Regulated Industries on March 19, 2025:**

The committee substitute does the following:

- Defines “mRNA vaccine” to mean “a vaccine that uses laboratory-produced messenger ribonucleic acid to trigger the human body’s immune system to generate an immune response.”
- Prohibits “the use of fruit or vegetable as a delivery mechanism for an mRNA vaccine.”
- Creates a new section to prohibit certain toxic chemicals in cosmetics.
- Defines certain chemicals and defines specific chemicals from being intentionally added into cosmetics manufactured, sold, offered or distributed for sale or use in Florida, including any lead or lead compounds, at 1 part per million or above, whether intentionally added or naturally occurring.

- Allows an in-state retailer in possession of cosmetics containing these chemicals to exhaust its existing stock through sales to the public until July 1, 2027.
- Requires the DBPR, in consultation with the Department of Health, by January 1, 2026, to identify additional chemicals that could be a hazard to the public and make the information publicly available on its website.
- Prohibits the delineated chemicals in cosmetics, regardless of whether the product also contains ingredients regulated by the FDA but it does not apply to the specific ingredients in drugs regulated by the FDA. A violation of the newly created section would be subject to disciplinary action under s. 499.066, F.S.
- Requires the DBPR to adopt necessary rules regarding the use of formaldehyde, including identifying a list of chemicals used in cosmetics (no more than 10) which release formaldehyde and which are subject to restrictions that will apply on or after July 1, 2026 and providing that the restrictions on any remaining listed chemicals may take effect on or after July 1, 2027.
- In adopting the rules, the DBPR is required to consider the input received from stakeholders.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2025	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 83 - 155

and insert:

Section 3. Section 499.0095, Florida Statutes, is created to read:

499.0095 Presence of certain ingredients in cosmetics; notice required.-

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

(a) "Incidental ingredient" means a substance that has no



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11 technical or functional effect in the cosmetics but is present  
12 by reason of having been incorporated into the cosmetics as an  
13 ingredient of another cosmetic ingredient.

14 (b) "Ingredient" means:

15 1. Any chemical or mixture of chemicals intentionally used  
16 in the manufacturing of cosmetics. The term does not include any  
17 incidental ingredient that is present in cosmetics at  
18 insignificant levels or that has no technical or functional  
19 effect; or

20 2. A processing aid, including any of the following:

21 a. A substance that is used in the processing of cosmetics  
22 but is removed from the cosmetics in accordance with good  
23 manufacturing practices before the cosmetics are packaged in  
24 their finished form.

25 b. A substance that is used in the processing of cosmetics  
26 for its technical or functional effect to produce the cosmetics  
27 and is then converted to a substance the same as constituents of  
28 a declared ingredient, in accordance with good manufacturing  
29 practices, and does not significantly increase the concentration  
30 of such constituents before the cosmetics are packaged in their  
31 finished form.

32 c. A substance that is used in the processing of cosmetics  
33 for its technical or functional effect to produce the cosmetics  
34 in accordance with good manufacturing practices, that is present  
35 in the cosmetics' finished form at insignificant concentrations  
36 and that does not have any technical or functional effect in  
37 such cosmetics.

38 (c) "Ortho-phthalates" means esters of ortho-phthalic acid.

39 (d) "Perfluoroalkyl and polyfluoroalkyl substances" or



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40 "PFAS" means a class of fluorinated organic chemicals containing  
41 at least one fully fluorinated carbon atom.

42 (2) Except as provided in subsection (4), beginning July 1,  
43 2026, cosmetics manufactured, sold, offered or distributed for  
44 sale, or distributed for use in this state must provide notice  
45 on such cosmetics' single-use packaging of the following  
46 intentionally added chemicals or chemical classes:

47 (a) Ortho-phthalates.

48 (b) PFAS.

49 (c) Formaldehyde as identified in CAS 50-00-0.

50 (d) Methylene glycol as identified in CAS 463-57-0.

51 (e) Mercury as identified in CAS 7439-97-6.

52 (f) Triclosan as identified in CAS 3380-34-5.

53 (g) M-phenylenediamine or its salt derivatives as  
54 identified in CAS 108-45-2.

55 (h) O-phenylenediamine or its salt derivatives as  
56 identified in CAS 95-54-5.

57 (3) Except as provided in subsection (4), beginning July 1,  
58 2026, cosmetics manufactured, sold, offered or distributed for  
59 sale, or distributed for use in this state must provide notice  
60 on such cosmetics' single-use packaging of any lead or lead  
61 compounds as identified by CAS 7439-92-1, whether intentionally  
62 added or naturally occurring, at 10 parts per million or more,  
63 or as otherwise determined by department rule.

64 (4) A retailer in possession of cosmetics that do not  
65 comply as of July 1, 2026, may exhaust its existing stock  
66 through sales to the public until July 1, 2027.

67 (5) A violation of this section is subject to the penalties  
68 and remedies provided in s. 499.066.





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69           (6) This section does not apply to cosmetic products  
70 regulated as drugs by the United States Food and Drug  
71 Administration.

72           (7) The department shall adopt rules necessary to implement  
73 this section.

74  
75 ===== T I T L E   A M E N D M E N T =====

76 And the title is amended as follows:

77           Delete lines 8 - 21

78 and insert:

79           specified information; creating s. 499.0095, F.S.;

80           defining terms; requiring that, beginning on a

81           specified date, cosmetics manufactured, sold, offered

82           or distributed for sale, or distributed for use in

83           this state provide notice of specified added

84           ingredients on the single-use packaging of such

85           cosmetics; providing an exception; providing

86           construction; providing penalties and remedies;

87           providing applicability; requiring the Department of

88           Business and Professional Regulation to adopt rules;

89           amending s. 500.03, F.S.; defining the

By the Committee on Regulated Industries; and Senator Gruters

580-02614-25

2025196c1

1 A bill to be entitled  
 2 An act relating to chemicals in consumer products;  
 3 amending s. 499.003, F.S.; revising the definition of  
 4 the term "drug"; defining the term "vaccine or vaccine  
 5 material"; amending s. 499.007, F.S.; deeming a drug  
 6 misbranded if it is a food containing a vaccine or  
 7 vaccine material, but its label does not include  
 8 specified information; creating s. 499.0095, F.S.;  
 9 defining terms; prohibiting, beginning on a specified  
 10 date, the manufacture, sale, offer or distribution for  
 11 sale, or distribution for use of cosmetics that  
 12 contain specified added chemical ingredients;  
 13 providing an exception; requiring the Department of  
 14 Business and Professional Regulation (DBPR), in  
 15 consultation with the Department of Health, to make  
 16 certain determinations and make the information  
 17 publicly available on its website by a specified date;  
 18 providing construction; providing for disciplinary  
 19 action; providing applicability; requiring DBPR to  
 20 adopt rules; specifying requirements for the adoption  
 21 of such rules; amending s. 500.03, F.S.; defining the  
 22 term "messenger ribonucleic acid vaccine" or "mRNA  
 23 vaccine"; amending s. 500.04, F.S.; prohibiting the  
 24 use of fruits and vegetables to deliver an mRNA  
 25 vaccine; amending s. 500.11, F.S.; deeming a food  
 26 misbranded if it contains a vaccine or vaccine  
 27 material, but its label does not include specified  
 28 information; amending ss. 499.01 and 499.05, F.S.;  
 29 conforming cross-references; providing an effective

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

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30 date.  
 31  
 32 Be It Enacted by the Legislature of the State of Florida:  
 33  
 34 Section 1. Present subsections (47), (48), and (49) of  
 35 section 499.003, Florida Statutes, are redesignated as  
 36 subsections (48), (49), and (50), respectively, a new subsection  
 37 (47) is added to that section, and subsections (17) and (40) of  
 38 that section are amended, to read:  
 39 499.003 Definitions of terms used in this part.—As used in  
 40 this part, the term:  
 41 (17) "Drug" means an article that is:  
 42 (a) Recognized in the current edition of the United States  
 43 Pharmacopoeia and National Formulary, official Homeopathic  
 44 Pharmacopoeia of the United States, or any supplement to any of  
 45 those publications;  
 46 (b) Intended for use in the diagnosis, cure, mitigation,  
 47 treatment, therapy, or prevention of disease in humans or other  
 48 animals;  
 49 (c) Intended to affect the structure or any function of the  
 50 body of humans or other animals; ~~or~~  
 51 (d) Intended for use as a component of any article  
 52 specified in paragraph (a), paragraph (b), or paragraph (c), and  
 53 includes active pharmaceutical ingredients, but does not include  
 54 devices or their nondrug components, parts, or accessories; or  
 55 (e) Food as defined in s. 500.03 which contains a vaccine  
 56 or vaccine material.  
 57 (40) "Prescription drug" means a prescription, medicinal,  
 58 or legend drug, including, but not limited to, finished dosage

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

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59 forms or active pharmaceutical ingredients subject to, defined  
60 by, or described by s. 503(b) of the federal act or s. 465.003,  
61 s. 499.007(13), subsection (31), or subsection (48) (47), except  
62 that an active pharmaceutical ingredient is a prescription drug  
63 only if substantially all finished dosage forms in which it may  
64 be lawfully dispensed or administered in this state are also  
65 prescription drugs.

66 (47) "Vaccine or vaccine material" means a substance  
67 authorized or approved by the United States Food and Drug  
68 Administration which is intended for use in humans to stimulate  
69 the production of antibodies and provide immunity against  
70 disease and which is prepared from the causative agent of a  
71 disease, its products, or a synthetic substitute and is treated  
72 to act as an antigen without inducing the disease.

73 Section 2. Present subsection (17) of section 499.007,  
74 Florida Statutes, is redesignated as subsection (18), and a new  
75 subsection (17) is added to that section, to read:

76 499.007 Misbranded drug or device.—A drug or device is  
77 misbranded:

78 (17) If it is a food as defined in s. 500.03 and contains a  
79 vaccine or vaccine material, but its label does not bear, in  
80 type of uniform size and prominence, the words "contains vaccine  
81 or vaccine material" and does not specify that the food is  
82 classified as a drug under the Florida Drug and Cosmetic Act.

83 Section 3. Section 499.0095, Florida Statutes, is created  
84 to read:

85 499.0095 Toxic chemicals in cosmetics prohibited.—

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

87 (a) "Ortho-phthalates" means esters of ortho-phthalic acid.

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88 (b) "Perfluoroalkyl and polyfluoroalkyl substances" or  
89 "PFAS" means a class of fluorinated organic chemicals containing  
90 at least one fully fluorinated carbon atom.

91 (2) Except as provided in subsection (4), beginning July 1,  
92 2026, cosmetics manufactured, sold, offered or distributed for  
93 sale, or distributed for use in this state may not contain any  
94 of the following intentionally added chemicals or chemical  
95 classes:

96 (a) Ortho-phthalates.

97 (b) PFAS.

98 (c) Formaldehyde or any other chemical determined by the  
99 department to release formaldehyde.

100 (d) Methylene glycol.

101 (e) Mercury or mercury compounds.

102 (f) Triclosan.

103 (g) M-phenylenediamine or its salt derivatives.

104 (h) O-phenylenediamine or its salt derivatives.

105 (3) Except as provided in subsection (4), beginning July 1,  
106 2026, cosmetics manufactured, sold, offered or distributed for  
107 sale, or distributed for use in this state may not contain any  
108 lead or lead compounds, whether intentionally added or naturally  
109 occurring, at 1 part per million or above, or as otherwise  
110 determined by department rule.

111 (4) An in-state retailer in possession of cosmetics on the  
112 date that restrictions on the sale of the products take effect  
113 under this section may exhaust its existing stock through sales  
114 to the public until July 1, 2027.

115 (5) By January 1, 2026, the department, in consultation  
116 with the Department of Health, shall use existing information to

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117 identify and assess the hazards of chemicals or chemical classes  
 118 that can provide the same or similar function in cosmetics as  
 119 the chemicals or chemical classes listed in subsection (2). The  
 120 department shall make the information publicly available on its  
 121 website.

122 (6) The chemicals in subsection (2) are prohibited in  
 123 cosmetics regardless of whether the product also contains drug  
 124 ingredients regulated by the United States Food and Drug  
 125 Administration.

126 (7) A violation of this section is grounds for disciplinary  
 127 action under s. 499.066.

128 (8) This section does not apply to ingredients regulated as  
 129 drugs by the United States Food and Drug Administration.

130 (9) The department shall adopt rules necessary to implement  
 131 this section.

132 (a) The department's determinations of chemicals that  
 133 release formaldehyde must be adopted by rule. The department  
 134 shall identify a list of chemicals used in cosmetics which  
 135 release formaldehyde which are subject to restriction under this  
 136 chapter. In establishing this list, the department shall  
 137 consider the following:

- 138 1. Estimated prevalence of use.
- 139 2. Potential to reduce disproportionate exposure.
- 140 3. Other information deemed relevant by the department.

141 (b) The department may identify for restriction an initial  
 142 set of no more than 10 of the listed chemicals used in cosmetics  
 143 which release formaldehyde. This restriction must take effect on  
 144 or after July 1, 2026.

145 (c) Restrictions on any remaining listed chemicals used in

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146 cosmetics which release formaldehyde may take effect on or after  
 147 July 1, 2027.

148 (d) In adopting rules under this section, the department  
 149 shall engage with relevant stakeholders for their expertise and  
 150 input. The stakeholder process must include, but is not limited  
 151 to, soliciting input from representatives from independent  
 152 cosmetologists, businesses offering cosmetology services, such  
 153 as beauty salons, and manufacturers of cosmetics. The input  
 154 received from stakeholders must be considered when adopting  
 155 rules.

156 Section 4. Present paragraphs (t) through (z) of subsection  
 157 (1) of section 500.03, Florida Statutes, are redesignated as  
 158 paragraphs (u) through (aa), respectively, and a new paragraph  
 159 (t) is added to that subsection, to read:

160 500.03 Definitions; construction; applicability.—

161 (1) For the purpose of this chapter, the term:

162 (t) "Messenger ribonucleic acid vaccine" or "mRNA vaccine"  
 163 means a vaccine that uses laboratory-produced messenger  
 164 ribonucleic acid to trigger the human body's immune system to  
 165 generate an immune response.

166 Section 5. Subsection (12) is added to section 500.04,  
 167 Florida Statutes, to read:

168 500.04 Prohibited acts.—The following acts and the causing  
 169 thereof within the state are prohibited:

170 (12) The use of a fruit or vegetable as a delivery  
 171 mechanism for an mRNA vaccine as defined in s. 500.03.

172 Section 6. Paragraph (q) is added to subsection (1) of  
 173 section 500.11, Florida Statutes, to read:

174 500.11 Food deemed misbranded.—

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175 (1) A food is deemed to be misbranded:  
 176 (g) If it contains a vaccine or vaccine material as defined  
 177 in s. 499.003, unless its label bears, in type of uniform size  
 178 and prominence, the words "contains vaccine or vaccine material"  
 179 and specifies that the food is classified as a drug under the  
 180 Florida Drug and Cosmetic Act.

181 Section 7. Paragraphs (a), (b), and (h) of subsection (2)  
 182 of section 499.01, Florida Statutes, are amended to read:

183 499.01 Permits.—

184 (2) The following permits are established:

185 (a) *Prescription drug manufacturer permit.*—A prescription  
 186 drug manufacturer permit is required for any person that is a  
 187 manufacturer of a prescription drug and that manufactures or  
 188 distributes such prescription drugs in this state.

189 1. A person that operates an establishment permitted as a  
 190 prescription drug manufacturer may engage in distribution of  
 191 prescription drugs for which the person is the manufacturer and  
 192 must comply with s. 499.0121 and all other provisions of this  
 193 part and rules adopted under this part. The department shall  
 194 adopt rules for issuing a virtual prescription drug manufacturer  
 195 permit to a person who engages in the manufacture of  
 196 prescription drugs but does not make or take physical possession  
 197 of any prescription drugs. The rules adopted by the department  
 198 under this section may exempt virtual manufacturers from certain  
 199 establishment, security, and storage requirements set forth in  
 200 s. 499.0121.

201 2. A prescription drug manufacturer must comply with all  
 202 appropriate state and federal good manufacturing practices.

203 3. A blood establishment, as defined in s. 381.06014,

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204 operating in a manner consistent with the provisions of 21  
 205 C.F.R. parts 211 and 600-640, and manufacturing only the  
 206 prescription drugs described in s. 499.003(49)(j) ~~or~~  
 207 ~~499.003(48)(j)~~ is not required to be permitted as a prescription  
 208 drug manufacturer under this paragraph or to register products  
 209 under s. 499.015.

210 (b) *Prescription drug repackager permit.*—A prescription  
 211 drug repackager permit is required for any person that  
 212 repackages a prescription drug in this state.

213 1. A person that operates an establishment permitted as a  
 214 prescription drug repackager may engage in distribution of  
 215 prescription drugs repackaged at that establishment and must  
 216 comply with all of the provisions of this part and the rules  
 217 adopted under this part that apply to a prescription drug  
 218 manufacturer.

219 2. A prescription drug repackager must comply with all  
 220 appropriate state and federal good manufacturing practices.

221 3. A prescription drug repackager permit is not required  
 222 for distributing medicinal drugs or prepackaged drug products  
 223 between entities under common control which each hold either an  
 224 active Class III institutional pharmacy permit under chapter 465  
 225 or an active health care clinic establishment permit under  
 226 paragraph (r). For purposes of this subparagraph, the term  
 227 "common control" has the same meaning as in s. 499.003(49)(a)3.  
 228 ~~s. 499.003(48)(a)3.~~

229 (h) *Restricted prescription drug distributor permit.*—

230 1. A restricted prescription drug distributor permit is  
 231 required for:

232 a. Any person located in this state who engages in the

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233 distribution of a prescription drug, which distribution is not  
 234 considered "wholesale distribution" under s. 499.003(49)(a) ~~s.~~  
 235 ~~499.003(48)(a)~~.

236 b. Any person located in this state who engages in the  
 237 receipt or distribution of a prescription drug in this state for  
 238 the purpose of processing its return or its destruction if such  
 239 person is not the person initiating the return, the prescription  
 240 drug wholesale supplier of the person initiating the return, or  
 241 the manufacturer of the drug.

242 c. A blood establishment located in this state which  
 243 collects blood and blood components only from volunteer donors  
 244 as defined in s. 381.06014 or pursuant to an authorized  
 245 practitioner's order for medical treatment or therapy and  
 246 engages in the wholesale distribution of a prescription drug not  
 247 described in s. 499.003(49)(j) ~~s. 499.003(48)(j)~~ to a health  
 248 care entity. A mobile blood unit operated by a blood  
 249 establishment permitted under this sub-subparagraph is not  
 250 required to be separately permitted. The health care entity  
 251 receiving a prescription drug distributed under this sub-  
 252 subparagraph must be licensed as a closed pharmacy or provide  
 253 health care services at that establishment. The blood  
 254 establishment must operate in accordance with s. 381.06014 and  
 255 may distribute only:

256 (I) Prescription drugs indicated for a bleeding or clotting  
 257 disorder or anemia;

258 (II) Blood-collection containers approved under s. 505 of  
 259 the federal act;

260 (III) Drugs that are blood derivatives, or a recombinant or  
 261 synthetic form of a blood derivative;

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262 (IV) Prescription drugs that are identified in rules  
 263 adopted by the department and that are essential to services  
 264 performed or provided by blood establishments and authorized for  
 265 distribution by blood establishments under federal law; or

266 (V) To the extent authorized by federal law, drugs  
 267 necessary to collect blood or blood components from volunteer  
 268 blood donors; for blood establishment personnel to perform  
 269 therapeutic procedures under the direction and supervision of a  
 270 licensed physician; and to diagnose, treat, manage, and prevent  
 271 any reaction of a volunteer blood donor or a patient undergoing  
 272 a therapeutic procedure performed under the direction and  
 273 supervision of a licensed physician, as long as all of the  
 274 health care services provided by the blood establishment are  
 275 related to its activities as a registered blood establishment or  
 276 the health care services consist of collecting, processing,  
 277 storing, or administering human hematopoietic stem cells or  
 278 progenitor cells or performing diagnostic testing of specimens  
 279 if such specimens are tested together with specimens undergoing  
 280 routine donor testing. The blood establishment may purchase and  
 281 possess the drugs described in this sub-subparagraph without a  
 282 health care clinic establishment permit.

283 2. Storage, handling, and recordkeeping of these  
 284 distributions by a person required to be permitted as a  
 285 restricted prescription drug distributor must be in accordance  
 286 with the requirements for wholesale distributors under s.  
 287 499.0121.

288 3. A person who applies for a permit as a restricted  
 289 prescription drug distributor, or for the renewal of such a  
 290 permit, must provide to the department the information required

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291 under s. 499.012.

292 4. The department may adopt rules regarding the  
293 distribution of prescription drugs by hospitals, health care  
294 entities, charitable organizations, other persons not involved  
295 in wholesale distribution, and blood establishments, which rules  
296 are necessary for the protection of the public health, safety,  
297 and welfare.

298 5. A restricted prescription drug distributor permit is not  
299 required for distributions between pharmacies that each hold an  
300 active permit under chapter 465, have a common ownership, and  
301 are operating in a freestanding end-stage renal dialysis clinic,  
302 if such distributions are made to meet the immediate emergency  
303 medical needs of specifically identified patients and do not  
304 occur with such frequency as to amount to the regular and  
305 systematic supplying of that drug between the pharmacies. The  
306 department shall adopt rules establishing when the distribution  
307 of a prescription drug under this subparagraph amounts to the  
308 regular and systematic supplying of that drug.

309 6. A restricted prescription drug distributor permit is not  
310 required for distributing medicinal drugs or prepackaged drug  
311 products between entities under common control that each hold  
312 either an active Class III institutional pharmacy permit under  
313 chapter 465 or an active health care clinic establishment permit  
314 under paragraph (r). For purposes of this subparagraph, the term  
315 "common control" has the same meaning as in s. 499.003(49)(a)3.  
316 ~~s. 499.003(48)(a)3.~~

317 Section 8. Paragraphs (i) and (l) of subsection (1) of  
318 section 499.05, Florida Statutes, are amended to read:

319 499.05 Rules.—

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320 (1) The department shall adopt rules to implement and  
321 enforce this chapter with respect to:

322 (i) Additional conditions that qualify as an emergency  
323 medical reason under s. 499.003(49)(b)2. ~~s. 499.003(48)(b)2.~~ or  
324 s. 499.82.

325 (l) The recordkeeping, storage, and handling with respect  
326 to each of the distributions of prescription drugs specified in  
327 s. 499.003(49)(a)-(v) ~~s. 499.003(48)(a)-(v)~~ or s. 499.82(14).

328 Section 9. This act shall take effect July 1, 2025.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 21, 2025

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I respectfully request that **Senate Bill # 196**, relating to Foods Containing Vaccines or Vaccine Materials, be placed on the:

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

A handwritten signature in black ink that reads "Joe Gruters".

---

Senator Joe Gruters  
Florida Senate, District 22



**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: SB 320

INTRODUCER: Senator Gaetz

SUBJECT: Licensure Requirements for Surveyors and Mappers

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<u>Favorable</u>
2.	<u>Wiseheart</u>	<u>Betta</u>	<u>AEG</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 320 requires the Board of Professional Surveyors and Mappers (board) within the Department of Agriculture and Consumers Services (DACS) to establish and administer the First Step Florida Surveyors and Mappers Credentialing and Licensing Protocol as an alternative pathway to temporary licensure beginning January 30, 2026.

Under the protocol, a person who does not meet current existing education requirements to become a surveyor or mapper may take the licensure examination to practice as a surveyor or mapper, so long as the applicant has paid the required fees, and provides a letter of recommendation from a current or prospective employer that is a licensed land surveyor or mapper.

The temporary licensure expires on December 15, 2031, after which all persons who apply for the licensure must meet the education requirements and be licensed as a condition for continuing to practice as a surveyor and mapper.

The bill may have a positive fiscal impact on state revenues to the extent that individuals take the licensure examination and pay the required fees. The bill is not expected to have an impact on local government revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2025.

## II. Present Situation:

### Land Surveying and Mapping

Chapter 472, F.S., governs the practice of land surveying and mapping in Florida. The Commissioner of the DACS<sup>1</sup> appoints the nine board members, subject to confirmation by the Florida Senate.<sup>2</sup> The DACS approves registrations, certificates, and licenses to those persons and businesses that meet all statutory and administrative requirements for licensure.<sup>3</sup> The board is authorized to adopt administrative rules to implement the act, subject to the prior approval of the DACS.<sup>4</sup>

Licensed professional surveyors and mappers determine and display the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures.<sup>5</sup> Currently, there are 2,517 licensed surveyors and mappers in Florida.<sup>6</sup>

### Licensing Examinations and Licensure

The board must approve all applicants for licensure to be eligible to take the licensure examination.<sup>7</sup> An applicant must be of good moral character<sup>8</sup> and satisfy the following educational and experience requirements to be eligible to take the licensure examination:

- A bachelor's degree in surveying and mapping or in a similarly titled program, with *four* or more years of work experience under a professional surveyor, with the applicant having been in responsible charge of the accuracy and correctness of the surveying work performed; or
- A bachelor's degree in a course of study *other than* surveying and mapping, with six or more years of work experience under a professional surveyor, and for five of those years, the applicant must have been in responsible charge of the accuracy and correctness of the surveying work performed.<sup>9</sup>

Applicants whose course of study was other than surveying and mapping must meet an additional educational requirement of a minimum of 25 semester hours from a college or university approved by the board in surveying and mapping subjects, or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences.<sup>10</sup>

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<sup>1</sup> The regulation of professional surveyors and mappers was transferred in 2009 from the Department of Business and Professional Regulation to DACS. *See* Ch. 2009-66, ss. 1-30, Laws of Fla. (effective October 1, 2009).

<sup>2</sup> Section 472.007, F.S.

<sup>3</sup> Sections 472.006(10) and 472.015, F.S.

<sup>4</sup> Section 472.008, and Fla. Admin. Code R. 5J-17.001 to 17.210

<sup>5</sup> Section 472.005(3), F.S.

<sup>6</sup> Phone call with DACS (Feb. 7, 2025).

<sup>7</sup> Section 472.013, F.S.

<sup>8</sup> The term "good moral character means "a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation." *See* s. 472.013(5)(a), F.S.

<sup>9</sup> Section 472.013(2), F.S.

<sup>10</sup> Section 472.013(2)(b), F.S.

The board, by rule, is authorized to establish examination fees.<sup>11</sup> The initial application and examination fee must not exceed \$125 plus the actual per-applicant cost to the DACS to purchase the examination from the National Council of Engineering Examiners or a similar national organization.<sup>12</sup> The examination fee must be sufficient to cover the cost of obtaining and administering the examination and is refundable if the applicant is found ineligible to sit for the examination; the application fee is nonrefundable.<sup>13</sup>

Upon receipt of the \$125 license fee, the DACS must issue a license, with certain exceptions,<sup>14</sup> to a person certified by the board as having met applicable requirements. However, an applicant who is not otherwise qualified for licensure is not entitled to licensure solely based on a passing score on the required examination.<sup>15</sup>

### Trends

According to the U.S. Bureau of Statistics (Bureau), in 2024, there were 48,000 working surveyors in the U.S., 16,000 were under the age of 35, and 10,000 were over the age of 55.<sup>16</sup> About 45% of surveyors and mappers in Florida are 60 or younger, while 55% are 61 or older.<sup>17</sup> The Bureau estimates about 7,600 openings for surveyors and mappers are projected each year over the next decade and that many of the openings are expected to result from the need to replace workers who may transfer to different occupations or who retire.<sup>18</sup>

The most common degree for surveyors and mappers is a bachelor's degree, with 43% of surveyors earning that degree. The second most common degree is an associate degree at 24%.<sup>19</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 472.013, F.S., to require the board to establish and administer the First Step Florida Surveyors and Mappers Credentialing and Licensing Protocol as an alternative pathway to temporary licensure. Beginning January 30, 2026, a person who wants to be a licensed surveyor and mapper but *does not* meet the necessary education and work requirements may take the licensure examination to practice as a surveyor and mapper in Florida if the person is of good moral character and the following criteria are met:

- The applicant has paid the \$125 examination fee; and

---

<sup>11</sup> See s. 472.011, F.S. and Fla. Admin. Code R. 5J-17.070.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> See s. 472.015(6), F.S.

<sup>15</sup> Section 472.015(3)(a), F.S.

<sup>16</sup> U.S. Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, 2024, available at <https://www.bls.gov/cps/cpsaat11b.htm> (last visited Feb. 17, 2025).

<sup>17</sup> Florida Department of Agriculture and Consumer Services, *Board of Professional Surveyors and Mappers Newsletter*, Fall 2024, p. 9, available at <https://ccmedia.fdacs.gov/content/download/117575/file/BPSM-Fall-2024-Newsletter.pdf> (last visited Feb. 17, 2025).

<sup>18</sup> U.S. Bureau of Labor Statistics, *Occupational Outlook Handbook for Surveying and Mapping Technicians*, available at <https://www.bls.gov/ooh/architecture-and-engineering/surveying-and-mapping-technicians.htm#tab-6> (last visited Feb. 17, 2025).

<sup>19</sup> Zippia, *Land Surveyor Education Requirements*, Jan. 8, 2025, available at <https://www.zippia.com/land-surveyor-jobs/education/> (last visited Feb. 17, 2025).

- The applicant provides a letter of recommendation to the department from his or her employer or a prospective employer who is a licensed land surveyor or mapper.

The temporary licensure expires on December 15, 2031, and the department must notify all who apply for such licensure of the expiration date. The applicants must meet the education and work requirements and be licensed as a condition of continuing to practice as a surveyor and mapper after the expiration date.

This provision is exempt from the prohibition on licensure based solely on a passing exam score provided in s. 472.015(3)(a), F.S.

**Section 2** reenacts s. 472.015(4), F.S., to incorporate the amendments made to s. 472.013, F.S., in section 1 of the bill.

**Section 3** provides an effective date of July 1, 2025.

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

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

None.

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

None.

##### C. Trust Funds Restrictions:

None.

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

None.

##### E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

##### A. Tax/Fee Issues:

None.

##### B. Private Sector Impact:

The bill creates an alternative pathway to temporary licensure as a substitute for the degree requirements which may allow more people to practice as a surveyor and mapper.

**C. Government Sector Impact:**

The bill may have a positive fiscal impact on state revenues to the extent that individuals take the licensure examination and pay the required fees. The potential increased workload could require the addition of one Regulatory Consultant position needed to maintain statutorily required application processing deadlines. Currently, the program only has one FTE employee processing applications.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 472.013 of the Florida Statutes.

This bill reenacts section 472.015 of the Florida Statutes to incorporate the amendment made to s. 472.013, F.S.

**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.



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LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
04/10/2025	.	
	.	
	.	
	.	

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The Appropriations Committee on Agriculture, Environment, and General Government (Gaetz) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 49  
and insert:  
practice of surveying and mapping, 3 ~~5~~ years of which shall be  
of

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

And the title is amended as follows:

Between lines 4 and 5



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11 insert:  
12       revising requirements for licensure as a surveyor or  
13       mapper;

By Senator Gaetz

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1 A bill to be entitled  
 2 An act relating to licensure requirements for  
 3 surveyors and mappers; amending s. 472.013, F.S.;  
 4 conforming a provision to changes made by the act;  
 5 requiring the Board of Professional Surveyors and  
 6 Mappers to establish and administer the 1st Step  
 7 Florida Surveyors and Mappers Credentialing and  
 8 Licensing Protocol as an alternative pathway to  
 9 temporary licensure; providing requirements for  
 10 eligibility to take the surveyor and mapper licensure  
 11 examination under the protocol; providing for the  
 12 expiration of licenses granted pursuant to the  
 13 protocol; requiring the department to provide certain  
 14 notice to applicants; reenacting s. 472.015(4), F.S.,  
 15 relating to licensure, to incorporate the amendment  
 16 made to s. 472.013, F.S., in a reference thereto;  
 17 providing an effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

20  
 21 Section 1. Section 472.013, Florida Statutes, is amended to  
 22 read:

23 472.013 Examinations; ~~prerequisites;~~ alternative pathway  
 24 to licensure.-

25 (1) A person desiring to be licensed as a surveyor and  
 26 mapper shall apply to the department for licensure.

27 (2) An applicant shall be entitled to take the licensure  
 28 examination to practice in this state as a surveyor and mapper  
 29 if the applicant is of good moral character and has satisfied

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30 one of the following requirements or the requirements under  
 31 subsection (3):

32 (a) The applicant has received a bachelor's degree, its  
 33 equivalent, or higher in surveying and mapping or a similarly  
 34 titled program, including, but not limited to, geomatics,  
 35 geomatics engineering, and land surveying, from a college or  
 36 university recognized by the board and has a specific experience  
 37 record of 4 or more years as a subordinate to a professional  
 38 surveyor and mapper in the active practice of surveying and  
 39 mapping, which experience is of a nature indicating that the  
 40 applicant was in responsible charge of the accuracy and  
 41 correctness of the surveying and mapping work performed. Work  
 42 experience acquired as a part of the education requirement may  
 43 not be construed as experience in responsible charge.

44 (b) The applicant has received a bachelor's degree, its  
 45 equivalent, or higher in a course of study, other than in  
 46 surveying and mapping, at an accredited college or university  
 47 and has a specific experience record of 6 or more years as a  
 48 subordinate to a registered surveyor and mapper in the active  
 49 practice of surveying and mapping, 5 years of which shall be of  
 50 a nature indicating that the applicant was in responsible charge  
 51 of the accuracy and correctness of the surveying and mapping  
 52 work performed. The applicant must have completed a minimum of  
 53 25 semester hours from a college or university approved by the  
 54 board in surveying and mapping subjects or in any combination of  
 55 courses in civil engineering, surveying, mapping, mathematics,  
 56 photogrammetry, forestry, or land law and the physical sciences.  
 57 Any of the required 25 semester hours of study completed not as  
 58 a part of the bachelor's degree, its equivalent, or higher may

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59 be approved at the discretion of the board. Work experience  
60 acquired as a part of the education requirement may not be  
61 construed as experience in responsible charge.

62 (3) The Legislature recognizes that it is imperative that  
63 this state meet the increasing demand for surveyors and mappers.  
64 Therefore, as a substitute for the degree requirements to take  
65 the exams for licensure as outlined in subsection (2), the board  
66 shall establish and administer a certification and licensing  
67 program known as the 1st Step Florida Surveyors and Mappers  
68 Credentialing and Licensing Protocol to provide a temporary  
69 alternative pathway to licensure.

70 (a) Beginning January 30, 2026, pursuant to the protocol, a  
71 person desiring to be licensed as a surveyor and mapper who does  
72 not meet the requirements imposed under subsection (2) may take  
73 the licensure examination to practice in this state as a  
74 surveyor and mapper if he or she is of good moral character and  
75 both of the following requirements are met:

76 1. The applicant has paid the fees required under s.  
77 472.011.

78 2. The applicant provides a letter of recommendation to the  
79 department from his or her employer or a prospective employer,  
80 provided that such employer or prospective employer is a  
81 licensed land surveyor or mapper.

82 (b) Licensure granted pursuant to the protocol expires on  
83 December 15, 2031. The department shall notify all persons who  
84 apply for licensure under this subsection of this expiration  
85 date and that they must meet the requirements imposed under  
86 subsection (2) and be licensed under that subsection as a  
87 condition of continuing to practice as a surveyor and mapper

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88 after that date.

89 (c) This subsection is exempt from the prohibition on  
90 licensure based solely on a passing score on the examination in  
91 s. 472.015(3)(a).

92 (4) A person shall be entitled to take an examination for  
93 the purpose of determining whether he or she is qualified as a  
94 surveyor and mapper intern if:

95 (a) The person is in good standing in, or is a graduate of,  
96 a bachelor degree program, its equivalent or higher, at an  
97 accredited college or university and has obtained a minimum of  
98 25 semester hours in surveying, mapping, mathematics,  
99 photogrammetry, forestry, civil engineering, or land law and the  
100 physical sciences, or any combination thereof; or

101 (b) The person has obtained, from an accredited college or  
102 university, a minimum of 15 semester hours in surveying,  
103 mapping, mathematics, photogrammetry, forestry, civil  
104 engineering, or land law and the physical sciences, or any  
105 combination thereof, and has a specific surveying and mapping  
106 experience record of 2 or more years as a subordinate to a  
107 registered surveyor and mapper.

108  
109 This subsection may not be construed as a substitute for the  
110 degree requirement to take the exams for licensure as outlined  
111 in subsection (2).

112 (5)-(4) The board shall adopt rules providing for the review  
113 and approval of schools and colleges and the courses of study in  
114 surveying and mapping in such schools and colleges. The rules  
115 shall be based on the educational requirements for surveying and  
116 mapping as defined in s. 472.005. The board may adopt rules

Page 4 of 5

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

1-00570-25

2025320\_\_

117 providing for the acceptance of the approval and accreditation  
118 of schools and courses of study by a nationally accepted  
119 accreditation organization.

120 (6) (a) (5) (a) Good moral character means a personal history  
121 of honesty, fairness, and respect for the rights of others and  
122 for the laws of this state and nation.

123 (b) The board may refuse to certify an applicant for  
124 failure to satisfy this requirement only if:

125 1. There is a substantial connection between the lack of  
126 good moral character of the applicant and the professional  
127 responsibilities of a registered surveyor and mapper; and

128 2. The finding by the board of lack of good moral character  
129 is supported by clear and convincing evidence.

130 (c) When an applicant is found to be unqualified for a  
131 license because of a lack of good moral character, the board  
132 shall furnish the applicant a statement containing the findings  
133 of the board, a complete record of the evidence upon which the  
134 determination was based, and a notice of the rights of the  
135 applicant to a rehearing and appeal.

136 Section 2. For the purpose of incorporating the amendment  
137 made by this act to section 472.013, Florida Statutes, in a  
138 reference thereto, subsection (4) of section 472.015, Florida  
139 Statutes, is reenacted to read:

140 472.015 Licensure.—

141 (4) The board shall certify for licensure any applicant who  
142 satisfies the requirements of s. 472.013 and who has passed the  
143 licensing examination. The board may refuse to certify any  
144 applicant who has violated any of the provisions of s. 472.031.

145 Section 3. This act shall take effect July 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** February 24, 2025

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I respectfully request that **Senate Bill #320**, relating to Licensure Requirements for Surveyors and Mappers, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Don Gaetz", written over a horizontal line.

Senator Don Gaetz  
Florida Senate, District 1

**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: SB 880

INTRODUCER: Senator Garcia

SUBJECT: Designation of the State Birds

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	<u>Wiseheart</u>	<u>Betta</u>	<u>AEG</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 880 designates the American flamingo (*Phoenicopterus ruber*) as the official Florida state bird and the Florida scrub-jay (*Aphelocoma coerulescens*) as the official Florida state songbird.

This bill does not have a fiscal impact on state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2025.

**II. Present Situation:**

**American Flamingo**

The American flamingo (*Phoenicopterus ruber*), also called the Caribbean flamingo, is one of the largest flamingo species in the world, standing at approximately five feet tall.<sup>1</sup>

American flamingos are wading birds with long legs and necks.<sup>2</sup> They have a thick, curved bill, which they use to filter crustaceans, mollusks, and other aquatic invertebrates from the water.

Adult American flamingos are bright to



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<sup>1</sup> Florida Fish and Wildlife Conservation Commission (FWC), *American Flamingo*, <https://myfwc.com/wildlifehabitats/profiles/birds/waterbirds/american-flamingo/> (last visited March 14, 2025).

<sup>2</sup> Cornell Lab of Ornithology, *American Flamingo*, [https://www.allaboutbirds.org/guide/American\\_Flamingo/overview](https://www.allaboutbirds.org/guide/American_Flamingo/overview) (last visited March 14, 2025). The image on this page is courtesy of the Cornell Lab of Ornithology.

pale pink with a black trailing edge on their wings. They are social birds and typically forage and nest in dense colonies that can consist of up to 80,000 individuals.<sup>3</sup>

American flamingos can be found throughout the Caribbean, with known breeding populations in Cuba, Mexico, Venezuela, Bonaire, the British Virgin Islands, the Bahamas, the Galápagos Islands, and Florida.<sup>4</sup> The Florida Fish and Wildlife Conservation Commission considers the American flamingo to be native to Florida, however around the turn of the 20<sup>th</sup> century flamingos had disappeared from the state due to overhunting.<sup>5</sup> By 1925, captive breeding in South Florida had reintroduced them to the state. Additionally, there is evidence that some flamingos migrated to Florida on their own throughout the 1900s.<sup>6</sup>

Today, American flamingos can be observed along much of the Florida coast, although they are most commonly seen in Hialeah, the Everglades, Biscayne Bay, and the Florida Keys. The Florida population represents only a fraction of one percent of the global population of American flamingos.<sup>7</sup> The American flamingo is a species of low conservation concern and it is protected under the Federal Migratory Bird Treaty Act.<sup>8</sup>

### Florida Scrub-Jay

The Florida scrub-jay (*Aphelocoma coerulescens*) is the only bird species that lives exclusively in Florida.<sup>9</sup> Florida scrub-jays are blue and gray birds that prefer sand pine and oak scrub and scrubby flatwoods.<sup>10</sup> They live in the highest and driest areas of Florida, including ancient sandy ridges in Central Florida, sand dunes along the coast, and sandy deposits along rivers in the interior of the state.<sup>11</sup>



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

<sup>4</sup> FWC, *American Flamingo*.

<sup>5</sup> *Id.*; Audubon, *It's Official: Flamingos Belong in Florida*, <https://www.audubon.org/news/its-official-flamingos-belong-florida> (last visited March 17, 2025).

<sup>6</sup> FWC, *American Flamingo*.

<sup>7</sup> *Id.*

<sup>8</sup> Cornell Lab, *American Flamingo*; see 16 U.S.C. §703-712; see 50 C.F.R. §10.13. The Migratory Bird Treaty Act of 1918 implements four international conservation treaties that the U.S. entered into with Canada, Mexico, Japan, and Russia and is intended to ensure the sustainability of populations of all protected migratory bird species. The Act prohibits the take (including killing, capturing, selling, trading, and transporting) of protected migratory bird species without prior authorization by the U.S. Fish and Wildlife Service. U.S. Fish and Wildlife Service, *Migratory Bird Treaty Act of 1918*, <https://www.fws.gov/law/migratory-bird-treaty-act-1918> (last visited March 14, 2025).

<sup>9</sup> Cornell Lab, *Florida Scrub-Jay*, [https://www.allaboutbirds.org/guide/Florida\\_Scrub-Jay/overview](https://www.allaboutbirds.org/guide/Florida_Scrub-Jay/overview) (last visited March 14, 2025).

<sup>10</sup> *Id.* (Image courtesy of the Cornell Lab of Ornithology); FWC, *Florida Scrub-Jay*, <https://myfwc.com/wildlifehabitats/profiles/birds/songbirds/florida-scrub-jay/> (last visited March 14, 2025). They do best in areas with high concentrations of oak shrubs that average 3.28-6.56 feet. *Id.*

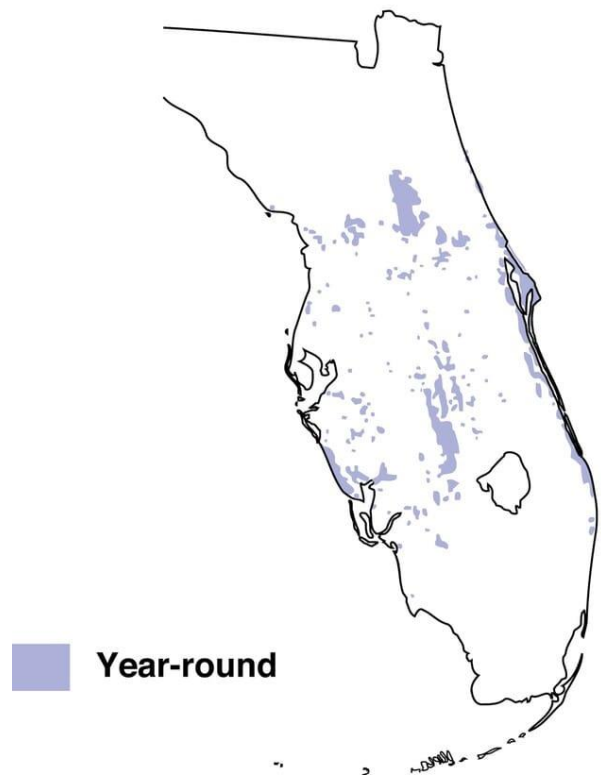
<sup>11</sup> FWC, *Florida Scrub-Jay*.

Florida scrub-jays are non-migratory and typically defend the same nesting territory every year.<sup>12</sup> They live in family groups that consist of a breeding pair and helpers, which are typically the pair's offspring. The offspring may stay in their parents' territory until they are two or three years old. Florida scrub-jays eat primarily insects, frogs, toads, lizards, mice, bird eggs, and acorns.<sup>13</sup>

Florida scrub-jays are a federally designated threatened species protected by the federal Endangered Species Act.<sup>14</sup> They are also protected by Florida's Endangered and Threatened Species Act and by the federal Migratory Bird Treaty Act.<sup>15</sup> The main threats to the scrub-jay are habitat destruction, fragmentation, and degradation caused by development, agriculture, and fire-suppression.<sup>16</sup> Habitat fragmentation prevents scrub-jays from easily travelling between patches of suitable habitat and ultimately creates smaller, separated populations that are at greater risk of disappearing. Further, Florida scrub-jays are reliant on fire, because naturally occurring or prescribed fires prevent their habitat from becoming too dense and tall. Fire suppression degrades the habitat and is a threat to scrub-jay survival.<sup>17</sup>

### Northern Mockingbird

The northern mockingbird (*Mimus polyglottos*) is commonly found throughout much of North America and the Caribbean.<sup>18</sup> They live in a wide variety of habitats, including arroyos and canyons, deserts,



Range map of the Florida scrub-jay. *Courtesy of the Cornell Lab of Ornithology*



<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*; see 16 U.S.C. §1531 et seq.

<sup>15</sup> See 16 U.S.C. §703-712; see 50 C.F.R. §10.13; section 379.2291, F.S.

<sup>16</sup> FWC, *Florida Scrub-Jay*.

<sup>17</sup> *Id.*

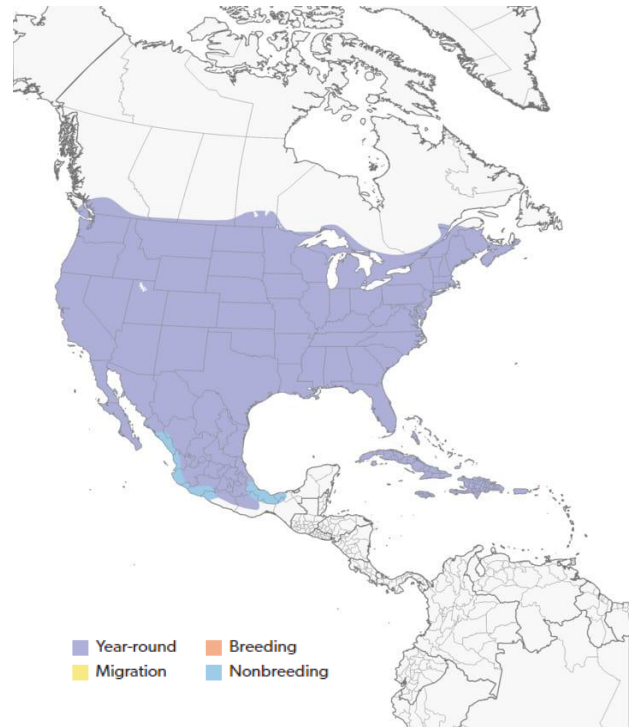
<sup>18</sup> Cornell Lab, *Northern Mockingbird*, [https://www.allaboutbirds.org/guide/Northern\\_Mockingbird/overview](https://www.allaboutbirds.org/guide/Northern_Mockingbird/overview) (last visited March 14, 2025).



meadows, forests, saltwater wetlands, and urban areas.<sup>19</sup> They typically prefer dense shrubs, thickets, and open ground with short grass or open soil.<sup>20</sup>

Northern mockingbirds are slim with a long tail. They are pale gray with white wing patches and white outer tail feathers. They regularly imitate other bird songs and typically sing from February through August and September to early November.<sup>21</sup>

The northern mockingbird is the official state bird of five states: Arkansas, Florida, Mississippi, Tennessee, and Texas.<sup>22</sup> The northern mockingbird has held the position of official Florida state bird since 1927.<sup>23</sup> The Florida Legislature designated the northern mockingbird as the official state bird because it had enacted legislation to protect the mockingbird, because “the melody of its music has delighted the heart of residents and visitors to Florida,” and because “this bird of matchless charm” is found throughout Florida.<sup>24</sup>



Range map of the northern mockingbird.  
 Courtesy of the Cornell Lab of Ornithology

**III. Effect of Proposed Changes:**

**Section 1** creates s. 15.0352, F.S., to designate the American flamingo (*Phoenicopterus ruber*) as the official Florida state bird and the Florida scrub-jay (*Aphelocoma coerulescens*) as the official Florida state songbird.

**Section 2** provides that the designation of the American flamingo as the official Florida state bird and the Florida scrub-jay as the official Florida state songbird supersedes the designation of the northern mockingbird (*Mimus polyglottos*) as the official Florida state bird by Senate Concurrent Resolution No. 3, which was adopted during the 1927 Regular Session.

**Section 3** provides an effective date of July 1, 2025.

<sup>19</sup> Audubon, *Northern Mockingbird*, <https://www.audubon.org/field-guide/bird/northern-mockingbird> (last visited March 14, 2025). The photo on this page is courtesy of Audubon.

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

<sup>21</sup> *Id.*

<sup>22</sup> Audubon, *10 Fun Facts About the Northern Mockingbird*, <https://www.audubon.org/news/10-fun-facts-about-northern-mockingbird> (last visited March 17, 2025).

<sup>23</sup> Senate Concurrent Resolution No. 3, Laws of Fla. (1927).

<sup>24</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 15.0352 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.

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

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By Senator Garcia

36-00786-25

2025880\_\_

A bill to be entitled

An act relating to designation of the state birds;  
creating s. 15.0352, F.S.; designating the American  
flamingo as the official state bird and the Florida  
scrub-jay as the official state songbird; providing  
that such designations supersede the designation of  
the mockingbird as the official Florida state bird;  
providing an effective date.

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

Section 1. Section 15.0352, Florida Statutes, is created to  
read:

15.0352 Official state birds.-

(1) The American flamingo (*Phoenicopterus ruber*) is  
designated the official Florida state bird.

(2) The Florida scrub-jay (*Aphelocoma coerulescens*) is  
designated the official Florida state songbird.

Section 2. The designations of the American flamingo as the  
official Florida state bird and the Florida scrub-jay as the  
official Florida state songbird by s. 15.0352, Florida Statutes,  
supersede the designation of the mockingbird as the official  
Florida state bird by Senate Concurrent Resolution No. 3,  
adopted during the 1927 Regular Session.

Section 3. This act shall take effect July 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 26, 2025

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I respectfully request that Senate Bill 880, relating to **Designation of the State Birds** which designates the **American flamingo** as the official state bird and the **Florida scrub-jay** as the official state songbird, superseding the mockingbird as the current official state bird of Florida be **placed on the:**

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

A handwritten signature in black ink, appearing to read "Ileana Garcia".

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Senator Ileana Garcia  
Florida Senate, District 36



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Appropriations Committee on Criminal and  
Civil Justice, *Chair*  
Children, Families, and Elder Affairs, *Vice Chair*  
Appropriations  
Appropriations Committee on Health and  
Human Services  
Criminal Justice  
Ethics and Elections  
Rules

## SENATOR ILEANA GARCIA

36th District

April 10, 2025

### **The Honorable Jason Brodeur**

Chair, Appropriations Committee on Agriculture, Environment and General Government.

201 The Capitol

404 South Monroe Street

Tallahassee, FL 32399-1100

Dear Chair, Brodeur

On behalf of Senator Garcia, we spoke with Senator Rodriguez, who agreed to present the bill SB 880 Designation of the State Birds On her Behalf in the Agriculture, Environment, and General Government committee.

I appreciate your consideration of this request.

Sincerely,

Angelo Remuzgo

Legislative Aide to Senator Ileana Garcia

#### REPLY TO:

☐ 2828 Coral Way, Suite 208, Miami, Florida 33145 (305) 442-6841

☐ 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

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

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

04/17/2025

Meeting Date

SB880

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Olyvia Collins

Phone 407-848-8069

Address 105 West Greentree Lane

Email OlyviaCollins2023@gmail.com

Street

Lake Mary

City

FL

State

32746

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

The Florida Senate

**APPEARANCE RECORD**

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

04/10/25

Meeting Date

SB 880

Bill Number or Topic

Approps on Ag

Committee

Amendment Barcode (if applicable)

Name Jackson Oberlin LC

Phone

Address

Email

Street

City

State

Zip

Speaking:



For



Against



Information

**OR**

Waive Speaking:



In Support



Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



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

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 Appropriations Committee on Agriculture, Environment, and General Government

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BILL: SB 1300

INTRODUCER: Senators Simon and Brodeur

SUBJECT: Permits for Drilling, Exploration, and Extraction of Oil and Gas Resources

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<u>Favorable</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1300 requires the Department of Environmental Protection (DEP) to apply a balancing test when determining whether the natural resources of certain waterbodies and shore areas of the state will be adequately protected from potential harm caused by accidents or blowouts associated with oil, gas, or petroleum drilling. The balancing test should assess the potential impact of an accident or a blowout on such waterbodies and shore areas, including ecological functions and water quality impacts. In addition, the balancing test must consider the ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife use, time lag, and the potential costs of restoration.

The bill has no impact on state revenue or expenditures. See Section V., Fiscal Impact Statement.

The bill has an effective date of July 1, 2025.

**II. Present Situation:**

**Production of Oil and Gas Resources in Florida**

Florida has minor crude oil reserves and accounts for less than 0.1 percent of the nation's crude oil production.<sup>1</sup> Onshore drilling for oil and natural gas in Florida began in 1901 and about 80 exploration wells were drilled in the state before oil was discovered in southwest Florida in 1943. Annual crude oil production in the state peaked at more than 47 million barrels in 1978 with the development of the Jay Field in northwestern Florida. Since 1978, statewide production has declined and has been less than 3 million barrels each year since 2004. In 2022, Florida crude oil production was about 1.2 million barrels. Geologists believe there may be substantial additional reserves in the Gulf of Mexico off Florida's western coast. However, since 1989, Florida has

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<sup>1</sup> U.S. Energy Information Administration (EIA), *Profile Analysis*, <https://www.eia.gov/state/analysis.php?sid=FL> (last visited Mar. 17, 2025).

banned drilling in both Atlantic and Gulf of Mexico state waters.<sup>2</sup> In 2006, Congress banned oil and natural gas leasing in federal offshore areas in the central Gulf of Mexico planning area within 100 miles of Florida's coastline and in most of the eastern Gulf of Mexico planning area within 125 miles of Florida's coast. The ban on federal oil and natural gas leases off the state's Gulf coast was to expire in 2022, but a 2020 presidential memorandum extended the ban until 2032.<sup>3</sup> On January 6, 2025, a presidential memorandum was issued pursuant to the Outer Continental Shelf Lands Act that withdrew additional areas of the Gulf of Mexico from future oil or natural gas leasing for purposes of exploration, development, or production.<sup>4</sup> On January 20, 2025, executive action was taken to repeal the January 6 ban on oil drilling in certain offshore areas, including all of Florida's coastland.<sup>5</sup>

Florida does not have significant natural gas reserves.<sup>6</sup> Economically recoverable natural gas reserves may lie offshore in the eastern Gulf of Mexico, but, as with crude oil, exploratory drilling in state and federal waters in the eastern Gulf is prohibited. However, Florida does have a small amount of natural gas production, all from the same fields that produce crude oil. Almost all of that natural gas production is in the Jay Field in the Florida Panhandle, and most of that natural gas is reinjected into the oil zones to maintain reservoir pressures and improve oil production. As a result, only about five to fifteen percent of the state's natural gas gross withdrawals are marketed. Florida's annual natural gas production peaked at almost 52 billion cubic feet in 1978 (less than 0.3 percent of the U.S. total that year) but declined steadily in the next three decades. Production rose again in 2010, reaching more than one-third of the 1978 peak in 2012. It increased again, reaching almost one-third of the peak in 2018 before declining again. In 2022, Florida's total natural gas production was only about 8.4 billion cubic feet. Florida receives nearly all the natural gas it consumes from the Gulf Coast region via major interstate pipelines. Pipelines entering Florida bring natural gas into the state through Alabama and Georgia.<sup>7</sup>

### **Requirements for Drilling, Exploration, and Extraction of Oil and Gas Resources**

In Florida, the DEP has regulatory authority over oil and gas resources.<sup>8</sup> The DEP's Division of Water Resource Management (Division) oversees the permitting process for drilling, production, and exploration.<sup>9</sup> Before issuing a permit, the Division must consider:

- The nature, character, and location of the lands involved;

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<sup>2</sup> FLA. CONST. art. II, s. 7(c); sections 377.24(9) and 377.242(1)(a)5., F.S.

<sup>3</sup> EIA, *Profile Analysis*, <https://www.eia.gov/state/analysis.php?sid=FL>.

<sup>4</sup> Office of the White House, *Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Oil or Natural Gas Leasing*, <https://perma.cc/6RD5-48QZ> (last visited Mar. 20, 2025).

<sup>5</sup> EIA, *Profile Analysis*, <https://www.eia.gov/state/analysis.php?sid=FL>; Office of the White House, *Initial Rescissions of Harmful Executive Orders and Actions*, <https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/> (last visited Mar. 20, 2025); Office of the White House, *Unleashing American Energy*, <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/> (last visited Mar. 21, 2025); U.S. Bureau of Ocean Energy Management, *Areas Under Restriction*, <https://www.boem.gov/oil-gas-energy/leasing/areas-under-restriction> (last visited Mar. 21, 2025).

<sup>6</sup> EIA, *Profile Analysis*, <https://www.eia.gov/state/analysis.php?sid=FL>.

<sup>7</sup> *Id.*

<sup>8</sup> Section 377.242, F.S.; Fla. Admin. Code Chapters 62C-25 - 62C-30.

<sup>9</sup> DEP, *Oil and Gas Program*, <https://floridadep.gov/water/oil-gas> (last visited Mar. 18, 2025); section 377.07, F.S.



- The nature, type, and extent of ownership of the applicant, including the length of time the permit applicant has owned the rights claimed without having performed any of the exploratory operations so granted or authorized.
- The proven or indicated likelihood of the presence of oil, gas, or related minerals in such quantities as to warrant the exploration and extraction of such products on a commercially profitable basis.
- For activities and operations concerning a natural gas storage facility, the nature, structure, and proposed use of the natural gas storage reservoir is suitable for the storage and recovery of gas without adverse effect to public health or safety or the environment.<sup>10</sup>

A drilling permit is required and a preliminary site inspection must be conducted by the DEP before beginning any work other than environmental assessments or surveying at a proposed drilling site.<sup>11</sup> Regulations require the operator to case and cement wells in order to maintain well control and prevent degradation of natural resources, including water and petroleum.<sup>12</sup> Drilling permits are valid for one year from the date of approval.<sup>13</sup> Each permit must include an agreement stating that the permitholder will allow division personnel to inspect at any time.<sup>14</sup>

Before a permit is granted, the owner or operator is required to post a surety bond or other form of security for each well.<sup>15</sup> The amount of the bond, which is determined by the Division, must be sufficient to protect the owner of the surface rights of the land and ensure that the permittee will restore the land to its original condition and contour after operations are completed.<sup>16</sup>

In addition to a permit to drill, an operating permit is also required.<sup>17</sup> Operating permits are valid for the life of the well, although each operating well and permit must be recertified every five years.<sup>18</sup> Each application and subsequent recertification must include: the appropriate fee; bond or security coverage; a spill prevention and cleanup plan; flowline specifications and an installation plan; containment facility certification; and additional reporting and data submissions, such as driller's logs and monthly well reports.<sup>19</sup> A separate permit is not required for the performance of well stimulation techniques.<sup>20</sup>

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<sup>10</sup> Section 377.241, F.S.

<sup>11</sup> Fla. Admin. Code R. 62C-26.003.

<sup>12</sup> Fla. Admin. Code R. 62C-27.005. The regulations specify standards for casing depth and pressure testing.

<sup>13</sup> Fla. Admin. Code R. 62C-26.003.

<sup>14</sup> Section 377.242, F.S.

<sup>15</sup> Sections 377.244(1)(b), 377.2424(2), and 377.2425(1), F.S.; Fla. Admin. Code R. 62C-26.002.

<sup>16</sup> Section 377.244(1)(b), F.S. For geophysical operations, the restoration requirement is less stringent, only requiring the land to be returned to its general condition and contour similar to that in existence prior to such operations. Section 377.2424(2), F.S.

<sup>17</sup> Fla. Admin. Code R. 62C-26.008.

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

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

<sup>20</sup> See section 377.22(2)(o)(p), F.S. The Division is required to adopt rules to "regulate the 'shooting,' perforating and chemical treatment of wells," and to "regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations"; see section 377.26, F.S. In regulating the vertical orientation of the well, the division is required to "take into account technological advances in drilling and production technology, including, but not limited to, horizontal well completions in the producing formation using directional drilling methods."

Oil or gas producers must submit a monthly production report for each well to the Division and the Department of Financial Services.<sup>21</sup> Abandoned wells and dry holes must be plugged promptly in accordance with DEP regulations, and no well may be abandoned without prior approval from the Division.<sup>22</sup>

### ***State Prohibitions on Drilling in Certain Areas***

State law prohibits the permitting and construction of drilling and exploratory structures in certain areas. For example, the construction or permitting of structures intended for the drilling for, or production of, oil, gas, or other petroleum products is prohibited in the following areas:

- On submerged lands within bays or estuaries;
- Within one mile seaward of the state's coastline;
- Within one mile of the seaward boundary of any park or aquatic or wildlife preserve, or on the surface of a freshwater lake, river, or stream;
- Within one mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary, or within one mile of any freshwater lake, river, or stream unless the DEP is satisfied that the natural resources of such bodies of water and shore areas will be adequately protected in the event of accident or blowout.<sup>23</sup>

In addition, no drilling permits may be granted for the construction of structures intended for the drilling for or production of oil, gas, or other petroleum products within Florida's territorial seas, or beneath state waters in the Atlantic and Gulf of America, as prohibited by both state law and the Florida Constitution.<sup>24</sup>

### ***Local Government Regulation***

While cities and counties do not operate oil and gas permitting programs, some, through their land use regulations or zoning ordinances, require special exceptions for oil and gas activities or limit such activities to certain zoning classifications.<sup>25</sup> Drilling permits within a municipality require prior approval from the municipal governing authority, and permits for drilling in tidal waters adjacent to municipalities or within three miles of municipal limits must also be approved by the municipality.<sup>26</sup> Similarly, drilling on or near improved beaches<sup>27</sup> requires county commissioner approval.<sup>28</sup> When authorizing oil and gas activities, local governments consider factors such as consistency with their comprehensive plan, injuries to communities or the public welfare, and compliance with zoning ordinances.<sup>29</sup>

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<sup>21</sup> Section 377.23, F.S.

<sup>22</sup> Sections 377.24(3) and 377.2426, F.S.

<sup>23</sup> Section 377.242(1)(a)1.-4., F.S.

<sup>24</sup> FLA. CONST. art. II, s. 7(c); sections 377.24(9) and 377.242(1)(a)5., F.S.

<sup>25</sup> See, e.g., Lee County, Fla., Land Development Code §§ 34-1651 and 34-145.

<sup>26</sup> Section 377.24(5) and (6), F.S.

<sup>27</sup> An improved beach, situated outside of the corporate limits of any municipality or town, is defined as any beach adjacent to or abutting upon the tidal waters of the state and having not less than 10 hotels, apartment buildings, residences or other structures, used for residential purposes, on or to any given mile of such beach. Section 377.24(8), F.S.

<sup>28</sup> Section 377.24(7), F.S.

<sup>29</sup> See, e.g., Lee County, Fla., Land Development Code §§ 34-1651 and 34-145.

### ***Violations and Penalties***

A person that violates any statute, rule, regulation, order, or permit relating to the regulation of oil or gas resources, or who refuses inspection by the Division, is liable for damages caused to the air, waters, or property of the state for the reasonable costs of tracing the source of the discharge and for controlling and abating the source and the pollutants, and restoring the air, waters, and property.<sup>30</sup> Such persons are also subject to judicial imposition of a civil penalty of up to \$10,000 for each offense.<sup>31</sup> Each day during any portion of which a violation occurs constitutes a separate offense.<sup>32</sup>

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

**Section 1** amends s. 377.242, F.S., which regulates permits for drilling or exploring and extracting through well holes or by other means. Under current law, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within one mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within one mile of any freshwater lake, river, or stream unless the DEP is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

The bill provides that the DEP's determination of whether a resource is adequately protected must balance the measures in place to protect the natural resources with the potential harm to the natural resources. This balancing test should assess the potential impact of an accident or a blowout on the natural resources of such bodies of water and shore areas, including ecological functions and any water quality impacts. The balancing test must consider the ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife use, time lag, and the potential costs of restoration.

**Section 2** reenacts s. 377.243(1), F.S., for purposes of incorporating the amendments made by this bill to s. 377.242, F.S.

**Section 3** reenacts s. 377.37(1)(a), F.S., for purposes of incorporating the amendments made by this bill to s. 377.242, F.S.

**Section 4** provides an effective date of July 1, 2025.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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<sup>30</sup> Section 377.37(1)(a), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 377.242, 377.243, and 377.37.

**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.

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

---

By Senator Simon

3-01749-25

20251300\_\_

1 A bill to be entitled  
 2 An act relating to permits for drilling, exploration,  
 3 and extraction of oil and gas resources; amending s.  
 4 377.242, F.S.; requiring the Department of  
 5 Environmental Protection to consider certain factors  
 6 when determining whether the natural resources of  
 7 certain bodies of water and shore areas are adequately  
 8 protected from a potential accident or blowout;  
 9 providing requirements for a balancing test to make  
 10 such a determination; making technical changes;  
 11 reenacting ss. 377.243 and 377.37, F.S., relating to  
 12 conditions for granting permits for extraction through  
 13 well holes, and penalties, respectively, to  
 14 incorporate changes made by the act; providing an  
 15 effective date.

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

17 Section 1. Section 377.242, Florida Statutes, is amended to  
 18 read:

19 377.242 Permits for drilling or exploring and extracting  
 20 through well holes or by other means.—

21 (1) The department is vested with the power and authority:

22 ~~(1)~~(a) To issue permits for the drilling for, exploring  
 23 for, or production of oil, gas, or other petroleum products  
 24 which are to be extracted from below the surface of the land,  
 25 including submerged land, only through the well hole drilled for  
 26 oil, gas, and other petroleum products.

27 1. A ~~No~~ structure intended for the drilling for, or  
 28  
 29

Page 1 of 5

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

3-01749-25

20251300\_\_

30 production of, oil, gas, or other petroleum products may not be  
 31 permitted or constructed:

32 a. On any submerged land within any bay or estuary.

33 ~~b.2. No structure intended for the drilling for, or~~  
 34 ~~production of, oil, gas, or other petroleum products may be~~  
 35 ~~permitted or constructed~~ Within 1 mile seaward of the coastline  
 36 of the state.

37 ~~c.3. No structure intended for the drilling for, or~~  
 38 ~~production of, oil, gas, or other petroleum products may be~~  
 39 ~~permitted or constructed~~ Within 1 mile of the seaward boundary  
 40 of any state, local, or federal park or aquatic or wildlife  
 41 preserve or on the surface of a freshwater lake, river, or  
 42 stream.

43 ~~d.4. No structure intended for the drilling for, or~~  
 44 ~~production of, oil, gas, or other petroleum products may be~~  
 45 ~~permitted or constructed~~ Within 1 mile inland from the shoreline  
 46 of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary  
 47 or within 1 mile of any freshwater lake, river, or stream unless  
 48 the department is satisfied that the natural resources of such  
 49 bodies of water and shore areas of the state will be adequately  
 50 protected in the event of accident or blowout. For purposes of  
 51 this sub-subparagraph, the department's determination of whether  
 52 a resource is adequately protected must balance the measures in  
 53 place to protect the natural resources with the potential harm  
 54 to the natural resources. This balancing test should assess the  
 55 potential impact of an accident or a blowout on the natural  
 56 resources of such bodies of water and shore areas, including  
 57 ecological functions and any water quality impacts. The  
 58 balancing test must consider the ecological community's current

Page 2 of 5

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20251300\_\_

59 condition, hydrologic connection, uniqueness, location, fish and  
 60 wildlife use, time lag, and the potential costs of restoration.

61 2.5- Without exception, after July 1, 1989, a ne structure  
 62 intended for the drilling for, or production of, oil, gas, or  
 63 other petroleum products may not be permitted or constructed  
 64 south of 26°00'00" north latitude off Florida's west coast and  
 65 south of 27°00'00" north latitude off Florida's east coast,  
 66 within the boundaries of Florida's territorial seas as defined  
 67 in 43 U.S.C. s. 1301. After July 31, 1990, no structure intended  
 68 for the drilling for, or production of, oil, gas, or other  
 69 petroleum products may be permitted or constructed north of  
 70 26°00'00" north latitude off Florida's west coast to the western  
 71 boundary of the state bordering Alabama as set forth in s. 1,  
 72 Art. II of the State Constitution, or located north of 27°00'00"  
 73 north latitude off Florida's east coast to the northern boundary  
 74 of the state bordering Georgia as set forth in s. 1, Art. II of  
 75 the State Constitution, within the boundaries of Florida's  
 76 territorial seas as defined in 43 U.S.C. s. 1301.

77 3.(b) Sub-subparagraphs 1.a. and d. Subparagraphs (a)1. and  
 78 4- do not apply to permitting or construction of structures  
 79 intended for the drilling for, or production of, oil, gas, or  
 80 other petroleum products pursuant to an oil, gas, or mineral  
 81 lease of such lands by the state under which lease any valid  
 82 drilling permits are in effect on the effective date of this  
 83 act. In the event that such permits contain conditions or  
 84 stipulations, such conditions and stipulations shall govern and  
 85 supersede sub-subparagraphs 1.a. and d. subparagraphs (a)1. and  
 86 4-

87 4.(e) The prohibitions of subparagraph 1. subparagraphs

Page 3 of 5

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3-01749-25

20251300\_\_

88 ~~(a)1.-4. in this subsection~~ do not include "infield gathering  
 89 lines," provided no other placement is reasonably available and  
 90 all other required permits have been obtained.

91 (b)(2) To issue permits to explore for and extract minerals  
 92 which are subject to extraction from the land by means other  
 93 than through a well hole.

94 (c)(3) To issue permits to establish natural gas storage  
 95 facilities or construct wells for the injection and recovery of  
 96 any natural gas for storage in natural gas storage reservoirs.

97 (2) Each permit shall contain an agreement by the  
 98 permitholder that the permitholder will not prevent inspection  
 99 by division personnel at any time. The provisions of this  
 100 section prohibiting permits for drilling or exploring for oil in  
 101 coastal waters do not apply to any leases entered into before  
 102 June 7, 1991.

103 Section 2. For the purpose of incorporating the amendment  
 104 made by this act to section 377.242, Florida Statutes, in a  
 105 reference thereto, subsection (1) of section 377.243, Florida  
 106 Statutes, is reenacted to read:

107 377.243 Conditions for granting permits for extraction  
 108 through well holes.-

109 (1) Prior to the application to the Division of Resource  
 110 Management for the permit to drill for oil, gas, and related  
 111 products referred to in s. 377.242(1), the applicant must own a  
 112 valid deed, or other muniment of title, or lease granting said  
 113 applicant the privilege to explore for oil, gas, or related  
 114 mineral products to be extracted only through the well hole on  
 115 the land or lands included in the application. However,  
 116 unallocated interests may be unitized according to s. 377.27.

Page 4 of 5

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

3-01749-25

20251300\_\_

117 Section 3. For the purpose of incorporating the amendment  
118 made by this act to section 377.242, Florida Statutes, in a  
119 reference thereto, paragraph (a) of subsection (1) of section  
120 377.37, Florida Statutes, is reenacted to read:

121 377.37 Penalties.—

122 (1) (a) Any person who violates this law or any rule,  
123 regulation, or order of the division made under this chapter or  
124 who violates the terms of any permit to drill for or produce  
125 oil, gas, or other petroleum products referred to in s.  
126 377.242(1) or to store gas in a natural gas storage facility, or  
127 any lessee, permitholder, or operator of equipment or facilities  
128 used in the exploration for, drilling for, or production of oil,  
129 gas, or other petroleum products, or storage of gas in a natural  
130 gas storage facility, who refuses inspection by the division as  
131 provided in this chapter, is liable to the state for any damage  
132 caused to the air, waters, or property, including animal, plant,  
133 or aquatic life, of the state and for reasonable costs and  
134 expenses of the state in tracing the source of the discharge, in  
135 controlling and abating the source and the pollutants, and in  
136 restoring the air, waters, and property, including animal,  
137 plant, and aquatic life, of the state. Furthermore, such person,  
138 lessee, permitholder, or operator is subject to the judicial  
139 imposition of a civil penalty in an amount of not more than  
140 \$15,000 for each offense. However, the court may receive  
141 evidence in mitigation. Each day during any portion of which  
142 such violation occurs constitutes a separate offense. This  
143 section does not give the department the right to bring an  
144 action on behalf of any private person.

145 Section 4. This act shall take effect July 1, 2025.





The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

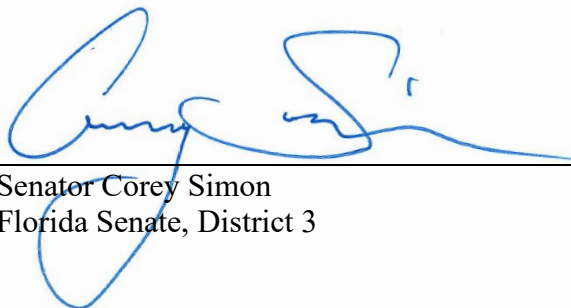
**Subject:** Committee Agenda Request

**Date:** March 25<sup>th</sup>, 2025

---

I respectfully request that **Senate Bill #1300**, relating to Permits for Drilling, Exploration, and Extraction of Oil and Gas Resources, be placed on the:

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



Senator Corey Simon  
Florida Senate, District 3

The Florida Senate

APPEARANCE RECORD

4/10/25

Meeting Date

1300

Bill Number or Topic

AEG

Committee

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

Amendment Barcode (if applicable)

Name Captain TJ Sanders

Phone 703-531-9940

Address Lucky Fly Charters

Email

Street

Apalachicola FL

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.

The Florida Senate

APPEARANCE RECORD

4/10/25 Meeting Date

1300 Bill Number or Topic

App Ag Env Gov Committee

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

Amendment Barcode (if applicable)

Name Kim Dinkins - 1000 Friends of FL Phone 352-895-8693

Address 308 N Manal Street Email kdinkins@1000fof.org

Tallahassee FL 32301 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

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

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10 April 2025

The Florida Senate  
**APPEARANCE RECORD**

SB 1300

Meeting Date

Approps. Cmte. on Agriculture, Environment & General Government

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Kahreem Golden**

Phone **850-345-7108**

Address **1035 S. Semoran Blvd, Suite 2-1021B**

Email **kahreem.golden@tnc.org**

Street

**Winter Park**

**FL**

**32792**

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

**The Nature Conservancy**

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

4/10/25

Meeting Date

1300

Bill Number or Topic

AEG

Committee

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

FL Shellfish Aquaculture Association

Amendment Barcode (if applicable)

Name

Adrienne Johnson

Phone

850 524 0916

Address

3195 Gardenview Way

Email

Street

Tallahassee

32309

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FL Shellfish Aquaculture

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/10/2025

Meeting Date

SB 1300

Bill Number or Topic

AE G

Committee

Amendment Barcode (if applicable)

Name HUNTER LEAVINE

Phone 850-443-0506

Address 79 SOUTHERN DRIVE

Email HUNTER@CAPTAINS COLLECTIVE.COM

Street

CRAWFORDVILLE

City

FL

State

32327

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.

4-10-25

The Florida Senate  
**APPEARANCE RECORD**

SB 1300

Meeting Date

~~AE~~ AEG

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jeff Wren

Phone

850-545-6927

Address

722 Georgia Ave

Email

Wren690@gmail.com

Street

Carabelle

FL

32322

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

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

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

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

5-001 (08/10/2021)

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

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

---

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

---

BILL: CS/SB 1388

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Senator Trumbull

SUBJECT: Vessels

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

---

**I. Summary:**

CS/SB 1388 is the “Boater Freedom Act.”

The bill provides that a law enforcement officer may not board any vessel or perform a vessel stop without probable cause that a violation of vessel safety laws has occurred or is occurring, regardless of whether the owner or operator of the vessel is on board.. The bill provides that a law enforcement officer may not perform a vessel stop or board a vessel for the sole purpose of making a safety or marine sanitation equipment inspection and that a violation of safety and marine sanitation equipment requirements may only be considered a secondary offense.

The bill requires the Florida Fish and Wildlife Conservation Commission (FWC) and the Florida Department of Highway Safety and Motor Vehicles to create a “Florida Freedom Boater” safety inspection decal that will be issued following the demonstration of compliance with safety equipment carriage and use requirements.

The bill also contains the “Watercraft Energy Source Freedom Act,” which prohibits a state agency, municipality, government entity, or county from restricting the use or sale of a watercraft based on the energy source used to power the watercraft.

The bill provides that facilities designated as Clean Marine Manufacturers will be eligible for a discount on sovereignty submerged land leases and a waiver of extended-term lease surcharges. It authorizes funding for the construction and maintenance of parking for boat-hauling vehicles and trailers.

The bill provides that the FWC may establish springs protection zones to prevent significant harm to springs, spring groups, and spring runs.

The bill prohibits the FWC from issuing a fishing license to any commercial fishing vessel owned by any alien power.



The bill will have an indeterminate fiscal impact on the FWC regarding the cost of issuing the boater safety inspection decals. This cost can be absorbed within existing agency resources. See Section V., Fiscal Impact Statement.

The bill has an effective date of July 1, 2025.

## II. Present Situation:

### Vessel Safety and Marine Sanitation Equipment

The owners and operators of every vessel on waters of this state<sup>1</sup> are required to carry, store, maintain, and use safety equipment in accordance with current U.S. Coast Guard safety equipment requirements, unless expressly exempted by the FWC.<sup>2</sup> Equipment required by the U.S. Coast Guard for recreational vessels includes engine cut-off switches, personal flotation devices, visual distress signals, fire extinguishers, and backfire flame controls.<sup>3</sup>

Additionally, Florida law prohibits a person from operating a vessel less than 26 feet in length unless all children under the age of six are wearing a personal flotation device.<sup>4</sup> A vessel must be equipped with properly serviceable lights and shapes required by the navigation rules and prohibits the use of sirens or flashing, occulting, or revolving lights on any vessel, except as expressly allowed.<sup>5</sup> Florida law also requires the operator of a vessel used in the instruction of a water sport or activity to use an engine cut-off switch and wear an operative link to the switch when a person participating in the water sport or activity is in the water.<sup>6</sup>

The discharge of raw sewage from any vessel, including houseboats and floating structures, into Florida waters is prohibited.<sup>7</sup> Every vessel on waters of this state that is 26 feet or more in length with an enclosed cabin that includes berthing facilities must be equipped with a toilet.<sup>8</sup> Every permanent toilet must be properly attached to the appropriate U.S. Coast Guard certified or labeled marine sanitation device.<sup>9</sup> Floating structures with enclosed living spaces that include berthing facilities, or working spaces with public access, as well as houseboats, must be equipped with at least one permanently installed toilet connected to a U.S. Coast Guard certified or labeled Type III marine sanitation device.<sup>10</sup>

---

<sup>1</sup> “Waters of this state” are defined as any navigable waters of the U.S. within the territorial limits of this state, the marginal sea adjacent to this state, and the high seas when navigated as a part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, and canals under the jurisdiction of this state. Section 327.02(48), F.S.

<sup>2</sup> Section 327.50(1)(a), F.S.

<sup>3</sup> U.S. Coast Guard, *A Boater’s Guide to the Federal Requirements for Recreational Boats* (2023), available at <https://uscgboating.org/assets/1/AssetManager/Boaters-Guide-to-Federal-Requirements-for-Recreational-Boats-20231108.pdf>.

<sup>4</sup> Section 327.50(1)(b), F.S.

<sup>5</sup> Section 327.50(2), (3), F.S.

<sup>6</sup> Section 327.50(4), F.S.

<sup>7</sup> Section 327.53(4)(a), F.S.

<sup>8</sup> Section 327.53(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 327.53(2), (3), F.S. If the toilet is simultaneously connected to both a Type III marine sanitation device and to another approved marine sanitation device, the valve or other mechanism selecting between the two marine sanitation devices must be set to direct all sewage to the Type III marine sanitation device and, while the vessel is on the waters of the state, must be locked or otherwise secured by the boat operator, so as to prevent resetting. Floating structures may be permanently

### ***Safety and Marine Sanitation Equipment Inspections***

The FWC's Division of Law Enforcement and other law enforcement officers<sup>11</sup> are responsible for enforcing state laws relating to vessel safety and vessel titling and registration.<sup>12</sup> As part of this responsibility, law enforcement officers may inspect all vessels on waters of the state.<sup>13</sup>

Law enforcement officers' authority to conduct inspections of safety and marine sanitation equipment aboard vessels is qualified in statute.<sup>14</sup> When an owner or operator is aboard a vessel, law enforcement officers may board the vessel either with the consent of the owner or operator or if the officer has probable cause<sup>15</sup> or knowledge to believe that a violation of vessel safety law has occurred or is occurring.<sup>16</sup> However, an officer may not board any vessel for a safety and marine sanitation equipment inspection if the owner or the operator is not aboard the vessel. If an officer requests to perform an inspection of the vessel and the operator refuses or is unable to display the safety or marine sanitation equipment, the officer may board the vessel. Additionally, an officer may board the vessel if the safety or marine sanitation equipment is permanently installed and is only visible if the officer is on board the vessel.<sup>17</sup>

After the vessel operator demonstrates compliance with the safety equipment carriage and use requirements during an officer-initiated safety inspection, the operator will receive a safety inspection decal signifying that the vessel has met the requirements.<sup>18</sup> The FWC may designate an expiration date for the decals by rule, however the expiration must be valid for at least one year and not more than five years. All decals issued by the FWC on or before December 31, 2018, are no longer valid after that date.<sup>19</sup>

The safety inspection decal is not required to be displayed.<sup>20</sup> However, if it is displayed, it must be placed within six inches of a vessel's properly displayed vessel registration decal. If the decal

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attached to onshore sewage disposal via plumbing. No floating structure may be plumbed to permit the discharge of sewage into the waters of this state. *Id.* A Type III marine sanitation device is typically a holding tank where sewage is stored until it can be discharged either onshore or at sea (beyond three miles from shore). U.S. Environmental Protection Agency, *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited March 19, 2025).

<sup>11</sup> Law enforcement agencies or officers specified in section 327.70, F.S., include FWC's Division of Law Enforcement and its officers, sheriffs and their deputies, municipal police officers, and any other law enforcement officer defined in section 943.10, F.S. As defined in section 943.10(1), F.S., a law enforcement officer is any person elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof who is vested with the authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

<sup>12</sup> Section 327.70(1), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 327.56(1), F.S.

<sup>15</sup> The probable cause standard is incapable of precise definition, as it deals with probabilities and depends on the totality of the circumstances. Generally, probable cause exists when a reasonable inquiry would cause a reasonably intelligent and prudent person to believe in the truth of a particular set of facts. *Maryland v. Pringle*, 540 U.S. 366 (2003).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* Safety and marine sanitation equipment inspections of floating structures must be completed in accordance with inspections of certain facilities, rather than vessels. *See* section 403.091, F.S.

<sup>18</sup> Section 327.70(2)(a)1., F.S.

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

<sup>20</sup> Section 327.70(2)(a)2., F.S.

is displayed on a nonmotorized vessel that does not need to be registered, the decal must be placed above the waterline on the forward half of the vessel's port side.<sup>21</sup> A law enforcement officer may not stop a vessel with a properly displayed and valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with the safety equipment carriage and use requirements, unless the officer has a reasonable suspicion<sup>22</sup> that a violation of the safety equipment carriage or use requirements has occurred or is occurring.<sup>23</sup> This does not restrict an officer from stopping a vessel for any other lawful purpose.<sup>24</sup>

### **Boating Restricted Areas**

Under Florida law, boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.<sup>25</sup>

The FWC may establish boating-restricted areas by rule.<sup>26</sup> Municipalities and counties may establish, by ordinance, boating-restricted areas for speed and wake restrictions and for safety reasons.<sup>27</sup> Municipalities and counties may also establish vessel-exclusion zones if the area is:

- Reserved as a canoe trail,
- Limited to vessels under oars or sail, or
- Reserved for a particular activity and user group separation is needed to protect the participants.<sup>28</sup>

### **Lease of Sovereignty Submerged Lands by Boating Facilities**

Sovereignty submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line<sup>29</sup> that lay beneath navigable fresh water or tidally influenced waters.<sup>30</sup> Title to sovereignty submerged lands is vested in the Board of Trustees of the Internal Improvement Trust Fund,<sup>31</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> Reasonable suspicion takes into account the totality of the circumstances; it is more than a hunch, is considerably less than a preponderance of the evidence, and is obviously less than what is necessary to meet the probable cause standard. *Navarette v. California*, 134 S.Ct. 1683, 1687 (2014) (citing *U.S. v. Cortez*, 101 S.Ct. 690 (1981); *Terry v. Ohio*, 88 S.Ct. 1868 (1968); and *U.S. v. Sokolow*, 109 S.Ct. 1581 (1989).)

<sup>23</sup> Section 327.70(2)(b), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 327.46(1), F.S.

<sup>26</sup> Section 327.46(1)(a), F.S. These areas are established in Rule 68D-24, F.A.C.

<sup>27</sup> Section 327.46(1)(b), F.S.

<sup>28</sup> Section 327.46(1)(c), F.S.

<sup>29</sup> The mean high water line is the intersection of the local elevation of mean high water with the shore. Mean high water is calculated by taking the average height of high tides over a 19-year period. The mean high water line along the shore of land immediately bordering navigable waters is the boundary between the foreshore owned by the State of Florida and the uplands, which may be privately owned. Chapter 18-21.003(38)-(39), Fla. Admin. Code.

<sup>30</sup> Chapter 18-21.003(67), Fla. Admin. Code.

<sup>31</sup> The Board of Trustees of the Internal Improvement Trust Fund is comprised of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Section 352.02(1), F.S.

which is authorized to administer all state-owned lands, including by leasing sovereignty submerged lands.<sup>32</sup>

The Board of Trustees is authorized in statute to lease sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers.<sup>33</sup> A marina, boatyard, or marine retailer designated by the Department of Environmental Protection (DEP) as a Clean Marina, Clean Boatyard, or Clean Marine Retailer under the Clean Marina Program may be eligible for a ten percent discount on its annual fee for a sovereign submerged lands lease if the facility:

- Actively maintains designation under the program,
- Complies with the terms of the lease, and
- Does not change use during the terms of the lease.<sup>34</sup>

The facility may also be eligible for a waiver of its extended-term lease surcharges if the facility:

- Actively maintains designation under the program,
- Complies with the terms of the lease,
- Does not change use during the terms of the lease, and
- Is available to the public on a first-come, first-served basis.<sup>35</sup>

If the facility is in arrears on lease fees or does not comply with the eligibility requirements for a waiver of the extended-term lease surcharges, the facility will not be eligible for the discount or waiver until arrears have been paid and compliance with the program has been met.<sup>36</sup>

An extended-term lease is available for up to 25-year terms.<sup>37</sup> A one-time surcharge will be added to the extended-term lease fee for most extended-term leases.<sup>38</sup>

### **Clean Marina Program**

The Clean Marina Program is a voluntary designation program that incentivizes marinas,<sup>39</sup> boatyards,<sup>40</sup> and marine retailers<sup>41</sup> to incorporate best management practices in their operations.<sup>42</sup> These best management practices address issues like sensitive habitats, invasive species, waste

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<sup>32</sup> Section 253.03(1), (6), and (7), F.S. The Florida Constitution allows for the private use of portions of sovereignty submerged lands, but only when not contrary to the public interest. FLA. CONST. art. X, s. 11.

<sup>33</sup> Section 253.0346, F.S.

<sup>34</sup> Section 253.0346(3), F.S.

<sup>35</sup> *Id.* “First-come, first served” means that the facility operates on state-owned submerged land for which there is no club membership, stock ownership, equity interest, or other qualifying requirement and rental terms do not exceed 12 months and do not include automatic renewal rights or conditions. Section 253.0346(1), F.S.

<sup>36</sup> Section 253.0346(3)(c), F.S.

<sup>37</sup> Chapter 18-21.008(2), Fla. Admin. Code.

<sup>38</sup> Chapter 18-21.011(1)(b), Fla. Admin. Code.

<sup>39</sup> A marina is a docking facility with ten or more boat slips or a docking facility that provides marine supplies or services required for boating, including but not limited to: dry storage, boat repair, gas, oil, boat sales, boat testing, shellfish or finfish harvesting or distribution, or facilities associated with certain other boating-related commercial establishments. DEP, *Clean Marina Program*, <https://floridadep.gov/rcp/clean-marina/content/clean-marina-program> (last visited March 4, 2025).

<sup>40</sup> A boatyard is a facility that provides a repair or refinishing site for hull, mechanical, or electrical work on vessels. *Id.*

<sup>41</sup> A marine retailer sells new or used boats and provides services like onsite or offsite repairs or refinishing for hull, mechanical, or electrical work. *Id.*

<sup>42</sup> DEP, *Florida Clean Marina Best Management Practices*, 2 (2020), available at [https://floridadep.gov/sites/default/files/2020\\_Florida\\_Clean\\_Marina\\_Best\\_Management\\_Practices.pdf](https://floridadep.gov/sites/default/files/2020_Florida_Clean_Marina_Best_Management_Practices.pdf).

management, stormwater control, water and air pollution, spill prevention, and emergency preparedness.<sup>43</sup>

The program also provides compliance assistance and education on storm readiness through the Clean and Resilience Program.<sup>44</sup> In order to obtain the designation of Clean Marina, Clean Boatyard, or Clean Marine Retailer, facilities must meet all of the DEP's regulatory requirements and implement at least 60 percent of the best management practices.<sup>45</sup>

### **Fuel Tax Collection Trust Fund**

The FWC is authorized to develop and administer competitive grant programs funded with money transferred pursuant to the Fuel Tax Collection Trust Fund requirements.<sup>46</sup> These grants may be awarded for:

- The construction and maintenance of publicly owned boat ramps, piers, and docks;
- Boater education;
- Deployment of manatee technical avoidance technology; and
- Economic development initiatives that promote boating in the state.<sup>47</sup>

The Fuel Tax Collection Trust Fund requires an annual disbursement of \$2.5 million to the FWC's State Game Trust Fund for recreational boating activities and freshwater fisheries management and research.<sup>48</sup> Of those funds, a minimum of \$1.25 million must be used to fund local projects to provide recreational channel marking and other uniform waterway markers, public boat ramps, lifts and hoists, marine railways, and other public launching facilities, derelict vessel removal, and other local boating-related activities.<sup>49</sup> The remaining \$1.25 million may be used for recreational boating activities and freshwater fisheries management and research.<sup>50</sup>

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

**Section 1** provides that this act may be cited as the "Boater Freedom Act."

**Section 2** amends s. 253.0346, F.S., concerning the lease of sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers. The bill provides that a facility designated as a Clean Marine Manufacturer under the Clean Marina Program will be eligible for a ten percent discount on its annual lease of sovereignty submerged lands, as well as a waiver of its extended-term lease surcharge, if it meets certain criteria. Facilities designated as Clean Marinas, Clean Boatyards, or Clean Marine Retailers are already eligible under current law.

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<sup>43</sup> See DEP, *Florida Clean Marina Best Management Practices*; DEP, *Clean Marina Program*.

<sup>44</sup> DEP, *Clean Marina Program*.

<sup>45</sup> *Id.*

<sup>46</sup> Section 327.47, F.S.

<sup>47</sup> *Id.*

<sup>48</sup> Section 206.606(1)(b), F.S.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

**Section 3** amends s. 327.45, F.S., to provide that the FWC may establish springs protection zones to prevent significant harm where the operation, anchoring, mooring, beaching, or grounding of vessels is determined to be the cause of significant impacts.

**Section 4** amends s. 327.47, F.S., which authorizes the FWC to develop and administer competitive grants programs funded by the Fuel Tax Collection Trust Fund. The bill provides that, in addition to what is currently authorized, grants may be awarded for the construction and maintenance of parking for boat-hauling vehicles and trailers.

**Section 5** amends s. 327.56, F.S., which concerns safety and marine sanitation equipment inspections. Current law prohibits an officer from boarding a vessel to perform a safety or marine sanitation equipment inspection if the owner or operator is not aboard the vessel. The bill clarifies that an officer may not board a vessel for the sole purpose of performing a safety or marine sanitation equipment inspection. The bill provides that a violation of safety or marine sanitation equipment requirements is a secondary offense, rather than a primary offense.

**Section 6** amends s. 327.70, F.S., to require the FWC to coordinate with the Florida Department of Highway Safety and Motor Vehicles to create a “Florida Freedom Boater” safety inspection decal that will be issued following the demonstration of compliance with safety equipment carriage and use requirements at the time of registration or renewal. The decal will signify that a vessel is deemed to have met safety equipment carriage and use requirements.

The bill removes language providing that all decals issued by the FWC on or before December 31, 2018, are no longer valid after that date.

The bill requires the display of the “Florida Freedom Boater” safety inspection decal.

The bill deletes language prohibiting an officer from stopping a vessel displaying a valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with safety equipment carriage and use requirements unless there is reasonable suspicion that a violation of such requirements has occurred or is occurring. The bill provides that a law enforcement officer is not restricted from stopping a vessel for any lawful purpose when the officer has probable cause or knowledge to believe that a violation has occurred or is occurring.

**Section 7** creates s. 327.75, F.S., which may be cited as the “Watercraft Energy Source Freedom Act.” The bill defines “energy source” to mean any source of energy used to power a watercraft, including, but not limited to, gasoline, diesel fuel, electricity, hydrogen, and solar power. It also defines “watercraft” to mean any vessel or craft designed for navigation on water, including boats and personal watercraft.

The bill prohibits a state agency, municipality, government entity, or county from restricting the use or sale of a watercraft based on the energy source used to power the watercraft. This includes an energy source used for propulsion or used for powering other functions of the watercraft.

**Section 8** amends s. 379.226, F.S., to prohibit the issuance of commercial fishing vessel licenses to any alien power. Current language prohibits the issuance of commercial fishing vessel licenses to alien powers which subscribes to the doctrine of international communism.

**Section 9** provides an effective date of July 1, 2025.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There will be indeterminate cost savings to a Clean Marine Manufacturer under the Clean Marina Program as they will be eligible for a ten percent discount on its annual lease of sovereignty submerged lands, as well as a waiver of its extended-term lease surcharge.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on the FWC regarding the cost of issuing the boater safety inspection decals. This cost can be absorbed within existing agency resources. There may also be an indeterminate, but insignificant, loss of revenue to the Board of Trustees of the Internal Improvement Trust Fund as a Clean Marine Manufacturer under the Clean Marina Program will be eligible for a ten percent discount on its annual lease of sovereignty submerged lands, as well as a waiver of its extended-term lease surcharge.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 253.0346, 327.45, 327.47, 327.56, 327.75, 379.226, and 327.70.

This bill creates section 327.75 of the Florida Statutes:

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

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

**CS by Appropriations Committee on Agriculture, Environment, and General Government on April 10, 2025:**

The committee substitute:

- Removes the definition of probable cause added in the underlying bill.
- Provides that an officer may not board any vessel or perform a vessel stop without probable cause that a violation of vessel safety laws has occurred or is occurring, regardless of whether the owner or operator of the vessel is on board.
- Removes the requirement in the underlying bill that an officer must make a good faith attempt not to board a vessel if the owner or operator is not on board.
- Clarifies that an officer may not perform a vessel stop or board a vessel for the sole purpose of making a safety or marine sanitation equipment inspection.
- Authorizes the Florida Fish and Wildlife Conservation Commission to create springs protections zones to modify the allowable means of anchoring, mooring, beaching, or grounding vessels.
- Provides that the commission may establish springs protection zones to prevent significant harm to springs, spring groups, and spring runs.
- Expands the description of “significant harm” to include negative impacts where the operation, anchoring, mooring, beaching, or grounding of vessels is determined to be the predominant cause.
- Prohibits the commission from issuing a fishing license to any commercial fishing vessel owned by any alien power. Current language prohibits FWC from issuing commercial fishing licenses to any vessel owned by an alien power that subscribes to the doctrine of international communism.
- Removes the severability clause in the underlying bill.



B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2025	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (Trumbull) 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 "Boater Freedom Act."

Section 2. Subsection (3) of section 253.0346, Florida Statutes, is amended to read:

253.0346 Lease of sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers.-



11 (3) For a facility designated by the department as a Clean  
12 Marina, Clean Boatyard, Clean Marine Manufacturer, or Clean  
13 Marine Retailer under the Clean Marina Program:

14 (a) A discount of 10 percent on the annual lease fee shall  
15 apply if the facility:

- 16 1. Actively maintains designation under the program.
- 17 2. Complies with the terms of the lease.
- 18 3. Does not change use during the term of the lease.

19 (b) Extended-term lease surcharges shall be waived if the  
20 facility:

- 21 1. Actively maintains designation under the program.
- 22 2. Complies with the terms of the lease.
- 23 3. Does not change use during the term of the lease.
- 24 4. Is available to the public on a first-come, first-served  
25 basis.

26 (c) If the facility is in arrears on lease fees or fails to  
27 comply with paragraph (b), the facility is not eligible for the  
28 discount or waiver under this subsection until arrears have been  
29 paid and compliance with the program has been met.

30 Section 3. Subsection (2) of section 327.45, Florida  
31 Statutes, is amended to read:

32 327.45 Protection zones for springs.—

33 (2) The commission may establish by rule protection zones  
34 that restrict the speed and operation of vessels, or that  
35 prohibit or modify the allowable means of anchoring, mooring,  
36 beaching, or grounding ~~of~~ vessels, to protect and prevent  
37 significant harm to first, second, and third magnitude springs  
38 and springs groups, including their associated spring runs, as  
39 determined by the commission using the most recent Florida



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40 Geological Survey springs bulletin. Significant ~~This~~ harm  
41 includes negative impacts to water quality, water quantity,  
42 hydrology, wetlands, and aquatic and wetland-dependent species  
43 where the operation, anchoring, mooring, beaching, or grounding  
44 of vessels is determined to be the predominant cause of negative  
45 impacts.

46 Section 4. Section 327.47, Florida Statutes, is amended to  
47 read:

48 327.47 Competitive grant programs.—The commission shall  
49 develop and administer competitive grant programs funded with  
50 moneys transferred pursuant to s. 206.606(1)(d). Grants may be  
51 awarded for the construction and maintenance of publicly owned  
52 boat ramps, parking for boat-hauling vehicles and trailers,  
53 piers, and docks; boater education; deployment of manatee  
54 technical avoidance technology; and economic development  
55 initiatives that promote boating in the state. The commission  
56 may adopt rules pursuant to chapter 120 to implement this  
57 section.

58 Section 5. Section 327.56, Florida Statutes, is amended to  
59 read:

60 327.56 Safety and marine sanitation equipment inspections;  
61 probable cause; qualified.—

62 (1) An ~~No~~ officer may not shall board any vessel or perform  
63 a vessel stop in this state unless to make a safety or marine  
64 sanitation equipment inspection if the owner or operator is not  
65 aboard. When the owner or operator is aboard, an officer may  
66 board a vessel with consent or when the officer has probable  
67 cause or knowledge to believe that a violation of a provision of  
68 this chapter has occurred or is occurring.



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69           (2) An officer may not perform a vessel stop or board a  
70 vessel for the sole purpose of performing a safety or marine  
71 sanitation equipment inspection. A violation of safety or marine  
72 sanitation equipment requirements is a secondary offense, rather  
73 than a primary offense ~~An officer may board a vessel when the~~  
74 ~~operator refuses or is unable to display the safety or marine~~  
75 ~~sanitation equipment required by law, if requested to do so by a~~  
76 ~~law enforcement officer, or when the safety or marine sanitation~~  
77 ~~equipment to be inspected is permanently installed and is not~~  
78 ~~visible for inspection unless the officer boards the vessel.~~

79           ~~(2) Inspection of floating structures for compliance with~~  
80 ~~this section shall be as provided in s. 403.091.~~

81           Section 6. Subsection (2) of section 327.70, Florida  
82 Statutes, is amended to read:

83           327.70 Enforcement of this chapter and chapter 328.—

84           (2) (a) 1. The commission, in coordination with the  
85 Department of Highway Safety and Motor Vehicles, shall create a  
86 “Florida Freedom Boater” safety inspection decal for issue at  
87 the time of registration or renewal, signifying that the vessel  
88 is deemed to have met the safety equipment carriage and use  
89 requirements of this chapter. Upon demonstrated compliance with  
90 the safety equipment carriage and use requirements of this  
91 chapter at the time of registration or renewal ~~during a safety~~  
92 ~~inspection initiated by a law enforcement officer, the operator~~  
93 of a vessel shall be issued a “Florida Freedom Boater” safety  
94 inspection decal ~~signifying that the vessel is deemed to have~~  
95 ~~met the safety equipment carriage and use requirements of this~~  
96 ~~chapter at the time and location of such inspection.~~ The  
97 commission may designate by rule the timeframe for expiration



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98 of, and the specific design for, the "Florida Freedom Boater"  
99 safety inspection decal. However, a decal may not be valid for  
100 less than 1 calendar year or more than 5 years at the time of  
101 issue and, at a minimum, must meet the standards specified in  
102 this paragraph. ~~All decals issued by the commission on or before~~  
103 ~~December 31, 2018, are no longer valid after that date.~~

104 2. The "Florida Freedom Boater" safety inspection decal, ~~if~~  
105 ~~displayed~~, must be located within 6 inches of the inspected  
106 vessel's properly displayed vessel registration decal. For  
107 nonmotorized vessels that are not required to be registered, the  
108 "Florida Freedom Boater" safety inspection decal, ~~if displayed~~,  
109 must be located above the waterline on the forward half of the  
110 port side of the vessel.

111 (b) ~~If a vessel properly displays a valid safety inspection~~  
112 ~~decal created or approved by the division, a law enforcement~~  
113 ~~officer may not stop the vessel for the sole purpose of~~  
114 ~~inspecting the vessel for compliance with the safety equipment~~  
115 ~~carriage and use requirements of this chapter unless there is~~  
116 ~~reasonable suspicion that a violation of a safety equipment~~  
117 ~~carriage or use requirement has occurred or is occurring. This~~  
118 subsection does not restrict a law enforcement officer from  
119 stopping a vessel for any other lawful purpose when the officer  
120 has probable cause to believe that a violation of this chapter  
121 has occurred or is occurring.

122 Section 7. Section 327.75, Florida Statutes, is created to  
123 read:

124 327.75 Watercraft Energy Source Freedom Act.—

125 (1) SHORT TITLE.—This section may be cited as the  
126 "Watercraft Energy Source Freedom Act."



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127 (2) DEFINITIONS.—For the purposes of this section, the  
128 term:

129 (a) "Energy source" means any source of energy used to  
130 power a watercraft, including, but not limited to, gasoline,  
131 diesel fuel, electricity, hydrogen, and solar power.

132 (b) "Watercraft" means any vessel or craft designed for  
133 navigation on water, including boats and personal watercraft.

134 (3) PROHIBITION ON RESTRICTIONS BASED ON ENERGY SOURCE.—  
135 Notwithstanding any other law to the contrary, a state agency,  
136 municipality, governmental entity, or county may not restrict  
137 the use or sale of a watercraft based on the energy source used  
138 to power the watercraft, including an energy source used for  
139 propulsion or used for powering other functions of the  
140 watercraft.

141 Section 8. Subsection (3) of section 379.226, Florida  
142 Statutes, is amended to read:

143 379.226 Florida Territorial Waters Act; alien-owned  
144 commercial fishing vessels; prohibited acts; enforcement.—

145 (3) No license shall be issued by the Fish and Wildlife  
146 Conservation Commission under s. 379.361~~7~~ to any vessel owned in  
147 whole or in part by any alien power, ~~which subscribes to the~~  
148 ~~doctrine of international communism, or any subject or national~~  
149 ~~thereof, who subscribes to the doctrine of international~~  
150 ~~communism, or any individual who subscribes to the doctrine of~~  
151 ~~international communism, or who shall have signed a treaty of~~  
152 ~~trade, friendship and alliance or a nonaggression pact with any~~  
153 ~~communist power. The commission shall grant or withhold said~~  
154 ~~licenses where other alien vessels are involved on the basis of~~  
155 ~~reciprocity and retorsion, unless the nation concerned shall be~~



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156 ~~designated as a friendly ally or neutral by a formal suggestion~~  
157 ~~transmitted to the Governor of Florida by the Secretary of State~~  
158 ~~of the United States. Upon the receipt of such suggestion~~  
159 ~~licenses shall be granted under s. 379.361, without regard to~~  
160 ~~reciprocity and retorsion, to vessels of such nations.~~

161 Section 9. This act shall take effect July 1, 2025.

162

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

164 And the title is amended as follows:

165 Delete everything before the enacting clause  
166 and insert:

167 A bill to be entitled  
168 An act relating to vessels; providing a short title;  
169 amending s. 253.0346, F.S.; including Clean Marine  
170 Manufacturers within the Clean Marine Program;  
171 amending s. 327.45, F.S.; specifying that the Fish and  
172 Wildlife Conservation Commission's authorization to  
173 establish protection zones includes modifying the  
174 allowable means of certain vessel positioning to  
175 prevent significant harm to certain springs; revising  
176 what constitutes significant harm; amending s. 327.47,  
177 F.S.; authorizing certain grants to be awarded for the  
178 construction and maintenance of publicly owned parking  
179 for boat-hauling vehicles and trailers; amending s.  
180 327.56, F.S.; prohibiting an officer from performing a  
181 vessel stop or boarding a vessel without probable  
182 cause; prohibiting an officer from performing a vessel  
183 stop or boarding a vessel under certain circumstances;  
184 providing that a violation of safety or marine





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185 sanitation equipment requirements is a secondary  
186 rather than a primary offense; amending s. 327.70,  
187 F.S.; requiring the commission, in coordination with  
188 the Department of Highway Safety and Motor Vehicles,  
189 to create the "Florida Freedom Boater" safety  
190 inspection decal for specified purposes; providing for  
191 the award of such decal; providing requirements for  
192 such decal; authorizing an officer to stop a vessel  
193 for a lawful purpose when the officer has probable  
194 cause or knowledge to believe a violation of certain  
195 provisions has occurred or is occurring; creating s.  
196 327.75, F.S.; providing a short title; defining the  
197 terms "energy source" and "watercraft"; prohibiting  
198 specified entities from restricting the use or sale of  
199 watercraft based on the energy source used by such  
200 watercraft; amending s. 379.226, F.S.; revising  
201 provisions prohibiting the issuance of a license to a  
202 vessel owned by certain alien powers; providing an  
203 effective date.

By Senator Trumbull

2-01230B-25

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1 A bill to be entitled  
 2 An act relating to vessels; providing a short title;  
 3 amending s. 327.02, F.S.; providing that the term  
 4 "probable cause" does not include specified actions  
 5 relating to safety or marine sanitation equipment  
 6 inspections; amending s. 253.0346, F.S.; including  
 7 Clean Marine Manufacturers within the Clean Marine  
 8 Program; amending s. 327.47, F.S.; authorizing certain  
 9 grants to be awarded for the construction and  
 10 maintenance of publicly owned parking for boat-hauling  
 11 vehicles and trailers; amending s. 327.56, F.S.;

12 prohibiting certain officers from performing a vessel  
 13 stop or boarding a vessel without probable cause or  
 14 specified knowledge; requiring such officers to make  
 15 good faith attempts to not board vessels without the  
 16 owner or operator on board; providing that violations  
 17 of safety and marine sanitation equipment requirements  
 18 are considered secondary offenses; removing provisions  
 19 authorizing certain officers to board a vessel under  
 20 certain circumstances; removing provisions relating to  
 21 the inspection of floating structures; amending s.  
 22 327.70, F.S.; requiring the Florida Fish and Wildlife  
 23 Commission, in coordination with the Department of  
 24 Highway Safety and Motor Vehicles, to create the  
 25 "Florida Freedom Boater" safety inspection decal for  
 26 specified purposes; providing for the award of such  
 27 decal; providing requirements for such decal; creating  
 28 s. 327.75, F.S.; providing a short title; providing  
 29 definitions; prohibiting specified entities from

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

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30 restricting the use or sale of watercrafts based on  
 31 the energy source used by such watercrafts; providing  
 32 severability; providing an effective date.  
 33

34 Be It Enacted by the Legislature of the State of Florida:  
 35

36 Section 1. This act may be cited as the "Boater Freedom  
 37 Act."

38 Section 2. Subsections (39) through (48) of section 327.02,  
 39 Florida Statutes, are renumbered as subsections (40) through  
 40 (49), respectively, and a new subsection (39) is added to that  
 41 section, to read:  
 42 327.02 Definitions.—As used in this chapter and in chapter  
 43 328, unless the context clearly requires a different meaning,  
 44 the term:  
 45 (39) "Probable cause" does not include any action to make a  
 46 safety or marine sanitation equipment inspection.

47 Section 3. Subsection (3) of section 253.0346, Florida  
 48 Statutes, is amended to read:  
 49 253.0346 Lease of sovereignty submerged lands for marinas,  
 50 boatyards, mooring fields, and marine retailers.—  
 51 (3) For a facility designated by the department as a Clean  
 52 Marina, Clean Boatyard, Clean Marine Manufacturer, or Clean  
 53 Marine Retailer under the Clean Marina Program:  
 54 (a) A discount of 10 percent on the annual lease fee shall  
 55 apply if the facility:  
 56 1. Actively maintains designation under the program.  
 57 2. Complies with the terms of the lease.  
 58 3. Does not change use during the term of the lease.

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

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59 (b) Extended-term lease surcharges shall be waived if the  
60 facility:

- 61 1. Actively maintains designation under the program.
- 62 2. Complies with the terms of the lease.
- 63 3. Does not change use during the term of the lease.
- 64 4. Is available to the public on a first-come, first-served  
65 basis.

66 (c) If the facility is in arrears on lease fees or fails to  
67 comply with paragraph (b), the facility is not eligible for the  
68 discount or waiver under this subsection until arrears have been  
69 paid and compliance with the program has been met.

70 Section 4. Section 327.47, Florida Statutes, is amended to  
71 read:

72 327.47 Competitive grant programs.—The commission shall  
73 develop and administer competitive grant programs funded with  
74 moneys transferred pursuant to s. 206.606(1)(d). Grants may be  
75 awarded for the construction and maintenance of publicly owned  
76 boat ramps, parking for boat-hauling vehicles and trailers,  
77 piers, and docks; boater education; deployment of manatee  
78 technical avoidance technology; and economic development  
79 initiatives that promote boating in the state. The commission  
80 may adopt rules pursuant to chapter 120 to implement this  
81 section.

82 Section 5. Section 327.56, Florida Statutes, is amended to  
83 read:

84 327.56 Safety and marine sanitation equipment inspections;  
85 probable cause; qualified.—

86 (1) An officer may not shall board any vessel or perform  
87 a vessel stop in this state unless the officer has probable

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88 cause or knowledge to believe that a violation of this chapter  
89 has occurred or is occurring. An officer shall ~~to~~ make a good  
90 faith attempt to not board a vessel ~~safety or marine sanitation~~  
91 equipment inspection if the owner or operator is not aboard.

92 (2) When the owner or operator is aboard, an officer may  
93 board a vessel with consent or when the officer has probable  
94 cause or knowledge to believe that a violation of ~~a provision of~~  
95 this chapter has occurred or is occurring.

96 (3) A violation of safety and marine sanitation equipment  
97 requirements may only be considered a secondary offense, rather  
98 than a primary offense. An officer may board a vessel when the  
99 operator refuses or is unable to display the safety or marine  
100 sanitation equipment required by law, if requested to do so by a  
101 law enforcement officer, or when the safety or marine sanitation  
102 equipment to be inspected is permanently installed and is not  
103 visible for inspection unless the officer boards the vessel.

104 (2) ~~Inspection of floating structures for compliance with~~  
105 ~~this section shall be as provided in s. 403.091.~~

106 Section 6. Subsection (2) of section 327.70, Florida  
107 Statutes, is amended to read:

108 327.70 Enforcement of this chapter and chapter 328.—

109 (2)(a)1. The commission, in coordination with the  
110 Department of Highway Safety and Motor Vehicles, shall create a  
111 "Florida Freedom Boater" safety inspection decal for issue at  
112 the time of registration or renewal signifying that the vessel  
113 is deemed to have met the safety equipment carriage and use  
114 requirements of this chapter. Upon demonstrated compliance with  
115 the safety equipment carriage and use requirements of this  
116 chapter at the time of registration or renewal ~~during a safety~~

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 117 ~~inspection initiated by a law enforcement officer,~~ the operator  
 118 of a vessel shall be issued a "Florida Freedom Boater" safety  
 119 inspection decal signifying that the vessel is deemed to have  
 120 met the safety equipment carriage and use requirements of this  
 121 chapter ~~at the time and location of such inspection.~~ The  
 122 commission may designate by rule the timeframe for expiration  
 123 of, and the specific design for, the "Florida Freedom Boater"  
 124 safety inspection decal. However, a decal may not be valid for  
 125 less than 1 calendar year or more than 5 years at the time of  
 126 issue and, at a minimum, must meet the standards specified in  
 127 this paragraph. ~~All decals issued by the commission on or before~~  
 128 ~~December 31, 2018, are no longer valid after that date.~~

129 2. The "Florida Freedom Boater" safety inspection decal, ~~if~~  
 130 ~~displayed,~~ must be located within 6 inches of the inspected  
 131 vessel's properly displayed vessel registration decal. For  
 132 nonmotorized vessels that are not required to be registered, the  
 133 "Florida Freedom Boater" safety inspection decal, ~~if displayed,~~  
 134 must be located above the waterline on the forward half of the  
 135 port side of the vessel.

136 (b) ~~If a vessel properly displays a valid safety inspection~~  
 137 ~~decal created or approved by the division, a law enforcement~~  
 138 ~~officer may not stop the vessel for the sole purpose of~~  
 139 ~~inspecting the vessel for compliance with the safety equipment~~  
 140 ~~carriage and use requirements of this chapter unless there is~~  
 141 ~~reasonable suspicion that a violation of a safety equipment~~  
 142 ~~carriage or use requirement has occurred or is occurring.~~ This  
 143 subsection does not restrict a law enforcement officer from  
 144 stopping a vessel for any other lawful purpose when the officer  
 145 has probable cause or knowledge to believe that a violation has

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 146 occurred or is occurring.

147 Section 7. Section 327.75, Florida Statutes, is created to  
 148 read:

149 327.75 Watercraft Energy Source Freedom.—

150 (1) SHORT TITLE.—This section may be cited as the  
 151 "Watercraft Energy Source Freedom Act."

152 (2) DEFINITIONS.—For the purposes of this section, the  
 153 term:

154 (a) "Energy source" means any source of energy used to  
 155 power a watercraft, including, but not limited to, gasoline,  
 156 diesel fuel, electricity, hydrogen, and solar power.

157 (b) "Watercraft" means any vessel or craft designed for  
 158 navigation on water, including boats and personal watercraft.

159 (3) PROHIBITION ON RESTRICTIONS BASED ON ENERGY SOURCE.—  
 160 Notwithstanding any other law to the contrary, a state agency,  
 161 municipality, government entity, or county may not restrict the  
 162 use or sale of a watercraft based on the energy source used to  
 163 power the watercraft, including an energy source used for  
 164 propulsion or used for powering other functions of the  
 165 watercraft.

166 Section 8. If any provision of this act or its application  
 167 to any person or circumstance is held invalid, the invalidity  
 168 shall not affect the remaining provisions or applications of  
 169 this act which can be given effect without the invalid provision  
 170 or application.

171 Section 9. This act shall take effect July 1, 2025.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Appropriations Committee on Health and Human Services, *Chair*  
Appropriations  
Appropriations Committee on Higher Education  
Community Affairs  
Health Policy  
Judiciary  
Rules

**SENATOR JAY TRUMBULL**

2nd District

March 26, 2025

Re: SB 1388

Dear Chair Brodeur,

I respectfully request that Senate Bill 1388, relating to Vessels, be placed on the agenda for the next meeting of the Appropriations Committee on Agriculture, Environment, and General Government.

I appreciate your time and consideration of this request. If you have any questions or concerns, please do not hesitate to contact my office at (850) 487-5002.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Trumbull".

Senator Jay Trumbull  
District 2

**REPLY TO:**

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

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

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

# APPEARANCE RECORD

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

4/10/25

Meeting Date

1388

Bill Number or Topic

AEG

Committee

243006

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

St. Petersburg FL

33731

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Defenders of Wildlife

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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/SB 490

INTRODUCER: Criminal Justice Committee and Senator Collins

SUBJECT: Concealed Carry Licensing Requirements for Law Enforcement Officers, Correctional Officers, Correctional Probation Officers, and Military Servicemembers

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Wiseheart</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 490 amends s. 790.052, F.S., to provide that certain correctional probation officers have the right to carry concealed firearms during off-duty hours at the discretion of their superior officers, and perform their normal law enforcement function, using their weapons in a manner which is reasonably expected of on-duty officers in similar situations.

Additionally, the bill provides that correctional probation officers meet to the definition of “qualified law enforcement officer,” and the definition of “qualified retired law enforcement officer.”

The superior officer of the Department of Corrections can direct the officers under his or her supervision to carry concealed firearms while off duty, if he or she files a statement with the governing body containing instructions and requirements relating to the carrying of said firearms.

The bill amends s. 790.0655, F.S., to define “holder of a concealed weapons or concealed firearms license” for purposes of the three-day wait section. A holder of a concealed weapons or concealed firearms license includes, a person who holds a valid license issued under

s. 790.06, F.S., a law enforcement officer, a correctional officer, a correctional probation officer, and a servicemember as defined in s. 250.01, F.S.<sup>1</sup>.

Under the bill a law enforcement officer, correctional officer, or correctional probation officer does not have to wait three days to take possession of a purchased firearm.

The bill does not impact state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

## II. Present Situation:

### Carrying a Concealed Weapon or Firearm With or Without a License

#### *The Licensure Requirements*

The Department of Agriculture and Consumer Services (DACCS) is statutorily authorized to issue concealed weapon and concealed firearm licenses to applicants who qualify.<sup>2</sup> For purposes of the concealed carry licensure law, “concealed weapons or concealed firearms” means a handgun, electronic weapon or device, tear gas gun, knife, or billie, but not a machine gun.<sup>3</sup>

To obtain a concealed weapon or concealed firearm license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapon and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearm license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearm safety and training course; and
- A nonrefundable license fee.<sup>4</sup>

The DACCS must issue the license to carry a concealed weapon or concealed firearm if all other requirements are met and the applicant:

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<sup>1</sup> “Servicemember” means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. s. 250.01, F.S.

<sup>2</sup> Section 790.06(1), F.S.

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

<sup>4</sup> Section 790.06,(4)-(5) F.S.



- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government;<sup>5</sup>
- Is 21 years of age or older;<sup>6</sup>
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;<sup>7</sup>
- Desires a legal means to carry a concealed weapon or concealed firearm for lawful self-defense;
- Demonstrates competence with a firearm;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless five years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least five years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.<sup>8</sup>

Pursuant to s. 790.06(3), F.S., the DACS must deny the application if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless three years have elapsed

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<sup>5</sup> Such consular security official must maintain diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country.

<sup>6</sup> Pursuant to s. 790.062, F.S., the DACS must issue a license to carry a concealed weapon or concealed firearm to a servicemember or veteran who does not meet the 21 years of age threshold if he or she is otherwise qualified.

<sup>7</sup> It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted. Section 790.06(2), F.S.

<sup>8</sup> Section 790.06(2), F.S.

since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.<sup>9</sup>

The DACS must:

- Revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding three years.<sup>10</sup>
- Upon notification by a law enforcement agency, a court, or the FDLE and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case.<sup>11</sup>
- Suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.<sup>12</sup>

### ***Expedited Concealed Carry License Processing for Military, Law Enforcement License***

A servicemember<sup>13</sup> or a veteran<sup>14</sup> may request expedited processing of his or her application.<sup>15</sup>

For expedited processing of an application:

- A servicemember must submit a copy of the Common Access Card, United States Uniformed Services Identification Card, or current deployment orders.
- A veteran must submit a copy of the DD Form 214, issued by the United States Department of Defense, or another acceptable form of identification as specified by the Department of Veterans' Affairs.<sup>16</sup>

### ***Law Enforcement Exceptions to Licensure Requirement***

A person holding an active certification from the Criminal Justice Standards and Training Commission as a law enforcement officer, correctional officer, or correctional probation officer is exempt from the licensing requirements of s. 790.06, F.S.<sup>17</sup> The officers are defined as:

- “Law enforcement officer”<sup>18</sup> means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties

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<sup>9</sup> Section 790.06(3), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> “Servicemember” means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. s. 250.01, F.S.

<sup>14</sup> “Veteran” means” a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. s. 1.01(14), F.S.

<sup>15</sup> Section 790.06(4)(f), F.S.

<sup>16</sup> Section 790.06(4)(f), F.S.

<sup>17</sup> Section 790.06(5)(b), F.S.

<sup>18</sup> Section 943.10(1), F.S.

include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, and special officers employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S.

- “Correctional officer”<sup>19</sup> means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.
- “Correctional probation officer”<sup>20</sup> means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including the probation and parole regional administrator level.
- “Part-time law enforcement officer”<sup>21</sup> means any person employed or appointed less than full time, as defined by an employing agency, with or without compensation, who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.
- “Part-time correctional officer”<sup>22</sup> means any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.
- “Auxiliary law enforcement officer”<sup>23</sup> means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions.
- “Auxiliary correctional officer”<sup>24</sup> means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.<sup>25</sup>

If such individual wishes to receive a concealed weapon or concealed firearm license, he or she is exempt from the background investigation and all background investigation fees but must pay

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<sup>19</sup> Section 943.10(2), F.S.

<sup>20</sup> Section 943.10(3), F.S.

<sup>21</sup> Section 943.10(6), F.S.

<sup>22</sup> Section 943.10(7), F.S.

<sup>23</sup> Section 943.10(8), F.S.

<sup>24</sup> Section 943.10(9), F.S.

<sup>25</sup> Section 790.06(5)(b), F.S.

the current license fees regularly required to be paid by nonexempt applicants.<sup>26</sup> Further, a law enforcement officer, a correctional officer, or a correctional probation officer as defined in s. 943.10(1), (2), or (3), F.S. is exempt from the required fees and background investigation for one year after his or her retirement.<sup>27</sup>

Law enforcement officers are exempt from the licensing and penal provisions of ch. 790, F.S., when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty.<sup>28</sup>

### ***Carrying a Concealed Weapon or Concealed Firearm Without a License***

A person is authorized to carry a concealed weapon or concealed firearm<sup>29</sup> if he or she:

- Is licensed under s. 790.06, F.S.; or
- Is not licensed under s. 790.06, F.S., but otherwise satisfies the criteria for receiving and maintaining such a license.<sup>30</sup>

A person who carries a concealed weapon or concealed firearm without a license<sup>31</sup> must carry valid identification at all times when he or she is in actual possession of a concealed weapon or concealed firearm and must display such identification upon demand by a law enforcement officer.<sup>32</sup> The person must also abide by s. 790.06(12), F.S., in the same manner as a person who is licensed to carry a concealed weapon or concealed firearm.<sup>33</sup>

### **Purchase of a Firearm from a Licensed Dealer**

A federally licensed firearm dealer may not sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

- Obtained a completed form from the potential buyer (transferee), which must include identifying information such as the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee; and
- Inspected proper identification including an identification containing a photograph of the potential buyer or transferee.<sup>34</sup>

These are the first steps in the firearm purchase process, followed by collecting a fee and initiating the background check.<sup>35</sup>

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<sup>26</sup> Section 790.06(5)(b), F.S.

<sup>27</sup> Section 790.06(5)(b), F.S.

<sup>28</sup> Section 790.051, F.S.

<sup>29</sup> “Concealed weapon or firearm” as defined in s. 790.06, F.S. means a handgun, electric weapon or device, tear gas gun, knife, or billie, but does not include a machine gun as that term is defined in s. 790.001, F.S.

<sup>30</sup> Section 790.06(2)(a)-(f) and (i)-(n), (3), and (10), F.S.

<sup>31</sup> Section 790.01(1)(b), F.S.

<sup>32</sup> Section 790.013, F.S.

<sup>33</sup> Section 790.06(12)(a), F.S., lists the locations where a person is not authorized to openly carry a handgun (defined in s. 790.001(10), F.S. as a firearm capable of being carried and used by one hand, such as a pistol or revolver) or carry a concealed weapon or concealed firearm.

<sup>34</sup> Section 790.065(1)(a)1., F.S.

<sup>35</sup> Section 790.065(1), F.S.

However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license<sup>36</sup> or holds an active certification from the Criminal Justice Standards and Training Commission<sup>37</sup> as a “law enforcement officer<sup>38</sup>,” a “correctional officer<sup>39</sup>,” or a “correctional probation officer<sup>40</sup>,” the federally licensed dealer is not required to collect the background check fee or run the background check before making the sale.<sup>41</sup>

### ***Three-Day Waiting Period***

A mandatory waiting period is imposed between the purchase and delivery of a firearm. The mandatory waiting period is three days, excluding weekends and legal holidays, or expires at the completion of the records checks required under s. 790.065, F.S., whichever occurs later.<sup>42</sup>

The waiting period does not apply when a firearm is being purchased by a holder of a concealed weapons or concealed firearms license issued under s. 790.06., F.S.<sup>43</sup>

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

The bill amends s. 790.052(1)(a), F.S., to provide that correctional probation officers<sup>44</sup> holding active certifications from the Criminal Justice Standards and Training Commission<sup>45</sup> may carry concealed firearms during off-duty hours, at the discretion of their superior officers, and may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers.

The bill amends s. 790.052(1)(b), F.S., to provide that correctional probation officers<sup>46</sup> holding active certifications from the Criminal Justice Standards and Training Commission<sup>47</sup> meet the definition of “qualified law enforcement officer,” and “qualified retired law enforcement officer.”

The superior officer of the Florida Department of Corrections, if he or she elects to direct the officers under his or her supervision to carry concealed firearms while off duty, must file a statement with the governing body of the department of his or her instructions and requirements relating to the carrying of the firearms.

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<sup>36</sup> Section 790.06, F.S.

<sup>37</sup> Section 943.1395, F.S.

<sup>38</sup> Section 943.10(1), F.S.

<sup>39</sup> Section 943.10(2), F.S.

<sup>40</sup> Section 943.10(3), F.S.

<sup>41</sup> Section 790.065(1)(b), F.S.; *See also* “[T]he dealer must verify the transferee's identity by examining the identification document described in the transferee's statement. Thus, licensed firearms dealers are required to keep information about the identity of firearms buyers in their records.” 18 U.S.C.A. 922(s)(3); and “After the transferee has executed the Form 4473, the licensee: (i) Shall verify the identity of the transferee by examining the identification document (as defined in § 478.11) presented, and shall note on the Form 4473 the type of identification used.” 27 C.F.R. 478.124 (c)(3)(i).

<sup>42</sup> Section 790.0655(1)(a), F.S.

<sup>43</sup> Section 790.0655(2)(a), F.S.

<sup>44</sup> Section 943.10(3), F.S.

<sup>45</sup> Section 943.1395, F.S.

<sup>46</sup> Section 943.10(3), F.S.

<sup>47</sup> Section 943.1395, F.S.

The bill amends s. 790.0655(4), F.S., to provide the meaning of “holder of a concealed weapons or concealed firearms license” for purposes of the 3-day wait section.

A holder of a concealed weapons or concealed firearms license includes:

- A person who holds a valid license issued under s. 790.06., F.S.;
- A law enforcement officer, correctional officer, or correctional probation officer<sup>48</sup>; and
- A servicemember as defined in s. 250.01, F.S.<sup>49</sup>

The bill takes effect on July 1, 2025.

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

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the State Constitution.

##### **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.

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<sup>48</sup> Sections 943.10(1), 943.10(2), and 943.10(3), F.S., respectively.

<sup>49</sup> Servicemember means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. s. 250.01, F.S.

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 790.052 and 790.0655.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

**CS by Criminal Justice on March 4, 2025:**

- Adds certain correctional probation officers to the list of persons who have the right to carry concealed firearms under certain circumstances, and to the list of persons who are “qualified law enforcement officers” or “qualified retired law enforcement officers.”
- Provides that the superior officer of the Department of Corrections can direct the officers under his or her supervision to carry concealed firearms while off duty under certain circumstances.
- Removes the 3-day waiting period for any firearm purchases by law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, part-time correctional officers, auxiliary correctional officers, correctional probation officers, and servicemembers.

B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Collins

591-02124-25

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1 A bill to be entitled  
 2 An act relating to concealed carry licensing  
 3 requirements for law enforcement officers,  
 4 correctional officers, correctional probation  
 5 officers, and military servicemembers; amending s.  
 6 790.052, F.S.; specifying that correctional probation  
 7 officers have the right to carry concealed firearms,  
 8 during off-duty hours, at the discretion of their  
 9 superior officers; authorizing correctional probation  
 10 officers to perform certain law enforcement functions  
 11 under limited circumstances; revising the definition  
 12 of the terms "qualified law enforcement officer" and  
 13 "qualified retired law enforcement officer";  
 14 specifying that if the superior officer of the  
 15 Department of Corrections decides to direct the  
 16 officers under his or her supervision to carry  
 17 concealed firearms while off duty, he or she must file  
 18 a certain statement with the governing body of the  
 19 department; amending s. 790.0655, F.S.; revising the  
 20 exceptions to the required 3-day waiting period  
 21 between purchase and delivery of a firearm; defining  
 22 the term "holder of a concealed weapons or concealed  
 23 firearms license"; providing an effective date.  
 24  
 25 Be It Enacted by the Legislature of the State of Florida:  
 26  
 27 Section 1. Section 790.052, Florida Statutes, is amended to  
 28 read:  
 29 790.052 Carrying concealed firearms; off-duty law

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

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30 enforcement officers.-  
 31 (1) (a) All persons holding active certifications from the  
 32 Criminal Justice Standards and Training Commission as law  
 33 enforcement officers, ~~or~~ correctional officers, or correctional  
 34 probation officers as defined in s. 943.10(1), (2), (3), (6),  
 35 (7), (8), or (9) shall have the right to carry, on or about  
 36 their persons, concealed firearms, during off-duty hours, at the  
 37 discretion of their superior officers, and may perform those law  
 38 enforcement functions that they normally perform during duty  
 39 hours, utilizing their weapons in a manner which is reasonably  
 40 expected of on-duty officers in similar situations.  
 41 (b) All persons holding an active certification from the  
 42 Criminal Justice Standards and Training Commission as a law  
 43 enforcement officer, ~~or~~ a correctional officer, or a  
 44 correctional probation officer as defined in s. 943.10(1), (2),  
 45 (3), (6), (7), (8), or (9) meet the definition of "qualified law  
 46 enforcement officer" in 18 U.S.C. s. 926B(c).  
 47 (c) All persons who held an active certification from the  
 48 Criminal Justice Standards and Training Commission as a law  
 49 enforcement officer, ~~or~~ correctional officer, or correctional  
 50 probation officer as defined in s. 943.10(1), (2), (3), (6),  
 51 (7), (8), or (9), while working for an employing agency, as  
 52 defined in s. 943.10(4), but have separated from service under  
 53 the conditions set forth in 18 U.S.C. s. 926C(c), meet the  
 54 definition of "qualified retired law enforcement officer."  
 55 (d) This section does not limit the right of a law  
 56 enforcement officer, correctional officer, or correctional  
 57 probation officer to carry a concealed firearm off duty as a  
 58 private citizen under the exemption provided in s. 790.06 that

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



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59 allows a law enforcement officer, correctional officer, or  
 60 correctional probation officer as defined in s. 943.10(1), (2),  
 61 (3), (6), (7), (8), or (9) to carry a concealed firearm without  
 62 a concealed weapon or concealed firearm license or as otherwise  
 63 provided by law. The appointing or employing agency or  
 64 department of an officer carrying a concealed firearm as a  
 65 private citizen is not liable for the use of the firearm in such  
 66 capacity. This section does not limit the authority of the  
 67 appointing or employing agency or department from establishing  
 68 policies limiting law enforcement officers or correctional  
 69 officers from carrying concealed firearms during off-duty hours  
 70 in their capacity as appointees or employees of the agency or  
 71 department.

72 (2) The superior officer of any police department, any ~~or~~  
 73 sheriff's office, ~~or~~ the Florida Highway Patrol, or the  
 74 Department of Corrections, if he or she elects to direct the  
 75 officers under his or her supervision to carry concealed  
 76 firearms while off duty, shall file a statement with the  
 77 governing body of such department of his or her instructions and  
 78 requirements relating to the carrying of said firearms.

79 Section 2. Section 790.0655, Florida Statutes, is amended  
 80 to read:

81 790.0655 Purchase and delivery of firearms; mandatory  
 82 waiting period; exceptions; penalties.—

83 (1)(a) A mandatory waiting period is imposed between the  
 84 purchase and delivery of a firearm. The mandatory waiting period  
 85 is 3 days, excluding weekends and legal holidays, or expires  
 86 upon the completion of the records checks required under s.  
 87 790.065, whichever occurs later. ~~"Purchase" means the transfer~~

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88 ~~of money or other valuable consideration to the retailer.~~  
 89 ~~"Retailer" means and includes a licensed importer, licensed~~  
 90 ~~manufacturer, or licensed dealer engaged in the business of~~  
 91 ~~making firearm sales at retail or for distribution, or use, or~~  
 92 ~~consumption, or storage to be used or consumed in this state, as~~  
 93 ~~defined in s. 212.02(13).~~

94 (b) Records of firearm sales must be available for  
 95 inspection by any law enforcement agency, as defined in s.  
 96 934.02, during normal business hours.

97 (2) The waiting period does not apply in the following  
 98 circumstances:

99 (a) When a firearm is being purchased by a holder of a  
 100 concealed weapons or concealed firearms license ~~issued under s.~~  
 101 ~~790.06.~~

102 (b) To a trade-in of another firearm.

103 (c) To the purchase of a rifle or shotgun, upon a person's  
 104 successfully completing a minimum of a 16-hour hunter safety  
 105 course and possessing a hunter safety certification card issued  
 106 under s. 379.3581. A person who is exempt from the hunter safety  
 107 course requirements under s. 379.3581 and holds a valid Florida  
 108 hunting license is exempt from the mandatory waiting period  
 109 under this section for the purchase of a rifle or shotgun.

110 ~~(d) When a rifle or shotgun is being purchased by a law~~  
 111 ~~enforcement officer or correctional officer, as those terms are~~  
 112 ~~defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a~~  
 113 ~~servicemember as defined in s. 250.01.~~

114 (3) It is a felony of the third degree, punishable as  
 115 provided in s. 775.082, s. 775.083, or s. 775.084:

116 (a) For any retailer, or any employee or agent of a

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117 retailer, to deliver a firearm before the expiration of the  
118 waiting period, subject to the exceptions provided in subsection  
119 (2).

120 (b) For a purchaser to obtain delivery of a firearm by  
121 fraud, false pretense, or false representation.

122 (4) For purposes of this section, the term:

123 (a) "Holder of a concealed weapons or concealed firearms  
124 license" includes all of the following:

125 1. A person who holds a valid license issued under s.  
126 790.06.

127 2. A law enforcement officer, correctional officer, or  
128 correctional probation officer, as those terms are defined in s.  
129 943.10(1), (2), (3), (6), (7), (8), or (9).

130 3. A servicemember as defined in s. 250.01.

131 (b) "Purchase" means the transfer of money or other  
132 valuable consideration to the retailer.

133 (c) "Retailer" means and includes a licensed importer,  
134 licensed manufacturer, or licensed dealer engaged in the  
135 business of making firearm sales at retail or for distribution,  
136 or use, or consumption, or storage to be used or consumed in  
137 this state, as defined in s. 212.02(13).

138 Section 3. This act shall take effect July 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 5, 2025

---

I respectfully request that **Senate Bill #490**, relating to Concealed Carry Licensing Requirements for Law Enforcement Officers, Correctional Officers, and Military Servicemembers, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Jay Collins", written over a horizontal line.

Senator Jay Collins  
Florida Senate, District 14

The Florida Senate

APPEARANCE RECORD

4/10/25

Meeting Date

490

Bill Number or Topic

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

Appros Comm on Ag  
ENV. AND Committee GEN GOV

Amendment Barcode (if applicable)

Name WILLIAM B. SMITH Phone 305-333-4344

Address 300 E BREVARD ST Street Email WSMITH@FLPBA.ORG

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

FL PBA

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.

**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/SB 492

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government and Senator McClain

SUBJECT: Mitigation Banking

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 492 provides a standardized schedule for releasing mitigation credits and removes the requirement that the Department of Environmental Protection (DEP) and water management districts determine the credit release schedule on a case-by-case basis pursuant to statutorily enumerated factors. The bill provides that credits must be released as follows:

- 30 percent upon recording a conservation easement and establishing financial assurances (or 100 percent for preservation-only banks).
- 30 percent after completing initial construction activities.
- 20 percent upon meeting interim performance criteria.
- 20 percent upon meeting final success criteria.

Additionally, the bill allows freshwater wetland creation credits to be released earlier, after initial construction success criteria are met.

The bill also allows project applicants to use mitigation credits from outside a mitigation service area when an insufficient number or type of credits are available within the impacted area. The DEP or a water management district must verify the lack of appropriate credits within the regional watershed before approving credits outside the service area. The bill provides that the following multipliers would apply to credits outside the service area:

- 1.0 multiplier if credits are within any regional watershed overlain in whole or in part by the service area.

- An additional 1.0 multiplier for when the service area overlays part of the same regional watershed as the proposed impacts.
- An additional 1.2 multiplier for use of in-kind and out-of-service-area credits located within a regional watershed immediately adjacent to the regional watershed overlain by a bank service area in which the proposed impacts are located.
- When in-kind credits are no available to offset impacts in the regional watershed overlain by a bank service area, an additional 0.25 multiplier shall be applied for each additional regional watershed boundary crossed.
- An additional 0.50 multiplier shall be applied if the mitigation used to offset impacts entails out-of-kind replacement which does not replace the same type of freshwater wetland of fresh surface water impacted.

The bill also requires mitigation banks to submit annual reports detailing the number and type of available credits for sale. The DEP and water management districts must compile these reports and provide an annual assessment of the state's mitigation banking system to the Legislature.

The bill allows for the release of conservation easements on small, low or non-functioning wetlands that are surrounded by development provided the property owner purchases sufficient mitigation bank credits to offset the impact. The process replaces low-quality wetlands with the preservation of high-quality wetlands and allows the parcel to be used for its highest and best use and returned to the tax rolls.

The bill has no impact on state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill has an effective date of July 1, 2025.

## II. Present Situation:

### Environmental Resource Permits (ERP)

Part IV of ch. 373, F.S., and ch. 62-330, F.A.C., regulate the statewide ERP program, which governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and other works such as docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters.<sup>1</sup> ERP applications are processed by either the Department of Environmental Protection (DEP) or one of Florida's five water management districts.<sup>2</sup>

Permit applicants must demonstrate that the regulated activity will not be harmful to the water resources or will not be inconsistent with the overall objectives of the water management district.<sup>3</sup> Applicants must provide reasonable assurance that state water quality standards will not

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<sup>1</sup> Fla. Admin. Code R. 62-330.010(2).

<sup>2</sup> DEP, *Environmental Resource Permitting Coordination, Assistance, Portals*, [https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-permitting#:~:text=The%20Environmental%20Resource%20Permit%20\(ERP,alteration%20of%20surface%20water%20flow](https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-permitting#:~:text=The%20Environmental%20Resource%20Permit%20(ERP,alteration%20of%20surface%20water%20flow) (last visited Mar. 5, 2025).

<sup>3</sup> Section 373.414(1), F.S.

be violated and that the proposed activity is not contrary to the public interest.<sup>4</sup> If a proposed activity significantly degrades or is within an Outstanding Florida Water,<sup>5</sup> the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.<sup>6</sup> In determining whether an activity is contrary to the public interest or clearly in the public interest, the water management district or the DEP must consider and balance the following criteria:

- Whether the activity will adversely affect the public health, safety, or welfare or the property of others;
- Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Whether the activity will be of a temporary or permanent nature;
- Whether the activity will adversely affect or will enhance significant historical and archaeological resources; and
- The current condition and relative value of functions being performed by areas affected by the proposed activity.<sup>7</sup>

If the applicant is unable to otherwise meet this criteria, the DEP or the governing board of a water management district, in deciding to grant or deny a permit, must consider measures proposed by or acceptable to the applicant to mitigate adverse effects of the regulated activity.<sup>8</sup> Such measures may include onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks.<sup>9</sup>

In deciding whether to grant or deny a permit for an activity that affects surface waters or wetlands, the DEP or the water management district must consider the cumulative impacts of:

- The proposed activity;
- Other projects that already exist, are under construction, or have applied for permits or formal wetland or surface water determinations;
- Activities related to developments of regional impact<sup>10</sup> which are under review, approved, or vested, or other activities regulated under Part IV of chapter 373, F.S., which may reasonably be expected to be located within surface waters or wetlands in the same drainage basin based upon a local government's comprehensive plans.<sup>11</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> An Outstanding Florida Water is a water designated worthy of special protection because of its natural attributes. DEP, *Outstanding Florida Waters*, <https://floridadep.gov/dear/water-quality-standards/content/outstanding-florida-waters> (last visited Feb. 7, 2025); see Fla. Admin. Code R. 62-302.700(2) and (9).

<sup>6</sup> Section 373.414(1), F.S.

<sup>7</sup> Section 373.414(1)(a), F.S.

<sup>8</sup> Section 373.414(1)(b), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> "Development of regional impact" means any development that, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county. Section 380.06(1), F.S.

<sup>11</sup> Section 373.414(8)(a), F.S.

These cumulative impacts must be evaluated within the same drainage basin as the proposed activity.<sup>12</sup>

### Overview of Mitigation Banking

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable wetland impacts within a defined mitigation service area.<sup>13</sup> Mitigation banks are alternative to permittee-responsible mitigation.<sup>14</sup> Permittee-responsible mitigation refers to mitigation undertaken by the permittee to provide compensatory mitigation for which the permittee retains full responsibility.<sup>15</sup>

In mitigation banking, the bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, representing the wetland ecological value equivalent to the complete restoration of one acre.<sup>16</sup> Creation of a mitigation bank in Florida typically requires both a permit from the DEP or a water management district and federal approval of a mitigation bank instrument from several agencies led by the U.S. Army Corps of Engineers (USACE), in a joint state/federal interagency review team.<sup>17</sup> Requirements for mitigation bank permits differ between mitigation bank instruments issued by the USACE and state permits issued by the DEP or the water management districts.

The Uniform Mitigation Assessment Method (UMAM) was established as a way to determine the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits.<sup>18</sup> The UMAM provides a standardized procedure for assessing the ecological functions provided by wetlands and other surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss.<sup>19</sup> The UMAM evaluates functions through consideration of an ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife utilization, and mitigation risk.<sup>20</sup> This standardized methodology is also used to determine the degree of improvement in ecological value of proposed mitigation bank activities.<sup>21</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Feb. 17, 2025). “Mitigation service area” means the geographic area within which mitigation credits from a mitigation bank may be used to offset adverse impacts of activities regulated under this part. Section 373.403(21), F.S.

<sup>14</sup> Section 373.4135(1)(b), F.S.

<sup>15</sup> EPA, *Mechanisms for Providing Compensatory Mitigation under CWA Section 404*, <https://www.epa.gov/cwa-404/mechanisms-providing-compensatory-mitigation-under-cwa-section-404> (last visited Feb. 17, 2025).

<sup>16</sup> DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Feb. 17, 2025).

<sup>17</sup> DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Feb. 17, 2025).

<sup>18</sup> See section 373.414(18), F.S.

<sup>19</sup> DEP, *The Uniform Mitigation Assessment Method (UMAM)*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/uniform-mitigation-assessment> (last visited Feb. 17, 2025).

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

<sup>21</sup> *Id.*



## State Mitigation Banking Regulations

To obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.<sup>22</sup>

The applicant must also provide reasonable assurances that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet ERP requirements and related rules;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.<sup>23</sup>

### *Mitigation Bank Credits*

After evaluating the permit application, the permitting agency awards mitigation credits to a proposed mitigation bank or phase of such mitigation bank.<sup>24</sup> The number of credits awarded is based on the degree of improvement in ecological value expected to result from the establishment and operation of the mitigation bank as determined using a functional assessment methodology.<sup>25</sup> In determining the degree of improvement in ecological value, specific factors must be evaluated, including, among other things, the ecological and hydrological relationship between wetlands and uplands in the mitigation bank and the proximity of the mitigation bank to areas with regionally significant ecological resources or habitats, and the extent to which the mitigation bank provides habitat for fish and wildlife.<sup>26</sup>

After awarding mitigation credits to a mitigation bank, the permitting agency establishes a schedule for the release of those credits in the mitigation bank permit.<sup>27</sup> A mitigation credit that has been released may be sold or used to offset adverse impacts from a regulated activity.<sup>28</sup> A portion of the mitigation credits can be released for sale or use prior to meeting all the

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<sup>22</sup> Section 373.4136(1), F.S.

<sup>23</sup> *Id.*; Fla. Admin. Code R. 62-342.400.

<sup>24</sup> Section 373.4136(4), F.S., An entity establishing and operating a mitigation bank may apply to modify the mitigation bank permit to seek the award of additional mitigation credits if the mitigation bank results in an additional increase in ecological value over the value contemplated at the time of the original permit issuance, or the most recent modification thereto involving the number of credits awarded. *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Section 373.4136(4), F.S.

<sup>27</sup> Section 373.4136(5), F.S.

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

performance criteria specified in the mitigation bank permit.<sup>29</sup> However, the permitting agency will only release the full amount of awarded credits after all success criteria are met.<sup>30</sup>

The permitting agency determines the number of credits and schedule for release based on the performance criteria for the mitigation bank and the success criteria for each mitigation activity.<sup>31</sup> The release schedule for a specific mitigation bank or phase thereof is related to the actions required to implement the bank, such as site protection, site preparation, earthwork, removal of wastes, planting, removal or control of nuisance and exotic species, installation of structures, and annual monitoring and management requirements for success. In determining the specific release schedule for a bank, the permitting agency must consider, at a minimum, the following factors:

- Whether the mitigation consists solely of preservation or includes other types of mitigation.
- The length of time anticipated to be required before a determination of success can be achieved.
- The ecological value to be gained from each action required to implement the bank.
- The financial expenditure required for each action to implement the bank.<sup>32</sup>

However, no credit can be released for freshwater wetland creation until the success criteria included in the mitigation bank permit are met.<sup>33</sup>

### *Mitigation Service Area*

During the permitting of a mitigation bank, the permitting agency (the DEP or a water management district) determines the mitigation service area, which is the geographic region within which the bank could reasonably be expected to offset impacts.<sup>34</sup> In determining the boundaries of the mitigation service area, the permitting agency must consider the characteristics, size, and location of the mitigation bank and, at a minimum, the extent to which the mitigation bank:

- Contributes to a regional integrated ecological network;
- Will significantly enhance the water quality or restoration of an offsite receiving water body that is designated as an Outstanding Florida Water, a Wild and Scenic River, an aquatic preserve, a water body designated in a plan approved pursuant to the Surface Water Improvement and Management Act, or a nationally designated estuarine preserve;
- Will provide for the long-term viability of endangered or threatened species or species of special concern;
- Is consistent with the objectives of a regional management plan adopted or endorsed by the department or water management districts; and

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<sup>29</sup> Section 373.4136(5)(a), F.S.

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

<sup>31</sup> Section 373.4136(5)(b), F.S.

<sup>32</sup> Section 373.4136(5)(b), F.S.

<sup>33</sup> Section 373.4136(5)(c), F.S.

<sup>34</sup> DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Feb. 13, 2025); section 373.4136(6), F.S.

- Can reasonably be expected to offset specific types of wetland impacts within a specific geographic area. A mitigation bank need not offset all expected impacts within its service area.<sup>35</sup>

The DEP and the water management districts use regional watersheds to guide the establishment of mitigation service areas.<sup>36</sup> A mitigation service area may extend beyond the regional watershed in which the bank is located into all or part of other regional watersheds when the mitigation bank has the ability to offset adverse impacts outside that regional watershed.<sup>37</sup> Similarly, a mitigation service area may be smaller than the regional watershed in which the mitigation bank is located when adverse impacts throughout the regional watershed cannot reasonably be expected to be offset by the mitigation bank because of local ecological or hydrological conditions.<sup>38</sup>

In general, mitigation credits may only be used to offset adverse impacts in the mitigation service area.<sup>39</sup> However, if certain requirements are met, the following projects may be eligible to use a mitigation bank regardless of whether they are located within the mitigation service area:

- Projects with adverse impacts partially located within the mitigation service area.
- Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or certain seaports.
- Projects with total adverse impacts of less than one acre in size.<sup>40</sup>

### **Federal Mitigation Banking Regulations**

For projects requiring a federal permit, a USACE district engineer determines the mitigation to be required in a mitigation bank permit based on what is practicable and capable of compensating for the aquatic resource functions that will be lost as a result of the permitted activity.<sup>41</sup> When evaluating options for mitigation, the USACE considers the type and location options in the following order (commonly referred to as the mitigation preference hierarchy):

- Mitigation bank credits;
- In-lieu fee program credits;<sup>42</sup>
- Permittee-responsible mitigation under a watershed approach;<sup>43</sup>

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<sup>35</sup> *Id.*

<sup>36</sup> Section 373.4136(6)(b), F.S. Regional watersheds within each water management district are specifically delineated in DEP rules. *See* Fla. Admin. Code R. 62-342.200(9).

<sup>37</sup> Section 373.4136(6)(b), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> Section 373.4136(6), F.S.

<sup>40</sup> Section 373.4136(6)(d), F.S.

<sup>41</sup> 33 C.F.R. 332.3(a)(1).

<sup>42</sup> An in-lieu fee program is a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for DA permits. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor. However, the rules governing the operation and use of in-lieu fee programs are somewhat different from the rules governing operation and use of mitigation banks. 33 C.F.R. 332.2.

<sup>43</sup> Permittee-responsible mitigation means an aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility. 33 C.F.R. 332.2.

- Permittee-responsible mitigation through on-site and in-kind<sup>44</sup> mitigation; or
- Permittee-responsible mitigation through off-site and/or out-of-kind<sup>45</sup> mitigation.<sup>46</sup>

In general, the required mitigation should be located within the same watershed as the impact site and where it is most likely to successfully replace lost functions and services, taking into account watershed scale features as aquatic habitat diversity, habitat connectivity, relationships to hydrologic sources, trends in land use, ecological benefits, and compatibility with adjacent land uses.<sup>47</sup> When compensating for impacts to marine resources, the location of the mitigation site should be chosen to replace lost functions and services within the same marine ecological system (e.g., reef complex, littoral drift cell).<sup>48</sup> Compensation for impacts to aquatic resources in coastal watersheds should also be located in a coastal watershed where practicable.<sup>49</sup>

### ***Mitigation Bank Credits***

When permitted impacts are located within the service area of an approved mitigation bank, and the bank has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from a mitigation bank.<sup>50</sup> An approved instrument (including an approved mitigation plan and appropriate real estate and financial assurances) must be in place before credits can be used to compensate for authorized impacts.<sup>51</sup> Mitigation bank credits are not released until specific milestones associated with the mitigation bank site's protection and development are achieved.<sup>52</sup>

If the USACE determines that mitigation is necessary to offset unavoidable impacts to aquatic resources, the amount of required mitigation must be, to the extent practicable, sufficient to replace lost aquatic resource functions.<sup>53</sup> The USACE requires a mitigation ratio greater than one-to-one where necessary to account for (1) the distance between the affected aquatic resource and the compensation site, (2) the method of mitigation (e.g., preservation), (3) the likelihood of success, (4) differences between the functions lost at the impact site and the functions expected to be produced by the mitigation project, (5) temporal losses of aquatic resource functions, and/or (5) the difficulty of restoring or establishing the desired aquatic resource type and functions.<sup>54</sup>

### ***Mitigation Service Area***

Under federal law, the mitigation service area is the watershed, ecoregion,<sup>55</sup> physiographic province, or other geographic area within which the mitigation bank is authorized to provide

<sup>44</sup> In-kind means a resource of a similar structural and functional type to the impacted resource. 33 C.F.R. 332.2.

<sup>45</sup> Out-of-kind means a resource of a different structural and functional type from the impacted resource. 33 C.F.R. 332.2.

<sup>46</sup> See 33 C.F.R. 332.3(b).

<sup>47</sup> 33 C.F.R. 332.3(b)(1).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> 33 C.F.R. 332.3(b)(1).

<sup>51</sup> 33 C.F.R. 332.3(b)(2).

<sup>52</sup> *Id.*

<sup>53</sup> 33 C.F.R. 332.3(f)(1).

<sup>54</sup> 33 C.F.R. 332.3(f)(2).

<sup>55</sup> Ecoregions are areas where ecosystems (and the type, quality, and quantity of environmental resources) are generally similar. A Roman numeral classification scheme has been adopted for different hierarchical levels of ecoregions, ranging

compensatory mitigation required by USACE permits.<sup>56</sup> The service area must be appropriately sized to ensure that the aquatic resources provided will effectively compensate for adverse environmental impacts across the entire service area.<sup>57</sup> For example, in urban areas, a U.S. Geological Survey 8-digit hydrologic unit code (HUC)<sup>58</sup> watershed or a smaller watershed may be an appropriate service area.<sup>59</sup> In rural areas, several contiguous 8-digit HUCs or a 6-digit HUC watershed may be an appropriate service area.<sup>60</sup> Delineation of the service area must also consider any locally-developed standards and criteria that may be applicable.<sup>61</sup> The economic viability of the mitigation bank may also be considered in determining the size of the service area.<sup>62</sup>

### ***USACE Proximity Factor Tool***

The USACE developed a proximity factor tool that may be used when there are insufficient mitigation credits within the approved mitigation bank service area. The tool is used to assess the number of credits required for any compensatory mitigation proposed outside of approved mitigation bank service areas.<sup>63</sup> The proximity factor is based on ratio multipliers for multiple variables.<sup>64</sup> The tool is only applied when the USACE has determined that mitigation outside of the approved mitigation service area is the most environmentally preferable mitigation option.<sup>65</sup>

The proximity factor tool applies the following multipliers:

- No multiplier if the impact site is outside of a mitigation bank service area boundary, but within the same 8-digit HUC that contains the mitigation bank location.
- 1.5 multiplier if the impact site is outside of a mitigation bank service area boundary and one 8-digit HUC away from the mitigation bank service area boundary.
- 0.25 multiplier for each additional 8-digit HUC away from the mitigation bank location.
- 0.75 multiplier if mitigation entails out-kind replacement (there is no multiplier if the mitigation entails in-kind replacement).

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from general regions to more detailed: Level I - 12 ecoregions in the continental U.S.; Level II - 25 ecoregions in the continental U.S.; Level III - 105 ecoregions in the continental U.S.; Level IV - 967 ecoregions in the conterminous U.S. EPA, *Ecoregions*, <https://www.epa.gov/eco-research/ecoregions> (last visited Feb. 14, 2025).

<sup>56</sup> 33 C.F.R. 332.8(d)(6)(ii)(A).

<sup>57</sup> *Id.*

<sup>58</sup> “HUC” means the hydrologic cataloging unit assigned to a geographic area representing a surface watershed drainage basin. Each unit is assigned a two- to 12-digit number that uniquely identifies each of the six levels of classification within six two-digit fields. United States Geological Survey (USGS), *Hydrologic Unit Codes (HUCs) Explained*, <https://nas.er.usgs.gov/hucs.aspx> (last visited Mar. 3, 2025). Eight-digit HUCs are used for large watersheds known as subbasins; 10-digit HUCs divide the large subbasins into watersheds; and 12-digit HUCs divide watersheds into subwatersheds that capture local tributary systems. EPA, *Hydrologic Unit Codes: HUC 4, HUC 8, and HUC 12, available at https://enviroatlas.epa.gov/enviroatlas/datafactsheets/pdf/Supplemental/HUC.pdf*; DEP, *About the Florida National Hydrography Dataset*, <https://floridadep.gov/dear/watershed-services-program/content/about-florida-national-hydrography-dataset> (last visited Mar. 3, 2025).

<sup>59</sup> 33 C.F.R. 332.8(d)(6)(ii)(A).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> USACE, *Standard Operating Procedure—Assessing a Proximity Factor for Compensatory Mitigation Required to Offset Unavoidable Impacts to Waters of the United States*, 1 (2023), available at <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll15/id/1998>.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 3.

- 0.25 multiplier if mitigation occurs within a different EPA Level IV Ecoregion.<sup>66</sup>

The sum of the applicable multipliers provides the proximity factor.<sup>67</sup> The resulting proximity factor is then multiplied by the number of credits required by the USACE to compensate for unavoidable adverse effects to aquatic resources (e.g., via application of an approved functional assessment such as UMAM).<sup>68</sup> The USACE has the discretion to consider and approve use of the proximity factor tool on a case-by-case basis.<sup>69</sup>

Mitigation should be performed within the same 6-digit HUC.<sup>70</sup> When assessing the location of the mitigation site relative to the impact site, the calculation starts at the 8-digit HUC that contains the mitigation bank site.<sup>71</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 373.4136, F.S., regarding the establishment and operation of mitigation banks. Currently, the Department of Environmental Protection (DEP) and the water management districts are authorized to set the schedule for releasing mitigation credits to each mitigation bank on a case-by-case basis based on the performance criteria for the mitigation bank, the success criteria for each mitigation activity, and other enumerated factors.<sup>72</sup>

The bill requires the DEP and the water management districts, after July 1, 2025, to adhere to the following credit release schedule:

- 30 percent of awarded credits for the recording of the conservation easement and establishment of financial assurances required by the mitigation bank permit, or 100 percent in the case of a preservation-only bank.
- 30 percent of awarded credits following completion of initial construction activities as established by the mitigation bank permit.
- 20 percent of awarded credits upon meeting interim performance criteria established by the mitigation bank permit, in increments as monitoring indicates success.
- 20 percent of awarded credits upon meeting final success criteria established by the mitigation bank permit

The bill provides that the mitigation bank applicant may propose an alternative credit release schedule and the DEP or water management district shall consider the proposed alternative credit release schedule.

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<sup>66</sup> *Id.*

<sup>67</sup> USACE, *Standard Operating Procedure—Assessing a Proximity Factor for Compensatory Mitigation Required to Offset Unavoidable Impacts to Waters of the United States* at 1, 4, available at <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll15/id/1998>.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 5.

<sup>70</sup> *Id.* at 5.

<sup>71</sup> *Id.*

<sup>72</sup> Section 373.4136(5)(b), F.S. The factors include (1) whether the mitigation consists solely of preservation or includes other types of mitigation; (2) the length of time anticipated to be required before a determination of success can be achieved; (3) the ecological value to be gained from each action required to implement the bank; and (4) the financial expenditure required for each action to implement the bank. *Id.*

Currently, credits cannot be released for freshwater wetland creation until the success criteria included in the mitigation bank permit are met. The bill allows these types of credits to be released sooner, after the success criteria for initial construction activities are met.

The bill provides that once a mitigation bank service area has been established by the DEP or a water management district, such service area must be considered to have met the cumulative impact requirements of s. 373.414(8)(a), F.S.,<sup>73</sup> for impacts permitted within any regional watershed included in the mitigation bank service area.

Currently, only certain projects can use credits from a mitigation bank outside the mitigation service area.<sup>74</sup> The bill expands this provision to provide that any project that meets the requirements set forth in the bill may use credits from a mitigation bank outside the mitigation service area to offset impacts resulting from such projects or activities.

The bill provides that, when the requirements of s. 373.414(1)(a), F.S.,<sup>75</sup> are met and an insufficient number or type of credits have been released within the mitigation bank service area in which the impacts associated with a proposed project are located, the project applicant may use credits released from a mitigation bank outside such mitigation service area to offset impacts. The project applicant may only use out-of-service area credits once the DEP or a water management district verifies that mitigation banks within the regional watershed where the adverse impacts are located lack the appropriate credit type to offset impacts associated with the proposed project.

The bill provides that, if the number of released credits within a mitigation service area only partially offsets the impacts associated with a proposed project in that mitigation service area, the project applicant may use out-of-service area credits to account for the difference between the released credits available in the mitigation bank service area and the credits required to offset the impacts associated with the proposed project. The bill requires the DEP and the water management districts to follow the following guidelines to apply a proximity factor to determine adequate compensatory mitigation as follows:

- A 1.0 multiplier shall be applied for use of in-kind credits within any regional watershed overlain in whole or in part by the service area.
- A 1.0 multiplier shall be applied for use of in-kind and out-of-service-area credits when the service area overlaps part of the same regional watershed as the proposed impacts.
- A 1.2 multiplier shall be applied for use of in-kind and out-of-service-area credits located within a regional watershed immediately adjacent to the regional watershed overlain by a bank service area in which proposed impacts are located.

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<sup>73</sup> Section 373.414(8)(a), F.S., provides that, in deciding whether to grant a permit for an activity that affects surface waters or wetlands, the permitting agency must consider the cumulative impacts of (1) the proposed activity; (2) other projects that already exist, are under construction, or have applied for permits or formal wetland or surface water determinations; and (3) activities related to developments of regional impact which are under review, approved, or vested, or other activities regulated under Part IV of chapter 373, F.S., which may reasonably be expected to be located within surface waters or wetlands in the same drainage basin based upon a local government's comprehensive plans.

<sup>74</sup> This includes (1) projects with adverse impacts partially located within the mitigation service area; (2) linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports; and (3) projects with total adverse impacts of less than one acre in size. Section 373.4136(6)(d), F.S.

<sup>75</sup> Section 373.414(1)(a), F.S., delineates the balancing test DEP or water management districts must use to determine whether an ERP activity is not contrary to the public interest or clearly in the public interest.

- When in-kind credits are not available to offset impacts in the regional watershed immediately adjacent to the regional watershed overlain by a bank service area in which the proposed impacts are located, an additional 0.25 multiplier shall be applied for each additional regional watershed boundary crossed.
- An additional 0.50 multiplier shall be applied if the mitigation used to offset impacts entails an out-of-kind replacement which does not replace the same type of wetland or surface water impacted.

The bill provides that the use of these multipliers meets the requirements for addressing cumulative impacts.

The bill provides that, once a project applicant requests to use out-of-service-area or out-of-kind credits, the DEP or the water management district must contact all mitigation banks within a mitigation service area encompassing the location of the proposed impacts within three business days after the request from the project applicant and request an accounting of available credits, which may not include credits reserved for other project applicants. The mitigation banks contacted must provide such accounting within 15 business days after the request. If a mitigation bank does not reply within the 15 business day timeframe, it is presumed credits are not available.

Upon receipt of the accounting from the mitigation banks, the DEP or the water management district must determine if sufficient credits exist to offset impacts associated with the proposed project and notify the project applicant of such determination, within 15 business days. The applicant, and no other entity, may rely on the determination for a period of one year after such determination, but only for purposes relating to the pending application producing such determination and not any extensions, nor renewals, nor modifications of any permit issued pursuant to that pending application, nor for any other permit application.

The bill requires, beginning July 1, 2026, and each July 1 thereafter, each mitigation bank to submit an annual report to the DEP or the applicable water management district with an accounting of the number and type of credits that the mitigation bank has available for sale, but the report may not include names of parties for which credits have been reserved, if any, or the contract price paid for such credits. The DEP and each water management district must compile such annual reports and provide an annual assessment of this state's mitigation banking system to the Legislature on October 1, 2026, and each October 1 thereafter.

**Section 2** amends s. 704.06, F.S., to require a water management district to release the conservation easement, upon application by the fee simple owner of a parcel of land subject to a conservation easement, if the following conditions are met:

- The land subject to the easement is less than 15 acres and is bordered by three or more sides by impervious surfaces;
- Any undeveloped adjacent parcels of land are less than 15 acres and similarly bordered on three or more sides by impervious surfaces;
- The land contains no historical, architectural, archeological, or cultural significance; and
- Before the release of the conservation easement, the applicant must have secured sufficient mitigation credits using the uniform mitigation assessment method from a



mitigation bank located in this state to offset the loss of wetlands located on the land subject to the conservation easement.

Upon the water management district's release of the conservation easement, the ad valorem taxes on the property shall be based on the just value of the property, and the property may be used for development consistent with the zoning designation of the adjacent lands.

**Section 6** provides an effective date of July 1, 2025.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:****VII. None. Related Issues:****VIII. None. Statutes Affected:**

This bill substantially amends sections 373.4136 and 704.06 of the Florida Statutes.

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

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

**CS by Appropriations Committee on Agriculture, Environment, and General Government on April 10, 2025:**

The committee substitute makes the following changes:

- Allows a mitigation bank applicant to propose to the department or water management district an alternative credit release schedule instead of the schedule provided in the bill.
- Clarifies the regional ecological significance of mitigation banks.
- Reduces the multipliers used when no mitigation credits are available in an impacted watershed.
- Increases the time in which a mitigation bank must respond to a request by DEP or water management district for an accounting of available credits and provides that if a mitigation bank does not respond within 15 days, it is presumed credits are not available.
- Increases the time in which DEP or water management district must make a determination if sufficient credits exist in the impacted area to offset the impacts and clarifies that only the permit applicant, and no other entity, can rely on the determination.
- Allows for the release of conservation easements on small, low or non-functioning wetlands that are surrounded by development provided the property owner purchases sufficient mitigation bank credits to offset the impact. The process replaces low-quality wetlands with the preservation of high-quality wetlands and allows the parcel to be used for its highest and best use and returned to the tax rolls.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2025	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (McClain) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (5) and (6) of section 373.4136,  
Florida Statutes, are amended to read:

373.4136 Establishment and operation of mitigation banks.—

(5) SCHEDULE FOR CREDIT RELEASE.—After July 1, 2025, when  
issuing awarding mitigation credits to a mitigation bank permit,  
the department or the water management district shall adhere to



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11 the credit release schedule set forth in this subsection a  
12 schedule for the release of these credits awarded by in the  
13 mitigation bank permit. A mitigation credit that has been  
14 released may be sold or used to offset adverse impacts from an  
15 activity regulated under this part.

16 (a) Thirty percent of awarded credits shall be released for  
17 the recordation of the conservation easement and establishment  
18 of financial assurances required by the mitigation bank permit.  
19 If a preservation-only assessment area is used, 100 percent of  
20 awarded credits shall be released for the recordation of the  
21 conservation easement and establishment of financial assurances  
22 required by the mitigation bank permit ~~The department or the~~  
23 ~~water management district shall allow a portion of the~~  
24 ~~mitigation credits awarded to a mitigation bank to be released~~  
25 ~~for sale or use prior to meeting all of the performance criteria~~  
26 ~~specified in the mitigation bank permit. The department or the~~  
27 ~~water management district shall allow release of all of a~~  
28 ~~mitigation bank's awarded mitigation credits only after the bank~~  
29 ~~meets the mitigation success criteria specified in the permit.~~

30 (b) Thirty percent of awarded credits shall be released  
31 following completion of initial construction activities as  
32 established by the mitigation bank permit.

33 (c) Twenty percent of awarded credits shall be released in  
34 increments as monitoring indicates interim performance criteria  
35 established by the mitigation bank permit are being met.

36 (d) Twenty percent of awarded credits shall be released  
37 upon meeting final success criteria established by the  
38 mitigation bank permit ~~The number of credits and schedule for~~  
39 ~~release shall be determined by the department or water~~



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40 ~~management district based upon the performance criteria for the~~  
41 ~~mitigation bank and the success criteria for each mitigation~~  
42 ~~activity. The release schedule for a specific mitigation bank or~~  
43 ~~phase thereof shall be related to the actions required to~~  
44 ~~implement the bank, such as site protection, site preparation,~~  
45 ~~earthwork, removal of wastes, planting, removal or control of~~  
46 ~~nuisance and exotic species, installation of structures, and~~  
47 ~~annual monitoring and management requirements for success. In~~  
48 ~~determining the specific release schedule for a bank, the~~  
49 ~~department or water management district shall consider, at a~~  
50 ~~minimum, the following factors:~~

51 ~~1. Whether the mitigation consists solely of preservation~~  
52 ~~or includes other types of mitigation.~~

53 ~~2. The length of time anticipated to be required before a~~  
54 ~~determination of success can be achieved.~~

55 ~~3. The ecological value to be gained from each action~~  
56 ~~required to implement the bank.~~

57 ~~4. The financial expenditure required for each action to~~  
58 ~~implement the bank.~~

59 (e) The mitigation bank applicant may propose an  
60 alternative credit release schedule and the department or water  
61 management district shall consider the proposed alternative  
62 credit release schedule.

63 (f) ~~(e)~~ Notwithstanding the provisions of this subsection, a  
64 mitigation ~~no~~ credit may not shall be released for freshwater  
65 wetland creation until the success criteria established ~~included~~  
66 in the mitigation bank permit for initial construction  
67 activities are met.

68 (g) ~~(d)~~ The withdrawal of mitigation credits from a



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69 mitigation bank shall be accomplished as a minor modification of  
70 the mitigation bank permit. A processing fee is not ~~shall not be~~  
71 required by the department or water management district for this  
72 minor modification.

73 (6) MITIGATION SERVICE AREA.—The department or water  
74 management district shall establish a mitigation service area  
75 for each mitigation bank permit. The department or water  
76 management district shall notify and consider comments received  
77 on the proposed mitigation service area from each local  
78 government within the proposed mitigation service area. Except  
79 as provided in this section herein, mitigation credits may be  
80 withdrawn and used only to offset adverse impacts in the  
81 mitigation service area. The boundaries of the mitigation  
82 service area shall depend upon the geographic area where the  
83 mitigation bank could reasonably be expected to offset adverse  
84 impacts. Mitigation service areas may overlap, and mitigation  
85 service areas for two or more mitigation banks may be approved  
86 for a regional watershed.

87 (a) In determining the boundaries of the mitigation service  
88 area, the department or the water management district shall  
89 consider the characteristics, size, and location of the  
90 mitigation bank and, at a minimum, the extent to which the  
91 mitigation bank:

- 92 1. Contributes to a regional integrated ecological network;
- 93 2. Will significantly enhance the water quality or  
94 restoration of an offsite receiving water body that is  
95 designated as an Outstanding Florida Water, a Wild and Scenic  
96 River, an aquatic preserve, a water body designated in a plan  
97 approved pursuant to the Surface Water Improvement and



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98 Management Act, or a nationally designated estuarine preserve;

99 3. Will provide for the long-term viability of endangered  
100 or threatened species or species of special concern;

101 4. Is consistent with the objectives of a regional  
102 management plan adopted or endorsed by the department or water  
103 management districts; and

104 5. Can reasonably be expected to offset specific types of  
105 wetland impacts within a specific geographic area. A mitigation  
106 bank need not be able to offset all expected impacts within its  
107 service area.

108 (b) The department and water management districts shall use  
109 regional watersheds to guide the establishment of mitigation  
110 service areas. Drainage basins established pursuant to s.  
111 373.414(8) may be used as regional watersheds when they are  
112 established based on the hydrological or ecological  
113 characteristics of the basin. A mitigation service area may  
114 extend beyond the regional watershed in which the bank is  
115 located into all or part of other regional watersheds when the  
116 mitigation bank has the ability to offset adverse impacts  
117 outside that regional watershed. Similarly, a mitigation service  
118 area may be smaller than the regional watershed in which the  
119 mitigation bank is located when adverse impacts throughout the  
120 regional watershed cannot reasonably be expected to be offset by  
121 the mitigation bank because of local ecological or hydrological  
122 conditions.

123 (c) Once a mitigation bank service area has been  
124 established by the department or a water management district for  
125 a mitigation bank, such mitigation bank shall be deemed to  
126 implement a plan that provides regional ecological value; such



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127 service area shall be accepted by all water management  
128 districts, local governments, and the department; and the use of  
129 credits from such mitigation bank to offset impacts within that  
130 bank's service area shall be considered to have met the  
131 cumulative impact requirements of s. 373.414(8) (a).

132 (d) If the requirements in s. 373.414(1) (b) and (8) are  
133 met, the following projects or activities regulated under this  
134 part shall be eligible to use credits released from a mitigation  
135 bank to offset impacts resulting from such projects or  
136 activities a mitigation bank, regardless of whether they are  
137 located within the mitigation service area:

138 1. Projects with adverse impacts partially located within  
139 the mitigation service area.

140 2. Linear projects, such as roadways, transmission lines,  
141 distribution lines, pipelines, railways, or seaports listed in  
142 s. 311.09(1).

143 3. Projects with total adverse impacts of less than 1 acre  
144 in size.

145 4. Projects that meet the requirements of s. 373.414(1) (b)  
146 and the criteria in paragraphs (e)-(g).

147 (e) If the requirements of s. 373.414(1) (a) are met and an  
148 insufficient number or type of credits from banks whose  
149 permitted service area overlays in whole or in part the regional  
150 watershed in which the impacts occur, the project applicant is  
151 entitled to a one-time use of credits released from a mitigation  
152 bank outside the mitigation bank service area to offset impacts  
153 pursuant to s. 373.414(1) (b), as established by the procedure in  
154 paragraph (g), and upon verification by the department or water  
155 management district that mitigation banks within the regional





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156 watershed in which the adverse impacts are located lack the  
157 appropriate credit type to offset impacts associated with the  
158 proposed project. If the number of released credits within a  
159 mitigation service area only partially offsets the impacts  
160 associated with a proposed project in the mitigation service  
161 area, the permit applicant may only use out-of-service-area  
162 credits to account for the difference between the released  
163 credits available in the mitigation bank service area and the  
164 credits required to offset the impacts associated with the  
165 proposed project. In implementing this subsection, the  
166 department and water management districts shall apply a  
167 proximity factor to determine adequate compensatory mitigation  
168 as follows:

169 1. A 1.0 multiplier shall be applied for use of in-kind  
170 credits within any regional watershed overlain in whole or in  
171 part by the service area.

172 2. A 1.0 multiplier shall be applied for use of in-kind and  
173 out-of-service-area credits when the service area overlays part  
174 of the same regional watershed as the proposed impacts.

175 3. A 1.2 multiplier shall be applied for use of in-kind and  
176 out-of-service-area credits located within a regional watershed  
177 immediately adjacent to the regional watershed overlain by a  
178 bank service area in which proposed impacts are located.

179 4. When in-kind credits are not available to offset impacts  
180 in the regional watershed immediately adjacent to the regional  
181 watershed overlain by a bank service area in which the proposed  
182 impacts are located, as established by the procedure in  
183 paragraph (g), an additional 0.25 multiplier shall be applied  
184 for each additional regional watershed boundary crossed.



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185       5. An additional 0.50 multiplier shall be applied after any  
186 multipliers required in subparagraphs 1., 2., 3., and 4., if the  
187 mitigation used to offset impacts entails out-of-kind  
188 replacement which does not replace the same type of freshwater  
189 wetland or fresh surface water impacted.

190       (f) Use of the multipliers in subparagraphs (e)2.-4. meets  
191 the requirements of s. 373.414(8) (a) for addressing cumulative  
192 impacts.

193       (g) Once a permit applicant requests to use out-of-service-  
194 area or out-of-kind credits, the department or water management  
195 district shall contact all mitigation banks with a mitigation  
196 service area encompassing the location of the proposed impacts  
197 within 3 business days after receipt of the request from the  
198 permit applicant and request an accounting of available credits.  
199 The accounting may not include credits reserved for other permit  
200 applicants. The mitigation banks contacted by the department or  
201 water management district shall be allowed 15 business days  
202 after receipt of the request by the department or water  
203 management district to reply to such request. If a mitigation  
204 bank does not reply within the 15 business day timeframe, it is  
205 presumed credits are not available. Upon receipt of the  
206 accounting from the mitigation banks, the department or water  
207 management district shall determine if sufficient credits are  
208 available to offset impacts associated with the proposed project  
209 and notify the permit applicant of such determination within 15  
210 business days. The permit applicant, and no other entity, may  
211 rely on the determination from the department or water  
212 management district for a period of 1 year beginning on the date  
213 the department or water management district notifies the permit



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214 applicant of such determination, but only for purposes relating  
215 to the pending application producing such determination and not  
216 any extensions, nor renewals, nor modifications of any permit  
217 issued pursuant to that pending application, nor for any other  
218 permit application.

219 (h) Beginning July 1, 2026, and each July 1 thereafter,  
220 each mitigation bank in this state shall submit to the  
221 department or water management district an accounting of the  
222 number and type of credits the mitigation bank has available for  
223 sale. The accounting may not include names of parties for which  
224 credits have been reserved or the contract price paid for the  
225 credits. The department or water management district shall  
226 compile the information to provide an assessment of this state's  
227 mitigation banking system and submit a report to the President  
228 of the Senate and the Speaker of the House of Representatives on  
229 October 1, 2026, and each October 1 thereafter.

230 Section 2. Subsection (14) is added to section 704.06,  
231 Florida Statutes, to read:

232 704.06 Conservation easements; creation; acquisition;  
233 enforcement.—

234 (14) (a) Upon application by the fee simple owner of a  
235 parcel of land subject to a conservation easement to a water  
236 management district, a water management district shall release  
237 the conservation easement if the following conditions are met:

238 1. The land subject to the easement is less than 15 acres  
239 and is bordered on three or more sides by impervious surfaces;

240 2. Any undeveloped adjacent parcels of land are less than  
241 15 acres and similarly bordered on three or more sides by  
242 impervious surfaces;



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243       3. The land contains no historical, architectural,  
244 archeological, or cultural significance; and

245       4. Before the release of the conservation easement, the  
246 applicant must have secured sufficient mitigation credits using  
247 the uniform mitigation assessment method from a mitigation bank  
248 located in this state to offset the loss of wetlands located on  
249 the land subject to the conservation easement.

250       (b) Upon the water management district's release of the  
251 conservation easement, the ad valorem taxes on the property  
252 shall be based on the just value of the property, and the  
253 property may be used for development consistent with the zoning  
254 designation of the adjacent lands.

255       Section 3. This act shall take effect July 1, 2025.

256  
257 ===== T I T L E   A M E N D M E N T =====

258 And the title is amended as follows:

259       Delete everything before the enacting clause  
260 and insert:

261                   A bill to be entitled  
262       An act relating to mitigation banks; amending s.  
263       373.4136, F.S.; revising the schedule for credit  
264       release upon issuance of a mitigation bank credit  
265       permit; authorizing a mitigation bank applicant to  
266       propose an alternative credit release schedule and  
267       requiring the Department of Environmental Protection  
268       or water management district to consider such credit  
269       release schedule; revising the consequences of the  
270       establishment of a mitigation bank service area;  
271       revising the projects or activities eligible to use



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272 credits released from a mitigation bank for certain  
273 purposes; authorizing a project applicant to receive a  
274 one-time use of certain credits in certain  
275 circumstances; providing requirements for a permit  
276 applicant if the number of released credits within a  
277 mitigation service area only partially offsets certain  
278 impacts; requiring the department and water management  
279 districts to apply a proximity factor in a specified  
280 manner to make a certain determination; specifying  
281 that the use of certain multipliers meets certain  
282 requirements; requiring the department or water  
283 management district to contact certain mitigation  
284 banks within a specified number of days after  
285 receiving a certain request from the applicant;  
286 providing a presumption if a mitigation bank does not  
287 respond in a certain number of days; requiring the  
288 department or water management district to make  
289 certain determinations upon receipt of an accounting  
290 from mitigation banks; authorizing only the permit  
291 applicant to rely on such determination for a  
292 specified timeframe and for specified purposes;  
293 requiring the department or water management district  
294 to submit specified annual reports including certain  
295 information to the Legislature; amending s. 704.06,  
296 F.S.; requiring certain water management districts,  
297 upon application by the owner of a parcel subject to a  
298 conservation easement, to release the conservation  
299 easement if specified conditions are met, including  
300 obtaining sufficient mitigation credits from a



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301 mitigation bank; providing for the valuation of the  
302 property upon such release; specifying that land  
303 released from the conservation easement may be used  
304 for development consistent with certain zoning;  
305 providing an effective date.

By Senator McClain

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1 A bill to be entitled  
 2 An act relating to mitigation banking; amending s.  
 3 373.4136, F.S.; revising the schedule to which the  
 4 Department of Environmental Protection and water  
 5 management districts are required to adhere for the  
 6 release of credits awarded by a mitigation bank  
 7 permit; prohibiting the release of mitigation credits  
 8 for freshwater wetland creation until certain criteria  
 9 are met; requiring that a mitigation bank service area  
 10 established by the department or a water management  
 11 district for a mitigation bank be considered to have  
 12 met specified requirements; authorizing certain  
 13 projects or activities to use credits released from a  
 14 bank to offset impacts if certain requirements are  
 15 met; authorizing a project applicant to use credits  
 16 released from a mitigation bank outside a mitigation  
 17 service area to offset impacts if an insufficient  
 18 number or type of credits have been released in the  
 19 proposed project area under certain circumstances;  
 20 requiring the department and water management  
 21 districts to apply a certain multiplier in granting  
 22 the out-of-service area credits; declaring that use of  
 23 the multipliers meets the requirements for addressing  
 24 certain impacts; requiring the department or water  
 25 management district to contact all mitigation banks  
 26 within a specified area in a specified number of days  
 27 after an applicant requests to use credits from a  
 28 mitigation bank outside a specified area; requiring  
 29 such mitigation banks to provide an accounting within

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30 a specified number of days; requiring the department  
 31 or water management district to make a certain  
 32 determination upon receipt of the accounting and  
 33 notify the applicant of such determination;  
 34 authorizing the applicant to rely on the determination  
 35 for a specified period of time; requiring mitigation  
 36 banks to submit annual reports to the department or  
 37 the districts which contain specified information;  
 38 requiring the department and each district to compile  
 39 the reports into an annual assessment and provide it  
 40 to the Legislature; reenacting ss. 373.403(19),  
 41 373.4135(1)(b), (3), (4), (5), (6)(c) and (g), and  
 42 (8)(c), 373.41365, and 373.414(1)(b), F.S., relating  
 43 to definitions, mitigation banks and offsite regional  
 44 mitigation, adoption and modification of rules to  
 45 ensure financial assurances for long-term management  
 46 of mitigation under ss. 373.4136 and 373.414, F.S.,  
 47 and additional criteria for activities in surface  
 48 waters and wetlands, respectively, to incorporate the  
 49 amendment made to s. 373.4136, F.S., in references  
 50 thereto; providing an effective date.

51  
 52 Be It Enacted by the Legislature of the State of Florida:

53  
 54 Section 1. Subsection (5) and paragraphs (c) and (d) of  
 55 subsection (6) of section 373.4136, Florida Statutes, are  
 56 amended, and paragraphs (e) through (h) are added to subsection  
 57 (6) of that section, to read:  
 58 373.4136 Establishment and operation of mitigation banks.—

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59 (5) SCHEDULE FOR CREDIT RELEASE.—After issuing awarding  
 60 ~~mitigation credits to a mitigation bank permit~~, the department  
 61 or the water management district shall adhere to the credit  
 62 ~~release schedule set forth in paragraph (a) set forth a schedule~~  
 63 for the release of ~~those~~ credits awarded under in the mitigation  
 64 bank permit. A mitigation credit that has been released may be  
 65 sold or used to offset adverse impacts from an activity  
 66 regulated under this part.

67 (a) Credit release schedule.—

68 1. Thirty percent of awarded credits for the recording of  
 69 the conservation easement and establishment of financial  
 70 assurances required by the mitigation bank permit, or 100  
 71 percent in the case of a preservation-only bank.

72 2. Thirty percent of awarded credits following completion  
 73 of initial construction activities as established by the  
 74 mitigation bank permit.

75 3. Twenty percent of awarded credits upon meeting interim  
 76 performance criteria established by the mitigation bank permit,  
 77 in increments as monitoring indicates success.

78 4. Twenty percent of awarded credits upon meeting final  
 79 success criteria established by the mitigation bank permit ~~The~~  
 80 ~~department or the water management district shall allow a~~  
 81 ~~portion of the mitigation credits awarded to a mitigation bank~~  
 82 ~~to be released for sale or use prior to meeting all of the~~  
 83 ~~performance criteria specified in the mitigation bank permit.~~  
 84 ~~The department or the water management district shall allow~~  
 85 ~~release of all of a mitigation bank's awarded mitigation credits~~  
 86 ~~only after the bank meets the mitigation success criteria~~  
 87 ~~specified in the permit.~~

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88 (b) ~~The number of credits and schedule for release shall be~~  
 89 ~~determined by the department or water management district based~~  
 90 ~~upon the performance criteria for the mitigation bank and the~~  
 91 ~~success criteria for each mitigation activity. The release~~  
 92 ~~schedule for a specific mitigation bank or phase thereof shall~~  
 93 ~~be related to the actions required to implement the bank, such~~  
 94 ~~as site protection, site preparation, earthwork, removal of~~  
 95 ~~wastes, planting, removal or control of nuisance and exotic~~  
 96 ~~species, installation of structures, and annual monitoring and~~  
 97 ~~management requirements for success. In determining the specific~~  
 98 ~~release schedule for a bank, the department or water management~~  
 99 ~~district shall consider, at a minimum, the following factors:~~

100 1. Whether the mitigation consists solely of preservation  
 101 or includes other types of mitigation.

102 2. The length of time anticipated to be required before a  
 103 determination of success can be achieved.

104 3. The ecological value to be gained from each action  
 105 required to implement the bank.

106 4. The financial expenditure required for each action to  
 107 implement the bank.

108 ~~(e)~~ Notwithstanding the provisions of this subsection, no  
 109 credit shall be released for freshwater wetland creation until  
 110 the success criteria established ~~included~~ in the mitigation bank  
 111 permit for initial construction activities are met.

112 ~~(c)~~ (d) The withdrawal of mitigation credits from a  
 113 mitigation bank shall be accomplished as a minor modification of  
 114 the mitigation bank permit. A processing fee shall not be  
 115 required by the department or water management district for this  
 116 minor modification.

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117 (6) MITIGATION SERVICE AREA.—The department or water  
 118 management district shall establish a mitigation service area  
 119 for each mitigation bank permit. The department or water  
 120 management district shall notify and consider comments received  
 121 on the proposed mitigation service area from each local  
 122 government within the proposed mitigation service area. Except  
 123 as provided herein, mitigation credits may be withdrawn and used  
 124 only to offset adverse impacts in the mitigation service area.  
 125 The boundaries of the mitigation service area shall depend upon  
 126 the geographic area where the mitigation bank could reasonably  
 127 be expected to offset adverse impacts. Mitigation service areas  
 128 may overlap, and mitigation service areas for two or more  
 129 mitigation banks may be approved for a regional watershed.

130 (c) Once a mitigation bank service area has been  
 131 established by the department or a water management district for  
 132 a mitigation bank, such service area shall be accepted by all  
 133 water management districts, local governments, and the  
 134 department and shall be considered to have met the cumulative  
 135 impact requirements of s. 373.414(8) (a) for impacts permitted  
 136 within any regional watershed included in such mitigation bank  
 137 service area.

138 (d) If the requirements in s. 373.414(1) (b) and (8) are  
 139 met, the following projects or activities regulated under this  
 140 part shall be eligible to use credits released from a mitigation  
 141 bank to offset impacts resulting from such projects or  
 142 activities, regardless of whether they are located within the  
 143 mitigation service area:

144 1. Projects with adverse impacts partially located within  
 145 the mitigation service area.

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146 2. Linear projects, such as roadways, transmission lines,  
 147 distribution lines, pipelines, railways, or seaports listed in  
 148 s. 311.09(1).

149 3. Projects with total adverse impacts of less than 1 acre  
 150 in size.

151 4. Projects that meet the requirements of s. 373.414(1) (b)  
 152 and the criteria set forth in paragraphs (e), (f), and (g).

153 (e) When the requirements of s. 373.414(1) (a) are met and  
 154 an insufficient number or type of credits have been released  
 155 within the mitigation bank service area in which the impacts  
 156 associated with a proposed project are located, the project  
 157 applicant may use credits released from a mitigation bank  
 158 outside such mitigation service area to offset impacts pursuant  
 159 to s. 373.414(1) (b). The project applicant may only use out-of-  
 160 service area credits once the department or a water management  
 161 district verifies that mitigation banks within the regional  
 162 watershed where the adverse impacts are located lack the  
 163 appropriate credit type to offset impacts associated with the  
 164 proposed project, as established by the procedure detailed in  
 165 paragraph (h). If the number of released credits within a  
 166 mitigation service area only partially offsets the impacts  
 167 associated with a proposed project in that mitigation service  
 168 area, the project applicant may use out-of-service area credits  
 169 to account for the difference between the released credits  
 170 available in the mitigation bank service area and the credits  
 171 required to offset the impacts associated with the proposed  
 172 project. When implementing this paragraph, the department and  
 173 water management districts shall follow the following guidelines  
 174 to apply a proximity factor to determine adequate compensatory

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175 mitigation by using the following process:

176 1. A multiplier may not be applied for use of out-of-  
 177 service area credits located within the same regional watershed  
 178 as the proposed impacts.

179 2. A 1.5 multiplier shall be applied for use of out-of-  
 180 service area credits located within a regional watershed  
 181 immediately adjacent to the regional watershed in which the  
 182 proposed impacts are located.

183 3. When credits are not available in the regional watershed  
 184 immediately adjacent to the regional watershed in which the  
 185 proposed impacts are located, an additional 0.50 multiplier  
 186 shall be applied for each additional regional watershed away  
 187 from the regional watershed immediately adjacent to the regional  
 188 watershed in which the proposed impacts are located.

189 4. An additional 0.75 multiplier shall be applied if the  
 190 mitigation used to offset impacts entails an out-of-kind  
 191 replacement which does not replace the same type of wetland or  
 192 surface water impacted.

193 (f) Use of the multipliers in subparagraphs (e)1., 2., 3.  
 194 and 4. meets the requirements of s. 373.414(8)(a) for addressing  
 195 cumulative impacts.

196 (g) Once a project applicant requests to use credits from a  
 197 mitigation bank outside the mitigation service area in which the  
 198 proposed impacts will occur, the department or the water  
 199 management district must contact all mitigation banks within a  
 200 mitigation service area encompassing the location of the  
 201 proposed impacts within 3 business days after the request from  
 202 the project applicant and request an accounting of available  
 203 credits, which may not include credits reserved for other

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204 project applicants. The mitigation banks contacted by the  
 205 department or the water management district shall provide such  
 206 accounting within 5 business days after the request. Upon  
 207 receipt of the accounting from the mitigation banks, the  
 208 department or the water management district shall determine if  
 209 sufficient credits exist to offset impacts associated with the  
 210 proposed project and notify the project applicant of such  
 211 determination. The applicant may rely on the determination from  
 212 the department or the water management district for a period of  
 213 1 year after such determination.

214 (h) Each mitigation bank in this state shall submit an  
 215 annual report to the department or the applicable water  
 216 management district with an accounting of the number and type of  
 217 credits that the mitigation bank has available for sale, but the  
 218 report may not include names of parties for which credits have  
 219 been reserved, if any, or the contract price paid for such  
 220 credits. The department and each water management district shall  
 221 compile such annual reports and provide an annual assessment of  
 222 the health of the state's mitigation banking system to the  
 223 President of the Senate and the Speaker of the House of  
 224 Representatives.

225 Section 2. For the purpose of incorporating the amendment  
 226 made by this act to section 373.4136, Florida Statutes, in a  
 227 reference thereto, subsection (19) of section 373.403, Florida  
 228 Statutes, is reenacted to read:

229 373.403 Definitions.—When appearing in this part or in any  
 230 rule, regulation, or order adopted pursuant thereto, the  
 231 following terms mean:

232 (19) "Mitigation bank" means a project permitted under s.

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233 373.4136 undertaken to provide for the withdrawal of mitigation  
 234 credits to offset adverse impacts authorized by a permit under  
 235 this part.

236 Section 3. For the purpose of incorporating the amendment  
 237 made by this act to section 373.4136, Florida Statutes, in  
 238 references thereto, paragraph (b) of subsection (1), subsections  
 239 (3), (4), and (5), paragraphs (c) and (g) of subsection (6), and  
 240 paragraph (c) of subsection (8) of section 373.4135, Florida  
 241 Statutes, are reenacted to read:

242 373.4135 Mitigation banks and offsite regional mitigation.—

243 (1) The Legislature finds that the adverse impacts of  
 244 activities regulated under this part may be offset by the  
 245 creation, maintenance, and use of mitigation banks and offsite  
 246 regional mitigation. Mitigation banks and offsite regional  
 247 mitigation can enhance the certainty of mitigation and provide  
 248 ecological value due to the improved likelihood of environmental  
 249 success associated with their proper construction, maintenance,  
 250 and management. Therefore, the department and the water  
 251 management districts are directed to encourage the establishment  
 252 of private mitigation banks and offsite regional mitigation on  
 253 lands owned by a local government, when such lands are located  
 254 in a credit-deficient basin as defined in paragraph (8) (a) and  
 255 the proposed mitigation bank or offsite regional mitigation  
 256 would provide one or more of the deficient habitat type credits  
 257 described in subparagraph (8) (a)2. Mitigation banks and offsite  
 258 regional mitigation should emphasize the restoration and  
 259 enhancement of degraded ecosystems and the preservation of  
 260 uplands and wetlands as intact ecosystems rather than alteration  
 261 of landscapes to create wetlands. This is best accomplished

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262 through restoration of ecological communities that were  
 263 historically present.

264 (b) The Legislature recognizes the importance of mitigation  
 265 banks as an appropriate and allowable mitigation alternative to  
 266 permittee-responsible mitigation. However, the Legislature also  
 267 recognizes that certain timing and geographical constraints  
 268 could result in the unavailability of mitigation bank credits  
 269 for a certain project upon completion of the project's  
 270 application. If state and federal mitigation credits are not  
 271 available to offset the adverse impacts of a project, a local  
 272 government may allow permittee-responsible mitigation consisting  
 273 of the restoration or enhancement of lands purchased and owned  
 274 by a local government for conservation purposes, and such  
 275 mitigation must conform to the permitting requirements of s.  
 276 373.4136. Except when a local government has allowed a public or  
 277 private mitigation project to be created on land it has  
 278 purchased for conservation purposes pursuant to this paragraph,  
 279 a governmental entity may not create or provide mitigation for a  
 280 project other than its own unless the governmental entity uses  
 281 land that was not previously purchased for conservation and  
 282 unless the governmental entity provides the same financial  
 283 assurances as required for mitigation banks permitted under s.  
 284 373.4136. This paragraph does not apply to:

285 1. Mitigation banks permitted before December 31, 2011,  
 286 under s. 373.4136;

287 2. Offsite regional mitigation areas established before  
 288 December 31, 2011, under subsection (6) or, when credits are not  
 289 available at a mitigation bank permitted under s. 373.4136,  
 290 mitigation areas created by a local government which were

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291 awarded mitigation credits pursuant to the uniform mitigation  
 292 assessment method as provided in chapter 62-345, Florida  
 293 Administrative Code, under a permit issued before December 31,  
 294 2011;

295 3. Mitigation for transportation projects under ss.  
 296 373.4137 and 373.4139;

297 4. Mitigation for impacts from mining activities under s.  
 298 373.41492;

299 5. Mitigation provided for single-family lots or homeowners  
 300 under subsection (7);

301 6. Entities authorized in chapter 98-492, Laws of Florida;

302 7. Mitigation provided for electric utility impacts  
 303 certified under part II of chapter 403; or

304 8. Mitigation provided on sovereign submerged lands under  
 305 subsection (6).

306 (3) Nothing in this section or s. 373.4136 shall be  
 307 construed to eliminate or diminish any of the regulatory  
 308 requirements applicable to applicants seeking permits pursuant  
 309 to other provisions of this part.

310 (4) Except as otherwise provided herein, nothing in this  
 311 section or s. 373.4136 shall be construed to diminish or limit  
 312 the existing authority of the department, water management  
 313 districts, or local governments.

314 (5) Nothing in this section or s. 373.4136 shall be  
 315 construed to limit the consideration of forms of mitigation  
 316 other than mitigation banks and offsite regional mitigation.

317 (6) An environmental creation, preservation, enhancement,  
 318 or restoration project, including regional offsite mitigation  
 319 areas, for which money is donated or paid as mitigation, that is

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320 sponsored by the department, a water management district, or a  
 321 local government and provides mitigation for five or more  
 322 applicants for permits under this part, or for 35 or more acres  
 323 of adverse impacts, shall be established and operated under a  
 324 memorandum of agreement. The memorandum of agreement shall be  
 325 between the governmental entity proposing the mitigation project  
 326 and the department or water management district, as appropriate.  
 327 Such memorandum of agreement need not be adopted by rule. For  
 328 the purposes of this subsection, one creation, preservation,  
 329 enhancement, or restoration project shall mean one or more  
 330 parcels of land with similar ecological communities that are  
 331 intended to be created, preserved, enhanced, or restored under a  
 332 common scheme.

333 (c) At a minimum, the memorandum of agreement must address  
 334 the following for each project authorized:

335 1. A description of the work that will be conducted on the  
 336 site and a timeline for completion of such work.

337 2. A timeline for obtaining any required environmental  
 338 resource permit.

339 3. The environmental success criteria that the project must  
 340 achieve.

341 4. The monitoring and long-term management requirements  
 342 that must be undertaken for the project.

343 5. An assessment of the project in accordance with s.  
 344 373.4136(4)(a)-(i), until the adoption of the uniform wetland  
 345 mitigation assessment method pursuant to s. 373.414(18).

346 6. A designation of the entity responsible for the  
 347 successful completion of the mitigation work.

348 7. A definition of the geographic area where the project

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349 may be used as mitigation established using the criteria of s.  
 350 373.4136(6).

351 8. Full cost accounting of the project, including annual  
 352 review and adjustment.

353 9. Provision and a timetable for the acquisition of any  
 354 lands necessary for the project.

355 10. Provision for preservation of the site.

356 11. Provision for application of all moneys received solely  
 357 to the project for which they were collected.

358 12. Provision for termination of the agreement and  
 359 cessation of use of the project as mitigation if any material  
 360 contingency of the agreement has failed to occur.

361 (g) The provisions of this subsection shall not apply when  
 362 the department, water management district, or local government  
 363 establishes, or contracts with a private entity to establish, a  
 364 mitigation bank permitted under s. 373.4136. The provisions of  
 365 this subsection shall not apply to other entities that establish  
 366 offsite regional mitigation as defined in this section and s.  
 367 373.403.

368 (8) It is the intent of the Legislature to allow limited  
 369 use of local government land, including lands acquired for  
 370 conservation, for private sector mitigation banks, provided that  
 371 the private mitigation banks are located in credit-deficient  
 372 basins and would produce the habitat type credits that are  
 373 unavailable or insufficient in such basins. As used in this  
 374 subsection, the term "local government" includes a county,  
 375 municipality, or special district as those terms are defined in  
 376 s. 165.031. This subsection does not apply to lands owned by the  
 377 state or a water management district.

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378 (c) If such a mitigation bank is to be established and  
 379 operated on local government land, the local government and  
 380 private applicant must enter into a use agreement that meets the  
 381 requirements of this paragraph and that requires the private  
 382 applicant to establish and operate the mitigation bank in  
 383 conformance with the permitting requirements of s. 373.4136, and  
 384 the rules adopted thereunder. The use agreement must:

385 1. Include a requirement that the local government  
 386 landowner assume the role of long-term steward of the property,  
 387 and state that the landowner will grant a conservation easement  
 388 or substantially similar recordable instrument pursuant to s.  
 389 704.06, in favor of the permitting agency, if a conservation  
 390 easement or substantially similar recordable instrument  
 391 acceptable to the permitting agency does not already exist; and

392 2. Include a requirement for the private applicant to do  
 393 all of the following:

394 a. Provide bid and performance security instruments for a  
 395 minimum of 5 percent of the total bid amount, to ensure that a  
 396 use agreement with the local government is executed and a  
 397 mitigation bank permit is applied for by the private applicant.

398 b. Operate and maintain the mitigation bank until final  
 399 permit success criteria are met, as permitted by the department  
 400 or water management district.

401 c. Agree to establish financial assurance for long-term  
 402 management in an amount agreeable to the local government  
 403 landowner and as provided for in rules adopted pursuant to this  
 404 section and s. 373.4136, for use by the local government as the  
 405 long-term steward of the land, after the mitigation bank final  
 406 environmental resource permit success criteria are met. The

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407 private sector applicant may also use an endowment to provide  
408 financial assurances.

409 d. Acknowledge that denial of the state mitigation bank  
410 permit application will terminate the use agreement.

411 e. Acknowledge that failure to obtain the mitigation bank  
412 permit within 2 years after the use agreement execution date  
413 will terminate the use agreement, unless it is extended for good  
414 cause by the local government.

415 Section 4. For the purpose of incorporating the amendment  
416 made by this act to section 373.4136, Florida Statutes, in a  
417 reference thereto, section 373.41365, Florida Statutes, is  
418 reenacted to read:

419 373.41365 Adoption and modification of rules to ensure  
420 financial assurances for long-term management of mitigation  
421 under ss. 373.4136 and 373.414.—The Department of Environmental  
422 Protection shall adopt and modify rules adopted pursuant to ss.  
423 373.4136 and 373.414 to ensure that required financial  
424 assurances are equivalent and sufficient to provide for the  
425 long-term management of mitigation permitted under ss. 373.4136  
426 and 373.414. The department, in consultation with the water  
427 management districts, shall include the rulemaking required by  
428 this section in existing active rulemaking, or shall complete  
429 rule development by June 30, 2023.

430 Section 5. For the purpose of incorporating the amendment  
431 made by this act to section 373.4136, Florida Statutes, in a  
432 reference thereto, paragraph (b) of subsection (1) of section  
433 373.414, Florida Statutes, is reenacted to read:

434 373.414 Additional criteria for activities in surface  
435 waters and wetlands.—

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

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436 (1) As part of an applicant's demonstration that an  
437 activity regulated under this part will not be harmful to the  
438 water resources or will not be inconsistent with the overall  
439 objectives of the district, the governing board or the  
440 department shall require the applicant to provide reasonable  
441 assurance that state water quality standards applicable to  
442 waters as defined in s. 403.031 will not be violated and  
443 reasonable assurance that such activity in, on, or over surface  
444 waters or wetlands, as delineated in s. 373.421(1), is not  
445 contrary to the public interest. However, if such an activity  
446 significantly degrades or is within an Outstanding Florida  
447 Water, as provided by department rule, the applicant must  
448 provide reasonable assurance that the proposed activity will be  
449 clearly in the public interest.

450 (b) If the applicant is unable to otherwise meet the  
451 criteria set forth in this subsection, the governing board or  
452 the department, in deciding to grant or deny a permit, must  
453 consider measures proposed by or acceptable to the applicant to  
454 mitigate adverse effects that may be caused by the regulated  
455 activity. Such measures may include, but are not limited to,  
456 onsite mitigation, offsite mitigation, offsite regional  
457 mitigation, and the purchase of mitigation credits from  
458 mitigation banks permitted under s. 373.4136. It is the  
459 responsibility of the applicant to choose the form of  
460 mitigation. The mitigation must offset the adverse effects  
461 caused by the regulated activity.

462 1. The department or water management districts may accept  
463 the donation of money as mitigation only where the donation is  
464 specified for use in a duly noticed environmental creation,

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

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465 preservation, enhancement, or restoration project, endorsed by  
 466 the department or the governing board of the water management  
 467 district, which offsets the impacts of the activity permitted  
 468 under this part. However, this subsection does not apply to  
 469 projects undertaken pursuant to s. 373.4137 or chapter 378.  
 470 Where a permit is required under this part to implement any  
 471 project endorsed by the department or a water management  
 472 district, all necessary permits must have been issued prior to  
 473 the acceptance of any cash donation. After the effective date of  
 474 this act, when money is donated to either the department or a  
 475 water management district to offset impacts authorized by a  
 476 permit under this part, the department or the water management  
 477 district shall accept only a donation that represents the full  
 478 cost to the department or water management district of  
 479 undertaking the project that is intended to mitigate the adverse  
 480 impacts. The full cost shall include all direct and indirect  
 481 costs, as applicable, such as those for land acquisition, land  
 482 restoration or enhancement, perpetual land management, and  
 483 general overhead consisting of costs such as staff time,  
 484 building, and vehicles. The department or the water management  
 485 district may use a multiplier or percentage to add to other  
 486 direct or indirect costs to estimate general overhead.  
 487 Mitigation credit for such a donation may be given only to the  
 488 extent that the donation covers the full cost to the agency of  
 489 undertaking the project intended to mitigate the adverse  
 490 impacts. However, nothing herein may be construed to prevent the  
 491 department or a water management district from accepting a  
 492 donation representing a portion of a larger project, provided  
 493 that the donation covers the full cost of that portion and

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494 mitigation credit is given only for that portion. The department  
 495 or water management district may deviate from the full cost  
 496 requirements of this subparagraph to resolve a proceeding  
 497 brought pursuant to chapter 70 or a claim for inverse  
 498 condemnation. Nothing in this section may be construed to  
 499 require the owner of a private mitigation bank, permitted under  
 500 s. 373.4136, to include the full cost of a mitigation credit in  
 501 the price of the credit to a purchaser of said credit.  
 502 2. The department and each water management district shall  
 503 report by March 1 of each year, as part of the consolidated  
 504 annual report required by s. 373.036(7), all cash donations  
 505 accepted under subparagraph 1. during the preceding water  
 506 management district fiscal year for wetland mitigation purposes.  
 507 The report must exclude those contributions pursuant to s.  
 508 373.4137. The report must include a description of the endorsed  
 509 mitigation projects and, except for projects governed by s.  
 510 373.4135(6), must address, as applicable, success criteria,  
 511 project implementation status and timeframe, monitoring, long-  
 512 term management, provisions for preservation, and full cost  
 513 accounting.  
 514 3. If the applicant is unable to meet water quality  
 515 standards because existing ambient water quality does not meet  
 516 standards, the governing board or the department must consider  
 517 mitigation measures proposed by or acceptable to the applicant  
 518 that cause net improvement of the water quality in the receiving  
 519 body of water for those parameters which do not meet standards.  
 520 4. If mitigation requirements imposed by a local government  
 521 for surface water and wetland impacts of an activity regulated  
 522 under this part cannot be reconciled with mitigation

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2025492\_\_

523 requirements approved under a permit for the same activity  
524 issued under this part, including application of the uniform  
525 wetland mitigation assessment method adopted pursuant to  
526 subsection (18), the mitigation requirements for surface water  
527 and wetland impacts are controlled by the permit issued under  
528 this part.

529 Section 6. This act shall take effect July 1, 2025.





The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 19, 2025

---

I respectfully request that **Senate Bill #492**, relating to Mitigation Banking, be placed on the:

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

A handwritten signature in black ink, appearing to read "Stan McClain".

---

Senator Stan McClain  
Florida Senate, District 9

4/10/2025

The Florida Senate  
**APPEARANCE RECORD**

492

Meeting Date

Appropriations Committee on Agriculture, Environment, and General Government

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Elizabeth Alvi (Audubon)**

Phone **850-999-1028**

Address **1002 Thomasville Road**

Email **Beth.Alvi@Audubon.Org**

Street

**Tallahassee**

**FL**

**32312**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Audubon Florida**

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

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

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The Florida Senate

APPEARANCE RECORD

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

4/16/25

Meeting Date

SB 492

Bill Number or Topic

Agriculture, Enviro, and Gen Gov

Committee

Amendment Barcode (if applicable)

Name Cameron Fink

Phone 850-933-4665

Address 576 N Adams St

Email cfink@cit.gov

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:

Associated Industries of Florida.

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

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The Florida Senate  
**APPEARANCE RECORD**

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4/10/25

Meeting Date

AEGG Approvs.

Committee

492

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Chris Lyon

Phone

850/222-5702

Address

106 E. College Ave., Ste. 1500

Email

clyon@llw-law.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:

Florida Association of  
Mitigation Bankers

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

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

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S-001 (08/10/2021)

The Florida Senate

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4/10/25

Meeting Date

492

Bill Number or Topic

App. Ag, Env, Govt

Committee

Amendment Barcode (if applicable)

Name Kim Dinkins 1000 Friends of FL

Phone 352-895-8693

Address 308 N memoel

Street

Email kdinkins@1000fof.org

Tallahassee FL 32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: 1000 Friends of Florida

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

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

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10 April 2025

The Florida Senate  
**APPEARANCE RECORD**

SB 492

Meeting Date

Approps. Cmte. on Agriculture, Environment & General Government

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Kahreem Golden**

Phone **850-345-7108**

Address **1035 S. Semoran Blvd, Suite 2-1021B**

Email **kahreem.golden@tnc.org**

Street

**Winter Park**

**FL**

**32792**

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**The Nature Conservancy**

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

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

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S-001 (08/10/2021)

4-10-25

The Florida Senate

# APPEARANCE RECORD

SB 492

Meeting Date

S. Appropriations on Ag, Enviro & General Govt

Deliver both copies of this form to Senate Professional Staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

KARI HERBANK

Phone

850-566-7824

Address

215 S. MONROE ST.

Email

kherbank@carltonfields.com

Street

TALLAHASSEE FL 32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FLORIDA HOME BUILDERS ASSOC.

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

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

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**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/SB 830

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

SUBJECT: Lost or Abandoned Property

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 830 prohibits a person, firm, or corporation from leaving any migrant vessel upon waters of the state. It defines a “migrant vessel” as an irregularly constructed and equipped maritime vessel designed, intended, or used for the purpose of undocumented immigrant transportation which was built or assembled using or combining makeshift or improvised materials or material components and meets other constructions-related criteria.

The bill authorizes state funding for the removal of migrant vessels and authorizes the use of federal disaster funds to fund the removal of migrant vessels.

The bill requires a migrant vessel on public property to be removed within five days following a law enforcement officer posting a notice on the vessel. If it is not removed during that timeframe, the bill authorizes a law enforcement agency to remove and dispose of the vessel.

The bill has no impact on state expenditures or revenue. See Section V., Fiscal Impact Statement.

The bill has an effective date of July 1, 2025.

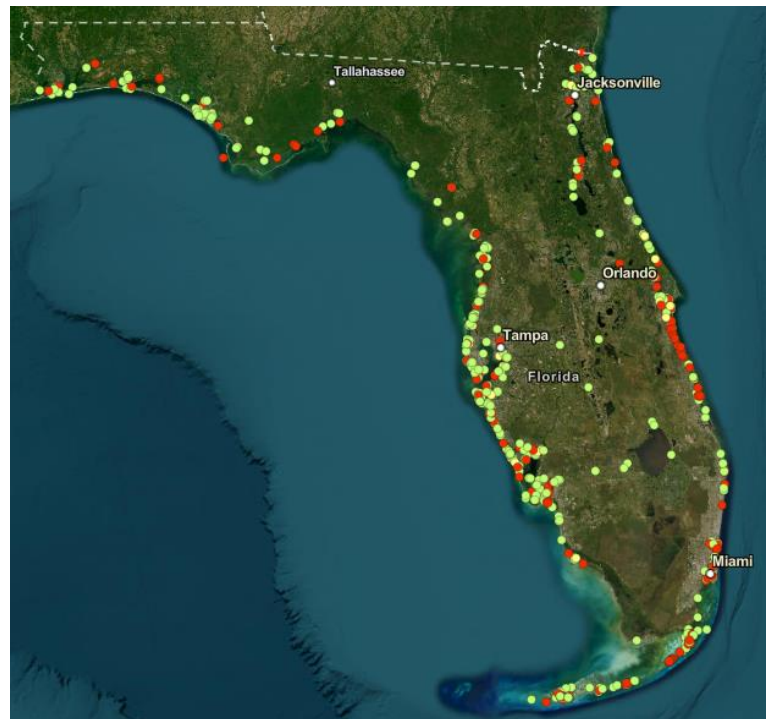


## II. Present Situation:

### Derelict Vessels

Derelict vessels can endanger marine life and habitats, threaten public safety, cause property damage, and create navigational hazards.<sup>1</sup> As of January 2025, there were 1,040 derelict vessels in the Florida Fish and Wildlife Conservation Commission's (FWC's) derelict vessel database.<sup>2</sup>

A derelict vessel is a vessel that is in a wrecked,<sup>3</sup> junked,<sup>4</sup> or substantially dismantled<sup>5</sup> condition upon any public waters of this state;<sup>6</sup> at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached on the property of another without their consent.<sup>7</sup> It is unlawful for a person, firm, or corporation to leave any derelict vessel on waters of this state.<sup>8</sup> An FWC officer, or other law



This map shows the locations of derelict vessels and denotes the status of each vessel. *Map courtesy of FWC.*

<sup>1</sup> Atkins and Vogel Group, *Florida's Long-Term Stored Vessel Study*, 61 (Sept. 2023), available at <https://myfwc.com/media/longtermstudy/long-term-stored-vessel-study.pdf>.

<sup>2</sup> FWC, *Derelict Vessels Presentation*, 2 (Feb. 4, 2025), available at [https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6285/10953\\_MeetingPacket\\_6285.pdf](https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/6285/10953_MeetingPacket_6285.pdf); See the map on this page for the location and status of derelict vessels. FWC, *Derelict Vessels*, <https://experience.arcgis.com/experience/decfb6b7ca024ac98f6f900d86784d09?views=View-5> (last visited Feb. 20, 2025).

<sup>3</sup> A vessel is wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire. Section 823.11(1)(b), F.S.

<sup>4</sup> A vessel is junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if the motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

<sup>5</sup> A vessel is substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken: the steering system, the propulsion system, or the exterior hull integrity. Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if the motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

<sup>6</sup> "Waters of this state" are defined as any navigable waters of the United States within the territorial limits of this state, the marginal sea adjacent to this state, and the high seas when navigated as a part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, and canals under the jurisdiction of this state. Section 327.02(48), F.S.

<sup>7</sup> Section 823.11(1)(b), F.S.

<sup>8</sup> Section 823.11(2), F.S. The term "leave" means to allow a vessel to remain occupied or unoccupied on waters of this state for more than 24 hours.

enforcement agency or officer<sup>9</sup> is authorized to relocate, remove, and store a derelict vessel if it obstructs or might obstruct navigation or if it endangers property, persons, or the environment.<sup>10</sup>

If a vessel is the subject of three or more violations issued because of the same condition of being at risk of becoming derelict within an 18-month period, the vessel may be declared a public nuisance.<sup>11</sup>

### ***Derelict Immigrant Vessel Removal***

South Florida has historically been and is now a landing place for immigrants from Caribbean countries like Cuba and Haiti who travel by boat over the Florida Straits.<sup>12</sup> Vessels used by these immigrants are commonly constructed with improvised materials, including sprayed styrofoam and plastic barrels, and often struggle to stay afloat. If the vessels are well built, they are typically overloaded and in danger of capsizing.<sup>13</sup> Migrant vessels are often left behind on waters of the state or beached on public or private property, where they create environmental hazards like other derelict vessels.<sup>14</sup> Multiple agencies, both federal and state, as well as local governments and private contractors have been involved in removing and disposing of migrant vessels.<sup>15</sup>

### **The Removal Procedure for Lost or Abandoned Property**

The statutes require different procedures for articles of lost<sup>16</sup> or abandoned<sup>17</sup> property that *are not* derelict vessels or vessels declared a public nuisance and articles of lost or abandoned property that *are* derelict vessels or vessels declared a public nuisance.<sup>18</sup>

---

<sup>9</sup> Law enforcement agencies or officers specified in s. 327.70, F.S., include FWC's Division of Law Enforcement and its officers, sheriffs and their deputies, municipal police officers, and any other law enforcement officer defined in section 943.10, F.S. As defined in section 943.10(1), F.S., a law enforcement officer is any person elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof who is vested with the authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

<sup>10</sup> Section 823.11(3), F.S.

<sup>11</sup> Section 327.73(1), F.S.

<sup>12</sup> U.S. Coast Guard, *Operation Vigilant Sentry: Stopping Illegal Migration at Sea*, <https://www.news.uscg.mil/Press-Releases/Article/3280774/operation-vigilant-sentry-stopping-illegal-migration-at-sea/> (last visited March 13, 2025).

<sup>13</sup> *Id.*

<sup>14</sup> Gwen Filosa, *The complex task of removing abandoned migrant vessels from Keys' fragile ecosystem*, <https://www.wusf.org/environment/2023-01-14/the-complex-task-of-removing-abandoned-migrant-vessels-from-keys-fragile-ecosystem> (last visited March 13, 2025).

<sup>15</sup> *Id.*; Florida Division of Emergency Management, *State of Florida Issues Updates on Increased Mass Migration Monitoring Along the Florida Coastline*, <https://www.floridadisaster.org/news-media/news/20230118-state-of-florida-issues-updates-on-increased-mass-migration-monitoring-along-the-florida-coastline/> (last visited March 13, 2025). This includes the U.S. Coast Guard, FWC, the Florida Division of Emergency Management, the Florida National Guard, the Florida Department of Law Enforcement, and the Florida Highway Patrol. *Id.*

<sup>16</sup> "Lost property" is defined as "all tangible personal property which does not have an identifiable owner and which has been mislaid on public property, upon a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner." Section 705.101(4), F.S.

<sup>17</sup> "Abandoned property" is defined as "all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner." Derelict and public nuisance vessels fall under this definition. Section 705.101(1), F.S.

<sup>18</sup> Section 705.103(2), F.S.

If a law enforcement officer determines that an article of lost or abandoned property that is *not* a derelict or public nuisance vessel is on public property and cannot be easily removed, the officer must place a notice on the property informing the owner or interested persons that the article of property must be removed within five days or the law enforcement agency will remove and dispose of it at the expense of the owner.

If a law enforcement officer determines that a derelict or public nuisance vessel is present on waters of the state, the officer must place a notice on the vessel informing the owner or interested persons that the vessel must be removed within 21 days or the law enforcement agency will dispose of it at the expense of the owner or legally responsible party.<sup>19</sup> The notice must also inform the owner or interested persons that they have the right to a hearing to challenge the determination that the vessel is derelict or otherwise in violation of the law.<sup>20</sup>

In addition to posting the notice on the property, a law enforcement officer must make a reasonable effort to ascertain the name and address of the owner.<sup>21</sup> If the information is reasonably available, the officer must mail a copy of the notice to the owner on the date of posting or as soon thereafter as is practicable.<sup>22</sup> If the property is a motor vehicle or a vessel, the law enforcement agency must contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel.<sup>23</sup> After receiving the information from the Department of Highway Safety and Motor Vehicles, the law enforcement agency must mail a copy of the notice by certified mail to the owner and any lienholder, return receipt requested.<sup>24</sup>

If the article of abandoned property is not a derelict or public nuisance vessel and is not removed by the owner, the law enforcement agency may:

- Retain any or all of the property for its own use or for use by the state or local government,
- Trade the property to another local government or state agency,
- Donate the property to a charitable organization,
- Sell the property, or
- Notify the appropriate refuse removal service.<sup>25</sup>

If the owner or any interested person has not removed a derelict or public nuisance vessel or requested a hearing within 21 days of the notice being posted and mailed, the law enforcement agency or its designee may:

- Remove, destroy, and dispose of the vessel or authorize another governmental entity or its designee to do so; or
- Authorize the vessel's use as an artificial reef if all necessary authorizations are received.<sup>26</sup>

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<sup>19</sup> Section 705.103(2)(a)1.b., F.S.

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

<sup>21</sup> Section 705.103(2)(a)2., F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 705.103(2)(a)2., F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 705.103(2)(a)2.a., F.S.

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

### State-Authorized Funding for Derelict Vessel Removals

Derelict vessel removal may be funded in part by grants from the Fuel Tax Collection Trust Fund.<sup>27</sup> The Fuel Tax Collection Trust Fund provides an annual disbursement of \$2.5 million to the FWC's State Game Trust Fund for recreational boating activities and freshwater fisheries management and research.<sup>28</sup> Of those funds, a minimum of \$1.25 million must be used to fund local projects to provide recreational channel marking and other uniform waterway markers, public boat ramps, lifts and hoists, marine railways, and other public launching facilities, derelict vessel removal, and other local, boating-related activities.<sup>29</sup> The FWC must give priority consideration to unmet needs in counties with populations of 100,000 or less and unmet needs in coastal counties with a high level of boating-related activities from individuals residing in other counties.<sup>30</sup> The remaining \$1.25 million may be used for recreational boating activities and freshwater fisheries management and research.<sup>31</sup>

Federal disaster funds procured pursuant to a plan implemented by the FWC may also be used to fund the removal of derelict vessels.<sup>32</sup> Additionally, the FWC is authorized to establish a local government grant program to fund local government efforts to remove, store, and dispose of derelict and public nuisance vessels.<sup>33</sup> If the funds are not used within a given fiscal year, the FWC may use the remainder to remove, store, destroy, and dispose of derelict or public nuisance vessels itself.<sup>34</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 823.11, F.S., relating to derelict vessels, to extend the scope of the section to include migrant vessels.

- The bill defines “migrant vessel” as an irregularly constructed and equipped maritime vessel designed, intended, or used for the purpose of undocumented immigrant transportation which was built or assembled using or combining makeshift or improvised materials or material components and meets at least one of the following criteria: The vessel was not constructed by a boat manufacturer.
- The vessel was not assigned a hull identification number.<sup>35</sup>

<sup>27</sup> Section 823.11(4)(a), F.S.; section 206.606(1)(b), F.S.

<sup>28</sup> Section 206.606(1)(b), F.S. FWC must annually determine where unmet needs exist for boating-related activities and can fund those activities in counties where sufficient financial resources are unavailable due to the number of vessel registrations. *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Section 206.606(1)(b)1., F.S.

<sup>31</sup> Section 206.606(1)(b)2., F.S.

<sup>32</sup> Section 823.11(4)(b), F.S.

<sup>33</sup> Section 823.11(4)(c), F.S.

<sup>34</sup> *Id.* FWC may also use these funds to hire private contractors to remove, store, destroy, and dispose of derelict or public nuisance vessels. *Id.*

<sup>35</sup> A hull identification number, or HIN, is required for home-built vessels, kit boats, and all vessels manufactured or imported after November 1, 1972. 46 U.S.C. §4302; 33 C.F.R. §181.23; U.S. Coast Guard, *Hull Identification Number (HIN) Validation & Verification Guidelines*, 15 (Sept. 24, 2020), available at <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fuscgboating.org%2Flibrary%2Fregulations%2FHIN-Validation-Verification-Guide-09162020.pptx&wdOrigin=BROWSELINK>.

The bill prohibits a person, firm, or corporation from leaving any migrant vessel upon waters of the state.

The bill authorizes funding for the removal of migrant vessels from waters of the state by grants provided from the Fuel Tax Collection Trust Fund<sup>36</sup> and specifies that the FWC may use any federal disaster funds procured for the removal of derelict vessels to also fund the removal of migrant vessels. Further, the bill ensures that FWC's local government grant program for the removal, storage, destruction, and disposal of derelict vessels may also provide grants to local governments for the removal, storage, destruction, and disposal of migrant vessels.

**Section 2** amends s. 705.103, F.S., which regulates the procedures a law enforcement officer must follow when an article of lost or abandoned property or a derelict vessel or a vessel declared a public nuisance is found on public property or waters of the state. There are different procedures for an article of lost or abandoned property and derelict or public nuisance vessels, and the bill provides that if a migrant vessel is found on public property, law enforcement officers must follow the procedure for an article of lost or abandoned property.<sup>37</sup>

The bill provides that if a migrant vessel is present on public property or waters of the state, a law enforcement agency or its designee may remove the vessel and destroy and dispose of it or may authorize another governmental entity or its designee to do so.

The procedures for a derelict or public nuisance vessel require a law enforcement agency to contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner and any person who has filed a lien on the vessel. The bill exempts migrant vessels from this requirement.

**Section 3** provides an effective date of July 1, 2025.

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

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

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

None.

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<sup>36</sup> See section 206.606, F.S.

<sup>37</sup> The migrant vessel must be removed within five days of a law enforcement officer posting a notice on the vessel or it will be removed and disposed of by a law enforcement agency. Section 705.103(2)(a)1., F.S.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 823.11 and 705.103.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

**CS by Appropriations Committee on Agriculture, Environment, and General Government on April 10, 2025:**

The committee substitute removes a definition for “Irregularly constructed vessel” and makes other technical changes.).

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2025	.	
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	.	

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The Appropriations Committee on Agriculture, Environment, and General Government (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present paragraph (d) of subsection (1) of section 823.11, Florida Statutes, is redesignated as paragraph (e), a new paragraph (d) is added to that subsection, and paragraph (a) of subsection (2) and subsection (4) of that section are amended, to read:

823.11 Derelict and migrant vessels; relocation or removal;



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11 penalty.-

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

13 (d) "Migrant vessel" means an irregularly constructed and  
14 equipped maritime vessel designed, intended, or used for the  
15 purpose of undocumented immigrant transportation which was built  
16 or assembled using or combining makeshift or improvised  
17 materials or material components and meets at least one of the  
18 following criteria:

19 1. The vessel was not constructed by a boat manufacturer.

20 2. The vessel was not assigned a hull identification  
21 number.

22 (2) (a) A person, firm, or corporation may not leave any  
23 derelict or migrant vessel upon waters of this state. For  
24 purposes of this paragraph, the term "leave" means to allow a  
25 vessel to remain occupied or unoccupied on the waters of this  
26 state for more than 24 hours.

27 (4) (a) Removal of derelict vessels or migrant vessels under  
28 this subsection may be funded by grants provided in s. 206.606.

29 (b) The commission may implement a plan for the procurement  
30 of any available federal disaster funds and use such funds for  
31 the removal of derelict vessels or migrant vessels.

32 (c) The commission may establish a program to provide  
33 grants to local governments for the removal, storage,  
34 destruction, and disposal of derelict vessels or migrant vessels  
35 from the waters of this state. This grant funding may also be  
36 used for the removal, storage, destruction, and disposal of  
37 vessels declared a public nuisance pursuant to s. 327.73(1)(aa).  
38 The program must be funded from the Marine Resources  
39 Conservation Trust Fund or the Florida Coastal Protection Trust





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40 Fund. Notwithstanding s. 216.181(11), funds available for these  
41 grants may only be authorized by appropriations acts of the  
42 Legislature. In a given fiscal year, if all funds appropriated  
43 pursuant to this paragraph are not requested by and granted to  
44 local governments for the removal, storage, destruction, and  
45 disposal of derelict vessels, migrant vessels, or vessels  
46 declared a public nuisance pursuant to s. 327.73(1)(aa) by the  
47 end of the third quarter, the Fish and Wildlife Conservation  
48 Commission may use the remainder of the funds to remove, store,  
49 destroy, and dispose of, or to pay private contractors to  
50 remove, store, destroy, and dispose of, derelict vessels,  
51 migrant vessels, or vessels declared a public nuisance pursuant  
52 to s. 327.73(1)(aa). The commission shall adopt by rule  
53 procedures for local governments to submit a grant application  
54 and criteria for allocating available funds. Such criteria must  
55 include, at a minimum, the following:

- 56 1. The number of derelict vessels and migrant vessels  
57 within the jurisdiction of the applicant.
- 58 2. The threat posed by such vessels to public health or  
59 safety, the environment, navigation, or the aesthetic condition  
60 of the general vicinity.
- 61 3. The degree of commitment of the local government to  
62 maintain waters free of abandoned, ~~and~~ derelict, and migrant  
63 vessels and to seek legal action against those who abandon  
64 vessels in the waters of this state as defined in s. 327.02.

65 Section 2. Paragraph (a) of subsection (2) of section  
66 705.103, Florida Statutes, is amended to read:

- 67 705.103 Procedure for abandoned or lost property.-  
68 (2)(a)1. Whenever a law enforcement officer ascertains



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69 that:

70 a. A migrant vessel or an article of lost or abandoned  
71 property other than a derelict vessel or a vessel declared a  
72 public nuisance pursuant to s. 327.73(1)(aa) is present on  
73 public property and is of such nature that it cannot be easily  
74 removed, the officer shall cause a notice to be placed upon such  
75 article in substantially the following form:

76

77 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE  
78 ATTACHED PROPERTY. This property, to wit: ...(setting  
79 forth brief description)... is unlawfully upon public  
80 property known as ...(setting forth brief description  
81 of location)... and must be removed within 5 days;  
82 otherwise, it will be removed and disposed of pursuant  
83 to chapter 705, Florida Statutes. The owner will be  
84 liable for the costs of removal, storage, and  
85 publication of notice. Dated this: ...(setting forth  
86 the date of posting of notice)..., signed: ...(setting  
87 forth name, title, address, and telephone number of  
88 law enforcement officer)....

89

90 b. A derelict vessel or a vessel declared a public nuisance  
91 pursuant to s. 327.73(1)(aa) is present on the waters of this  
92 state, the officer shall cause a notice to be placed upon such  
93 vessel in substantially the following form:

94

95 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE  
96 ATTACHED VESSEL. This vessel, to wit: ...(setting  
97 forth brief description of location)... has been



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98 determined to be ...(derelict or a public nuisance)...  
99 and is unlawfully upon the waters of this state  
100 ...(setting forth brief description of location)...  
101 and must be removed within 21 days; otherwise, it will  
102 be removed and disposed of pursuant to chapter 705,  
103 Florida Statutes. The owner and other interested  
104 parties have the right to a hearing to challenge the  
105 determination that this vessel is derelict or  
106 otherwise in violation of the law. Please contact  
107 ...(contact information for person who can arrange for  
108 a hearing in accordance with this section).... The  
109 owner or the party determined to be legally  
110 responsible for the vessel being upon the waters of  
111 this state in a derelict condition or as a public  
112 nuisance will be liable for the costs of removal,  
113 destruction, and disposal if this vessel is not  
114 removed by the owner. Dated this: ...(setting forth  
115 the date of posting of notice)..., signed: ...(setting  
116 forth name, title, address, and telephone number of  
117 law enforcement officer)....

118  
119 2. The notices required under subparagraph 1. may not be  
120 less than 8 inches by 10 inches and must be sufficiently  
121 weatherproof to withstand normal exposure to the elements. In  
122 addition to posting, the law enforcement officer shall make a  
123 reasonable effort to ascertain the name and address of the  
124 owner. If such is reasonably available to the officer, she or he  
125 shall mail a copy of such notice to the owner on the date of  
126 posting or as soon thereafter as is practical. If the property



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127 is a motor vehicle as defined in s. 320.01(1) or a vessel as  
128 defined in s. 327.02, except a migrant vessel as defined in s.  
129 823.11, the law enforcement agency shall contact the Department  
130 of Highway Safety and Motor Vehicles in order to determine the  
131 name and address of the owner and any person who has filed a  
132 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)  
133 or s. 328.15. On receipt of this information, the law  
134 enforcement agency shall mail a copy of the notice by certified  
135 mail, return receipt requested, to the owner and to the  
136 lienholder, if any, except that a law enforcement officer who  
137 has issued a citation for a violation of s. 823.11 to the owner  
138 of a derelict vessel is not required to mail a copy of the  
139 notice by certified mail, return receipt requested, to the  
140 owner. For a derelict vessel or a vessel declared a public  
141 nuisance pursuant to s. 327.73(1)(aa), the mailed notice must  
142 inform the owner or responsible party that he or she has a right  
143 to a hearing to dispute the determination that the vessel is  
144 derelict or otherwise in violation of the law. If a request for  
145 a hearing is made, a state agency shall follow the processes as  
146 set forth in s. 120.569. Local governmental entities shall  
147 follow the processes set forth in s. 120.569, except that a  
148 local judge, magistrate, or code enforcement officer may be  
149 designated to conduct such a hearing. If, at the end of 5 days  
150 after posting the notice in sub-subparagraph 1.a., or at the end  
151 of 21 days after posting the notice in sub-subparagraph 1.b.,  
152 and mailing such notice, if required, the owner or any person  
153 interested in the lost or abandoned article or articles  
154 described has not removed the article or articles from public  
155 property or shown reasonable cause for failure to do so, and, in



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156 the case of a derelict vessel or a vessel declared a public  
157 nuisance pursuant to s. 327.73(1)(aa), has not requested a  
158 hearing in accordance with this section, the following shall  
159 apply:

160 a. For abandoned property other than a derelict vessel or a  
161 vessel declared a public nuisance pursuant to s. 327.73(1)(aa),  
162 the law enforcement agency may retain any or all of the property  
163 for its own use or for use by the state or unit of local  
164 government, trade such property to another unit of local  
165 government or state agency, donate the property to a charitable  
166 organization, sell the property, or notify the appropriate  
167 refuse removal service.

168 b. For a derelict vessel or a vessel declared a public  
169 nuisance pursuant to s. 327.73(1)(aa), the law enforcement  
170 agency or its designee may:

171 (I) Remove the vessel from the waters of this state and  
172 destroy and dispose of the vessel or authorize another  
173 governmental entity or its designee to do so; or

174 (II) Authorize the vessel's use as an artificial reef in  
175 accordance with s. 379.249 if all necessary federal, state, and  
176 local authorizations are received.

177 c. For a migrant vessel, as defined in s. 823.11, the law  
178 enforcement agency or its designee may remove the vessel from  
179 the waters of this state and destroy and dispose of the vessel  
180 or authorize another governmental entity or its designee to do  
181 so.

182  
183 A law enforcement agency or its designee may also take action as  
184 described in this sub-subparagraph if, following a hearing



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185 pursuant to this section, the judge, magistrate, administrative  
186 law judge, or hearing officer has determined the vessel to be  
187 derelict as provided in s. 823.11 or otherwise in violation of  
188 the law in accordance with s. 327.73(1)(aa) and a final order  
189 has been entered or the case is otherwise closed.

190 Section 3. This act shall take effect July 1, 2025.

191

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

193 And the title is amended as follows:

194 Delete everything before the enacting clause  
195 and insert:

196

A bill to be entitled

197

An act relating to the disposition of migrant vessels;

198

amending s. 823.11, F.S.; defining the term "migrant

199

vessel"; revising provisions concerning relocation or

200

removal of certain vessels to include migrant vessels;

201

amending s. 705.103, F.S.; providing procedures for

202

law enforcement officers concerning disposition of

203

migrant vessels; providing an effective date.

By Senator Rodriguez

40-00910-25

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1 A bill to be entitled  
 2 An act relating to lost or abandoned property;  
 3 amending s. 823.11, F.S.; defining the terms  
 4 "irregularly constructed vessel" and "migrant vessel";  
 5 prohibiting persons, firms, and corporations from  
 6 leaving any migrant vessel upon the waters of this  
 7 state; authorizing the removal of migrant vessels to  
 8 be funded by specified grants; authorizing the Fish  
 9 and Wildlife Conservation Commission to implement a  
 10 plan to procure federal disaster funds to remove  
 11 migrant vessels; authorizing the commission to  
 12 establish a program to provide grants for the removal,  
 13 storage, destruction, and disposal of migrant vessels;  
 14 amending s. 705.103, F.S.; requiring law enforcement  
 15 officers to place a certain notice on migrant vessels  
 16 under certain circumstances; authorizing specified law  
 17 enforcement agencies or their respective designees to  
 18 destroy and dispose of the vessel or to authorize  
 19 another governmental entity or its designee to do so;  
 20 providing an effective date.  
 21  
 22 Be It Enacted by the Legislature of the State of Florida:  
 23  
 24 Section 1. Section 823.11, Florida Statutes, is amended to  
 25 read:  
 26 823.11 Derelict and migrant vessels; relocation or removal;  
 27 penalty.—  
 28 (1) As used in this section, the term:  
 29 (a) "Commission" means the Fish and Wildlife Conservation

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

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30 Commission.  
 31 (b) "Derelict vessel" means a vessel, as defined in s.  
 32 327.02, that is:  
 33 1. In a wrecked, junked, or substantially dismantled  
 34 condition upon any waters of this state.  
 35 a. A vessel is wrecked if it is sunken or sinking; aground  
 36 without the ability to extricate itself absent mechanical  
 37 assistance; or remaining after a marine casualty, including, but  
 38 not limited to, a boating accident, extreme weather, or a fire.  
 39 b. A vessel is junked if it has been substantially stripped  
 40 of vessel components, if vessel components have substantially  
 41 degraded or been destroyed, or if the vessel has been discarded  
 42 by the owner or operator. Attaching an outboard motor to a  
 43 vessel that is otherwise junked will not cause the vessel to no  
 44 longer be junked if such motor is not an effective means of  
 45 propulsion as required by s. 327.4107(2)(e) and associated  
 46 rules.  
 47 c. A vessel is substantially dismantled if at least two of  
 48 the three following vessel systems or components are missing,  
 49 compromised, incomplete, inoperable, or broken:  
 50 (I) The steering system;  
 51 (II) The propulsion system; or  
 52 (III) The exterior hull integrity.  
 53  
 54 Attaching an outboard motor to a vessel that is otherwise  
 55 substantially dismantled will not cause the vessel to no longer  
 56 be substantially dismantled if such motor is not an effective  
 57 means of propulsion as required by s. 327.4107(2)(e) and  
 58 associated rules.

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59 2. At a port in this state without the consent of the  
60 agency having jurisdiction thereof.

61 3. Docked, grounded, or beached upon the property of  
62 another without the consent of the owner of the property.

63 (c) "Gross negligence" means conduct so reckless or wanting  
64 in care that it constitutes a conscious disregard or  
65 indifference to the safety of the property exposed to such  
66 conduct.

67 (d) "Irregularly constructed vessel" means a vessel that is  
68 built or assembled using or combining makeshift or improvised  
69 materials or material components that are not engineered to  
70 withstand and resist degradation and failure due to damaging and  
71 corrosive elements of the coastal marine environment, such as  
72 exposure to seawater, sea spray, strong winds, heat, moisture,  
73 humidity, and rough contact.

74 (e) "Migrant vessel" means an irregularly constructed and  
75 equipped maritime vessel designed, intended, or used for the  
76 purpose of undocumented immigrant transportation. To constitute  
77 an irregularly constructed and equipped maritime vessel under  
78 this paragraph, a vessel must meet the definition of irregularly  
79 constructed vessel and at least one of the following  
80 construction-related criteria:

81 1. The vessel was built or assembled using or combining  
82 makeshift or improvised materials or material components;

83 2. The vessel was not constructed by a boat manufacturer;  
84 or

85 3. The vessel is not assigned a Hull Identification Number  
86 (HIN).

87 (f) "Willful misconduct" means conduct evidencing

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88 carelessness or negligence of such a degree or recurrence as to  
89 manifest culpability, wrongful intent, or evil design or to show  
90 an intentional and substantial disregard of the interests of the  
91 vessel owner.

92 (2) (a) A person, firm, or corporation may not leave any  
93 derelict or migrant vessel upon waters of this state. For  
94 purposes of this paragraph, the term "leave" means to allow a  
95 vessel to remain occupied or unoccupied on the waters of this  
96 state for more than 24 hours.

97 (b) Notwithstanding paragraph (a), a person who owns or  
98 operates a vessel that becomes derelict upon the waters of this  
99 state solely as a result of a boating accident that is reported  
100 to law enforcement in accordance with s. 327.301 or otherwise  
101 reported to law enforcement; a hurricane; or another sudden  
102 event outside of his or her control may not be charged with a  
103 violation if:

104 1. The individual documents for law enforcement the  
105 specific event that led to the vessel being derelict upon the  
106 waters of this state; and

107 2. The vessel has been removed from the waters of this  
108 state or has been repaired or addressed such that it is no  
109 longer derelict upon the waters of this state:

110 a. For a vessel that has become derelict as a result of a  
111 boating accident or other sudden event outside of his or her  
112 control, within 7 days after such accident or event; or

113 b. Within 45 days after the hurricane has passed over this  
114 ~~the~~ state.

115 (c) The additional time provided in subparagraph (b)2. for  
116 an owner or responsible party to remove a derelict vessel from



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117 the waters of this state or to repair and remedy the vessel's  
 118 derelict condition does not apply to a vessel that was derelict  
 119 upon the waters of this state before the stated accident or  
 120 event.

121 (d) Notwithstanding the additional 45 days provided in sub-  
 122 subparagraph (b)2.b. during which an owner or a responsible  
 123 party may not be charged for a violation of this section, the  
 124 commission, an officer of the commission, a law enforcement  
 125 agency or officer specified in s. 327.70, or, during a state of  
 126 emergency declared by the Governor, the Division of Emergency  
 127 Management or its designee, may immediately begin the process  
 128 set forth in s. 705.103(2) (a) and, once that process has been  
 129 completed and the 45 days provided herein have passed, any  
 130 vessel that has not been removed or repaired such that it is no  
 131 longer derelict upon the waters of this state may be removed and  
 132 destroyed as provided therein.

133 (3) The commission, an officer of the commission, or a law  
 134 enforcement agency or officer specified in s. 327.70 may  
 135 relocate, remove, and store or cause to be relocated, removed,  
 136 and stored a derelict vessel from waters of this state as  
 137 defined in s. 327.02 if the derelict vessel obstructs or  
 138 threatens to obstruct navigation or in any way constitutes a  
 139 danger to the environment, property, or persons. The commission,  
 140 an officer of the commission, or any other law enforcement  
 141 agency or officer acting pursuant to this subsection to  
 142 relocate, remove, and store or cause to be relocated, removed,  
 143 and stored a derelict vessel from waters of this state shall be  
 144 held harmless for all damages to the derelict vessel resulting  
 145 from such action unless the damage results from gross negligence

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146 or willful misconduct.

147 (a) All costs, including costs owed to a third party,  
 148 incurred by the commission, another law enforcement agency, or a  
 149 governmental subdivision, when the governmental subdivision has  
 150 received authorization from a law enforcement officer or agency,  
 151 in the relocation, removal, storage, destruction, or disposal of  
 152 a derelict vessel are recoverable against the vessel owner or  
 153 the party determined to be legally responsible for the vessel  
 154 being upon the waters of this state in a derelict condition. The  
 155 Department of Legal Affairs shall represent the commission in  
 156 actions to recover such costs. As provided in s. 705.103(4), a  
 157 person who neglects or refuses to pay such costs may not be  
 158 issued a certificate of registration for such vessel or for any  
 159 other vessel or motor vehicle until such costs have been paid. A  
 160 person who has neglected or refused to pay all costs of removal,  
 161 storage, destruction, or disposal of a derelict vessel as  
 162 provided in this section, after having been provided written  
 163 notice via certified mail that such costs are owed, and who  
 164 applies for and is issued a registration for a vessel or motor  
 165 vehicle before such costs have been paid in full commits a  
 166 misdemeanor of the first degree, punishable as provided in s.  
 167 775.082 or s. 775.083.

168 (b) A contractor performing such activities at the  
 169 direction of the commission, an officer of the commission, a law  
 170 enforcement agency or officer, or a governmental subdivision,  
 171 when the governmental subdivision has received authorization for  
 172 the relocation or removal from a law enforcement officer or  
 173 agency, pursuant to this section must be licensed in accordance  
 174 with applicable United States Coast Guard regulations where

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175 required; obtain and carry in full force and effect a policy  
 176 from a licensed insurance carrier in this state to insure  
 177 against any accident, loss, injury, property damage, or other  
 178 casualty caused by or resulting from the contractor's actions;  
 179 and be properly equipped to perform the services to be provided.

180 (4) (a) Removal of derelict or migrant vessels under this  
 181 subsection may be funded by grants provided in s. 206.606.

182 (b) The commission may implement a plan for the procurement  
 183 of any available federal disaster funds and use such funds for  
 184 the removal of derelict or migrant vessels.

185 (c) The commission may establish a program to provide  
 186 grants to local governments for the removal, storage,  
 187 destruction, and disposal of derelict or migrant vessels from  
 188 the waters of this state. This grant funding may also be used  
 189 for the removal, storage, destruction, and disposal of vessels  
 190 declared a public nuisance pursuant to s. 327.73(1)(aa). The  
 191 program must be funded from the Marine Resources Conservation  
 192 Trust Fund or the Florida Coastal Protection Trust Fund.  
 193 Notwithstanding s. 216.181(11), funds available for these grants  
 194 may only be authorized by appropriations acts of the  
 195 Legislature. In a given fiscal year, if all funds appropriated  
 196 pursuant to this paragraph are not requested by and granted to  
 197 local governments for the removal, storage, destruction, and  
 198 disposal of derelict vessels, migrant vessels, or vessels  
 199 declared a public nuisance pursuant to s. 327.73(1)(aa) by the  
 200 end of the third quarter, the Fish and Wildlife Conservation  
 201 Commission may use the remainder of the funds to remove, store,  
 202 destroy, and dispose of, or to pay private contractors to  
 203 remove, store, destroy, and dispose of, derelict vessels,

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204 migrant vessels, or vessels declared a public nuisance pursuant  
 205 to s. 327.73(1)(aa). The commission shall adopt by rule  
 206 procedures for local governments to submit a grant application  
 207 and criteria for allocating available funds. Such criteria must  
 208 include, at a minimum, the following:

209 1. The number of derelict vessels within the jurisdiction  
 210 of the applicant.

211 2. The threat posed by such vessels to public health or  
 212 safety, the environment, navigation, or the aesthetic condition  
 213 of the general vicinity.

214 3. The degree of commitment of the local government to  
 215 maintain waters free of abandoned and derelict vessels and to  
 216 seek legal action against those who abandon vessels in the  
 217 waters of this state as defined in s. 327.02.

218 (5) When a derelict vessel is docked, grounded, or beached  
 219 upon private property without the consent of the owner of the  
 220 property, the owner of the property may remove the vessel at the  
 221 vessel owner's expense 60 days after compliance with the notice  
 222 requirements specified in s. 328.17(5). The private property  
 223 owner may not hinder reasonable efforts by the vessel owner or  
 224 the vessel owner's agent to remove the vessel. Notice given  
 225 pursuant to this subsection is presumed to be delivered when it  
 226 is deposited with the United States Postal Service, certified,  
 227 and properly addressed with prepaid postage.

228 (6) A person, firm, or corporation violating this section  
 229 commits a misdemeanor of the first degree and shall be punished  
 230 as provided by law. A conviction under this section does not bar  
 231 the assessment and collection of a civil penalty. The court  
 232 having jurisdiction over the criminal offense, notwithstanding

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233 any jurisdictional limitations on the amount in controversy, may  
234 order the imposition of such civil penalty in addition to any  
235 sentence imposed for the first criminal offense.

236 (7) If an owner or a responsible party of a vessel  
237 determined to be derelict through an administrative or criminal  
238 proceeding has been charged by an officer of the commission or  
239 any law enforcement agency or officer as specified in s. 327.70  
240 under subsection (6) for a violation of subsection (2), a person  
241 may not reside or dwell on such vessel until the vessel is  
242 removed from the waters of the state permanently or returned to  
243 the waters of the state in a condition that is no longer  
244 derelict.

245 Section 2. Paragraph (a) of subsection (2) of section  
246 705.103, Florida Statutes, is amended to read:

247 705.103 Procedure for abandoned or lost property.—

248 (2)(a)1. Whenever a law enforcement officer ascertains  
249 that:

250 a. A migrant vessel or an article of lost or abandoned  
251 property other than a derelict vessel or a vessel declared a  
252 public nuisance pursuant to s. 327.73(1)(aa) is present on  
253 public property and is of such nature that it cannot be easily  
254 removed, the officer shall cause a notice to be placed upon such  
255 article in substantially the following form:

256  
257 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE  
258 ATTACHED PROPERTY. This property, to wit: ...(setting  
259 forth brief description)... is unlawfully upon public  
260 property known as ...(setting forth brief description  
261 of location)... and must be removed within 5 days;

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262 otherwise, it will be removed and disposed of pursuant  
263 to chapter 705, Florida Statutes. The owner will be  
264 liable for the costs of removal, storage, and  
265 publication of notice. Dated this: ...(setting forth  
266 the date of posting of notice)..., signed: ...(setting  
267 forth name, title, address, and telephone number of  
268 law enforcement officer)....

269  
270 b. A derelict vessel or a vessel declared a public nuisance  
271 pursuant to s. 327.73(1)(aa) is present on the waters of this  
272 state, the officer shall cause a notice to be placed upon such  
273 vessel in substantially the following form:

274  
275 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE  
276 ATTACHED VESSEL. This vessel, to wit: ...(setting  
277 forth brief description of location)... has been  
278 determined to be ...(derelict or a public nuisance)...  
279 and is unlawfully upon the waters of this state  
280 ...(setting forth brief description of location)...  
281 and must be removed within 21 days; otherwise, it will  
282 be removed and disposed of pursuant to chapter 705,  
283 Florida Statutes. The owner and other interested  
284 parties have the right to a hearing to challenge the  
285 determination that this vessel is derelict or  
286 otherwise in violation of the law. Please contact  
287 ...(contact information for person who can arrange for  
288 a hearing in accordance with this section)... The  
289 owner or the party determined to be legally  
290 responsible for the vessel being upon the waters of

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291 this state in a derelict condition or as a public  
 292 nuisance will be liable for the costs of removal,  
 293 destruction, and disposal if this vessel is not  
 294 removed by the owner. Dated this: ...(setting forth  
 295 the date of posting of notice)..., signed: ...(setting  
 296 forth name, title, address, and telephone number of  
 297 law enforcement officer)....

298  
 299 c. A migrant vessel as defined in s. 823.11 is present on  
 300 public property or the waters of this state, the law enforcement  
 301 agency or its designee may remove the vessel and destroy and  
 302 dispose of the vessel or authorize another governmental entity  
 303 or its designee to do so.

304 2. The notices required under subparagraph 1. may not be  
 305 less than 8 inches by 10 inches and must be sufficiently  
 306 weatherproof to withstand normal exposure to the elements. In  
 307 addition to posting, the law enforcement officer shall make a  
 308 reasonable effort to ascertain the name and address of the  
 309 owner. If such is reasonably available to the officer, she or he  
 310 must ~~shall~~ mail a copy of such notice to the owner on the date  
 311 of posting or as soon thereafter as is practical. If the  
 312 property is a motor vehicle as defined in s. 320.01(1) or a  
 313 vessel as defined in s. 327.02, except a migrant vessel as  
 314 defined in s. 823.11, the law enforcement agency must ~~shall~~  
 315 contact the Department of Highway Safety and Motor Vehicles in  
 316 order to determine the name and address of the owner and any  
 317 person who has filed a lien on the vehicle or vessel as provided  
 318 in s. 319.27(2) or (3) or s. 328.15. On receipt of this  
 319 information, the law enforcement agency shall mail a copy of the

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320 notice by certified mail, return receipt requested, to the owner  
 321 and to the lienholder, if any, except that a law enforcement  
 322 officer who has issued a citation for a violation of s. 823.11  
 323 to the owner of a derelict vessel is not required to mail a copy  
 324 of the notice by certified mail, return receipt requested, to  
 325 the owner. For a derelict vessel or a vessel declared a public  
 326 nuisance pursuant to s. 327.73(1)(aa), the mailed notice must  
 327 inform the owner or responsible party that he or she has a right  
 328 to a hearing to dispute the determination that the vessel is  
 329 derelict or otherwise in violation of the law. If a request for  
 330 a hearing is made, a state agency must ~~shall~~ follow the  
 331 processes as set forth in s. 120.569. Local governmental  
 332 entities shall follow the processes set forth in s. 120.569,  
 333 except that a local judge, magistrate, or code enforcement  
 334 officer may be designated to conduct such a hearing. If, at the  
 335 end of 5 days after posting the notice in sub-subparagraph 1.a.,  
 336 or at the end of 21 days after posting the notice in sub-  
 337 subparagraph 1.b., and mailing such notice, if required, the  
 338 owner or any person interested in the lost or abandoned article  
 339 or articles described has not removed the article or articles  
 340 from public property or shown reasonable cause for failure to do  
 341 so, and, in the case of a derelict vessel or a vessel declared a  
 342 public nuisance pursuant to s. 327.73(1)(aa), has not requested  
 343 a hearing in accordance with this section, the following must  
 344 ~~shall~~ apply:

345 a. For abandoned property other than a derelict vessel or a  
 346 vessel declared a public nuisance pursuant to s. 327.73(1)(aa),  
 347 the law enforcement agency may retain any or all of the property  
 348 for its own use or for use by the state or unit of local

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349 government, trade such property to another unit of local  
350 government or state agency, donate the property to a charitable  
351 organization, sell the property, or notify the appropriate  
352 refuse removal service.

353 b. For a derelict vessel or a vessel declared a public  
354 nuisance pursuant to s. 327.73(1)(aa), the law enforcement  
355 agency or its designee may:

356 (I) Remove the vessel from the waters of this state and  
357 destroy and dispose of the vessel or authorize another  
358 governmental entity or its designee to do so; or

359 (II) Authorize the vessel's use as an artificial reef in  
360 accordance with s. 379.249 if all necessary federal, state, and  
361 local authorizations are received.

362

363 A law enforcement agency or its designee may also take action as  
364 described in this sub-subparagraph if, following a hearing  
365 pursuant to this section, the judge, magistrate, administrative  
366 law judge, or hearing officer has determined the vessel to be  
367 derelict as provided in s. 823.11 or otherwise in violation of  
368 the law in accordance with s. 327.73(1)(aa) and a final order  
369 has been entered or the case is otherwise closed.

370 Section 3. This act shall take effect July 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 18, 2025

---

I respectfully request that **Senate Bill #830**, relating to Lost or Abandoned Property, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 40

The Florida Senate

# APPEARANCE RECORD

830

4/10

Meeting Date

Bill Number or Topic

Ag & Nat Res

Committee

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

Amendment Barcode (if applicable)

Name

Robert Reyes

Phone

Address

817 Ingleside Ave

Email

rreyes@capitol.gov

Street

DALL

FL

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:

Monroe County

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.

**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/CS/SB 1326

INTRODUCER: Appropriations Committee on Agriculture, Environment, and General Government;  
Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Areas of Critical State Concern

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1326 exempts from payment or performance bond requirements, a person entering into a construction contract for work done on property in an area of critical state concern that is subject to a long-term ground lease with Habitat for Humanity International, Inc. or its affiliates, provided that the leasehold interest is subject to any claims by claimants who qualify as lienors.

The bill extends funding from the Florida Forever Trust Fund for land acquisition within the Florida Keys Area of Critical State Concern to fiscal year 2035-2036. The funding is set to end in fiscal year 2026-2027.

The bill requires local government comprehensive plans to maintain a hurricane evacuation clearance time for permanent residents of no more than 24.5 hours or 825 permit allocations, whichever is less. The bill divides the 825 permit allocations among Monroe County, the Village of Islamorada, the City of Marathon, and the City of Key West.

The bill has no impact on state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill has an effective date of July 1, 2025.



## II. Present Situation:

### Areas of Critical State Concern (ACSC)

The Administration Commission<sup>1</sup> may designate an ACSC for the following areas:

- An area that contains or has a significant impact on environmental or natural resources of regional or statewide importance, where uncontrolled private or public development would cause substantial deterioration of the area's resources.<sup>2</sup> This includes state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas.<sup>3</sup>
- An area that contains or has a significant impact on historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, where private or public development would cause substantial deterioration or complete loss of the area's resources, sites, or districts.<sup>4</sup>
- An area that has a significant impact on, or is significantly affected by, an existing or proposed major public facility or other area of major public investment, including highways, ports, airports, energy facilities, and water management projects.<sup>5</sup>

The Florida Department of Commerce, which is the state land planning agency,<sup>6</sup> may recommend an area for designation as an area of critical state concern. In its recommendations, the department must include:

- Recommendations for the purchase of land within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program;
- Any report or recommendation of a resource planning and management committee;<sup>7</sup>
- The dangers that would result from uncontrolled or inadequate development of the area and the advantages of developing the area in a coordinated manner;
- A detailed boundary description of the proposed area;
- Specific principles for guiding development within the area;<sup>8</sup>
- An inventory of lands owned by the federal, state, and local governments within the proposed area; and
- A list of the state agencies with programs that affect the purpose of the designation.<sup>9</sup>

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<sup>1</sup> The Administration Commission consists of the Governor and the Cabinet. The commission acts on simple majority. Section 380.031(1), F.S.

<sup>2</sup> Section 380.05(2)(a), F.S.

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

<sup>4</sup> Section 380.05(2)(b), F.S.

<sup>5</sup> Section 380.05(2)(c), F.S.

<sup>6</sup> Section 380.031(18), F.S.

<sup>7</sup> Prior to recommending the designation of an area of critical state concern, the Governor, acting as chief planning officer of the state, must appoint a resource planning and management committee for the area under study by the Florida Department of Commerce (DOC). The committee must organize a voluntary, cooperative resource planning and management program to resolve any problems that might endanger the area's resources and facilities. Section 380.045(1), F.S.

<sup>8</sup> Regarding the principles for guiding development, DOC must recommend actions which state and regional agencies and local governments must accomplish to implement these principles. These actions may include, but are not limited to, revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements. Section 380.05(1)(a), F.S.

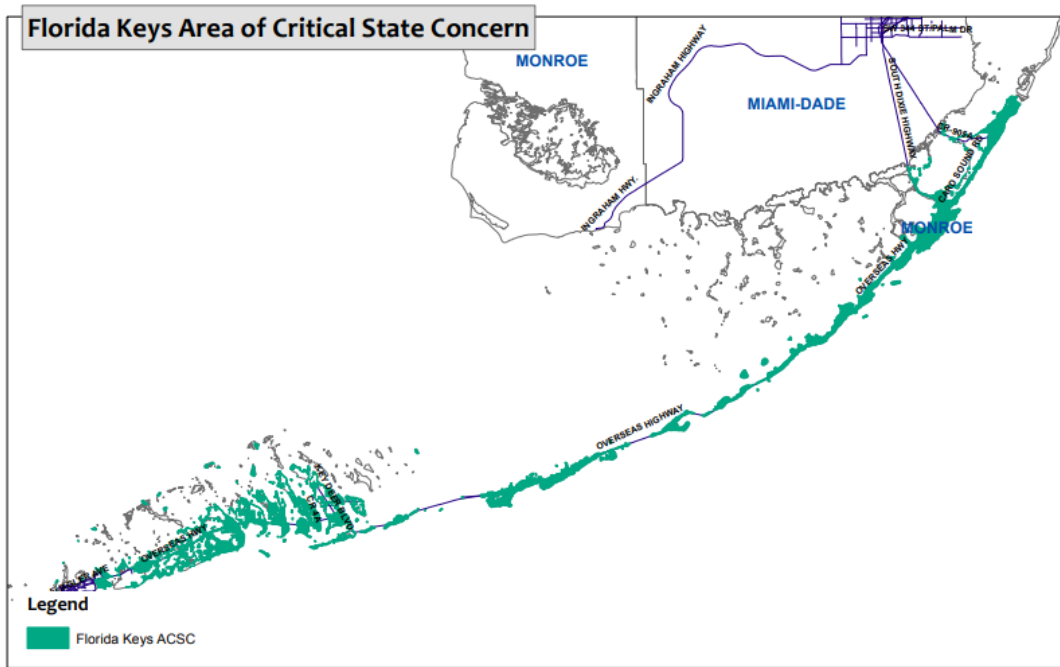
<sup>9</sup> Section 380.05(1)(a), F.S.

Following the designation of the ACSC, any local government that is wholly or partially located within the area must conform its previously adopted comprehensive plan to the principles for guiding development of the area of critical state concern.<sup>10</sup>

There are currently six ACSC designated in Florida: The Big Cypress ACSC, the Green Swamp ACSC, the Florida Keys ACSC, the City of Key West ACSC, the Brevard Barrier Island ACSC, and the Apalachicola Bay ACSC.<sup>11</sup>

**Florida Keys ACSC**

The Florida Keys ACSC was designated in 1975 and currently includes the municipalities of Islamorada, Marathon, Layton, and Key Colony Beach, as well as unincorporated Monroe County.<sup>12</sup>



State, regional, and local governments in the Florida Keys ACSC are required to coordinate their development plans and conduct program and regulatory activities to be consistent with the principles for guiding development. The principles for guiding development plan for growth and

<sup>10</sup> Section 380.05(14), F.S.

<sup>11</sup> DOC, *Areas of Critical State Concern Program*, <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited March 17, 2025); see sections 380.055, 380.0551, 380.0552, 380.0553, and 380.0555, F.S.

<sup>12</sup> DOC, *Florida Keys Area of Critical State Concern Annual Report*, page 3 of Tab 1 (2023), available at [https://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2023keysacscannualreport.pdf?sfvrsn=cd0721b0\\_1](https://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2023keysacscannualreport.pdf?sfvrsn=cd0721b0_1). In 1984, the City of Key West was removed from the Florida Keys Area of Critical State Concern and was designated a separate area of critical state concern. *Id.* For the map on this page, see Florida Department of Economic Opportunity, *Florida Keys Area of Critical State Concern*, 1 (2015), available at [https://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/floridakeysmap.pdf?sfvrsn=c93565b0\\_2](https://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/floridakeysmap.pdf?sfvrsn=c93565b0_2).

modernization and protect the environmental resources, historical heritage, and water quality of the Florida Keys to maintain its status as a unique natural environment.<sup>13</sup>

A land development regulation or element of a local comprehensive plan in the Florida Keys ACSC may be enacted, amended, or rescinded by a local government, but such actions must be approved by the Florida Department of Commerce.<sup>14</sup> Amendments to local comprehensive plans must be reviewed for compliance with the principles for guiding development. They must also be reviewed for compliance with goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours.<sup>15</sup>

For the purposes of the hurricane evacuation clearance time, mobile home residents are not considered permanent residents.<sup>16</sup> Additionally, the City of Key West ACSC must be included in the hurricane evacuation study and must be subject to the hurricane evacuation clearance time.<sup>17</sup>

### *Hurricane Evacuation Clearance Standards in the Florida Keys*

The Florida Keys Area Protection Act<sup>18</sup> requires, in part, that local government comprehensive plan amendments within the Florida Keys ACSC, which includes most of Monroe County, must comply with goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a 24-hour hurricane evacuation clearance time for permanent residents.<sup>19</sup> The evacuation clearance time must be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the Department of Commerce.<sup>20</sup>

In 2012, a hurricane evacuation study was conducted to model the 24-hour clearance time required by statute and to implement a 10-year planning horizon (2013-2023) for managed growth.<sup>21</sup> The study was completed as part of the Memorandum of Understanding (MOU) entered into by the Department of Commerce, the Florida Division of Emergency Management, and local governments in the Florida Keys.<sup>22</sup> Modeling for the 2012 study assumed a two-phase

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<sup>13</sup> Section 380.0552(7), F.S. For a full list of required considerations, *see* section 380.0552(7)(a)-(n), F.S.

<sup>14</sup> Section 380.0552(9)(a), F.S.

<sup>15</sup> Section 380.0552(9)(a)1. and 2., F.S. Additionally, amendments to comprehensive plans must be reviewed for compliance with construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed criteria for wastewater treatment and disposal facilities or onsite sewage treatment and disposal systems.

<sup>16</sup> Section 380.0552(9)(a)2.a., F.S.

<sup>17</sup> Section 380.0552(9)(a)2.b., F.S.

<sup>18</sup> Section 380.0552, F.S.

<sup>19</sup> Section 380.0552(9)(a)2., F.S.

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

<sup>21</sup> DOC, *Florida Keys Hurricane Evacuation Modeling Report*, 2, 7 (Dec. 2023), available at [https://www.floridajobs.org/docs/default-source/community-planning-development-and-services/evacuation-modeling-report-final-with-appendices79bb3ca4cbbb61cbb02aff01004f56df.pdf?sfvrsn=47005db0\\_10](https://www.floridajobs.org/docs/default-source/community-planning-development-and-services/evacuation-modeling-report-final-with-appendices79bb3ca4cbbb61cbb02aff01004f56df.pdf?sfvrsn=47005db0_10).

<sup>22</sup> *See* Monroe County Board of Commissioners, *Monroe County, Florida Monroe County Board of County Commissioners Resolution No. 226-2012*, (2012), available at <https://www.monroecountyem.com/DocumentCenter/View/8431/Florida-keys-Hurricane-Evacuation-MOU?bidId=> (which contains the text of the Hurricane Evacuation Clearance Time MOU, beginning on page 6 of the document); DOC, *Florida Keys Hurricane Evacuation Modeling Report* at 7. DOC used the Transportation Interface for Modeling Evacuations or TIME Model to ensure that the evacuation clearance time could be met. The TIME

evacuation and included both the Florida Keys and the City of Key West ACSC in the evacuating population. Phase I of the evacuation occurs 24-48 hours in advance of tropical storm winds and includes the evacuation of tourists, mobile homeowners, students living in dorms, and other non-permanent residents.<sup>23</sup> Phase II occurs 0-24 hours in advance of tropical storm force winds and includes the evacuation of all site-built permanent residents.<sup>24</sup>

The MOU established a maximum issuance of 3,550 building permits over a 10-year period to distribute to local governments in the Florida Keys.<sup>25</sup> Following the 2012 study, the 3,550 building permits were allocated as follows:

- 280 to the Village of Islamorada;
- 60 to the City of Key Colony Beach, which subsequently withdrew from the MOU and does not have a building permit allocation;
- 910 to the City of Key West;
- 30 to the City of Layton;
- 300 to the City of Marathon; and
- 1,970 to unincorporated Monroe County.<sup>26</sup>

The hurricane evacuation study was updated in 2023.<sup>27</sup> The 2023 evacuation models also assumed a two-phase evacuation. Additional modeling scenarios were run to account for the Third District Court of Appeals' decision in *Mattino v. City of Marathon* in 2022, which held that mobile home residents were permanent residents for the purpose of the 24-hour evacuation clearance time and that the City of Key West ACSC was not subject to the evacuation clearance time.<sup>28</sup>

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Model takes into account the number of housing units, subtracts the vacant housing units, and multiplies that sum by the participation rate, the number of vehicles available per housing unit, and by the vehicle use rate. The number of evacuating vehicles is the final product and the model then loads that number on the road using a traffic assignment algorithm to produce the evacuation clearance time. *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 8.

<sup>25</sup> *Id.* 7. Evacuation scenarios were completed based on variables including tourist units (Phase I only); 1,300 workforce affordable, early-evacuation units (Phase I only); mobile home units; site-built units (Phase II only); participation rates; a response curve of 12 hours; vehicle use by unit type; vehicle use by special populations; evacuation stream; and roadway capacity. *Id.* at 10.

<sup>26</sup> *Id.* at 8.

<sup>27</sup> *Id.* at 9.

<sup>28</sup> *Id.* at 10; see *Mattino v. City of Marathon*, 345 So. 3d 939 (3d DCA 2022), in which the Third DCA overturned in part a final order of the Florida Department of Economic Opportunity (DEO), which determined that the comprehensive plan amendments adopted by the Cities of Key West, Marathon, and Islamorada did not violate the 24-hour evacuation clearance time for permanent residents. In 2017, DEO determined that comprehensive plan amendments were needed to allow for 1,300 new building permits for affordable workforce housing for residents of the Florida Keys. The comprehensive plan amendments sought to add the permanent residents of those 1,300 new housing units to Phase I evacuees, meaning they could be evacuated over a 48-hour period, instead of a 24-hour period. In response, the appellants filed a petition for a formal administrative hearing, claiming that the comprehensive plan amendments violated the 24-hour evacuation clearance time for permanent residents. DEO adopted the administrative law judge's recommended order and issued its final order. The Third DCA found that the comprehensive plan amendments for the Cities of Marathon and Islamorada did violate the 24-hour evacuation clearance time, however the City of Key West's comprehensive plan amendments did not. Regarding the City of Key West, the court held that the 24-hour evacuation clearance time did not apply because the City of Key West was designated as a separate area of critical concern.

Following the holding in *Mattino*, in 2024, the Florida Legislature amended the Florida Keys ACSC statute to provide that mobile home residents are not considered permanent residents for the purposes of the evacuation clearance time.<sup>29</sup> This would allow mobile home residents to be evacuated during both Phase I and Phase II. Additionally, the Legislature required the Key West ACSC to be included in hurricane evacuation modeling.<sup>30</sup>

### **Construction Liens**

Generally, any person who provides services, labor, or materials for improving, repairing, or maintaining real property may place a construction lien<sup>31</sup> on the property, provided the person complies with statutory procedures.<sup>32</sup> A lienor is a contractor; subcontractor; sub-subcontractor, laborer, or materialman who furnishes materials under contract; or a professional lienor.<sup>33</sup>

A construction lien extends to the right, title, and interest of the person who contracts for the improvement to the extent that such right, title, and interest exists at the improvement's commencement or is acquired in the real property.<sup>34</sup> However, when a lessee makes an improvement under an agreement between the lessee and his or her lessor, the lien also extends to the lessor's interest unless:<sup>35</sup>

- The lease, or a short form or a memorandum of the lease, is recorded in the official records of the county where the property is located before the recording of a notice of commencement for improvements to the property and the lease's terms expressly prohibit such liability; or
- The lease's terms expressly prohibit such liability, and a notice advising that leases for the rental of premises on a property prohibit such liability has been recorded in the official records of the county in which the property is located before the recording of a notice of commencement for improvements to the premises and the notice includes specified information.<sup>36</sup>

If a lease expressly provides that the lessor's interest will not be subject to the construction liens relating to improvements made by the lessee, the lessee must notify the contractor making any such improvements of the lease provision, and the knowing and willful failure of the lessee to provide such notice renders the contract voidable at the contractor's option.<sup>37</sup>

### **Payment and Performance Bonds**

A contractor who contracts with the state or any local government or other public authority or private entity for the construction of, or repairs to, a public building or public work must execute

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<sup>29</sup> Chapter 2024-219, Laws of Fla.

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

<sup>31</sup> A lien is a claim against property that evidences a debt, obligation, or duty. *See* 34 FLA. JUR. 2D, *Liens* s. 1 (describing a lien as a charge on property for the payment or discharge of a debt or duty which may be created only by a contract of the parties or by operation of law).

<sup>32</sup> Chapter 713, F.S.

<sup>33</sup> Section 713.01(19), (21), F.S.

<sup>34</sup> Section 713.10(1), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> Section 713.10(2)(b), F.S.

<sup>37</sup> Section 713.10(2)(a), F.S.

and record<sup>38</sup> a payment and performance bond with a surety insurer authorized to do business in Florida as a surety.<sup>39</sup> A payment bond is a type of surety that generally guarantees that all subcontractors, laborers, and material suppliers will be promptly paid for their labor, services, and materials contributed to a construction project.<sup>40</sup>

The bond forms a three-part contract between the owner, the contractor, and the surety to ensure that liens are not filed on the property, serving as the security for payment in lieu of the typical right to claim a lien.<sup>41</sup> The payment bond must be furnished in at least the amount of the original contract price before beginning the construction project, and a copy of the bond must be attached to the recorded notice of commencement.<sup>42</sup>

### **Florida Forever Trust Fund**

The Florida Forever Program is the state's main conservation and recreation lands acquisition program.<sup>43</sup> It serves as a blueprint for conserving Florida's natural and cultural heritage.<sup>44</sup> Thirty five percent of Florida Forever funds must be distributed to the Florida Department of Environmental Protection for the acquisition of lands and capital project expenditures described in the Florida Forever Act. Of this distribution:

- Increased priority must be given to acquisition that would achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge.
- Between three and ten percent must be spent on capital project expenditures that meet land management planning activities necessary for public access.
- Beginning in fiscal year 2017-2018 and continuing through fiscal year 2026-2027, at least \$5 million must be spent on land acquisition within the Florida Keys Area of Critical State Concern. This requirement is extended by the bill.

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

**Section 1** amends s. 255.05, F.S., to exempt, at the discretion of the official or board who owns the subject underlying property in fee simple, a person entering into a construction contract providing for services or material from being required to execute a payment and performance bond:

- When the work is done on property located within an area of critical state concern subject to a long-term ground lease of 99 years or more with Habitat for Humanity International, Inc., or any of its affiliates, and
- Provided that such leasehold interest created by the ground lease is subject to any claims by claimants who qualify as lienors.

---

<sup>38</sup> The payment and performance bond must be executed and recorded before the work is begun, and the recording must be in the public records of the county where the improvement is located. Section 255.05(1), F.S.

<sup>39</sup> Section 255.05(1), F.S.

<sup>40</sup> See sections 255.05 and 713.23, F.S.

<sup>41</sup> Section 713.23(1), F.S.

<sup>42</sup> Section 713.23(1)(a), F.S.

<sup>43</sup> The Florida Department of Environmental Protection, *Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/florida-forever> (last visited March 18, 2025).

<sup>44</sup> *Id.*

The underlying real property owned by the state or any county, city, or political subdivision thereof, or by any other public authority, may not be subject to any lien rights created under chapter 713, F.S., relating to liens, generally.

**Section 2** amends s. 259.105, F.S., to extend the date through which at least \$5 million of the funds allocated from the Florida Forever Act to the Florida Department of Environmental Protection for the acquisition of lands and capital project expenditures must be spent on land acquisition within the Florida Keys Area of Critical State Concern (ACSC). The funding requirement currently extends through fiscal year 2026-2027 and the bill extends it through fiscal year 2035-2037.

**Section 3** amends s. 380.0552, F.S., which establishes the Florida Keys ACSC. Current law requires the state land planning agency to review local comprehensive plans in the Florida Keys ACSC for compliance with certain requirements. The bill amends the requirement that local comprehensive plans maintain a hurricane evacuation clearance time for permanent residents of no more than 24 hours by extending it to no more than 24.5 hours or 825 permit allocations, whichever is less.

The bill adds that, to ensure the hurricane evacuation clearance time is met, Monroe County, the Village of Islamorada, the City of Marathon, the City of Layton, and the City of Key West shall each continue to maintain permit allocation systems limiting the number of permits issued for new residential dwelling units. The bill provides that the Administration Commission shall distribute 825 permit allocations over a period of at least 10 years, as follows:

- Monroe County must receive 539 permit allocations:
  - All of which must be issued to vacant, buildable parcels. Only one of the allocated building permits shall be awarded to any individual parcel.
  - Of the 539 permit allocations, 377 must be used for workforce housing.
- The City of Marathon must receive 187 permit allocations:
  - All of which must be issued to vacant, buildable parcels. Only one of the allocated building permits shall be awarded to any individual parcel.
  - Distribution of the permits must prioritize allocations for owner-occupied residences, affordable housing, and workforce housing.
- The City of Islamorada must receive 71 permit allocations:
  - All of which must be issued to vacant, buildable parcels. Only one of the allocated building permits shall be awarded to any individual parcel.
  - Distribution of the permits must prioritize allocations for owner-occupied residences, affordable housing, and workforce housing.
- The City of Key West must receive 28 permit allocations. The housing constructed pursuant to the allocated permits must be affordable.<sup>45</sup>

---

<sup>45</sup> “Affordable” is defined section 420.0004(3), F.S., to mean that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households of extremely-low-income persons, low-income persons, moderate-income persons, or very-low-income persons.

The bill defines “workforce housing” as residential dwelling units restricted for a period of no less than 99 years to occupancy by households who derive at least 70 percent of their household income from gainful employment in Monroe County supplying goods or services to Monroe County residents or visitors.

**Section 4** provides an effective date of July 1, 2025.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill authorizes ad valorem tax relief for private owners of single- and multifamily housing units in some cases.

B. Private Sector Impact:

The bill may have an indeterminate positive impact by providing an exemption for Habitat for Humanity International, Inc., or any of its affiliates from payment and performance bonds in some cases. This may have an indeterminate positive impact on the Florida Keys by increasing affordable housing.

C. Government Sector Impact:

This bill has no net impact on state funds; however, the extension of funding from Florida Forever would, if funded, impact available funds for land acquisition.



**VI. Technical Deficiencies:****VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 196.1978, 255.05, 259.105, and 380.0552.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations Committee on Agriculture, Environment, and General Government on April 8, 2025:**

The committee substitute removes provisions amending s. 196.1978, F.S., to revise the conditions under which certain property may be considered property used for a charitable purpose. The amendment also modifies the building permit allocations to Monroe County to maintain a hurricane evacuation clearance time required by the bill.

**CS by Environment and Natural Resources on March 25:**

- Requires that local comprehensive plans maintain a hurricane evacuation clearance time for permanent residents of no more than 24.5 hours or 825 permit allocations, whichever is less.
- Requires the Administration Commission to distribute the permit allocations over a period of at least 10 years as follows:
  - 580 to Monroe County, with 406 issued only for workforce housing;
  - 201 to the City of Marathon;
  - 77 to the Village of Islamorada; and
  - 30 to the City of Key West.
- Requires permits issued to Monroe County, the City of Marathon, and the Village of Islamorada to be issued to vacant, buildable parcels, with only one permit awarded to any individual parcel.
- Provides that distribution of the permit allocations to the City of Marathon and the Village of Islamorada must prioritize owner-occupied residences, affordable housing, and workforce housing.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2025	.	
	.	
	.	
	.	

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The Appropriations Committee on Agriculture, Environment, and General Government (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 31 - 188

and insert:

Section 1. Paragraph (h) is added to subsection (1) of section 255.05, Florida Statutes, to read:

255.05 Bond of contractor constructing public buildings; form; action by claimants.—

(1) A person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other



11 public authority or private entity, for the construction of a  
12 public building, for the prosecution and completion of a public  
13 work, or for repairs upon a public building or public work shall  
14 be required, before commencing the work or before recommencing  
15 the work after a default or abandonment, to execute and record  
16 in the public records of the county where the improvement is  
17 located, a payment and performance bond with a surety insurer  
18 authorized to do business in this state as surety. A public  
19 entity may not require a contractor to secure a surety bond  
20 under this section from a specific agent or bonding company.

21 (h) When work is done on property located within an area of  
22 critical state concern which is subject to a long-term ground  
23 lease of 99 years or more with Habitat for Humanity  
24 International, Inc., or any of its affiliates, at the discretion  
25 of the official or board who owns the subject underlying  
26 property in fee simple, a person entering into a construction  
27 contract providing for services or material may be exempted from  
28 executing the payment and performance bond under this section,  
29 provided that such leasehold interest created by the ground  
30 lease of 99 years or more is subject to any claims by claimants  
31 who qualify as lienors under s. 713.01 and applicable lien  
32 statutes in chapter 713. The underlying real property owned by  
33 the state or any county, city, or political subdivision thereof  
34 or by any other public authority may not be subject to any lien  
35 rights created under chapter 713.

36 Section 2. Paragraph (b) of subsection (3) of section  
37 259.105, Florida Statutes, is amended to read:

38 259.105 The Florida Forever Act.—

39 (3) Less the costs of issuing and the costs of funding



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40 reserve accounts and other costs associated with bonds, the  
41 proceeds of cash payments or bonds issued pursuant to this  
42 section shall be deposited into the Florida Forever Trust Fund  
43 created by s. 259.1051. The proceeds shall be distributed by the  
44 Department of Environmental Protection in the following manner:

45 (b) Thirty-five percent to the Department of Environmental  
46 Protection for the acquisition of lands and capital project  
47 expenditures described in this section. Of the proceeds  
48 distributed pursuant to this paragraph, it is the intent of the  
49 Legislature that an increased priority be given to those  
50 acquisitions which achieve a combination of conservation goals,  
51 including protecting Florida's water resources and natural  
52 groundwater recharge. At a minimum, 3 percent, and no more than  
53 10 percent, of the funds allocated pursuant to this paragraph  
54 shall be spent on capital project expenditures identified during  
55 the time of acquisition which meet land management planning  
56 activities necessary for public access. Beginning in the 2017-  
57 2018 fiscal year and continuing through the 2035-2036 ~~2026-2027~~  
58 fiscal year, at least \$5 million of the funds allocated pursuant  
59 to this paragraph shall be spent on land acquisition within the  
60 Florida Keys Area of Critical State Concern as authorized  
61 pursuant to s. 259.045.

62 Section 3. Paragraph (a) of subsection (9) of section  
63 380.0552, Florida Statutes, is amended to read:

64 380.0552 Florida Keys Area; protection and designation as  
65 area of critical state concern.—

66 (9) MODIFICATION TO PLANS AND REGULATIONS.—

67 (a) Any land development regulation or element of a local  
68 comprehensive plan in the Florida Keys Area may be enacted,



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69 amended, or rescinded by a local government, but the enactment,  
70 amendment, or rescission becomes effective only upon approval by  
71 the state land planning agency. The state land planning agency  
72 shall review the proposed change to determine if it is in  
73 compliance with the principles for guiding development specified  
74 in chapter 27F-8, Florida Administrative Code, as amended  
75 effective August 23, 1984, and must approve or reject the  
76 requested changes within 60 days after receipt. Amendments to  
77 local comprehensive plans in the Florida Keys Area must also be  
78 reviewed for compliance with the following:

79 1. Construction schedules and detailed capital financing  
80 plans for wastewater management improvements in the annually  
81 adopted capital improvements element, and standards for the  
82 construction of wastewater treatment and disposal facilities or  
83 collection systems that meet or exceed the criteria in s.  
84 403.086(11) for wastewater treatment and disposal facilities or  
85 s. 381.0065(4)(1) for onsite sewage treatment and disposal  
86 systems.

87 2. Goals, objectives, and policies to protect public safety  
88 and welfare in the event of a natural disaster by maintaining a  
89 hurricane evacuation clearance time for permanent residents of  
90 no more than 24.5 ~~24~~ hours or 825 permit allocations, whichever  
91 is less. The hurricane evacuation clearance time shall be  
92 determined by a hurricane evacuation study conducted in  
93 accordance with a professionally accepted methodology and  
94 approved by the state land planning agency. For purposes of  
95 hurricane evacuation clearance time:

96 a. Mobile home residents are not considered permanent  
97 residents.



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98           b. The City of Key West Area of Critical State Concern  
99 established by chapter 28-36, Florida Administrative Code, shall  
100 be included in the hurricane evacuation study and is subject to  
101 the evacuation requirements of this subsection.

102           c. To ensure the hurricane evacuation clearance time in  
103 this subsection is met, Monroe County, the Village of  
104 Islamorada, the City of Marathon, the City of Layton, and the  
105 City of Key West shall each continue to maintain permit  
106 allocation systems limiting the number of permits issued for new  
107 residential dwelling units.

108           d. The Administration Commission shall distribute 825  
109 permit allocations over a period of at least 10 years, as  
110 follows:

111           (I) Monroe County shall receive 539 permit allocations. All  
112 of which must be issued to vacant, buildable parcels. Only 1 of  
113 the allocated building permits shall be awarded to any  
114 individual parcel. Of the 539 permit allocations, 377 shall be  
115 issued only for workforce housing;

116           (II) The City of Marathon shall receive 187 permit  
117 allocations:

118           (A) All of which must be issued to vacant, buildable  
119 parcels. Only 1 of the allocated building permits may be awarded  
120 to any individual parcel; and

121           (B) Distribution of which must prioritize allocations for  
122 owner-occupied residences, affordable housing, and workforce  
123 housing;

124           (III) The Village of Islamorada shall receive 71 permit  
125 allocations:

126           (A) All of which must be issued to vacant, buildable



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127 parcels. Only 1 of the allocated building permits may be awarded  
128 to any individual parcel; and

129 (B) Distribution of which must prioritize allocations for  
130 owner-occupied residences, affordable housing, and workforce  
131 housing; and

132 (IV) The City of Key West shall receive 28 permit  
133

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

135 And the title is amended as follows:

136 Delete lines 3 - 5

137 and insert:

138 amending s. 255.05, F.S.;

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

592-02838-25

20251326c1

1 A bill to be entitled  
2 An act relating to areas of critical state concern;  
3 amending s. 196.1978, F.S.; revising conditions under  
4 which certain property may be considered property used  
5 for a charitable purpose; amending s. 255.05, F.S.;  
6 exempting a person entering into a construction  
7 contract with Habitat for Humanity International,  
8 Inc., or any of its affiliates from executing a  
9 payment and performance bond under certain  
10 circumstances; providing that the underlying real  
11 property owned by the state or any county, city, or  
12 political subdivision may not be subject to specified  
13 lien rights; amending s. 259.105, F.S.; extending the  
14 timeframe for specific Florida Forever appropriations  
15 to be used for the purchase of lands in the Florida  
16 Keys Area of Critical State Concern; amending s.  
17 380.0552, F.S.; providing a limitation for additional  
18 building permit allocations; specifying the current  
19 permit allocations, based on certain evacuation  
20 clearance time modeling; requiring certain cities to  
21 maintain a permit allocation system to ensure certain  
22 provisions are met; requiring the Administration  
23 Commission to distribute permit allocations over a  
24 specified period and in a specified manner; providing  
25 for the allocation of building permits among certain  
26 municipalities; defining the term "workforce housing";  
27 providing an effective date.  
28  
29 Be It Enacted by the Legislature of the State of Florida:

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

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30  
31 Section 1. Paragraph (b) of subsection (3) of section  
32 196.1978, Florida Statutes, is amended to read:  
33 196.1978 Affordable housing property exemption.—  
34 (3)  
35 (b) Notwithstanding ss. 196.195 and 196.196, portions of  
36 property in a multifamily project are considered property used  
37 for a charitable purpose and are eligible to receive an ad  
38 valorem property tax exemption if such portions meet all of the  
39 following conditions:  
40 1. Provide affordable housing to natural persons or  
41 families meeting the income limitations provided in paragraph  
42 (d).  
43 2.a. Are within a newly constructed multifamily project  
44 that contains more than 70 units dedicated to housing natural  
45 persons or families meeting the income limitations provided in  
46 paragraph (d); or  
47 b. Contain one or more units located ~~are within a newly~~  
48 ~~constructed multifamily project~~ in an area of critical state  
49 concern, as designated by s. 380.0552 or chapter 28-36, Florida  
50 Administrative Code, which are ~~contains more than 10 units~~  
51 dedicated to housing natural persons or families meeting the  
52 income limitations provided in paragraph (d).  
53 3. Are rented for an amount that does not exceed the amount  
54 as specified by the most recent multifamily rental programs  
55 income and rent limit chart posted by the corporation and  
56 derived from the Multifamily Tax Subsidy Projects Income Limits  
57 published by the United States Department of Housing and Urban  
58 Development or 90 percent of the fair market value rent as

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59 determined by a rental market study meeting the requirements of  
60 paragraph (1), whichever is less.

61 Section 2. Paragraph (h) is added to subsection (1) of  
62 section 255.05, Florida Statutes, to read:

63 255.05 Bond of contractor constructing public buildings;  
64 form; action by claimants.—

65 (1) A person entering into a formal contract with the state  
66 or any county, city, or political subdivision thereof, or other  
67 public authority or private entity, for the construction of a  
68 public building, for the prosecution and completion of a public  
69 work, or for repairs upon a public building or public work shall  
70 be required, before commencing the work or before recommencing  
71 the work after a default or abandonment, to execute and record  
72 in the public records of the county where the improvement is  
73 located, a payment and performance bond with a surety insurer  
74 authorized to do business in this state as surety. A public  
75 entity may not require a contractor to secure a surety bond  
76 under this section from a specific agent or bonding company.

77 (h) When work is done on property located within an area of  
78 critical state concern which is subject to a long-term ground  
79 lease of 99 years or more with Habitat for Humanity  
80 International, Inc., or any of its affiliates, at the discretion  
81 of the official or board who owns the subject underlying  
82 property in fee simple, a person entering into a construction  
83 contract providing for services or material may be exempted from  
84 executing the payment and performance bond under this section,  
85 provided that such leasehold interest created by the ground  
86 lease of 99 years or more is subject to any claims by claimants  
87 who qualify as lienors under s. 713.01 and applicable lien

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88 statutes in chapter 713. The underlying real property owned by  
89 the state or any county, city, or political subdivision thereof  
90 or by any other public authority may not be subject to any lien  
91 rights created under chapter 713.

92 Section 3. Paragraph (b) of subsection (3) of section  
93 259.105, Florida Statutes, is amended to read:

94 259.105 The Florida Forever Act.—

95 (3) Less the costs of issuing and the costs of funding  
96 reserve accounts and other costs associated with bonds, the  
97 proceeds of cash payments or bonds issued pursuant to this  
98 section shall be deposited into the Florida Forever Trust Fund  
99 created by s. 259.1051. The proceeds shall be distributed by the  
100 Department of Environmental Protection in the following manner:

101 (b) Thirty-five percent to the Department of Environmental  
102 Protection for the acquisition of lands and capital project  
103 expenditures described in this section. Of the proceeds  
104 distributed pursuant to this paragraph, it is the intent of the  
105 Legislature that an increased priority be given to those  
106 acquisitions which achieve a combination of conservation goals,  
107 including protecting Florida's water resources and natural  
108 groundwater recharge. At a minimum, 3 percent, and no more than  
109 10 percent, of the funds allocated pursuant to this paragraph  
110 shall be spent on capital project expenditures identified during  
111 the time of acquisition which meet land management planning  
112 activities necessary for public access. Beginning in the 2017-  
113 2018 fiscal year and continuing through the 2035-2036 ~~2026-2027~~  
114 fiscal year, at least \$5 million of the funds allocated pursuant  
115 to this paragraph shall be spent on land acquisition within the  
116 Florida Keys Area of Critical State Concern as authorized

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117 pursuant to s. 259.045.

118 Section 4. Paragraph (a) of subsection (9) of section  
119 380.0552, Florida Statutes, is amended to read:

120 380.0552 Florida Keys Area; protection and designation as  
121 area of critical state concern.—

122 (9) MODIFICATION TO PLANS AND REGULATIONS.—

123 (a) Any land development regulation or element of a local  
124 comprehensive plan in the Florida Keys Area may be enacted,  
125 amended, or rescinded by a local government, but the enactment,  
126 amendment, or rescission becomes effective only upon approval by  
127 the state land planning agency. The state land planning agency  
128 shall review the proposed change to determine if it is in  
129 compliance with the principles for guiding development specified  
130 in chapter 27F-8, Florida Administrative Code, as amended  
131 effective August 23, 1984, and must approve or reject the  
132 requested changes within 60 days after receipt. Amendments to  
133 local comprehensive plans in the Florida Keys Area must also be  
134 reviewed for compliance with the following:

135 1. Construction schedules and detailed capital financing  
136 plans for wastewater management improvements in the annually  
137 adopted capital improvements element, and standards for the  
138 construction of wastewater treatment and disposal facilities or  
139 collection systems that meet or exceed the criteria in s.  
140 403.086(11) for wastewater treatment and disposal facilities or  
141 s. 381.0065(4)(1) for onsite sewage treatment and disposal  
142 systems.

143 2. Goals, objectives, and policies to protect public safety  
144 and welfare in the event of a natural disaster by maintaining a  
145 hurricane evacuation clearance time for permanent residents of

592-02838-25 20251326c1

146 no more than ~~24.5~~ 24 hours or 825 permit allocations, whichever  
147 is less. The hurricane evacuation clearance time shall be  
148 determined by a hurricane evacuation study conducted in  
149 accordance with a professionally accepted methodology and  
150 approved by the state land planning agency. For purposes of  
151 hurricane evacuation clearance time:

152 a. Mobile home residents are not considered permanent  
153 residents.

154 b. The City of Key West Area of Critical State Concern  
155 established by chapter 28-36, Florida Administrative Code, shall  
156 be included in the hurricane evacuation study and is subject to  
157 the evacuation requirements of this subsection.

158 c. To ensure the hurricane evacuation clearance time in  
159 this subsection is met, Monroe County, the Village of  
160 Islamorada, the City of Marathon, the City of Layton, and the  
161 City of Key West shall each continue to maintain permit  
162 allocation systems limiting the number of permits issued for new  
163 residential dwelling units.

164 d. The Administration Commission shall distribute 825  
165 permit allocations over a period of at least 10 years, as  
166 follows:

167 (I) Monroe County shall receive 580 permit allocations. All  
168 of which must be issued to vacant, buildable parcels. Only 1 of  
169 the allocated building permits shall be awarded to any  
170 individual parcel. Of the 580 permit allocations, 406 shall be  
171 issued only for workforce housing;

172 (II) The City of Marathon shall receive 201 permit  
173 allocations:

174 (A) All of which must be issued to vacant, buildable

592-02838-25

20251326c1

175 parcels. Only 1 of the allocated building permits may be awarded  
176 to any individual parcel; and

177 (B) Distribution of which must prioritize allocations for  
178 owner-occupied residences, affordable housing, and workforce  
179 housing;

180 (III) The Village of Islamorada shall receive 77 permit  
181 allocations:

182 (A) All of which must be issued to vacant, buildable  
183 parcels. Only 1 of the allocated building permits may be awarded  
184 to any individual parcel; and

185 (B) Distribution of which must prioritize allocations for  
186 owner-occupied residences, affordable housing, and workforce  
187 housing; and

188 (IV) The City of Key West shall receive 30 permit  
189 allocations. The housing constructed pursuant to such permits  
190 must be affordable as defined in s. 420.0004.

191 e. For purposes of this sub-subparagraph, the term  
192 "workforce housing" means residential dwelling units restricted  
193 for a period of no less than 99 years to occupancy by households  
194 who derive at least 70 percent of their household income from  
195 gainful employment in Monroe County supplying goods or services  
196 to Monroe County residents or visitors.

197 Section 5. This act shall take effect July 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Committee on Appropriations Committee on Agriculture, Environment, and  
General Government

**Subject:** Committee Agenda Request

**Date:** March 25, 2025

---

I respectfully request that **CS/SB 1326**, relating to Areas of Critical State Concern, 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

The Florida Senate

APPEARANCE RECORD

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

4/10

Meeting Date

AG & NAT

Committee

1326

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Robert Reyes

Phone

750 509 1802

Address

817 Ingleside Ave

Email

reyes@capitolgrp.com

Street

TALL

FL

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:

Monroe County

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

4/10/25

Meeting Date

1326

Bill Number or Topic

App Ag Env Gov

Committee

Amendment Barcode (if applicable)

Name Kim Dinkins 1000 Friends of FL

Phone 352-895-8693

Address 308 N mannae

Street

Email kdinkins@1000fof.org

Tallahassee FL

City

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:  
1000 Friends of FL

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.

**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General  
Government

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BILL: CS/SB 978

INTRODUCER: Environment and Natural Resources Committee and Senator Berman

SUBJECT: Advanced Wastewater Treatment

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 978 provides that, by December 31, 2025, the Department of Environmental Protection (DEP), in collaboration with water management districts and wastewater facilities, must submit to the Governor and Legislature a report detailing specific information about all sewage disposal facilities with a permitted capacity of greater than 1 million gallons per day. The report must include, among other things, the year of construction and any maintenance or upgrades, permitted and actual wastewater treatment volumes, current treatment levels with concentrations of specified contaminants, pollutant load estimates, disposal methods and volumes discharged to receiving waterbodies, spill history, and facility location relative to floodplains and coastal hazards.

The bill provides that, by December 31, 2026, the DEP must submit a report to the Governor and Legislature outlining a priority ranking process for upgrading all sewage disposal facilities with a permitted capacity of greater than one million gallons per day in the state to advanced waste treatment by 2036.

The bill also directs the DEP to provide a progress report to the Governor and Legislature on the status of upgrades by June 30, 2027. This progress report must include a list of the sewage disposal facilities required to upgrade to advanced wastewater treatment, preliminary cost estimates, projected timelines for upgrade commencement and completion, and the anticipated operational start dates of the upgraded facilities.

The DEP may incur costs to prepare the reports required by this bill. These costs can be absorbed within current resources. See Section V., Fiscal Impact Statement.

The bill has an effective date of July 1, 2025.

## II. Present Situation:

### Wastewater

Domestic sewage contains toxicants, solid waste, plastics, and bacterial contaminants.<sup>1</sup> It also contains nutrients such as nitrogen and phosphorus.<sup>2</sup> Once wastewater is treated to standards set and monitored by state and federal officials, it is typically released into a local waterbody.<sup>3</sup> However, conventional wastewater treatment is often ineffective at removing certain pollutants, such as contaminants of emerging concern,<sup>4</sup> heavy metals, *Escherichia coli* (e. coli), pharmaceuticals, pesticides, and microplastics.<sup>5</sup> As a result, the discharge of conventionally treated wastewater can be a significant source of pollution in aquatic ecosystems, leading to documented declines in biodiversity and essential ecosystem functions.<sup>6</sup>

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<sup>1</sup> Mehtab Haseena et al., *Water pollution and human health*, Environmental Risk Assessment and Remediation, vol. 1, 16, 18 (2017), available at [https://www.researchgate.net/publication/326828651\\_Water\\_pollution\\_and\\_human\\_health](https://www.researchgate.net/publication/326828651_Water_pollution_and_human_health). See also C. Chahal et al., *Pathogen and particle Associations in wastewater: Significance and Implications for Treatment and Disinfection Processes*, Advances in Applied Microbiology, vol. 97, 68 (2016), available at <https://www.sciencedirect.com/science/article/pii/S0065216416300971>.

<sup>2</sup> See EPA, *Nutrient Pollution: Sources and Solutions: Wastewater*, <https://www.epa.gov/nutrientpollution/sources-and-solutions-wastewater> (last visited Mar. 7, 2025).

<sup>3</sup> EPA, *Nutrient Pollution: Sources and Solutions: Wastewater*, <https://www.epa.gov/nutrientpollution/sources-and-solutions-wastewater> (last visited Mar. 7, 2025).

<sup>4</sup> Contaminants of Emerging Concern (CECs) are chemicals that are being discovered in water that previously had not been detected or are being detected at levels that may be different than expected. While there are no regulatory limits, there may be a long-term potential risk to human health or the environment associated with CECs. EPA prioritizes CECs for research and data collection. DEP, *Regulated Drinking Water Contaminants and Contaminants of Emerging Concern*, <https://floridadep.gov/comm/press-office/content/regulated-drinking-water-contaminants-and-contaminants-emerging-concern> (last visited Mar. 6, 2025).

<sup>5</sup> See Joshua Matesun et al., *Limitations of wastewater treatment plants in removing trace anthropogenic biomarkers and future directions: A review*, Ecotoxicology and Environmental Safety, 1 (2024), available at <https://www.sciencedirect.com/science/article/pii/S0147651324006869>; Jonas Margot et al., *Treatment of micropollutants in municipal wastewater: Ozone or powdered activated carbon?*, Science of The Total Environment, 480 (2013), available at <https://www.sciencedirect.com/science/article/abs/pii/S0048969713005779?via%3Dihub>; Sunanda Mishra et al., *Membrane bioreactor (MBR) as an advanced wastewater treatment technology for removal of synthetic microplastics*, Development in Wastewater Treatment Research and processes, 45 (2022), available at <https://www.sciencedirect.com/science/article/abs/pii/B9780323855839000223>.

<sup>6</sup> See Daniel Stalter et al., *Do Contaminants Originating from State-of-the-Art Treated Wastewater Impact the Ecological Quality of Surface Waters?*, Plos One, vol. 8, 8 (2013), available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0060616>; Katja Bunzel et al., *Effects of organic pollutants from wastewater treatment plants on aquatic invertebrate communities*, Water Research, vol. 47, 597 (2013), available at <https://www.sciencedirect.com/science/article/abs/pii/S0043135412007610?via%3Dihub>; Dania Albin et al., *The combined effects of treated sewage discharge and land use on rivers*, Global Change Biology, 6415 (2023), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC10946937/>.



Advanced wastewater treatment (AWT) has been shown to be more effective at reducing effluent toxicity than conventional treatment.<sup>7</sup> There are several types of AWT technologies. Some AWT methods such as membrane bioreactor filtration can treat wastewater to match the physical, chemical, and biological properties of the waterbody the treated water will be discharged into.<sup>8</sup> Membrane bioreactors and other AWT technologies, including oxidation processes and powdered activated carbon, have also been shown to be effective at removing micropollutants such as pharmaceuticals, pesticides, and microplastics,<sup>9</sup> and nutrients like phosphorus.<sup>10</sup> Adsorption processes have also been shown to be potential solutions for the removal of micropollutants in advanced treatment plants.<sup>11</sup>

### Domestic Wastewater Treatment Facilities in Florida

The majority of the state's wastewater is controlled and treated by centralized treatment facilities regulated by the Department of Environmental Protection (DEP).<sup>12</sup> Florida has approximately 2,000 permitted domestic wastewater treatment facilities.<sup>13</sup>

Wastewater treatment facilities are required to provide secondary treatment prior to reuse or disposal.<sup>14</sup> Such treatment requires that carbonaceous biochemical oxygen demand (CBOD5) and total suspended solids (TSS) not exceed specific levels based on the method of disposal (i.e., surface water disposal, reuse, land application, or groundwater discharge).<sup>15</sup> For example, for land application or groundwater discharge, the annual average of CBOD5 and total suspended solids may not exceed 20.0 milligrams per liter (mg/L), and the maximum-permissible concentration in any single sample may not exceed 60.0 mg/L.<sup>16</sup>

AWT provides a reclaimed water product containing no more than the following concentrations of pollutants:

- five mg/L of Biochemical Oxygen Demand;
- five mg/L of Suspended Solids;

<sup>7</sup> Johannes Völker et al., *Systematic Review of Toxicity Removal by Advanced Wastewater Treatment Technologies via Ozonation and Activated Carbon*, American Chemical Society ES&T, vol. 53, 7226 (2019), available at <https://pubs.acs.org/doi/full/10.1021/acs.est.9b00570>.

<sup>8</sup> University of Florida Institute of Food and Agricultural Sciences, *Advanced Wastewater Treatment (AWT)*, <https://blogs.ifas.ufl.edu/sarasotaco/2020/07/30/advanced-wastewater-treatment-awt/>.

<sup>9</sup> See Margot, *Treatment of micropollutants in municipal wastewater: Ozone or powdered activated carbon?* at 480; Radhakrishnan Krishnan et al., *Recent approaches and advanced wastewater treatment technologies for mitigating emerging microplastics contamination—A critical review*, Science of the Total Environment, vol. 858 (2023), available at <https://www.sciencedirect.com/science/article/abs/pii/S004896972206781X?via%3Dihub>.

<sup>10</sup> EPA, *Advanced Wastewater Treatment to Achieve Low Concentration of Phosphorus*, 3 (2007), available at <https://www.epa.gov/sites/default/files/2019-02/documents/advanced-wastewater-treatment-low-concentration-phosphorus.pdf>.

<sup>11</sup> Biniam Belete et al., *Micropollutant Removal Efficiency of Advanced Wastewater Treatment Plants: A Systematic Review*, Environmental Health Insights, vol. 17, 1 (2023), available at <https://journals.sagepub.com/doi/full/10.1177/11786302231195158>.

<sup>12</sup> DEP, *Domestic Wastewater Program*, <https://floridadep.gov/water/domestic-wastewater> (last visited Mar. 6, 2025).

<sup>13</sup> DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Mar. 6, 2025).

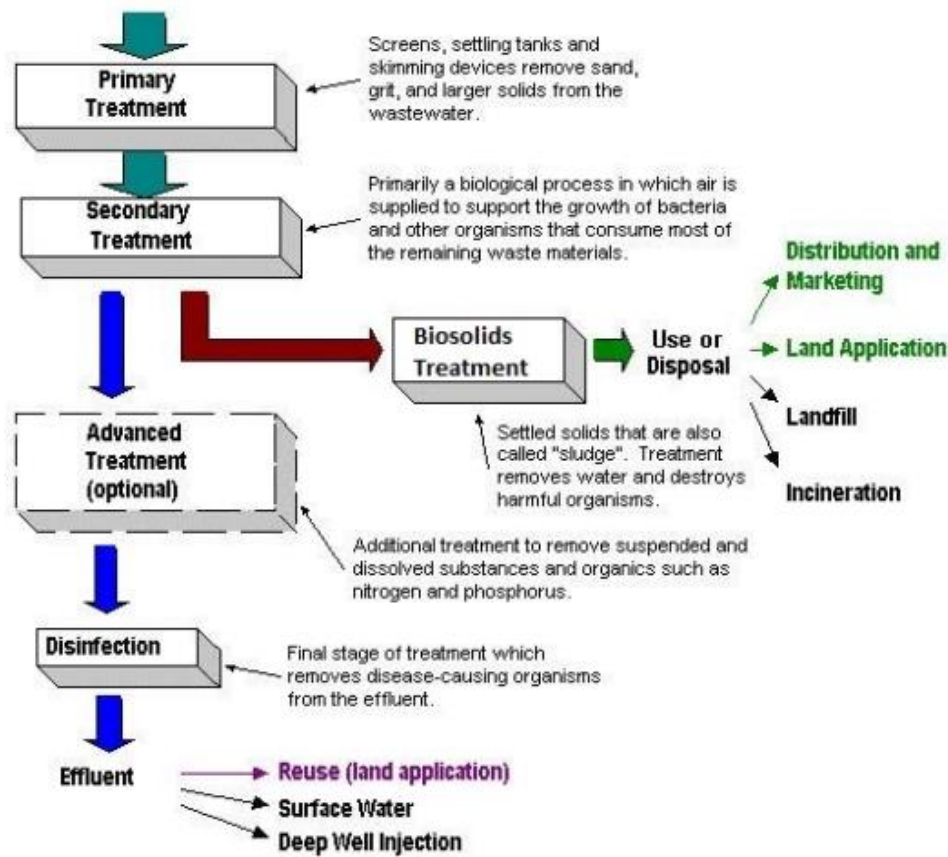
<sup>14</sup> Sections 403.086(1)(a) and (2), F.S.; Fla. Admin. Code R. 62-600.420.

<sup>15</sup> CBOD5 is the quantity of oxygen utilized in the carbonaceous biochemical oxidation of organic matter present in water or wastewater, reported as a five-day value determined using approved methods. Fla. Admin. Code R. 62-600.200(8).

<sup>16</sup> Fla. Admin. Code R. 62-600.420(3).

- three mg/L of total nitrogen; and
- one mg/L of total phosphorous.<sup>17</sup>

AWT is required before discharging into certain impaired waterbodies, including, but not limited to, the Indian River Lagoon beginning July 1, 2025, and by January 1, 2033, waterbodies that are not attaining nutrient-related standards or that are subject to a nutrient basin management action plan (BMAP) or reasonable assurance plan.<sup>18</sup> In addition, in 2024, the Legislature passed a law requiring that by July 1, 2034, wastewater treatment facilities providing reclaimed water for irrigation or land application in areas within a nutrient BMAP or a reasonable assurance plan must meet AWT standards for total nitrogen and total phosphorus if the DEP determines that the use of reclaimed water is causing or contributing to nutrient impairment.<sup>19</sup> For such determinations made by the DEP after July 1, 2024, the facility has 10 years to meet AWT standards.<sup>20</sup> The DEP may also order AWT if deemed necessary.<sup>21</sup>



<sup>17</sup> Section 403.086(4)(a), F.S. DEP, *Domestic Wastewater Treatment Process*, available at <https://floridadep.gov/water/domestic-wastewater/documents/domestic-wastewater-treatment-process> (showing flowchart of wastewater treatment process).

<sup>18</sup> Section 403.086(1)(c)1. and 2., F.S.

<sup>19</sup> Chapter 2024-180, s. 13, Laws of Fla.; section 403.086(1)(c)3., F.S.

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

<sup>21</sup> Section 403.086(1)(a), F.S.

Wastewater treatment facilities may be required to provide additional treatment to satisfy water quality standards for receiving surface and ground waters.<sup>22</sup> Systems within Monroe County are subject to different treatment requirements.<sup>23</sup>

Wastewater treatment facilities must monitor the flow, the influent for CBOD5 and TSS, and the effluent for all effluent parameters as required by the permit.<sup>24</sup> The minimum schedule for sampling is based on the facility's permitted capacity. For example, for facilities with a permitted capacity of five million gallons per day (mgd) up to 15 mgd, sampling must be conducted according to the following parameters:<sup>25</sup>

- Continuous testing for flow, pH, and chlorine residual;<sup>26</sup>
- Weekly testing for e. coli or enterococci;
- Daily (seven days per week) testing for TSS, CBOD5, nutrients, chlorine residual, and total coliform.<sup>27</sup>

### **Impaired Waters, Total Maximum Daily Loads (TMDLs), and BMAPs**

Under section 303(d) of the federal Clean Water Act, states must establish water quality standards for waters within their borders and develop a list of impaired waters that do not meet such water quality standards.<sup>28</sup> States must also develop a list of threatened waters that may not meet water quality standards in the following reporting cycle.<sup>29</sup>

Due to limited funds and the wide variety of surface waters in Florida, the DEP sorted those waters into 29 major watersheds, or basins, and further organized them into five basin groups for assessment purposes.<sup>30</sup> If the DEP determines that any waters are impaired, the waterbody must be placed on the verified list of impaired waters, and a TMDL must be calculated.<sup>31</sup> A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.<sup>32</sup> A waterbody may be removed from the verified list at any time during the TMDL process if it attains water quality standards.<sup>33</sup> If the DEP determines that a waterbody is impaired but further study is needed to determine the causative pollutants or other factors

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<sup>22</sup> Fla. Admin. Code R. 62-600.430.

<sup>23</sup> Section 403.086(11), F.S.

<sup>24</sup> Fla. Admin. Code R. 62-600.660(1).

<sup>25</sup> *Id.* at Figure 1.

<sup>26</sup> Total chlorine residual measured for disinfection effectiveness. *Id.* at n. 2.

<sup>27</sup> Fecal coliform must be tested five days per week, but total coliform must be tested seven days per week. *Id.* at Figure 1.

<sup>28</sup> EPA, *Overview of Identifying and Restoring Impaired Waters under Section 303(d) of the CWA*,

<https://www.epa.gov/tmdl/overview-identifying-and-restoring-impaired-waters-under-section-303d-cwa> (last visited Mar. 9, 2025); 40 C.F.R. 130.7. Following the development of the list of impaired waters, states must develop a total maximum daily load for every pollutant/waterbody combination on the list. DEP, *Watershed Evaluation and Total Maximum Daily Loads (TMDL) Section*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Mar. 9, 2025).

<sup>29</sup> *Id.*

<sup>30</sup> DEP, *Assessment Lists*, <https://floridadep.gov/dear/watershed-assessment-section/content/assessment-lists> (last visited Jan. 26, 2024).

<sup>31</sup> *Id.*; DEP, *Verified List Waterbody Ids (WBIDs)*, <https://geodata.dep.state.fl.us/datasets/FDEP::verified-list-waterbody-ids-wbids/about> (last visited Mar. 9, 2025); section 403.067(4), F.S.

<sup>32</sup> Section 403.067(6)(a), F.S. *See also* 33 U.S.C. § 1251, s. 303(d) (the Clean Water Act).

<sup>33</sup> Section 403.067(5), F.S.

contributing to impairment before the waterbody is placed on the verified list, the waterbody will be placed on a statewide comprehensive study list.<sup>34</sup>

BMAPs are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,<sup>35</sup> for a watershed. There are currently 34 adopted BMAPs in Florida.<sup>36</sup>

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.<sup>37</sup> Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations.<sup>38</sup> Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by implementing appropriate best management practices or conducting water quality monitoring.<sup>39</sup>

### **Public Notification of Pollution Releases**

Florida law requires public notification of certain pollution releases.<sup>40</sup> A reportable pollution release is any unauthorized release or discharge of a substance into the air, land, or waters of the state that must be reported to the Division of Emergency Management's State Watch Office under applicable rules, permits, orders, or variances.<sup>41</sup> If an owner or operator of an installation discovers such a release, they must notify DEP within 24 hours.<sup>42</sup> If no notification is made, the DEP may take enforcement action against all parties subject to the notification requirement.<sup>43</sup> If the pollution release migrates beyond the facility's property, the owner or operator must provide an additional notice to the DEP within 24 hours of the discovery of the migration.<sup>44</sup>

The DEP must publish all pollution notifications on its websites within 24 hours of receipt and maintain an electronic mailing list for local governments, health departments, news media, and other interested parties to receive announcements of any notices.<sup>45</sup> The DEP must also provide an online form and email submission option for reporting pollution releases.<sup>46</sup>

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<sup>34</sup> Section 403.067(2), F.S.; ch. 62-303.150, F.A.C.

<sup>35</sup> "Point source" is defined as any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are sources of pollution that are not point sources. Fla. Admin. Code R. 62-620.200(37).

<sup>36</sup> DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Jan. 26, 2024).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

<sup>40</sup> Section 403.077, F.S.

<sup>41</sup> Section 403.077(1), F.S.

<sup>42</sup> Section 403.077(2)(a), F.S.

<sup>43</sup> Section 403.077(2)(b), F.S.

<sup>44</sup> Section 403.077(2)(d), F.S.

<sup>45</sup> Section 403.077(3)(a) and (b), F.S. See DEP, *Public Notice of Pollution*, <https://floridadep.gov/sec/sec/content/public-notice-pollution> (last visited Mar. 9, 2025).

<sup>46</sup> Section 403.077(3)(c), F.S.

Providing notice of a pollution release does not constitute an admission of liability or harm.<sup>47</sup> However, failure to provide the required notification can result in civil penalties.<sup>48</sup>

### **Contaminants of Emerging Concern**

Contaminants of Emerging Concern (CECs) are chemicals that are being discovered in water that previously had not been detected or are being detected at levels that may be different than expected.<sup>49</sup> While there are no regulatory limits, there may be a long-term potential risk to human health or the environment associated with CECs. Additional studies may also bring new or changing health exposure information. The United States Environmental Protection Agency prioritizes CECs for research and data collection. As part of this data collection, all large and selected smaller public water systems across the U.S. are required to monitor for the targeted CECs.<sup>50</sup>

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

**Section 1** includes the following legislative findings:

- The discharge of inadequately treated wastewater and aging sewage disposal facilities compromise the quality of the environment, including freshwater, brackish water, and nearshore and offshore salt waters, and threatens the quality of life and local economies in the state that depend on those resources.
- The only practical and cost-effective way to fundamentally improve wastewater management is to implement advanced wastewater treatment or better at all sewage disposal facilities with a permitted capacity of greater than one million gallons per day in the state.

The bill provides that, in order to prioritize the upgrade of sewage disposal facilities, by December 31, 2025, the Department of Environmental Protection (DEP), in consultation with the water management districts and wastewater facilities, must submit to the Governor and the Legislature a report detailing all of the following for all sewage disposal facilities with a permitted capacity of greater than one million gallons per day in the state:

- Year of construction for the facility and any maintenance or upgrades.
- Total permitted volume of wastewater treated daily.
- Actual permitted volume of wastewater treated daily including the most recent one-year and five-year averages.
- Current level of treatment, including concentrations for each of the following:
  - Biochemical oxygen demand.
  - Suspended solids.
  - Total nitrogen.
  - Total phosphorus.
  - 1,4-dioxane.

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<sup>47</sup> Section 403.077(4), F.S.

<sup>48</sup> Section 403.077(5), F.S.

<sup>49</sup> DEP, *Regulated Drinking Water Contaminants and Contaminants of Emerging Concern*, <https://floridadep.gov/comm/press-office/content/regulated-drinking-water-contaminants-and-contaminants-emerging-concern> (last visited Jan. 18, 2024).

<sup>50</sup> *Id.*

- Perfluorooctanoic acid.
- Perfluorooctanesulfonic acid.
- Molybdenum.
- Other contaminants of emerging concern as determined by DEP.
- Estimated total pollutant load based on permitted volume and concentrations.
- Disposal methods and the volume discharged to any receiving waterbodies, if applicable, pursuant to s. 403.064(16), F.S.<sup>51</sup>
- Impairment status of any receiving waterbodies within the watershed.
- Implementation status of total maximum daily loads (TMDL) and basin management action plans (BMAPs) and recommended reductions for load allocations and wasteload allocations for pollutants of concern.
- Total volume and concentration of any permitted and nonpermitted wastewater spills since 2010.
- Elevation of the facility and supporting infrastructure.
- Location within a floodplain, flood zone, or coastal high-hazard area and, if applicable, the corresponding zone number.

The bill provides that, by December 31, 2026, the DEP, in consultation with the water management districts and sewage disposal facilities, must submit to the Governor and Legislature a report outlining a priority ranking process to upgrade all sewage disposal facilities with a permitted capacity of greater than 1 million gallons per day in the state to advanced waste treatment by 2036, based on all the following:

- Overall environmental benefit of a project based on:
  - Water quality in receiving waterbodies, including impairment status;
  - Severity and duration of documented algal blooms;
  - Loss of submerged vegetation;
  - Death of fish and wildlife;
  - Public health advisories;
  - Quantity and concentration of permitted and nonpermitted spills; and
  - Risk of failure.
- Estimated reduction in nutrient and pollutant loads with advanced waste treatment.
- An explanation of additional projects necessary to meet any adopted TMDL and BMAPs if upgrading to advanced waste treatment is not sufficient.
- Cost-effectiveness as determined by a planning-level cost estimate.
- Potential financial assistance available, including the water quality improvement grant program and availability of local matching funds.
- Project readiness and the estimated date of completion.

The bill provides that, by June 30, 2027, the DEP, in consultation with the water management districts and sewage disposal facilities, must submit to the Governor and Legislature a progress report on the status of upgrades established through the priority ranking process for each sewage disposal facility with a permitted capacity of greater than one million gallons per day in this state. The report must include:

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<sup>51</sup> Section 403.064(16), F.S., requires domestic wastewater utilities to eliminate nonbeneficial surface water discharges by January 1, 2032.

- The priority list identified by the DEP in its 2026 report;
- The preliminary cost estimates for the upgrades;
- A projected timeline of the dates by which the upgrades would begin and be completed; and
- The date by which operations of the upgraded sewage disposal facility would begin.

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

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The Department of Environmental Protection may incur costs to prepare the reports required by this bill which can be handled with existing resources.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida law.

**IX. Additional Information:**

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

**CS by Environment and Natural Resources on March 17, 2025:**

- Clarifies that the bill does not require sewage disposal facilities to upgrade to advanced wastewater treatment;
- Clarifies that “the department” refers to the Department of Environmental Protection (DEP) and that DEP’s report outlining a priority ranking process must include all sewage disposal facilities with a permitted capacity of greater than one million gallons per day.
- Corrects a statutory reference, changing it from s. 403.064(17), F.S., to s. 403.064(16), F.S.

- B. **Amendments:**

None.



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

592-02514A-25

2025978c1

1 A bill to be entitled  
2 An act relating to advanced wastewater treatment;  
3 providing legislative findings; requiring the  
4 Department of Environmental Protection, in  
5 consultation with water management districts and  
6 wastewater facilities, to submit to the Governor and  
7 the Legislature specified reports on certain sewage  
8 disposal facilities in this state by specified dates;  
9 providing requirements for the reports; providing an  
10 effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. (1) The Legislature finds that the discharge of  
15 inadequately treated wastewater and aging sewage disposal  
16 facilities compromises the quality of the environment, including  
17 freshwater, brackish water, and nearshore and offshore salt  
18 waters, and threatens the quality of life and local economies in  
19 this state which depend on those resources. The Legislature also  
20 finds that the only practical and cost-effective way to  
21 fundamentally improve wastewater management is to implement  
22 advanced wastewater treatment or better at all sewage disposal  
23 facilities with a permitted capacity of greater than 1 million  
24 gallons per day in the state.

25 (2) In order to prioritize the upgrade of sewage disposal  
26 facilities, by December 31, 2025, the Department of  
27 Environmental Protection, in consultation with the water  
28 management districts and wastewater facilities, shall submit to  
29 the Governor, the President of the Senate, and the Speaker of

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592-02514A-25

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30 the House of Representatives a report detailing all of the  
31 following for all sewage disposal facilities with a permitted  
32 capacity of greater than 1 million gallons per day in this  
33 state:  
34 (a) Year of construction for the facility and any  
35 maintenance or upgrades.  
36 (b) Total permitted volume of wastewater treated daily.  
37 (c) Actual permitted volume of wastewater treated daily,  
38 including the most recent 1-year and 5-year averages.  
39 (d) Current level of treatment, including concentrations  
40 for all of the following:  
41 1. Biochemical oxygen demand.  
42 2. Suspended solids.  
43 3. Total nitrogen.  
44 4. Total phosphorus.  
45 5. 1,4-dioxane.  
46 6. Perfluorooctanoic acid.  
47 7. Perfluorooctanesulfonic acid.  
48 8. Molybdenum.  
49 9. Other contaminants of emerging concern as determined by  
50 the Department of Environmental Protection.  
51 (e) Estimated total pollutant load based on permitted  
52 volume and concentrations.  
53 (f) Disposal methods and the volume discharged to any  
54 receiving water bodies, if applicable, pursuant to s.  
55 403.064(16), Florida Statutes.  
56 (g) Impairment status of any receiving water bodies within  
57 the watershed.  
58 (h) Implementation status of total maximum daily loads and

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59 basin management action plans and recommended reductions for  
 60 load allocations and wasteload allocations for pollutants of  
 61 concern.

62 (i) Total volume and concentration of any permitted and  
 63 nonpermitted wastewater spills since 2010.

64 (j) Elevation of the facility and supporting  
 65 infrastructure.

66 (k) Location within a floodplain, flood zone, or coastal  
 67 high-hazard area and, if applicable, the corresponding zone  
 68 number.

69 (3) By December 31, 2026, the Department of Environmental  
 70 Protection, in consultation with the water management districts  
 71 and sewage disposal facilities, shall submit to the Governor,  
 72 the President of the Senate, and the Speaker of the House of  
 73 Representatives a report outlining a priority ranking process to  
 74 upgrade all sewage disposal facilities with a permitted capacity  
 75 of greater than 1 million gallons per day in this state to  
 76 advanced wastewater treatment by 2036, based on all of the  
 77 following:

78 (a) Overall environmental benefit of a project based on:

79 1. Water quality in receiving waterbodies, including  
 80 impairment status;

81 2. Severity and duration of documented algal blooms;

82 3. Loss of submerged vegetation;

83 4. Death of fish and wildlife;

84 5. Public health advisories;

85 6. Quantity and concentration of permitted and nonpermitted  
 86 spills; and

87 7. Risk of failure.

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88 (b) Estimated reduction in nutrient and pollutant loads  
 89 with advanced wastewater treatment.

90 (c) An explanation of additional projects necessary to meet  
 91 any adopted total maximum daily loads and basin management  
 92 action plans if upgrading to advanced wastewater treatment is  
 93 not sufficient.

94 (d) Cost-effectiveness as determined by a planning-level  
 95 cost estimate.

96 (e) Potential financial assistance available, including the  
 97 water quality improvement grant program under s. 403.0673,  
 98 Florida Statutes, and availability of local matching funds.

99 (f) Project readiness and estimated date of completion.

100 (4) By June 30, 2027, the Department of Environmental  
 101 Protection, in consultation with the water management districts  
 102 and sewage disposal facilities, shall submit to the Governor,  
 103 the President of the Senate, and the Speaker of the House of  
 104 Representatives a progress report on the status of upgrades  
 105 established under subsection (3) for each sewage disposal  
 106 facility with a permitted capacity of greater than 1 million  
 107 gallons per day in this state. The report must include the  
 108 priority list identified pursuant to subsection (3), the  
 109 preliminary cost estimates for the upgrades, a projected  
 110 timeline of the dates by which the upgrades would begin and be  
 111 completed, and the date by which operations of the upgraded  
 112 sewage disposal facilities would begin.

113 Section 2. This act shall take effect July 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 18, 2025

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I respectfully request that **CS/Senate Bill #978**, relating to Advanced Wastewater Treatment, be placed on the:

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

A handwritten signature in black ink that reads "Lori Berman" followed by a long horizontal line extending to the right.

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Senator Lori Berman  
Florida Senate, District 26

cc:  
Giovanni Betta: Staff Director

**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/SB 988

INTRODUCER: Banking and Insurance Committee and Senator Truenow

SUBJECT: Securities

DATE: April 9, 2025

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 988 revises provisions of ch. 517, F.S., the “Securities and Investor Protection Act” (Act), which is subject to oversight by the Office of Financial Regulation (OFR). In 2024, the Florida Legislature enacted legislation<sup>1</sup> that substantially revised ch. 517, F.S., which was based on recommendations contained in the report issued by the Chapter 517 Task Force of the Business Law Section of The Florida Bar (task force) in coordination with the OFR.<sup>2</sup> The impetus for the task force is to increase the ability of small and developing Florida businesses to raise capital, while at the same time assuring and improving investor protections and enforcement measures to guard against abuse.<sup>3</sup> The bill mostly clarifies provisions that were enacted, revises related provisions enacted in 2024, or provides technical changes.

**Exempt Securities Transactions and Exempt Securities**

The bill:

- Removes the applicability of certain issuer disqualification provisions under the Securities and Exchange Commission (SEC) Rule 506(d) on certain exempt private placement transactions by institutional securities sellers with institutional investors in Florida, which

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<sup>1</sup> Chapter 2024-168, Laws of Fla.

<sup>2</sup> Report of the Chapter 517 Task Force of the Business Law Section of The Florida Bar, Recommendations and Analysis of Proposed Amendments to the Florida Securities and Investor Protection Act (Nov. 2023) (on file with the Senate Committee on Banking and Insurance).

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

cures the applicability of the issuer disqualification provisions to the institutional issuers, which is consistent with federal rules.

- Expands the list of institutional investors covered by the exempt securities transactions, which is consistent with the Uniform Securities Act and federal rules. Institutional investors include financial institutions, insurers, dealers, investment companies, pension or profit-sharing trust, and qualified institutional buyers.
- Revises provisions, relating to the Florida Invest Local Exemption, to require an issuer making an offering under this exemption to file a notice of the offering and a copy of the disclosure statement with the OFR.
- Provides that offers and sales made in compliance with s. 517.061(9), F.S., relating to exempt securities transactions of institutional issuers with institutional investors, are not subject to integration with other offerings. These transactions involve sophisticated investors.
- Requires the Financial Services Commission (commission) to consider certain factors when designating a foreign securities exchange or foreign securities market by rule in connection with certain exempt transactions.

### **Investor Protections**

The bill:

- Revises provisions relating to the Securities Guaranty Fund (fund), which was created to provide relief to victims of securities violations under ch. 517, F.S., and who are entitled to monetary damages or restitution but cannot recover the full amount of such damages or restitution from the wrongdoer. The term, “restitution order” is created for purposes of eligibility for compensation, and the minimum information an applicant must provide to the OFR to seek payment from the fund is revised to specifically include such restitution orders. The bill clarifies the requirements a person must meet to be eligible for payment from the fund.
- Revises a provision, relating to the protection of specified adults who may be victims of financial exploitation, to extend the number of additional days a dealer or investment adviser may delay a disbursement or transaction from 10 to 30 days to conduct a review if the dealer or investment adviser believes financial exploitation of the specified adult has occurred. This change would make the provisions relating to securities dealers and investment advisers consistent with the provisions applicable to financial institutions.

### **Registration Requirements of Dealers, Associated Persons, Intermediaries, and Investment Advisers**

The bill:

- Updates provisions relating to the Mergers and Acquisitions model rule to conform to the 2024 revisions to the model rule that were made because of 2022 federal law changes, and provides rulemaking authority for the commission to adjust earnings and revenue eligibility requirements for privately held companies every five years, if necessary.
- Creates and revises definitions and provisions relating to the application process to clarify the population of persons who must submit fingerprints as part of the registration process for dealers, associated persons, investment advisors, and intermediaries. To ensure compliance with the criteria established in Public Law 92-544, the applicants for registration and any

associated or affiliated person must be clearly identified for the Federal Bureau of Investigation (FBI) to continue conducting such background checks.

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

The bill takes effect upon becoming a law.

## II. Present Situation:

### Federal Regulation of Securities

#### *Securities Act of 1933*

Following the stock market crash of 1929, the Securities Act of 1933<sup>4</sup> (Securities Act) was enacted to regulate the offers and sales of securities. The Securities Act requires every offer and sale of securities must be registered with the Securities and Exchange Commission (SEC), unless an exemption from registration is available.<sup>5</sup> The Securities Act requires issuers to disclose financial and other significant information regarding securities offered for public sale and prohibits deceit, misrepresentations, and other kinds of fraud in the sale of securities. The Securities Act requires issuers to disclose information deemed relevant to investors as part of the mandatory SEC registration of the securities that those companies offer for sale to the public.<sup>6</sup>

Registered securities offerings, often called public offerings, are available to all types of investors and have more rigorous disclosure requirements. Initial public offerings (IPOs) provide an initial pathway for companies to raise unlimited capital from the public through a registered offering. After its IPO, the company will be a public company with ongoing public reporting requirements.<sup>7</sup>

By contrast, securities offerings that are exempt from SEC registration are referred to as private offerings and are mainly available to more sophisticated investors. The SEC exempts certain small offerings from registration requirements to foster capital formation by lowering the cost of offering securities to the public. Examples of exempt offerings<sup>8</sup> include:

- Rule 506(b) Private Placement Offerings allow companies to raise unlimited capital from investors with whom the company has a relationship and who meet certain wealth thresholds or have certain professional credentials;<sup>9</sup>

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<sup>4</sup> Public Law 73-22, as amended through P.L. 117-268, enacted December 23, 2022.

<sup>5</sup> 15 U.S.C. s. 77a *et seq.*

<sup>6</sup> *Id.*

<sup>7</sup> U.S. Securities and Exchange Commission (SEC), *What does it mean to be a public company?*

<https://www.sec.gov/education/capitalraising/building-blocks/what-does-it-mean-be-a-public-company> (last visited Dec. 9, 2024).

<sup>8</sup> SEC, *The Laws That Govern the Securities Industry*, <https://www.sec.gov/about/about-securities-laws> (last visited March 13, 2025). Security offerings of municipal, state, and the federal government are exempt from registration.

<sup>9</sup> 17 C.F.R. s. 230.506(b).

- Rule 506(c) of Regulation D. General Solicitation Offerings allow companies to raise unlimited capital by broadly soliciting investors who meet certain wealth thresholds or have certain professional credentials;<sup>10</sup>
- Rule 504 of Regulation D, Limited Offerings allow companies to raise up to \$10 million in a 12-month period, in many cases from investors with whom the company has a relationship;<sup>11</sup>
- Regulation Crowdfunding offerings allow eligible companies to raise up to five million dollars in investment capital in a 12-month period from investors via an online portal;<sup>12</sup>
- Intrastate offerings<sup>13</sup> allow companies to raise capital within a single state according to state law. Many states limit the offering to between one million and five million dollars in a 12-month period; and<sup>14</sup>
- Regulation A offerings allow eligible companies to raise up to \$20 million in a 12-month period in a Tier I offering and up to \$75 million through a similar, but less extensive registered offering.<sup>15</sup>

### ***Securities and Exchange Act of 1934***

The Securities and Exchange Act of 1934 (Exchange Act) created the U.S. Securities and Exchange Commission (SEC) as an independent agency to enforce federal securities laws.<sup>16</sup> The SEC oversees federal securities laws<sup>17</sup> broadly aimed at protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation.<sup>18</sup> The SEC has regulatory authority over significant parts of the securities industry, including stock exchanges, mutual funds, investment advisers, brokerage firms, as well as securities self-regulatory organizations (SROs), such as the Financial Industry Regulatory Authority, Inc. (FINRA).<sup>19</sup>

### ***Accredited Investors***<sup>20</sup>

Regulation D, adopted in 1982, provides several exemptions from the registration requirements of the Securities Act, thereby allowing certain issuers to offer and sell their securities without having to register the offering with the SEC. It was designed to facilitate capital formation by simplifying and clarifying existing exemptions for private or limited offerings, expanding their availability, and providing more uniformity between federal and state exemptions. Regulation D is the most widely used set of exemptions for securities offerings by issuers.

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<sup>10</sup> 17 C.F.R. s. 230.506(c).

<sup>11</sup> 17 C.F.R. s. 230.504.

<sup>12</sup> 17 C.F.R. s. 227.100.

<sup>13</sup> Section (3)(a)(11) of the Securities Act of 1933, 17 C.F.R. s. 230.147 and 17 C.F.R. s. 230.147A.

<sup>14</sup> SEC, 17 CFR Parts 227, 229, 230, 239, 249, 270 and 274; RIN-3235-AM27, Final rule: Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, <https://www.sec.gov/files/rules/final/2020/33-10884.pdf> (last visited March 13, 2025).

<sup>15</sup> 17 C.F.R. s. 230.251.

<sup>16</sup> Public Law 73-291, as amended through P.L. 117-328, enacted December 29, 2022.

<sup>17</sup> Section 15, Securities and Exchange Act of 1934.

<sup>18</sup> Securities and Exchange Commission, Mission, <https://www.sec.gov/about/mission> (last visited March 13, 2025).

<sup>19</sup> National securities exchanges (e.g., the New York Stock Exchange) and clearing and settlement systems may register as SROs with the SEC or CFTC, making them subject to SEC or CFTC oversight. See <https://www.sec.gov/rules/sro> for a list of self-regulatory organizations (SROs) registered with the SEC (last visited March 13, 2025).

<sup>20</sup> See Securities and Exchange Commission, Review of the Accredited Investor Definition under the Dodd-Frank Act (Dec. 14, 2023), <https://www.sec.gov/files/review-definition-accredited-investor-2023.pdf> (last visited March 13, 2025).

Regulation D includes the definition of “accredited investor” in Rule 501(a).<sup>21</sup> Individuals meeting certain criteria may qualify as an accredited investor. Institutions may qualify as accredited investors based on their status alone or on a combination of their status and the amount of their total assets or investments. Institutions that qualify based on status alone include banks, savings and loan associations, state-registered investment advisers, small business investment companies, investment companies registered under the Investment Company Act, business development companies,<sup>22</sup> employment benefit plans<sup>23</sup> meeting certain conditions.

Institutions qualifying as accredited investors based on a combination of their status and the amount of their total assets or investments include, but are not limited to the following:

- Plans established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000;
- Employee benefit plans (within the meaning of the Employee Retirement Income Security Act of 1974 (ERISA)) with total assets in excess of \$5,000,000;
- Tax exempt charitable organizations, corporations, Massachusetts or similar business trusts, partnerships, or limited liability companies not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;
- Trusts with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, the purchases of which are directed by a person who meets the legal standard of having sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment under Rule 501(a)(7);
- Any entity, of a type not listed in Rules 501(a)(1), (2), (3), (7), or (8), not formed for the specific purpose of acquiring the securities offered, owning investments in excess of \$5,000,000 under Rule 501(a)(9); and
- Entities that are “family offices,” under Rule 501(a)(12), which cross references the definition in Rule 202(a)(11)(G)-1 of the Advisers Act, meeting the requirements of Rule 501(a)(12).<sup>24</sup>

### ***SEC Rule 506(d) Disqualification***

On July 10, 2013, the SEC adopted the “bad actor” disqualification provisions for Rule 506 of Regulation D under the Securities Act, to implement s. 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.<sup>25</sup> As a result of Rule 506(d) bad actor disqualification, an offering is disqualified from relying on Rule 506(b) and 506(c) of Regulation D if the issuer or

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<sup>21</sup> 17 CFR s. 230.501(a), known as Rule 501 (a).

<sup>22</sup> As defined in s. 2(a)(48) of the Investment Company Act.

<sup>23</sup> Within the meaning of the Employee Retirement Income Security Act of 1974 (ERISA).

<sup>24</sup> U.S. Securities and Exchange Commission, Exempt Offerings, *Frequently Asked Questions About Exempt Offerings*, [https://www.sec.gov/resources-small-businesses/exempt-offerings/frequently-asked-questions-about-exempt-offerings?auHash=rh5WfJi9h3wRzP6X2anOmgYLdhPHNuo-3Vw0YNZyR\\_M#faq2](https://www.sec.gov/resources-small-businesses/exempt-offerings/frequently-asked-questions-about-exempt-offerings?auHash=rh5WfJi9h3wRzP6X2anOmgYLdhPHNuo-3Vw0YNZyR_M#faq2) (last visited March 13, 2025).

<sup>25</sup> U.S. Securities and Exchange Commission, Disqualification of Felons and Other “Bad Actors” from Rule 506 Offerings and Related Disclosure Requirements (Sept. 19, 2013), <https://www.sec.gov/resources-small-businesses/small-business-compliance-guides/disqualification-felons-other-bad-actors-rule-506-offerings-related-disclosure-requirements> (last visited March 13, 2025).



any other person covered<sup>26</sup> by Rule 506(d) has a relevant criminal conviction, regulatory or court order or other disqualifying event that occurred on or after September 23, 2013, the effective date of the rule amendment.

### ***Private Resales of Securities to Institutional Investors***

Corporations often issue unregistered bonds in private placements pursuant to Rule 144A<sup>27</sup> of the Securities Act. In 1990, the SEC approved Rule 144A of the Securities Act. The intent of the rule was to facilitate “a more liquid and efficient institutional resale market for unregistered securities.” Institutional investors are considered sophisticated investors, thereby understanding the complexities and risks inherent in private placement securities.

Rule 144A is a non-exclusive safe harbor exemption from the registration requirements of the Securities Act for resales of certain securities to qualified institutional buyers (QIBs).<sup>28</sup> A QIB includes certain entities that, in the aggregate, own and invest on a discretionary basis at least \$100 million in securities of unaffiliated issuers.<sup>29</sup> A registered broker-dealer qualifies as a QIB if it owns and invests on a discretionary basis at least \$10 million in securities of unaffiliated issuers.<sup>30</sup>

### **Integration of Offerings<sup>31</sup>**

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

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

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<sup>26</sup> “Covered persons” include the issuer, including affiliated issuers; directors, general partners, and managing members of the issuer; executive officers of the issuer, and other officers of the issuers that participate in the offering; 20 percent beneficial owners of the issuer, calculated on the basis of total voting power; promoters connected to the issuer; for pooled investment fund issuers, the fund’s investment manager and its principals; and persons compensated for soliciting investors, including their directors, general partners and managing members.

<sup>27</sup> 17 C.F.R. s. 230.144A.

<sup>28</sup> Bloomberg Law, Capital Markets, Overview-Rule 144A Debt Offering (Pre-Transaction Considerations) <https://www.bloomberglaw.com/external/document/XCUO8474000000/capital-markets-overview-rule-144a-debt-offering-pre-transaction> (last visited March 13, 2025).

<sup>29</sup> See 17 C.F.R. s. 230.144A(a)(1)(i) for a listing of QIBs.

<sup>30</sup> Securities and Exchange Commission, <https://www.sec.gov/resources-small-businesses/small-business-compliance-guides/eliminating-prohibition-against-general-solicitation-general-advertising-rule-506-rule-144a> (last visited March 13, 2025).

<sup>31</sup> 17 C.F.R. s. 230.172.

## Florida Regulation of Securities

The federal securities acts expressly allow for concurrent state regulation under blue sky laws,<sup>32</sup> which are designed to protect investors against fraudulent sales practices and activities. Most state laws typically require companies making offerings of securities to register their offerings before they can be sold in a particular state, unless a specific state exemption is available. The laws also license brokerage firms, their brokers, and investment adviser representatives.<sup>33</sup>

The Office of Financial Regulation (OFR) is responsible for administering the provisions of ch. 517, F.S. The OFR, along with the Office of Insurance Regulation (OIR), are units under the Financial Services Commission (commission). The commission is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.<sup>34</sup> The commission members serve as agency head of OFR and OIR for purposes of rulemaking.<sup>35</sup> The commissioners of OFR and OIR are appointed by the commission.

The scope of the OFR's jurisdiction includes the regulation and registration of the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals associated with these firms in accordance with the ch. 517, F.S.<sup>36</sup> The Division of Securities (division) within the OFR is responsible for administering the Securities and Investor Protection Act (Act). The Act prohibits dealers, associated persons, and issuers from offering or selling securities in this state unless registered with the OFR or specifically exempted.<sup>37</sup> Additionally, all securities in Florida must be registered with the OFR unless they meet one of the exemptions in ss. 517.051 or 517.061, F.S., or are federally covered (i.e., under the exclusive jurisdiction of the SEC). As of December 30, 2024, the division had total registrants in the following categories:

- Dealers: 2,367;
- Investment Advisers: 8,559;
- Branches: 11,728; and
- Associated Persons: 380,993.<sup>38</sup>

### *Licensure Requirements*

Pursuant to s. 517.12, F.S., dealers, associated persons, intermediaries, and investment advisers must submit an application with the OFR for registration to sell, offer for sale, or to facilitate the offer or sale of securities. Each applicant and any direct owners, principals, or indirect owners that are required to be reported on Form BD, Form ADV, or on a form adopted by commission rule are required to electronically submit fingerprints to the Florida Department of Law

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<sup>32</sup> The term "blue sky" derives from the characterization of baseless and broad speculative investment schemes, which such laws targeted. Cornell Law School, Blue Sky Laws, [https://www.law.cornell.edu/wex/blue\\_sky\\_law#:~:text=In%20the%20early%201900s%2C%20decades,schemes%20which%20such%20laws%20targeted](https://www.law.cornell.edu/wex/blue_sky_law#:~:text=In%20the%20early%201900s%2C%20decades,schemes%20which%20such%20laws%20targeted) (last visited March 13, 2025).

<sup>33</sup> SEC, *Blue Sky Laws*, <http://www.sec.gov/answers/bluesky.htm> (last visited March 13, 2025).

<sup>34</sup> Section 20.121(3), F.S.

<sup>35</sup> Section 20.121(3)(a), F.S.

<sup>36</sup> Pursuant to s. 20.121(3), F.S. The jurisdiction of the OFR also includes state-chartered financial institutions and finance companies, and other specified entities.

<sup>37</sup> Section 517.12, F.S.

<sup>38</sup> Office of Financial Regulation, *Senate Bill 988 Legislative Bill Analysis* (Feb. 25, 2025) (on file with the Senate Committee on Banking and Insurance).

Enforcement (FDLE) for a state and national criminal history record check (i.e., Level 2 background check). The OFR reviews the results of the Level 2 background checks to determine whether applicants meet licensure requirements. The Federal Bureau of Investigation (FBI) had previously approved the aforementioned list of applicants for fingerprint-based, state and national criminal history record checks, pursuant to s. 517.12, F.S. In 2024, legislation was enacted that revised provisions and definitions relating to these terms.<sup>39</sup> During the 2024 Legislative Session, the FDLE provided detailed comments and suggestions regarding the fingerprint provisions in ch. 517, F.S.<sup>40</sup> Specifically, the FDLE recommended that the OFR should clarify the population subject to the criminal background checks to ensure compliance with the criteria established in Public Law 92-544.

Since 1972, the FBI, with the assistance of the United States Department of Justice, has determined the parameters of Pub. L. 92-544. The criteria are as follows:

- The statute must exist as a result of a legislative enactment;
- It must require the fingerprinting of applicants who are subject to a national criminal history background check;
- It must, expressly (“submit to the FBI”) or by implication (“submit for a national check”), authorize the use of FBI records for the screening of applicants;
- It must identify the specific category(ies) of licensees/employees falling within its purview, thereby avoiding overbreadth;
- It must not be against public policy; and
- It may not authorize receipt of the criminal history record information (CHRI) by a private entity.<sup>41</sup>

Additionally, FBI policy requires fingerprints be initially submitted to the state identification bureau (for a check of state records) and thereafter forwarded to the FBI for a “national” criminal history check.<sup>42</sup> State agencies wishing to submit statutes for review must work through their State Identification Bureau (FDLE) or appointed CJIS systems officer.<sup>43</sup>

### ***Exempt Private Placements and SEC Rule 506(d)***

As part of the 2024 legislation, s. 517.0616, F.S., was created, which provides that a registration exemption for private placement offerings of securities, pursuant to s. 517.061(9), (10), and (11), s. 517.0611, or s. 517.0612, F.S., is not available to an *issuer* that would be disqualified under SEC Rule 506(d) at the time the issuer makes an offer for the sale of a security. Rule 506(d) provides that an offering is disqualified from relying on the exemption if the *issuer or any other person covered* by Rule 506(d) has a relevant criminal conviction, regulatory or court order or other disqualifying event.

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<sup>39</sup> Chapter 2024-168, Laws of Fla.

<sup>40</sup> Florida Department of Law Enforcement, *Senate Bill 988 Legislative Bill Analysis* (March 4, 2025) (on file with the Senate Committee on Banking and Insurance).

<sup>41</sup> Federal Bureau of Investigation, *How We Can Help You*, Public Law 92-544, <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/public-law-92-544> (last visited March 13, 2025).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

Members of the financial services industry expressed concerns regarding this disqualification provision in connection with transactions conducted with institutional investors in Florida, including offerings made pursuant to Rule 144A under the Securities Act. At the federal level, the SEC has not applied any of the disqualification provisions for the safe harbors under Regulation D to these s. 4(a)(2) private placements. Pursuant to s. 517.0616, F.S., the disqualification provisions apply to issuers and covered persons for the following registration exemptions:

- Section 517.061(9), F.S., Institutional Investor Exemption. Exempts the offer or sale of private placement offerings securities to a financial institution, insurer, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer.
- Section 517.061(10), F.S., Private Limited Offering Exemption. Exempts from registration the offer or sale of securities by or on behalf of an issuer, of its own securities, if the offer or sale is a part of an offering that meets certain conditions, including there are no more than 35 non-accredited purchasers in Florida.
- Section 517.061(11), F.S., Accredited Investor Exemption. Exempts from registration the offer or sale of securities of an issuer in a transaction that meets certain conditions, including the offer or sale of securities made to accredited investors in Florida, and meets other conditions.
- Section 517.0611, F.S., Florida Limited Offering Exemption. Exempts from registration the offer or sale of securities that meet the requirements of the federal exemption for intrastate offerings authorized in Section 3(a)(11) of the Securities Act of 1933, SEC Rule 147, or SEC Rule 147A.
- Section 517.0612, F.S., Florida Invest Local Exemption. Exempts from registration the offer or sale of securities in the amount of \$500,000 or less that meet the requirements of the federal exemption for intrastate offerings authorized in s. 3(a)(11) of the Securities Act of 1933, SEC Rule 147, or SEC Rule 147A.

In accordance with the State of Florida, Office of the Governor, Executive Orders 24-208 and 24-214,<sup>44</sup> which declared a state of emergency for certain counties in Florida, and to prevent negative impacts on Florida's financial markets, the OFR Commissioner issued a proclamation on October 27, 2024<sup>45</sup> which suspended the disqualification provisions of s. 517.0616, F.S., as applied to transactions described in s. 517.061(9), F.S.<sup>46</sup> The proclamation states the application of this provision "could negatively affect financial markets that are vital to ensuring the availability of financial resources..."<sup>47</sup> The suspension of this provision remains effective until

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<sup>44</sup> Executive Office of the Governor, Ron DeSantis, *Executive Orders*, Executive Order Numbers 2024-208 and 2024-214, available at <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO-24-208-1.pdf> and <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO-24-214-1.pdf>, respectively. (last visited March 13, 2025).

<sup>45</sup> Office of Financial Regulation, OFR 2024-654 (PROC), Proclamation (Securities Industry), Commissioner Russell C. Weigel, III, (Oct. 27, 2024), available at [https://lofr.gov/docs/default-source/documents/industry-alerts/ofr-proclamation-2024-654.pdf?sfvrsn=af7511de\\_1](https://lofr.gov/docs/default-source/documents/industry-alerts/ofr-proclamation-2024-654.pdf?sfvrsn=af7511de_1) (last visited March 13, 2025).

<sup>46</sup> Exemption transactions under s. 517.061(9), F.S., include offer or sales to banks, trust companies, savings institutions, insurance companies, dealer, or investment companies as defined in the Investment Company Act of 1940, U.S.C. s. 80a-3, as amended, pension or profit-sharing trust, or qualified institutional buyer.

<sup>47</sup> Office of Financial Regulation, OFR 2024-654 (PROC), Proclamation (Securities Industry), Commissioner Russell C. Weigel, III, (Oct. 27, 2024), available at [https://lofr.gov/docs/default-source/documents/industry-alerts/ofr-proclamation-2024-654.pdf?sfvrsn=af7511de\\_1](https://lofr.gov/docs/default-source/documents/industry-alerts/ofr-proclamation-2024-654.pdf?sfvrsn=af7511de_1) (last visited March 13, 2025).

the expiration or rescission of Executive Orders 24-208 and 24-214, as amended, or further order, whichever is earlier.

Subsequently, the Florida Governor issued Executive Order 25-10 on January 17, 2025, which extended the state of emergency and all provisions of Executive Order 24-208 for 60 days. Further, the Florida Governor issued Executive Order 25-26 on January 31, 2025, which extended the state of emergency and all provisions of Executive Order 24-214 for 60 days.<sup>48</sup>

### ***Securities Guaranty Fund***<sup>49</sup>

The Securities Guaranty Fund (fund) was created to provide relief to victims of securities violations under ch. 517, F.S., who are entitled to monetary damages or restitution but cannot recover the full amount of such damages or restitution from the wrongdoer. A person seeking to recover from the fund must meet certain conditions to be eligible for payment from the fund, including the following:

- Holds an unsatisfied final judgment entered on or after October 1, 2024, in which a wrongdoer was found to have violated ss. 517.07, F.S., or 517.301, F.S.;
- Has applied any amounts recovered from the judgment debtor or from any other source to the damages awarded by the court or arbitrator; and
- Is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation giving rise to the claim; or
- Is a receiver appointed pursuant to s. 517.191(2), F.S., by a court of competent jurisdiction for a wrongdoer order to pay restitution under s. 517.191, F.S., because of a violation of s. 517.07, F.S., or s. 517.301, F.S.

### **Florida's Law on the Protection of Vulnerable Investors**<sup>50</sup>

In 2020, legislation was enacted in Florida to protect vulnerable investors.<sup>51</sup> The provisions of s. 517.34, F.S., protection of specified adults, allows a dealer or investment adviser to delay a disbursement or transaction of funds or securities from the account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if the dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction. A specified adult is an individual who is age 65 or older or who meets the definition of "vulnerable adult" under s. 415.102, F.S.

Under s. 517.34, F.S., the suspected financial exploitation must be immediately reported to the Florida Abuse Hotline if required by the act. Not later than three business days after placing a delay, the dealer or investment adviser must notify all parties authorized to transact business on the account, as well as any designated trusted contact unless such person is believed to be engaged in the suspected financial exploitation. Not later than three business days after placing

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<sup>48</sup> Executive Office of the Governor, Ron DeSantis, Executive Orders, *available at* <https://www.flgov.com/eog/news/executive-orders> (last visited March 13, 2025).

<sup>49</sup> Section 517.131, F.S.

<sup>50</sup> Section 517.34, F.S.

<sup>51</sup> Ch. 2020-157, Laws of Fla.

or extending a delay, the dealer or investment adviser must notify the OFR of the delay or extension.

A delay expires 15 business days but may be terminated sooner. The dealer or investment adviser may extend the delay up to an additional 10 business days. The length of the hold may be shortened or extended by a court of competent jurisdiction. A dealer or investment adviser must annually conduct training that is reasonably designed to educate its associated persons on issues pertaining to financial exploitation. A dealer, an investment adviser, or an associated person who, in good faith and exercising reasonable care, complies with s. 517.34, F.S., is immune from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction.

### **Exempt Transactions Relating to Foreign Securities Markets and Foreign Securities Exchanges**

Section 517.061(20), F.S., provides that the registration provisions of s. 517.07, F.S., do not apply to a nonissuer transaction in an outstanding security by or through a dealer registered or exempt from registration under ch. 517, F.S., if the two following conditions are met:

- The issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by commission rule, and the issuer has been subject to continuous reporting requirements in such foreign jurisdiction for not less than 180 days before the transaction.
- The security is listed on the securities exchange designated by this subsection or by commission rule, is a security of the same issuer which is of senior or substantially equal rank to the listed security, or is a warrant or right to purchase or subscribe to any such security.

Exempt transactions conducted pursuant to this subsection are subject to the antifraud provisions of s. 517.301, F.S.

Further, subsection (20) designates Canada, together with its provinces and territories, is designated as a foreign jurisdiction, and Toronto Stock Exchange, Inc., as a securities exchange. If, after an administrative hearing in compliance with ss. 120.569 and 120.57, F.S., the OFR finds that revocation is necessary or appropriate in furtherance of the public interest and for the protection of investors, it may revoke the designation of a securities exchange under this subsection.

### **Model Rule Exempting Certain Merger and Acquisition Brokers from Registration**

Merger and acquisition (M&A) brokers may introduce buyers and sellers, help value the business, recommend terms and structure of the sale, and assist with negotiations in the closing sales of privately held businesses. Smaller transactions may involve the sale of the assets of the business in exchange for cash. However, the ownership of a business may be transferred by means of the purchase, sale, exchange, issuance, merger, repurchase, or redemption of, or other business combinations involving securities. If a transaction involves securities, then state and federal securities laws may apply to the parties and the transactions.



The North American Securities Administrators Association (NASAA) is a voluntary association of securities regulators in the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, the 13 provincial and territorial securities regulators in Canada, and the securities regulator in México.<sup>52</sup> In November 2015, NASAA adopted the Model Rule Exempting Certain Merger and Acquisition Brokers from Registration (model rule), which provides a uniform approach to state-level securities regulation and provides an exemption for M&A brokers if certain conditions are met.<sup>53</sup>

In 2016, the Florida Legislature enacted legislation consistent with the model rule.<sup>54</sup> The law creates an exemption from registration with the OFR for a merger and acquisition (M&A) broker facilitating the offer or sale of securities in connection with the transfer of ownership of an eligible privately held company. To be an “eligible privately held company,” (1) the acquired company must not have any class of securities registered with the SEC pursuant to Section 12 of the Exchange Act of 1934; or be subject to the reporting obligations of Section 15(d) of the Exchange Act of 1934 or with the OFR under s. 517.07, F.S.; and (2) in the fiscal year prior to the engagement of the M&A broker, the company must have earnings before income tax depreciation and amortization of less than \$25 million, or gross revenues of less than \$250 million.<sup>55</sup>

In 2024, NASAA amended the model rule to align it with recently enacted amendments to subsection 15(b)(13) of the Securities Exchange Act of 1934, which exempts certain merger and acquisition brokers from dealer registration.<sup>56</sup> Although the M&A brokers are exempt from registration, they remain subject to antifraud provisions and enforcement.

### III. Effect of Proposed Changes:

**Section 1** amends s. 517.021, F.S., to create and revise definitions of terms used in ch. 517, F.S. The following terms are defined to clarify which applicants and persons associated with a license application under s. 517.12, F.S., (e.g., dealer, associated person, intermediary, and investment adviser) are subject to the national criminal background checks:

- Branch manager.
- Corporation.
- Director.
- General partner.
- Limited liability company.
- Limited liability company manager.

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<sup>52</sup> The North American Securities Administrators Association, <https://www.nasaa.org/about-us/> (last visited March 13, 2025).

<sup>53</sup> North American Securities Administrators Association, *Model Rule Exempting Certain Merger and Acquisition Brokers From Registration*, (Adopted Sep. 29, 2015; Amended May 6, 2024), available at <https://www.nasaa.org/wp-content/uploads/2024/05/Model-Rule-Exempting-Certain-Merger-and-Acquisition-Brokers-From-Registration-5-6-2024.pdf> (last visited March 13, 2025).

<sup>54</sup> Ch. 2016-111, Laws of Fla.

<sup>55</sup> Section 517.12(21), F.S.

<sup>56</sup> HR 2617, Consolidated Appropriations Act of 2023 (Public Law 117-328). For the statutory exemption to be available, in the fiscal year ending immediately before the fiscal year in which the services of the M&A broker are initially engaged with respect to the M&A transaction, the privately held company must either have earnings before interest, taxes, depreciation, and amortization (EBITDA) of less than \$25 million or gross revenues of less than \$250 million. See Exchange Act s. 15(b)(13)(E)(iii)(II). Congress authorized the SEC to adjust these dollar thresholds for inflation every five years.

- Partnership.
- Shareholder.
- Trust.

Subsection (19) revises the definition of the term, “intermediary,” to mean a person who facilitates through its website the offer or sale of securities of an issuer with a principal place of business in Florida. The terms “corporation,” “trust,” “partnership,” “association,” and “other legal entity” previously flagged by the Federal Bureau of Investigation (FBI) as overly broad are removed from the definition.

An intermediary is no longer required, as a natural person to reside in Florida or if an intermediary is a specified entity, it is no longer required to register with the Secretary of State to do business in Florida.

The section provides a technical conforming cross-reference within the definition of the term, “federal covered adviser.”

**Section 2** amends s. 517.061, F.S., to apply the self-executing registration exemption to the offer or sale of securities to the following categories of institutional investors under subsection (9):

- A savings and loan association, building and loan association, cooperative bank, or credit union, which is supervised and examined by a state or federal authority having supervision over any such institution.
- A federal covered adviser, investment adviser registered pursuant to the laws of a state, exempt reporting adviser or private fund adviser as those terms are defined in s. 517.12(23)(a)2. and 3., F.S., respectively, investment adviser relying on the exemption from registering with the U.S. Securities and Exchange Commission (SEC) under s. 203(l) or (m) of the Investment Advisers Act of 1940, as amended, business development company as defined in s. 2(a)(48) of the Investment Company Act of 1940, as amended, or business development company as defined in s. 202(a)(22) of the Investment Advisers Act of 1940, as amended.
- A small business investment company licensed by the Small Business Administration under s. 301(c) of the Small Business Investment Act of 1958, as amended, or rural business investment company as defined in s. 384A of the Consolidated Farm and Rural Development Act.
- A plan established and maintained by a state, a political subdivision thereof, or any agency or instrumentality of a state or a political subdivision, for the benefit of its employees, if such plan has total assets in excess of five million dollars, an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as described in s. 3(21) of such act, which is a bank, savings and loan association, insurance company, or federal covered adviser, or if the employee benefit plan has total assets in excess of five million dollars or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors.
- An organization described in s. 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts trust or similar business trust, partnership, or limited liability company, not formed for the specific purpose of acquiring the securities offered, with total assets of more than five million dollars.



- A trust, with total assets of more than five million dollars, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in United States Securities and Exchange Commissions (SEC) Rule 506(b)(2)(ii), 17 C.F.R. s. 230.506(b)(2)(ii), as amended.
- An entity, of a type not listed in other paragraphs (a)-(g) or paragraph (j) which owns investments as defined in SEC Rule 2a51-1(b), 17 C.F.R s. 270.2a51-1(b), as amended, of more than five million dollars and is not formed for the specific purpose of acquiring the securities offered.
- A family office as defined in SEC Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, 17 C.F.R. 275.202(a)(11)(G)-1), as amended, provided that: (1) The family office has assets under management in excess of five million dollars; (2) The family office is not formed for the specific purpose of acquiring the securities offered; and (3) The prospective investment of the family office is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment.
- An entity in which all the equity owners are described in s. 517.061(9)(a) – (i), F.S.

The registration exemption in subsection (11) is revised to require an issuer claiming this exemption to file a notice of transaction on a form prescribed by Financial Services Commission (commission) rule, an irrevocable written consent to service of civil process in accordance with s. 517.101, F.S.

Subsections (7), (18) and (19) are amended to provide technical changes.

Subsection (20), relating to the registration exemption for nonissuer transactions by a dealer, is amended to clarify that the conditions for the exemption must be met at the time of the transaction. The bill repeals the requirement that foreign jurisdictions be designated by this subsection or by rules prescribed by the commission. The bill requires the commission to consider the following factors when designating a foreign securities exchange or foreign securities market by rule:

- Organization under foreign law.
- Association of dealers, financial institutions, or other professional intermediaries with an established operating history.
- Oversight by a governmental or self-regulatory body.
- Oversight standards set by general law.
- Reporting of securities transactions on a regular basis to a governmental or self-regulatory body.
- A system for exchange of price quotations through common communications media.
- An organized clearance and settlement system.
- Listing in SEC Regulation S Rule 902 (17 C.F.R. s. 230.902).

The section is also amended to remove the designation of Canada, together with its provinces and territories, as a foreign jurisdiction and to remove the designation of the Toronto Stock Exchange, Inc. as a designated securities exchange.

**Section 3** amends s. 517.0612, F.S., the Florida Invest Local Exemption, which is a micro-offering that is limited to \$500,000, to require the issuer to file a notice of transaction on a form prescribed by commission rule and an irrevocable written consent to service of civil process in accordance s. 517.101, F.S. The registration provisions of s. 517.07, F.S., do not apply to a securities transaction conducted in accordance with this section. However, such transactions are subject to the anti-fraud provisions of s. 517.301, F.S.

**Section 4** amends s. 517.0614, F.S., relating to integration of offerings. Subsection (2) is amended to provide that s. 517.061(9), F.S., relating to exempt transactions of institutional investors, is not subject to integration with other offerings.

**Section 5** amends s. 517.0616, F.S., relating to disqualification, to limit the application of SEC Rule 506(d) to registration exemptions under ss. 517.061(11), 517.0611, or 517.0612, F.S. A registration exemption is not available to an issuer if, at the time the issuer makes an offer for the sale of a security, the issuer or other specified covered persons, would be disqualified under SEC Rule 506(d). Other specified covered persons include all of the following:

- A predecessor of the issuer.
- An affiliated issuer.
- A director, executive officer, or other officer of the issuer participating in the offering.
- A general partner or managing member of the issuer.
- A beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power.
- A promoter connected with the issuer in any capacity at the time of the sale.

Subsection (2) is created to clarify that the disqualification under SEC Rule 506(d) does not apply to any other person or entity listed in such rule.

SEC Rule 506(d) provides that an offering is disqualified from relying on a specified exemption if the issuer or any other person covered by the rule has a relevant criminal conviction, regulatory or court order or other disqualifying event. The applicability of SEC Rule 506(d) to offerings under subsections (9) and (10) of s. 517.061, F.S., are removed from this section due to concerns that the inclusion of s. 517.061(9), F.S., would prohibit certain transactions with institutional investors in Florida, including offerings made pursuant to SEC Rule 144A under the Securities Act and private placements under section 4(a)(2) of the Securities Act. At the federal level, the SEC has not applied any of the disqualification provisions for the safe harbors under Regulation D to these s. 4(a)(2) private placements.

**Section 6** amends s. 517.075, F.S., to provide a technical change.

**Section 7** amends s. 517.081, F.S., relating to registration procedures, to revise the criteria the Office of Financial Regulation (OFR) uses to determine whether OFR will record the registration of a security of an applicant. Subsection (9) eliminates the merit review standard that requires the OFR to find that an "enterprise or business of the issuer is not based upon unsound business principles." However, the "fair, just, and equitable" standard still applies, as provided in subsection (9)(a)4., of this section.

Under current law, the OFR must record the registration of a security in the register if, upon examination of an application, it finds that all of the following requirements are met:

- The application is complete.
- The fee imposed pursuant to s. 517.081(8), F.S., has been paid.
- The sale of the security would not be fraudulent and would not work or tend to work a fraud upon the purchaser.
- The terms of the sale of such securities would be fair, just, and equitable.
- The enterprise or business of the issuer is not based upon unsound business principles.

**Section 8** amends s. 517.12, F.S., relating to registration of dealers, associated persons, intermediaries, and investment advisers. Multiple subsections are revised to address the concerns of the Federal Bureau of Investigation (FBI). Current terms and categories of persons used within the definitions of these terms do not clearly identify who, for purposes of registration, are subject to a national fingerprint-based criminal history background check, thereby not complying with federal law Pub. L. 92-544.

According to the OFR, the amended portions of s. 517.12, F.S., are derived from the Securities and Exchange Commission's Uniform Application for Investment Adviser Registration (Form ADV) and the Uniform application for Broker-Dealer Registration (Form BD), which are uniform application forms used nationally for the registration of dealers and investment advisers. The persons that are required to submit fingerprints are those natural persons listed on Schedules A and B of the forms.<sup>57</sup>

In subsection (7), the definition of the term, "dealer," is amended to clarify that only certain natural persons affiliated with an entity that has elected to file an application with the OFR for registration in Florida to engage in activities requiring registration as a "dealer" are subject to fingerprinting. The definition of the term, "associated person," is amended to provide that only a natural person who has elected to file an application with the OFR for registration in Florida to engage in activities requiring registration as an "associated person" is subject to fingerprinting.<sup>58</sup>

The definition of the term, "investment adviser," is clarified to provide that only certain natural persons affiliated with an entity that has elected to file an application with the OFR for registration in Florida to engage in activities requiring registration as a "investment adviser" be fingerprinted.

Subsection (20) provides that only certain natural persons affiliated with an entity that has elected to file an application with the OFR for registration as an intermediary be fingerprinted.

The term, "direct owner," is defined for purposes of specifying the population of persons who are subject to fingerprinting.

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<sup>57</sup> Office of Financial Regulation, *Senate Bill 988 Legislative Bill Analysis* (Feb. 25, 2025) (on file with the Senate Committee on Banking and Insurance).

<sup>58</sup> See **Section 1** of SB 988, amending s. 517.021, F.S., defining the term, "branch manager," to clarify the definition of associated person. **Section 1** further clarifies the definition of associated person by defining the terms, "general partner," "limited partner," and "partnership."

Subsection (22) is amended to update the provisions relating to the North American Securities Administrators Association (NASAA) Model Rule Exempting Certain Merger and Acquisition Brokers from Registration. The definition of the term, “business combination related shell company,” is created. The definition of the term, “control person,” is revised to provide that a person is presumed to be the control person of a company if, at completion of a transaction, the buyer or group of buyers meets two, rather than three, statutory conditions:

- Has the power to vote 25 percent or more of a class of voting securities or has the power to sell or direct the sale of 25 percent or more of a class of voting securities; and
- May receive upon dissolution, or has contributed, 25 percent of the capital of a partnership or limited liability company.

The subsection increases the percentage of voting stock and capital contributions from 20 to 25 percent, as described above. The subsection removes one of the current conditions relating to control person, that it is a person who “is a director, a general partner, a member or a manager of a limited liability company or is an officer who exercises executive responsibility or has a similar status or function”.

**Section 9** amends s. 517.131, F.S., relating to the Securities Guaranty Fund (fund). The term, “restitution order,” is defined in subsection (1) to mean a court order awarding a specified monetary amount to a named aggrieved person for a violation of s. 517.07, F.S., or s. 517.301, F.S., to be paid by a named violator.

Subsection (2) is amended to update cross references.

Subsection (3) is amended to clarify the conditions a person must meet to be eligible for payment from the fund. Restitution orders are added to the first two conditions for eligibility. As amended, a person is eligible for payment from the fund if the person:

- Is a judgment creditor in an unsatisfied final judgment or a named beneficiary or victim in an unsatisfied restitution order entered on or after October 1, 2024, in which a wrongdoer was found to have violated s. 517.07 or s. 517.301;
- Has applied any amount recovered from the judgment debtor, a person ordered to pay restitution, or any other source to the damages awarded in a final judgment or restitution order; are a named beneficiary or victim in an unsatisfied restitution order.

Subsection (5) is amended to revise and clarify the minimum information that is required to be provided on an application for payment from the fund and to include restitution orders.

**Section 10** amends s. 517.301, F.S., relating to fraudulent transactions and falsification or concealment of facts to replace the term, “business entity,” with “person.”

**Section 11** amends s. 517.34, F.S., to extend the number of additional days a dealer or investment adviser may delay a disbursement or transaction from 10 to 30 days to conduct a review if the dealer or investment adviser has a reasonable belief that financial exploitation of the specified adult has occurred. This change would make the provision relating to securities dealers and investment advisers consistent with the provision applicable to financial institutions.

**Sections 12 and 13** amend ss. 517.211 and 517.517.315, F.S., respectively, to provide technical, conforming amendments.

**Section 14** provides the bill takes effect upon becoming a law.

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

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**E. Other Constitutional Issues:**

None.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The elimination of the Rule 506d disqualification provision, as it relates to s. 517.061(9) and (10), F.S., exempting security transactions in connection with institutional investors offerings, pursuant to Rule 144A and private placements under section 4(a)(2) of the Securities Act, respectively, will provide greater clarity and certainty regarding the applicability of the disqualifications provisions.

Currently, the application of the disqualification provisions relating to subsection (9) has been suspended by a proclamation issued by the Office of Financial Regulation (OFR) since October 27, 2024<sup>59</sup>. (See Section II. Present Situation, Florida Regulation of Securities, *Exempt Private Placements and SEC Rule 506(d)* above.)

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<sup>59</sup> The OFR's proclamation suspending the disqualification provisions of s. 517.0616, F.S., as applied to s. 517.061(9), F.S., was based on State of Florida, Office of the Governor, Executive Orders 24-208, 24-214 and 24-215,<sup>59</sup> which collectively declared a state of emergency for certain counties in Florida. Executive Orders 25-10 and 25-26 extended the provisions of Executive Orders 24-208 and 24-14, respectively.

Applicants may incur out of pocket expenses for any fingerprint or state or national background check required under the bill. The cost for a state and national criminal history record check is \$36 per name.<sup>60</sup>

In addition, applicants may incur additional costs as the Florida Department of Law Enforcement (FDLE) indicates Livescan service providers may assess additional processing fees, in addition to the cost of the criminal history record check fee imposed by FDLE and the Federal Bureau of Investigation (FBI).<sup>61</sup> The number of additional individuals who would be screened under SB 988 is indeterminate.

### C. Government Sector Impact:

The bill has an indeterminate impact to state revenue or expenditures. The OFR indicates the bill does not impact state revenue or expenditures.<sup>62</sup> However, the bill provides the OFR with rulemaking authority. It is anticipated that any costs associated with rulemaking could be absorbed within existing resources.

The bill may have an indeterminate impact to the FDLE's Operating Trust Fund as the cost for a state and national criminal history record check is \$36 per name submitted. The FBI receives \$12 and, pursuant to s. 943.053(3)(e), F.S., the FDLE retains \$24. The exact impact to state revenues is indeterminate as the number of individuals who would be screened under this bill is unknown.

The FDLE indicates the bill, in combination with additional criminal history records check legislation, could rise to the level of requiring additional staff and additional capacity for the FDLE's Multi-Biometric Identification System (MBIS).<sup>63</sup>

### VI. Technical Deficiencies:

None.

### VII. Related Issues:

According to the Florida Department of Law Enforcement (FDLE),<sup>64</sup> the Federal Bureau of Investigation's (FBI) Criminal Justice Information Law Unit (CJILU) must review the bill due to the legislative changes made to ss. 517.021 and 517.12, F.S. to ensure compliance with Public Law 92-544. The FDLE recommends that the Office of Financial Regulation (OFR) continues to work on amending and clarifying certain language within the applicable sections of ch. 517, F.S., in accordance with the FBI's CJILU guidelines. It should be noted that continued access to

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<sup>60</sup> Florida Department of Law Enforcement, *Senate Bill 988 Legislative Bill Analysis* (March 4, 2025) (on file with the Senate Committee on Banking and Insurance).

<sup>61</sup> *Id.*

<sup>62</sup> Office of Financial Regulation, *Senate Bill 988 Legislative Bill Analysis* (Feb. 25, 2025) (on file with the Senate Committee on Banking and Insurance).

<sup>63</sup> Florida Department of Law Enforcement, *Senate Bill 988 Legislative Bill Analysis* (March 4, 2025) (on file with the Senate Committee on Banking and Insurance).

<sup>64</sup> *Id.* at 4, 5.

national criminal history record information is reliant upon the FBI's approval of the 2025 legislative changes.<sup>65</sup>

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 517.021, 517.061, 517.0612, 517.0614, 517.0616, 517.075, 517.081, 517.12, 517.131, 517.211, 517.301, 517.315, and 517.34.

## 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 Banking and Insurance on March 10, 2025:**

The committee substitute:

- Defines additional terms and revises existing terms (general partner, limited partner, partnership, and shareholder) to clarify what persons are subject to fingerprinting pursuant to the registration application process, as provided in s. 517.12, F.S.
- Clarifies factors the Financial Services Commission may use for purposes of designating a foreign securities exchange or foreign securities market.
- Clarifies provisions specifying what persons must submit fingerprints as part of the registration application process. (associated person, dealer, intermediary, investment adviser). Clarifies categories of persons affiliated with a registration application must submit fingerprints.
- Provides factors that the commission may use in rulemaking to provide specific standards in determining what persons the commission may waive from the fingerprinting requirements associated with registration applications.
- Clarifies factors the commission may use in revising revenue and earnings caps for purposes of determining eligible privately held companies.
- Clarifies the factors that the Office of Financial Regulation may use to determine if a person who acquires securities or assets of the eligible privately held company is deemed active in the management of the company.
- Revises a provision, relating to the protection of specified adults who may be victims of financial exploitation, to extend the number of additional days a dealer or investment adviser may delay a disbursement or transaction from 10 to 30 days to conduct a review if the dealer or investment adviser believes that financial exploitation of the specified adult has occurred. This change would make the provision relating to securities dealers and investment advisers consistent with the provisions applicable to financial institutions.

### B. Amendments:

None.

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

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<sup>65</sup> *Id* at 4.

By the Committee on Banking and Insurance; and Senator Truenow

597-02253-25

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1 A bill to be entitled  
 2 An act relating to securities; amending s. 517.021,  
 3 F.S.; providing and revising definitions; amending s.  
 4 517.061, F.S.; revising the circumstances under which  
 5 securities transactions are exempt from registration  
 6 requirements; conforming cross-references; amending s.  
 7 517.0612, F.S.; revising the filing requirements for  
 8 securities issuers under the Florida Invest Local  
 9 Exemption law; amending s. 517.0614, F.S.; revising  
 10 circumstances under which securities offers and sales  
 11 are not subject to integration with other offerings;  
 12 amending s. 517.0616, F.S.; revising the registration  
 13 exemptions that are available to specified issuers  
 14 under certain circumstances; providing applicability  
 15 of certain disqualification provisions under a  
 16 specified Securities and Exchange Commission rule;  
 17 amending s. 517.075, F.S.; making a technical change;  
 18 amending s. 517.081, F.S.; revising the requirements  
 19 for securities registration applications; amending s.  
 20 517.12, F.S.; revising the list of persons who must  
 21 submit fingerprints for live-scan processing for  
 22 registration applications; providing fees for  
 23 fingerprint processing; defining the term "owner";  
 24 authorizing the Financial Services Commission to  
 25 consider certain rules and regulations in waiving the  
 26 fingerprint requirement; providing and revising  
 27 definitions; revising the written assurances  
 28 requirements that merger and acquisition brokers must  
 29 receive from certain control persons under specified

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30 circumstances; revising the circumstances under which  
 31 merger and acquisition brokers are not exempt from  
 32 specified securities registration; conforming cross-  
 33 references; amending s. 517.131, F.S.; defining the  
 34 term "restitution order"; revising the circumstances  
 35 under which a person is eligible for payment from the  
 36 Securities Guaranty Fund; revising the requirements  
 37 for applications for payment from the fund; conforming  
 38 cross-references; amending s. 517.301, F.S.;  
 39 specifying a prohibition against certain  
 40 misrepresentations in a person issuing and selling  
 41 securities; amending s. 517.34, F.S.; revising the  
 42 maximum number of days by which a dealer or investment  
 43 adviser may extend a delay on a disbursement or  
 44 transaction; amending ss. 517.211 and 517.315, F.S.;  
 45 conforming cross-references; providing an effective  
 46 date.

47  
 48 Be It Enacted by the Legislature of the State of Florida:

49  
 50 Section 1. Present subsections (6) through (9), (10), (11),  
 51 (12), (13) through (17), (18), (19), (20) through (25), (26),  
 52 and (27) of section 517.021, Florida Statutes, are redesignated  
 53 as subsections (7) through (10), (12), (14), (15), (17) through  
 54 (21), (25), (26), (28) through (33), (36), and (37),  
 55 respectively, new subsections (6), (11), (13), (16), (22), (23),  
 56 (24), (27), (34), and (35) are added to that section, and  
 57 present subsections (11) and (15) of that section are amended,  
 58 to read:

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59 517.021 Definitions.—When used in this chapter, unless the  
60 context otherwise indicates, the following terms have the  
61 following respective meanings:

62 (6) "Branch manager" means a natural person who administers  
63 or supervises the affairs or operations of a branch office.

64 (11) "Corporation" has the same meaning as "corporation,"  
65 "domestic corporation," or "foreign corporation" in s.  
66 607.01401.

67 (13) "Director" means a person appointed or elected to sit  
68 on a board that manages the affairs of a corporation or other  
69 organization by electing or exercising control over its  
70 officers.

71 (14)(11) "Federal covered adviser" means a person that is  
72 registered or required to be registered under s. 203 of the  
73 Investment Advisers Act of 1940, as amended. The term does not  
74 include any person that is excluded from the definition of  
75 investment adviser under subparagraphs (20)(b)1.-7. (16)(b)1.-7.  
76 and 9.

77 (16) "General partner" has the same meaning as in s.  
78 620.1102 and includes a co-owner or manager of a partnership who  
79 has unlimited liability for the partnership's debts.

80 (19)(15) "Intermediary" means a natural person that  
81 residing in this state or a corporation, trust, partnership,  
82 limited liability company, association, or other legal entity  
83 registered with the Secretary of State to do business in this  
84 state, which facilitates through its website the offer or sale  
85 of securities of an issuer with a principal place of business in  
86 this state.

87 (22) "Limited liability company" has the same meaning as in

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88 s. 605.0102, including a "foreign limited liability company," as  
89 that term is defined in that section.

90 (23) "Limited liability company manager" or "limited  
91 liability managing member" means a person who is responsible  
92 alone, or in concert with others, for performing the management  
93 functions of a limited liability company.

94 (24) "Limited partner" has the same meaning as in s.  
95 620.1102 and includes a co-owner of a partnership who has  
96 limited liability for the partnership's debts.

97 (27) "Partnership" means two or more persons who are the  
98 co-owners of a business, including those operating as a "foreign  
99 limited liability limited partnership," a "foreign limited  
100 partnership," a "limited liability limited partnership," or a  
101 "limited partnership" as those terms are defined in s. 620.1102.

102 (34) "Shareholder" means a person who owns at least one  
103 share of a corporation and whose ownership is reflected in the  
104 records of the corporation.

105 (35) "Trust" has the same meaning as in s. 731.201.

106 Section 2. Subsections (7) and (9), paragraph (f) of  
107 subsection (11), and subsections (18), (19), and (20) of section  
108 517.061, Florida Statutes, are amended to read:

109 517.061 Exempt transactions.—Except as otherwise provided  
110 in subsection (11), the exemptions provided herein from the  
111 registration requirements of s. 517.07 are self-executing and do  
112 not require any filing with the office before being claimed. Any  
113 person who claims entitlement to an exemption under this section  
114 bears the burden of proving such entitlement in any proceeding  
115 brought under this chapter. The registration provisions of s.  
116 517.07 do not apply to any of the following transactions;

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117 however, such transactions are subject to s. 517.301:

118 (7) The offer or sale of securities, solely in connection  
119 with the transfer of ownership of an eligible privately held  
120 company, through a merger and acquisition broker in accordance  
121 with s. 517.12(22) ~~s. 517.12(21)~~.

122 (9) The offer or sale of securities to:

123 (a) A bank, trust company, savings institution, insurance  
124 company, dealer, investment company as defined in the Investment  
125 Company Act of 1940, 15 U.S.C. s. 80a-3, as amended, pension or  
126 profit-sharing trust, or qualified institutional buyer, whether  
127 any of such entities is acting in its individual or fiduciary  
128 capacity.

129 (b) A savings and loan association, building and loan  
130 association, cooperative bank, or credit union, which is  
131 supervised and examined by a state or federal authority having  
132 supervision over any such institution.

133 (c) A federal covered adviser, investment adviser  
134 registered pursuant to the laws of a state, exempt reporting  
135 adviser or private fund adviser as those terms are defined in s.  
136 517.12(23)(a)2. and 3., respectively, investment adviser relying  
137 on the exemption from registering with the Securities and  
138 Exchange Commission under s. 203(l) or (m) of the Investment  
139 Advisers Act of 1940, as amended, business development company  
140 as defined in s. 2(a)(48) of the Investment Company Act of 1940,  
141 as amended, or business development company as defined in s.  
142 202(a)(22) of the Investment Advisers Act of 1940, as amended.

143 (d) A small business investment company licensed by the  
144 Small Business Administration under s. 301(c) of the Small  
145 Business Investment Act of 1958, as amended, or rural business

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146 investment company as defined in s. 384A of the Consolidated  
147 Farm and Rural Development Act.

148 (e) A plan established and maintained by a state, a  
149 political subdivision thereof, or any agency or instrumentality  
150 of a state or a political subdivision, for the benefit of its  
151 employees, if such plan has total assets in excess of \$5  
152 million, an employee benefit plan within the meaning of the  
153 Employee Retirement Income Security Act of 1974 if the  
154 investment decision is made by a plan fiduciary, as described in  
155 s. 3(21) of such act, which is a bank, savings and loan  
156 association, insurance company, or federal covered adviser, or  
157 if the employee benefit plan has total assets in excess of \$5  
158 million or, if a self-directed plan, with investment decisions  
159 made solely by persons that are accredited investors.

160 (f) An organization described in s. 501(c)(3) of the  
161 Internal Revenue Code, corporation, Massachusetts trust or  
162 similar business trust, partnership, or limited liability  
163 company, not formed for the specific purpose of acquiring the  
164 securities offered, with total assets in excess of \$5 million.

165 (g) A trust, with total assets in excess of \$5 million, not  
166 formed for the specific purpose of acquiring the securities  
167 offered, whose purchase is directed by a sophisticated person as  
168 described in Securities and Exchange Commission Rule  
169 506(b)(2)(ii), 17 C.F.R. s. 230.506(b)(2)(ii), as amended.

170 (h) An entity of a type not listed in paragraphs (a)-(g) or  
171 paragraph (j) which owns investments as defined in Securities  
172 and Exchange Commission Rule 2a51-1(b), 17 C.F.R. s. 270.2a51-  
173 1(b), as amended, in excess of \$5 million and is not formed for  
174 the specific purpose of acquiring the securities offered.

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175 (i) A family office as defined in Securities and Exchange  
 176 Commission Rule 202(a)(11)(G)-1 under the Investment Advisers  
 177 Act of 1940, 17 C.F.R. s. 275.202(a)(11)(G)-1, as amended,  
 178 provided that:

179 1. The family office has assets under management in excess  
 180 of \$5 million;

181 2. The family office is not formed for the specific purpose  
 182 of acquiring the securities offered; and

183 3. The prospective investment of the family office is  
 184 directed by a person who has knowledge and experience in  
 185 financial and business matters that the family office is capable  
 186 of evaluating the merits and risks of the prospective  
 187 investment.

188 (j) An entity in which all of the equity owners are  
 189 described in paragraphs (a)-(i).

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

192 (f) The issuer files with the office a notice of  
 193 transaction on a form prescribed by commission rule, an  
 194 irrevocable written,~~a~~ consent to service of civil process in  
 195 accordance with s. 517.101, and a copy of the general  
 196 announcement within 15 days after the first sale is made in this  
 197 state. The commission may adopt by rule procedures for filing  
 198 documents by electronic means.

199 (18) Any nonissuer transaction by a registered dealer, and  
 200 any resale transaction by a sponsor of a unit investment trust  
 201 registered under the Investment Company Act of 1940, as amended,  
 202 in a security of a class that has been outstanding in the hands  
 203 of the public for at least 90 days; provided that, at the time

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204 of the transaction, the following conditions in paragraphs (a),  
 205 (b), and (c) and either paragraph (d) or paragraph (e) are met:

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

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

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

217 (d) The security is listed in a nationally recognized  
 218 securities manual designated by rule of the commission or a  
 219 document filed with and publicly viewable through the Securities  
 220 and Exchange Commission electronic data gathering and retrieval  
 221 system and contains:

222 1. A description of the business and operations of the  
 223 issuer,~~†~~

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

228 3. An audited balance sheet of the issuer as of a date  
 229 within 18 months before such transaction or, in the case of a  
 230 reorganization or merger in which parties to the reorganization  
 231 or merger had such audited balance sheet, a pro forma balance  
 232 sheet,~~† and~~

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

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

242 2. The class of security is quoted, offered, purchased, or  
 243 sold through an alternative trading system registered under  
 244 Securities and Exchange Commission Regulation ATS, 17 C.F.R. s.  
 245 242.301, as amended, and the issuer of the security has made  
 246 current information publicly available in accordance with  
 247 Securities and Exchange Commission Rule 15c2-11, 17 C.F.R. s.  
 248 240.15c2-11, as amended;

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

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

254 5. The issuer of the security has total assets of at least  
 255 \$2 million based on an audited balance sheet as of a date within  
 256 18 months before such transaction or, in the case of a  
 257 reorganization or merger in which parties to the reorganization  
 258 or merger had such audited balance sheet, a pro forma balance  
 259 sheet.

260 (19) The offer or sale of any security effected by or  
 261 through a person in compliance with s. 517.12(17) ~~s. 517.12(16)~~.

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262 (20) (a) A nonissuer transaction in an outstanding security  
 263 by or through a dealer registered or exempt from registration  
 264 under this chapter, if, at the time of the transaction, all of  
 265 the following conditions are met ~~are true~~:

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

271 ~~2. (b)~~ The security is listed on a foreign securities  
 272 exchange or foreign securities market ~~the securities exchange~~  
 273 ~~designated by this subsection or by commission rule~~, is a  
 274 security of the same issuer which is of senior or substantially  
 275 equal rank to the listed security, or is a warrant or right to  
 276 purchase or subscribe to any such security.

277 (b) The commission shall consider all of the following in  
 278 designating a foreign securities exchange or foreign securities  
 279 market for purposes of this subsection:

280 1. Organization under foreign law.

281 2. Association with a community of dealers, financial  
 282 institutions, or other professional intermediaries with an  
 283 established operating history.

284 3. Oversight by a governmental or self-regulatory body.

285 4. Oversight standards set by general law.

286 5. Reporting of securities transactions on a regular basis  
 287 to a governmental or self-regulatory body.

288 6. A system for exchange of price quotations through common  
 289 communications media.

290 7. An organized clearance and settlement system.

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291 8. Listing in Securities and Exchange Commission Regulation  
 292 S Rule 902, 17 C.F.R. s. 230.902, as amended.

293  
 294 ~~For purposes of this subsection, Canada, together with its~~  
 295 ~~provinces and territories, is designated as a foreign~~  
 296 ~~jurisdiction, and Toronto Stock Exchange, Inc., is designated as~~  
 297 ~~a securities exchange. If, after an administrative hearing in~~  
 298 ~~compliance with ss. 120.569 and 120.57, the office finds that~~  
 299 ~~revocation is necessary or appropriate in furtherance of the~~  
 300 ~~public interest and for the protection of investors, it may~~  
 301 ~~revoke the designation of a foreign securities exchange or~~  
 302 ~~foreign securities market under this subsection.~~

303 Section 3. Subsection (10) of section 517.0612, Florida  
 304 Statutes, is amended to read:

305 517.0612 Florida Invest Local Exemption.—

306 (10) The issuer must file with the office a notice of  
 307 transaction on a form prescribed by commission rule, an  
 308 irrevocable written consent to service of civil process in  
 309 accordance with s. 517.101, and a copy of the disclosure  
 310 statement described in subsection (8) at least ~~the offering with~~  
 311 ~~the office, in writing or in electronic form, in a format~~  
 312 ~~prescribed by commission rule, no less than 5 business days~~  
 313 ~~before the offering commences, along with the disclosure~~  
 314 ~~statement described in subsection (8). If there are any material~~  
 315 ~~changes to the information previously submitted, the issuer~~  
 316 ~~must, within 3 business days after such material change, file an~~  
 317 ~~amended notice.~~

318 Section 4. Paragraph (b) of subsection (2) of section  
 319 517.0614, Florida Statutes, is amended to read:

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320 517.0614 Integration of offerings.—

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

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

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

329 2. Section 517.0611 or s. 517.0612.

330 Section 5. Section 517.0616, Florida Statutes, is amended  
 331 to read:

332 517.0616 Disqualification.—

333 (1) A registration exemption under s. 517.061(11) ~~s.~~  
 334 ~~517.061(9), (10), and (11),~~ s. 517.0611, or s. 517.0612 is not  
 335 available to an issuer if, at the time the issuer makes an offer  
 336 for the sale of a security, the issuer; a predecessor of the  
 337 issuer; an affiliated issuer; a director, executive officer, or  
 338 other officer of the issuer participating in the offering; a  
 339 general partner or managing member of the issuer; a beneficial  
 340 owner of 20 percent or more of the issuer's outstanding voting  
 341 equity securities, calculated on the basis of voting power; or a  
 342 promoter connected with the issuer in any capacity at the time  
 343 of such sale that would be disqualified under Securities and  
 344 Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d), as  
 345 ~~amended, at the time the issuer makes an offer for the sale of a~~  
 346 ~~security.~~

347 (2) The disqualification under Securities and Exchange  
 348 Commission Rule 506(d), 17 C.F.R. s. 230.506(d), as amended,

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349 does not apply to any other person or entity listed in such  
350 rule.

351 Section 6. Subsection (2) of section 517.075, Florida  
352 Statutes, is amended to read:

353 517.075 Cuba, prospectus disclosure of doing business with,  
354 required.—

355 (2) Any disclosure required by subsection (1) must include:

356 (a) The name of such person, affiliate, or government with  
357 which the issuer does business and the nature of that business. ~~+~~

358 (b) A statement that the information is accurate as of the  
359 date the securities were effective with the ~~United States~~  
360 Securities and Exchange Commission or with the office, whichever  
361 date is later. ~~+~~ ~~and~~

362 (c) A statement that current information concerning the  
363 issuer's business dealings with the government of Cuba or with  
364 any person or affiliate located in Cuba may be obtained from the  
365 office, which statement must include the address and phone  
366 number of the office.

367 Section 7. Subsection (5) and paragraph (a) of subsection  
368 (9) of section 517.081, Florida Statutes, are amended to read:

369 517.081 Registration procedure.—

370 (5) ~~All of~~ The following issuers are not eligible to submit  
371 a simplified offering circular:

372 (a) An issuer that is subject to any of the  
373 disqualifications described in Securities and Exchange  
374 Commission Rule 262, 17 C.F.R. s. 230.262, as amended, or that  
375 has been or is engaged or is about to engage in an activity that  
376 would be grounds for denial, revocation, or suspension under s.  
377 517.111. For purposes of this paragraph, an issuer includes an

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378 issuer's director, officer, general partner, manager or managing  
379 member, trustee, or a person owning at least 10 percent of the  
380 ownership interests of the issuer; a promoter or selling agent  
381 of the securities to be offered; or any officer, director,  
382 partner, or manager or managing member of such selling agent.

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

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

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

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

- 397 1. The application is complete.
- 398 2. The fee imposed in subsection (8) has been paid.
- 399 3. The sale of the security would not be fraudulent and  
400 would not work or tend to work a fraud upon the purchaser.
- 401 4. The terms of the sale of such securities would be fair,  
402 just, and equitable.

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

405 Section 8. Present subsections (7) through (22) of section  
406 517.12, Florida Statutes, are redesignated as subsections (8)

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407 through (23), respectively, a new subsection (7) is added to  
 408 that section, and subsection (6), present subsection (10),  
 409 paragraph (b) of present subsection (14), and present  
 410 subsections (19), (20), and (21) of that section are amended, to  
 411 read:

412 517.12 Registration of dealers, associated persons,  
 413 intermediaries, and investment advisers.—

414 (6) The application must also contain such information as  
 415 the commission or office may require about the applicant; any  
 416 member, principal, or director of the applicant or any person  
 417 having a similar status or performing similar functions; any  
 418 person directly or indirectly controlling the applicant; or any  
 419 employee of a dealer or of an investment adviser rendering  
 420 investment advisory services. ~~Each applicant and any direct~~  
 421 ~~owners, principals, or indirect owners that are required to be~~  
 422 ~~reported on Form BD or Form ADV pursuant to subsection (14)~~  
 423 ~~shall submit fingerprints for live-scan processing in accordance~~  
 424 ~~with rules adopted by the commission. The fingerprints may be~~  
 425 ~~submitted through a third-party vendor authorized by the~~  
 426 ~~Department of Law Enforcement to provide live-scan~~  
 427 ~~fingerprinting. The costs of fingerprint processing shall be~~  
 428 ~~borne by the person subject to the background check. The~~  
 429 ~~Department of Law Enforcement shall conduct a state criminal~~  
 430 ~~history background check, and a federal criminal history~~  
 431 ~~background check must be conducted through the Federal Bureau of~~  
 432 ~~Investigation. The office shall review the results of the state~~  
 433 ~~and federal criminal history background checks and determine~~  
 434 ~~whether the applicant meets licensure requirements. The~~  
 435 ~~commission may waive, by rule, the requirement that applicants,~~

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436 ~~including any direct owners, principals, or indirect owners that~~  
 437 ~~are required to be reported on Form BD or Form ADV pursuant to~~  
 438 ~~subsection (14), submit fingerprints or the requirement that~~  
 439 ~~such fingerprints be processed by the Department of Law~~  
 440 ~~Enforcement or the Federal Bureau of Investigation. The~~  
 441 commission or office may require information about any such  
 442 applicant or person concerning such matters as:

443 (a) The applicant's or person's full name, and any other  
 444 names by which the applicant or person may have been known, and  
 445 the applicant's or person's age, social security number,  
 446 photograph, qualifications, and educational and business  
 447 history.

448 (b) Any injunction or administrative order by a state or  
 449 federal agency, national securities exchange, or national  
 450 securities association involving a security or any aspect of a  
 451 dealer's or investment adviser's regulated business and any  
 452 injunction or administrative order by a state or federal agency  
 453 regulating banking, insurance, finance, or small loan companies,  
 454 real estate, mortgage brokers, or other related or similar  
 455 industries, which injunctions or administrative orders relate to  
 456 such person.

457 (c) The applicant's or person's conviction of, or plea of  
 458 nolo contendere to, a criminal offense or the applicant's or  
 459 person's commission of any acts which would be grounds for  
 460 refusal of an application under s. 517.161.

461 (d) The names and addresses of other persons of whom the  
 462 office may inquire as to the applicant's or person's character,  
 463 reputation, and financial responsibility.

464 (7)(a)1. The following natural persons shall submit a full

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465 set of fingerprints to the Department of Law Enforcement or to a  
 466 vendor, entity, or agency authorized under s. 943.053(13) for  
 467 live-scan processing in accordance with rules adopted by the  
 468 commission:

469 a. A natural person who files an application with the  
 470 office for registration as an associated person.

471 b. A natural person who holds the title of president,  
 472 treasurer, chief executive officer, chief financial officer,  
 473 chief operations officer, chief legal officer, chief compliance  
 474 officer, or director for a dealer or investment adviser  
 475 applicant.

476 c. A natural person who owns at least 5 percent of a dealer  
 477 or investment adviser applicant.

478 d. With respect to each owner who owns at least 5 percent  
 479 of a dealer or investment adviser applicant which is a  
 480 corporation, partnership, trust, or limited liability company,  
 481 each natural person who is a 25 percent or more owner or trustee  
 482 of such entity, and each natural person who is a 25 percent or  
 483 more owner or trustee at each level up the chain of ownership up  
 484 to, but not including, an entity subject to s. 12 or s. 15(d) of  
 485 the Securities Exchange Act of 1934, as amended.

486 2. For purposes of this subsection, the term "owner" means:

487 a. A shareholder who owns a percentage of a class of voting  
 488 securities of a dealer or an investment adviser applicant, and  
 489 includes any person who owns, beneficially owns, has the right  
 490 to vote on, or has the power to sell or direct the sale of, the  
 491 percentage of a class of a voting security of the dealer or  
 492 investment adviser applicant specified in sub-subparagraph 1.c.  
 493 or 1.d. For purposes of this sub-subparagraph, a person

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494 beneficially owns any securities:

495 (I) That are owned by the shareholder's child, stepchild,  
 496 grandchild, parent, stepparent, grandparent, spouse, sibling,  
 497 mother-in-law, father-in-law, son-in-law, daughter-in-law,  
 498 brother-in-law, or sister-in-law, sharing the same residence; or

499 (II) That the shareholder has the right to acquire, within  
 500 60 days, through the exercise of any option, warrant, or right  
 501 to purchase the securities.

502 b. A general partner of a partnership, and a limited  
 503 partner of a partnership who has the right to receive upon  
 504 dissolution, or has contributed, a percentage of the capital of a  
 505 dealer or investment adviser applicant.

506 c. A trustee of a trust that owns a percentage of a class  
 507 of a voting security of a dealer or investment adviser  
 508 applicant, or that has the right to receive upon dissolution, or  
 509 has contributed, a percentage of the capital of a dealer or  
 510 investment adviser applicant.

511 d. A member of a limited liability company who has the  
 512 right to receive upon dissolution, or has contributed, a  
 513 percentage of the capital of a dealer or investment adviser  
 514 applicant, and all limited liability company managers of a  
 515 dealer or investment adviser applicant.

516 (b) A vendor, entity, or agency authorized under s.  
 517 943.053(13) to submit fingerprints electronically to the  
 518 Department of Law Enforcement shall submit the fingerprints to  
 519 the department for state processing, and the department shall  
 520 forward the fingerprints to the Federal Bureau of Investigation  
 521 for national processing.

522 (c) Fees for state and federal fingerprint processing shall



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523 be borne by the person subject to the criminal history record  
 524 check. The state cost for fingerprint processing shall be as  
 525 provided in s. 943.053(3) (e).

526 (d) The office shall review the results of the state and  
 527 federal criminal history record checks and determine whether the  
 528 applicant is disqualified from registration. The commission may  
 529 waive by rule the requirement that the persons listed in this  
 530 subsection submit fingerprints or the requirement that such  
 531 fingerprints be processed by the Department of Law Enforcement  
 532 or the Federal Bureau of Investigation. In waiving the  
 533 requirement, the commission may consider the rules and  
 534 regulations of the Securities and Exchange Commission, the model  
 535 rules and acts of the North American Securities Administrators  
 536 Association, Inc., and the rules and regulations of the  
 537 Financial Industry Regulatory Authority.

538 (11) (a) ~~(10) (a)~~ If the office finds that the applicant has  
 539 complied with the applicable registration provisions of this  
 540 chapter and the rules made pursuant hereto, it shall register  
 541 the applicant unless the applicant is otherwise disqualified for  
 542 registration pursuant to law. The registration of each dealer,  
 543 investment adviser, and associated person expires on December 31  
 544 of the year the registration became effective unless the  
 545 registrant has renewed its registration on or before that date.  
 546 Registration may be renewed by furnishing such information as  
 547 the commission may require, together with payment of the fee  
 548 required in paragraph (10) (a) ~~(9) (a)~~ for dealers, investment  
 549 advisers, or associated persons and the payment of any amount  
 550 lawfully due and owing to the office pursuant to any order of  
 551 the office or pursuant to any agreement with the office. Any

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552 dealer, investment adviser, or associated person who has not  
 553 renewed a registration by the time the current registration  
 554 expires may request reinstatement of such registration by filing  
 555 with the office, on or before January 31 of the year following  
 556 the year of expiration, such information as may be required by  
 557 the commission, together with payment of the fee required in  
 558 paragraph (10) (a) ~~(9) (a)~~ for dealers, investment advisers, or  
 559 associated persons and a late fee equal to the amount of such  
 560 fee. Any reinstatement of registration granted by the office  
 561 during the month of January shall be deemed effective  
 562 retroactive to January 1 of that year.

563 (b) The office shall waive the \$50 assessment fee for an  
 564 associated person required by paragraph (10) (a) ~~(9) (a)~~ for a  
 565 registrant renewing his or her registration who:

- 566 1. Is an active duty member of the United States Armed  
 567 Forces or the spouse of such member;
- 568 2. Is or was a member of the United States Armed Forces and  
 569 served on active duty within the 2 years preceding the  
 570 expiration date of the registration pursuant to paragraph (a).  
 571 To qualify for the fee waiver, a registrant who is a former  
 572 member of the United States Armed Forces who served on active  
 573 duty within the 2 years preceding the expiration date of the  
 574 registration must have received an honorable discharge upon  
 575 separation or discharge from the United States Armed Forces; or
- 576 3. Is the surviving spouse of a member of the United States  
 577 Armed Forces if the member was serving on active duty at the  
 578 time of death and died within the 2 years preceding the  
 579 surviving spouse's registration expiration date pursuant to  
 580 paragraph (a).

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581  
582 A registrant seeking such fee waiver must submit proof, in a  
583 form prescribed by commission rule, that the registrant meets  
584 one of the qualifications in this paragraph.

585 ~~(15)~~~~(14)~~

586 (b) In lieu of filing with the office the applications  
587 specified in subsection (5), the fees required by subsection  
588 ~~(10)~~~~(9)~~, the renewals required by subsection (11) ~~(10)~~, and the  
589 termination notices required by subsection (12) ~~(11)~~, the  
590 commission may by rule establish procedures for the deposit of  
591 such fees and documents with the Central Registration Depository  
592 or the Investment Adviser Registration Depository of the  
593 Financial Industry Regulatory Authority, as developed under  
594 contract with the North American Securities Administrators  
595 Association, Inc.

596 (20)~~(19)~~ An intermediary may not engage in business in this  
597 state unless the intermediary is registered as a dealer or as an  
598 intermediary with the office pursuant to this section to  
599 facilitate the offer or sale of securities in accordance with s.  
600 517.0611. An intermediary, in order to obtain registration, must  
601 file with the office a written application on a form prescribed  
602 by commission rule and pay a registration fee of \$200. The fees  
603 under this subsection shall be deposited into the Regulatory  
604 Trust Fund of the office. The commission may establish by rule  
605 procedures for depositing fees and filing documents by  
606 electronic means if such procedures provide the office with the  
607 information and data required by this section. Each intermediary  
608 must also file an irrevocable written consent to service of  
609 civil process, as provided in s. 517.101.

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610 (a) The application must contain such information as the  
611 commission or office may require concerning:  
612 1. The name of the applicant and address of its principal  
613 office and each office in this state.  
614 2. The applicant's form and place of organization; and, if  
615 the applicant is:  
616 a. A corporation, a copy of its articles of incorporation  
617 and amendments to the articles of incorporation;  
618 b. A limited liability company, a copy of its articles of  
619 organization and amendments to the articles and a copy of the  
620 company's operating agreement as may be amended; or  
621 c. A partnership, a copy of the partnership agreement.  
622 3. The website address where securities of the issuer will  
623 be offered.  
624 4. Contact information.  
625 (b) The application must also contain such information as  
626 the commission may require by rule about the applicant; any  
627 member, principal, or director of the applicant or any person  
628 having a similar status or performing similar functions; or any  
629 persons directly or indirectly controlling the applicant. ~~Each~~  
630 ~~applicant and any direct owners, principals, or indirect owners~~  
631 ~~that are required to be reported on a form adopted by commission~~  
632 ~~rule shall submit fingerprints for live scan processing in~~  
633 ~~accordance with rules adopted by the commission. The~~  
634 ~~fingerprints may be submitted through a third-party vendor~~  
635 ~~authorized by the Department of Law Enforcement to provide live-~~  
636 ~~scan fingerprinting. The costs of fingerprint processing shall~~  
637 ~~be borne by the person subject to the background check. The~~  
638 ~~Department of Law Enforcement shall conduct a state criminal~~

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639 ~~history background check, and a federal criminal history~~  
 640 ~~background check must be conducted through the Federal Bureau of~~  
 641 ~~Investigation. The office shall review the results of the state~~  
 642 ~~and federal criminal history background checks and determine~~  
 643 ~~whether the applicant meets registration requirements. The~~  
 644 ~~commission may waive, by rule, the requirement that applicants,~~  
 645 ~~including any direct owners, principals, or indirect owners,~~  
 646 ~~which are required to be reported on a form adopted by~~  
 647 ~~commission rule, submit fingerprints or the requirement that~~  
 648 ~~such fingerprints be processed by the Department of Law~~  
 649 ~~Enforcement or the Federal Bureau of Investigation. The~~  
 650 ~~commission, by rule, or the office may require information about~~  
 651 ~~any applicant or person, including:~~

652 1. The applicant's or person's full name and any other  
 653 names by which the applicant or person may have been known and  
 654 the applicant's or person's age, social security number,  
 655 photograph, qualifications, and educational and business  
 656 history.

657 2. Any injunction or administrative order by a state or  
 658 federal agency, national securities exchange, or national  
 659 securities association involving a security or any aspect of an  
 660 intermediary's regulated business and any injunction or  
 661 administrative order by a state or federal agency regulating  
 662 banking, insurance, finance, real estate, mortgage brokers, or  
 663 other related or similar industries, which relate to such  
 664 person.

665 3. The applicant's or person's conviction of, or plea of  
 666 nolo contendere to, a criminal offense or the applicant's or  
 667 person's commission of any acts that would be grounds for

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668 refusal of an application under s. 517.161.

669 (c)1. The following natural persons must submit a full set  
 670 of fingerprints to the Department of Law Enforcement or to a  
 671 vendor, entity, or agency authorized under s. 943.053(13) for  
 672 live-scan processing in accordance with rules adopted by the  
 673 commission:

674 a. A natural person filing an application with the office  
 675 for registration as an intermediary.

676 b. A natural person who holds the title of president,  
 677 treasurer, chief executive officer, chief financial officer,  
 678 chief operations officer, chief legal officer, chief compliance  
 679 officer, or director for an intermediary applicant.

680 c. A natural person who is a 5 percent or more owner of an  
 681 intermediary applicant.

682 d. With respect to each 5 percent or more owner of an  
 683 intermediary applicant that is a corporation, partnership,  
 684 trust, or limited liability company, each natural person who is  
 685 a 25 percent or more owner or trustee of such entity, and each  
 686 natural person who is a 25 percent or more owner or trustee at  
 687 each level up the chain of ownership up to, but not including an  
 688 entity subject to s. 12 or s. 15(d) of the Securities Exchange  
 689 Act of 1934, as amended.

690 2. For purposes of this subsection, the term "owner" means:

691 a. A shareholder who owns a percentage of a class of voting  
 692 securities of an intermediary applicant, and includes any person  
 693 who owns, beneficially owns, has the right to vote on, or has  
 694 the power to sell or direct the sale of, the percentage of a  
 695 class of a voting security of the intermediary applicant  
 696 specified in sub-subparagraph 1.c. or 1.d. For purposes of this

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697 sub-subparagraph, a person beneficially owns any securities:

698 (I) That are owned by the shareholder's child, stepchild,  
 699 grandchild, parent, stepparent, grandparent, spouse, sibling,  
 700 mother-in-law, father-in-law, son-in-law, daughter-in-law,  
 701 brother-in-law, or sister-in-law, sharing the same residence; or

702 (II) That the shareholder has the right to acquire, within  
 703 60 days, through the exercise of any option, warrant, or right  
 704 to purchase the securities.

705 b. A general partner of a partnership, and a limited  
 706 partner of a partnership who has the right to receive upon  
 707 dissolution, or has contributed, a percentage of the capital of  
 708 an intermediary applicant.

709 c. A trustee of a trust that owns a percentage of a class  
 710 of a voting security of an intermediary applicant, or that has  
 711 the right to receive upon dissolution, or has contributed, a  
 712 percentage of the capital of an intermediary applicant.

713 d. A member of a limited liability company who has the  
 714 right to receive upon dissolution, or has contributed, a  
 715 percentage of the capital of an intermediary applicant, and, all  
 716 limited liability company managers of an intermediary applicant.

717 (d) The vendor, entity, or agency authorized under s.  
 718 943.053(13) to submit fingerprints electronically to the  
 719 Department of Law Enforcement shall submit the fingerprints to  
 720 the department for state processing, and the department shall  
 721 forward the fingerprints to the Federal Bureau of Investigation  
 722 for national processing.

723 (e) Fees for state and federal fingerprint processing must  
 724 be borne by the person subject to the criminal history record  
 725 check. The state cost for fingerprint processing is as provided

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726 in s. 943.053(3) (e).

727 (f) The office shall review the results of the state and  
 728 federal criminal history record checks and determine whether the  
 729 applicant is disqualified from registration. The commission may  
 730 waive by rule the requirement that applicants, including any  
 731 persons listed in sub-subparagraphs (c)1.a.-d., submit  
 732 fingerprints or the requirement that such fingerprints be  
 733 processed by the Department of Law Enforcement or the Federal  
 734 Bureau of Investigation. In waiving the requirement, the  
 735 commission may consider the rules and regulations of the  
 736 Securities and Exchange Commission, the model rules and acts of  
 737 the North American Securities Administrators Association, Inc.,  
 738 and the rules and regulations of the Financial Industry  
 739 Regulatory Authority.

740 (g)(e) The application must be amended within 30 days if  
 741 any information contained in the form becomes inaccurate for any  
 742 reason.

743 (h)(d) An intermediary or persons affiliated with the  
 744 intermediary are not subject to any disqualification described  
 745 in s. 517.1611 or Securities and Exchange Commission Rule  
 746 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities  
 747 Act of 1933, as amended. Each director, officer, manager or  
 748 managing member, control person of the issuer, any person  
 749 occupying a similar status or performing a similar function, and  
 750 each person holding more than 20 percent of the ownership  
 751 interests of the intermediary is subject to this requirement.

752 (i)(e) If the office finds that the applicant has complied  
 753 with the applicable registration provisions of this chapter and  
 754 the rules adopted thereunder, it shall register the applicant.

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755 The registration of each intermediary expires on December 31 of  
756 the year the registration became effective unless the registrant  
757 renews his or her registration on or before that date.

758 Registration may be renewed by furnishing such information as  
759 the commission may require by rule, together with payment of a  
760 \$200 fee and the payment of any amount due to the office  
761 pursuant to any order of the office or pursuant to any agreement  
762 with the office. An intermediary who has not renewed a  
763 registration by the time that the current registration expires  
764 may request reinstatement of such registration by filing with  
765 the office, on or before January 31 of the year following the  
766 year of expiration, such information as required by the  
767 commission, together with payment of the \$200 fee and a late fee  
768 of \$200. Any reinstatement of registration granted by the office  
769 during the month of January is deemed effective retroactive to  
770 January 1 of that year.

771 ~~(21)(20)~~ The registration requirements of this section do  
772 not apply to any general lines insurance agent or life insurance  
773 agent licensed under chapter 626, with regard to the sale of a  
774 security as defined in s. 517.021(30)(g) ~~s. 517.021(25)(g)~~, if  
775 the individual is directly authorized by the issuer to offer or  
776 sell the security on behalf of the issuer and the issuer is a  
777 federally chartered savings bank subject to regulation by the  
778 Federal Deposit Insurance Corporation. Actions under this  
779 subsection constitute activity under the insurance agent's  
780 license for purposes of ss. 626.611 and 626.621.

781 (22)(a)(21)(a) As used in this subsection, the term:

782 1. "Broker" has the same meaning as "dealer" as defined in  
783 s. 517.021.

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784 2. "Business combination related shell company" means a  
785 shell company that is formed by an entity that is not a shell  
786 company solely for the purpose of:

787 a. Changing the corporate domicile of the entity solely  
788 within the United States; or

789 b. Completing a business combination transaction, as  
790 defined in 17 C.F.R. s. 230.165(f), among one or more entities  
791 other than the company itself, none of which is a shell company.

792 ~~3.2-~~ "Control person" means a person ~~an individual or~~  
793 ~~entity~~ that possesses the power, directly or indirectly, to  
794 direct the management or policies of a company through ownership  
795 of securities, by contract, or otherwise. A person is presumed  
796 to be a control person of a company if, upon completion of a  
797 transaction, the buyer or group of buyers with respect to a  
798 particular company, the person:

799 ~~a. Is a director, a general partner, a member, or a manager~~  
800 ~~of a limited liability company, or is an officer who exercises~~  
801 ~~executive responsibility or has a similar status or function;~~

802 ~~a.b-~~ Has the power to vote 25 ~~20~~ percent or more of a class  
803 of voting securities or has the power to sell or direct the sale  
804 of 25 ~~20~~ percent or more of a class of voting securities; or

805 ~~b.e-~~ In the case of a partnership or limited liability  
806 company, may receive upon dissolution, or has contributed, 25 ~~20~~  
807 percent or more of the capital.

808 ~~4.3-~~ "Eligible privately held company" means a privately  
809 held company that meets all of the following conditions:

810 a. The company does not have any class of securities which  
811 is registered, or which is required to be registered, with the  
812 ~~United States~~ Securities and Exchange Commission under the

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813 Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., as  
 814 amended, or with the office under s. 517.07, or for which the  
 815 company files, or is required to file, summary and periodic  
 816 information, documents, and reports under s. 15(d) of the  
 817 Securities Exchange Act of 1934, 15 U.S.C. s. 78o(d), as  
 818 amended.

819 b. In the fiscal year immediately preceding the fiscal year  
 820 during which the merger and acquisition broker begins to provide  
 821 services for the securities transaction, the company, in  
 822 accordance with its historical financial accounting records, has  
 823 earnings before interest, taxes, depreciation, and amortization  
 824 of less than \$25 million or has gross revenues of less than \$250  
 825 million. On July 1, 2021, and every 5 years thereafter, each  
 826 dollar amount in this sub-subparagraph shall be adjusted by  
 827 dividing the annual value of the Employment Cost Index for wages  
 828 and salaries for private industry workers, or any successor  
 829 index, as published by the Bureau of Labor Statistics, for the  
 830 calendar year preceding the calendar year in which the  
 831 adjustment is being made, by the annual value of such index or  
 832 successor index for the calendar year ending December 31, 2020  
 833 ~~2012~~, and multiplying such dollar amount by the quotient  
 834 obtained. Each dollar amount determined under this sub-  
 835 subparagraph ~~must shall~~ be rounded to the nearest multiple of  
 836 \$100,000 and adopted by commission rule.

837 ~~5.4-~~ "Merger and acquisition broker" means a ~~any~~ broker and  
 838 any person associated with a broker engaged in the business of  
 839 effecting securities transactions solely in connection with the  
 840 transfer of ownership of an eligible privately held company,  
 841 regardless of whether the ~~that~~ broker acts on behalf of a seller

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842 or buyer, through the purchase, sale, exchange, issuance,  
 843 repurchase, or redemption of, or a business combination  
 844 involving, securities or assets of the eligible privately held  
 845 company.

846 ~~6.5-~~ "Public Shell company" means a company that at the  
 847 time of a transaction with an eligible privately held company:  
 848 ~~a. Has any class of securities which is registered, or~~  
 849 ~~which is required to be registered, with the United States~~  
 850 ~~Securities and Exchange Commission under the Securities Exchange~~  
 851 ~~Act of 1934, 15 U.S.C. ss. 78a et seq., or with the office under~~  
 852 ~~s. 517.07, or for which the company files, or is required to~~  
 853 ~~file, summary and periodic information, documents, and reports~~  
 854 ~~under s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C.~~  
 855 ~~s. 78o(d).~~

856 ~~a.b-~~ Has nominal or no operations, and

857 ~~b.e-~~ Has nominal assets or no assets, assets consisting  
 858 solely of cash and cash equivalents, or assets consisting of any  
 859 amount of cash and cash equivalents and nominal other assets.

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

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

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871 2. After the transaction is completed, any person who  
 872 acquires securities or assets of the eligible privately held  
 873 company, acting alone or in concert, will be deemed to be active  
 874 in the management of the eligible privately held company or the  
 875 business conducted with the assets of the eligible privately  
 876 held company, and active in the management of the assets of the  
 877 eligible privately held company, if he or she engages in any of  
 878 the following acts or activities:

879 a. Electing executive officers.  
 880 b. Approving the annual budget.  
 881 c. Serving as an executive or other executive manager.  
 882 d. Carrying out such other activities as the commission may  
 883 by rule determine to be in the public interest.

884 ~~3.2.~~ If any person is offered securities in exchange for  
 885 securities or assets of the eligible privately held company,  
 886 such person will, before becoming legally bound to complete the  
 887 transaction, receive or be given reasonable access to the most  
 888 recent year-end financial statements of the issuer of the  
 889 securities offered in exchange. The most recent year-end  
 890 financial statements shall be customarily prepared by the  
 891 issuer's management in the normal course of operations. If the  
 892 financial statements of the issuer are audited, reviewed, or  
 893 compiled, the most recent year-end financial statements must  
 894 include any related statement by the independent certified  
 895 public accountant; a balance sheet dated not more than 120 days  
 896 before the date of the exchange offer; and information  
 897 pertaining to the management, business, results of operations  
 898 for the period covered by the foregoing financial statements,  
 899 and material loss contingencies of the issuer.

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

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

908 2. Engages on behalf of an issuer in a public offering of  
 909 any class of securities which is registered, or which is  
 910 required to be registered, with the ~~United States~~ Securities and  
 911 Exchange Commission under the Securities Exchange Act of 1934,  
 912 15 U.S.C. ss. 78a et seq., as amended, or with the office under  
 913 s. 517.07; or for which the issuer files, or is required to  
 914 file, periodic information, documents, and reports under s.  
 915 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s.  
 916 78o(d), as amended;

917 3. Engages on behalf of any party in a transaction  
 918 involving a ~~public~~ shell company, other than a business  
 919 combination related shell company;

920 4. Directly, or indirectly through any of its affiliates,  
 921 provides financing related to the transfer of ownership of an  
 922 eligible privately held company;

923 5. Assists any party to obtain financing from an  
 924 unaffiliated third party without:

925 a. Complying with all other applicable laws in connection  
 926 with such assistance, including, if applicable, Regulation T  
 927 under 12 C.F.R. ss. 220 et seq., as amended; and  
 928 b. Disclosing any compensation in writing to the party;

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929 6. Represents both the buyer and the seller in the same  
 930 transaction without providing clear written disclosure as to the  
 931 parties the broker represents and obtaining written consent from  
 932 both parties to the joint representation;

933 7. Facilitates a transaction with a group of buyers formed  
 934 with the assistance of the merger and acquisition broker to  
 935 acquire the eligible privately held company;

936 8. Engages in a transaction involving the transfer of  
 937 ownership of an eligible privately held company to a passive  
 938 buyer or group of passive buyers;

939 9. Binds a party to a transfer of ownership of an eligible  
 940 privately held company; or

941 10. Is subject to, or an officer, director, member,  
 942 manager, partner, or employee of the broker is subject to, the  
 943 following disciplinary actions:

944 a. Has been barred from association with a broker or dealer  
 945 by the Securities and Exchange Commission, any state, or any  
 946 self-regulatory organization; or

947 b. Is suspended from association with a broker or dealer.

948 ~~4. Is subject to a suspension or revocation of registration~~  
 949 ~~under s. 15(b)(4) of the Securities Exchange Act of 1934, 15~~  
 950 ~~U.S.C. s. 78o(b)(4);~~

951 ~~5. Is subject to a statutory disqualification described in~~  
 952 ~~s. 3(a)(39) of the Securities Exchange Act of 1934, 15 U.S.C. s.~~  
 953 ~~78e(a)(39);~~

954 ~~6. Is subject to a disqualification under the United States~~  
 955 ~~Securities and Exchange Commission Rule 506(d), 17 C.F.R. s.~~  
 956 ~~230.506(d); or~~

957 ~~7. Is subject to a final order described in s. 15(b)(4)(H)~~

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958 ~~of the Securities Exchange Act of 1934, 15 U.S.C. s.~~  
 959 ~~78e(b)(4)(H).~~

960 Section 9. Subsection (1), paragraph (a) of subsection (2),  
 961 and subsections (3) and (5) of section 517.131, Florida  
 962 Statutes, are amended to read:

963 517.131 Securities Guaranty Fund.—

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

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

967 (b) "Restitution order" means a court order awarding a  
 968 specified monetary amount to a named aggrieved person for a  
 969 violation of s. 517.07 or s. 517.301 to be paid by a named  
 970 violator.

971 (2)(a) The Chief Financial Officer shall establish a  
 972 Securities Guaranty Fund to provide monetary relief to victims  
 973 of securities violations under this chapter who are entitled to  
 974 monetary damages or restitution and cannot recover the full  
 975 amount of such monetary damages or restitution from the  
 976 wrongdoer. An amount not exceeding 20 percent of all revenues  
 977 received as assessment fees pursuant to s. 517.12(10) and (11)  
 978 ~~s. 517.12(9) and (10)~~ for dealers and investment advisers or s.  
 979 517.1201 for federal covered advisers and an amount not  
 980 exceeding 10 percent of all revenues received as assessment fees  
 981 pursuant to s. 517.12(10) and (11) ~~s. 517.12(9) and (10)~~ for  
 982 associated persons must be part of the regular registration  
 983 license fee and must be transferred to or deposited in the  
 984 Securities Guaranty Fund.

985 (3) A person is eligible for payment from the Securities  
 986 Guaranty Fund if the person:

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987 (a)1. Is a judgment creditor in ~~holds~~ an unsatisfied final  
 988 judgment or a named beneficiary or victim in an unsatisfied  
 989 restitution order entered on or after October 1, 2024, in which  
 990 a wrongdoer was found to have violated s. 517.07 or s. 517.301;

991 2. Has applied any amount recovered from the judgment  
 992 debtor, a person ordered to pay restitution, or any other source  
 993 to the damages awarded in a final judgment or restitution order  
 994 ~~by the court or arbitrator~~; and

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

998 (b) Is a receiver appointed pursuant to s. 517.191(2) by a  
 999 court of competent jurisdiction for a wrongdoer ordered to pay  
 1000 restitution under s. 517.191(3) as a result of a violation of s.  
 1001 517.07 or s. 517.301 which has requested payment from the  
 1002 Securities Guaranty Fund on behalf of a person eligible for  
 1003 payment under paragraph (a).

1004  
 1005 If a person holds an unsatisfied final judgment or restitution  
 1006 order entered before October 1, 2024, in which a wrongdoer was  
 1007 found to have violated s. 517.07 or s. 517.301, such person's  
 1008 claim for payment from the Securities Guaranty Fund shall be  
 1009 governed by the terms of this section and s. 517.141 which were  
 1010 effective on the date of such final judgment or restitution  
 1011 order.

1012 (5) An eligible person, or a receiver on behalf of the  
 1013 eligible person, seeking payment from the Securities Guaranty  
 1014 Fund must file with the office a written application on a form  
 1015 that the commission may prescribe by rule. The commission may

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1016 adopt by rule procedures for filing documents by electronic  
 1017 means, provided that such procedures provide the office with the  
 1018 information and data required by this section. The application  
 1019 must be filed with the office within 1 year after the date of  
 1020 the final judgment, the date on which a restitution order has  
 1021 been ripe for execution, or the date of any appellate decision  
 1022 thereon, and, at minimum, must contain all of the following  
 1023 information:

1024 (a) The eligible person's and, if applicable, the  
 1025 receiver's full names, addresses, and contact information.

1026 (b) The name of the judgment debtor or person ordered to  
 1027 pay restitution.

1028 (c) If the eligible person is a business entity, the  
 1029 eligible person's type and place of organization and, as  
 1030 applicable, a copy, as amended, of its articles of  
 1031 incorporation, articles of organization, trust agreement, or  
 1032 partnership agreement.

1033 (d) A copy of any final judgment or and a copy thereof.

1034 ~~(e) Any restitution order pursuant to s. 517.191(3), and a~~  
 1035 ~~copy thereof.~~

1036 ~~(e)-(f)~~ An affidavit from the eligible person stating either  
 1037 one of the following:

1038 1. That the eligible person has made all reasonable  
 1039 searches and inquiries to ascertain whether the judgment debtor  
 1040 or person ordered to pay restitution possesses real or personal  
 1041 property or other assets subject to being sold or applied in  
 1042 satisfaction of the final judgment or restitution order and, by  
 1043 the eligible person's search, that the eligible person has not  
 1044 discovered any property or assets.

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1045 2. That the eligible person has taken necessary action on  
1046 the property and assets of the wrongdoers but the final judgment  
1047 or restitution order remains unsatisfied.

1048 ~~(f)(g)~~ If the application is filed by the receiver, an  
1049 affidavit from the receiver stating the amount of restitution  
1050 owed to the eligible person on whose behalf the claim is filed;  
1051 the amount of any money, property, or assets paid to the  
1052 eligible person on whose behalf the claim is filed by the person  
1053 over whom the receiver is appointed; and the amount of any  
1054 unsatisfied portion of any eligible person's restitution order  
1055 of restitution.

1056 ~~(g)(h)~~ The eligible person's residence or domicile at the  
1057 time of the violation of s. 517.07 or s. 517.301 which resulted  
1058 in the eligible person's monetary damages.

1059 ~~(h)(i)~~ The amount of any unsatisfied portion of the  
1060 eligible person's final judgment or restitution order.

1061 ~~(i)(j)~~ Whether an appeal ~~or motion to vacate an arbitration~~  
1062 ~~award~~ has been filed.

1063 Section 10. Subsection (3) of section 517.301, Florida  
1064 Statutes, is amended to read:

1065 517.301 Fraudulent transactions; falsification or  
1066 concealment of facts.—

1067 (3) It is unlawful for a person in issuing or selling a  
1068 security within this state, including a security exempted under  
1069 s. 517.051 and including a transaction exempted under s.  
1070 517.061, s. 517.0611, or s. 517.0612, to misrepresent that such  
1071 security or person business entity has been guaranteed,  
1072 sponsored, recommended, or approved by the state or an agency or  
1073 officer of the state or by the United States or an agency or

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1074 officer of the United States.

1075 Section 11. Subsection (4) of section 517.34, Florida  
1076 Statutes, is amended to read:

1077 517.34 Protection of specified adults.—

1078 (4) A delay on a disbursement or transaction under  
1079 subsection (3) expires 15 business days after the date on which  
1080 the delay was first placed. However, the dealer or investment  
1081 adviser may extend the delay for up to 30 ~~40~~ additional business  
1082 days if the dealer's or investment adviser's review of the  
1083 available facts and circumstances continues to support such  
1084 dealer's or investment adviser's reasonable belief that  
1085 financial exploitation of the specified adult has occurred, is  
1086 occurring, has been attempted, or will be attempted. A dealer or  
1087 investment adviser that extends a delay must notify the office  
1088 on a form prescribed by commission rule not later than 3  
1089 business days after the date on which the extension was applied.  
1090 The notice must identify the dealer or investment adviser that  
1091 extended the delay and the date on which the delay was  
1092 originally made. The length of the delay may be shortened or  
1093 extended at any time by a court of competent jurisdiction. This  
1094 subsection does not prevent a dealer or investment adviser from  
1095 terminating a delay after communication with the parties  
1096 authorized to transact business on the account and any trusted  
1097 contact on the account.

1098 Section 12. Subsection (1) of section 517.211, Florida  
1099 Statutes, is amended to read:

1100 517.211 Private remedies available in cases of unlawful  
1101 sale.—

1102 (1) Every sale made in violation of either s. 517.07 or s.

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1103 ~~517.12(1), (3), (4), (9), (11), (13), (16), or (18)~~ ~~or~~  
 1104 ~~517.12(1), (3), (4), (8), (10), (12), (15), or (17)~~ may be  
 1105 rescinded at the election of the purchaser; however, a sale made  
 1106 in violation of the provisions of s. 517.1202(3) relating to a  
 1107 renewal of a branch office notification or in violation of the  
 1108 provisions of s. 517.12(13) ~~s. 517.12(12)~~ relating to filing a  
 1109 change of address amendment is not subject to this section. Each  
 1110 person making the sale and every director, officer, partner, or  
 1111 agent of or for the seller, if the director, officer, partner,  
 1112 or agent has personally participated or aided in making the  
 1113 sale, is jointly and severally liable to the purchaser in an  
 1114 action for rescission, if the purchaser still owns the security,  
 1115 or for damages, if the purchaser has sold the security. No  
 1116 purchaser otherwise entitled will have the benefit of this  
 1117 subsection who has refused or failed, within 30 days after  
 1118 receipt, to accept an offer made in writing by the seller, if  
 1119 the purchaser has not sold the security, to take back the  
 1120 security in question and to refund the full amount paid by the  
 1121 purchaser or, if the purchaser has sold the security, to pay the  
 1122 purchaser an amount equal to the difference between the amount  
 1123 paid for the security and the amount received by the purchaser  
 1124 on the sale of the security, together, in either case, with  
 1125 interest on the full amount paid for the security by the  
 1126 purchaser at the legal rate, pursuant to s. 55.03, for the  
 1127 period from the date of payment by the purchaser to the date of  
 1128 repayment, less the amount of any income received by the  
 1129 purchaser on the security.

1130 Section 13. Subsection (2) of section 517.315, Florida  
 1131 Statutes, is amended to read:

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1132 517.315 Fees.—All fees of any nature collected by the  
 1133 office pursuant to this chapter shall be disbursed as follows:  
 1134 (2) After the transfer required in subsection (1), the  
 1135 office shall transfer the \$50 assessment fee collected from each  
 1136 associated person under s. 517.12(10) and (11) ~~s. 517.12(9) and~~  
 1137 ~~(10)~~ and 30.44 percent of the \$100 assessment fee paid by  
 1138 dealers and investment advisers for each office in the state  
 1139 under s. 517.12(10) and (11) ~~s. 517.12(9) and (10)~~ to the  
 1140 Regulatory Trust Fund.  
 1141 Section 14. This act shall take effect upon becoming a law.

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## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Agriculture, *Chair*  
Appropriations Committee on Agriculture, Environment,  
and General Government  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Fiscal Policy  
Military and Veterans Affairs, Space, and  
Domestic Security  
Transportation

### SENATOR KEITH TRUENOW

13th District

March 11, 2025

The Honorable Jason Brodeur  
President Pro Tempore  
416 Senate Office Building  
404 So Monroe Street  
Tallahassee, FL 32399

Dear Chairman Brodeur,

I would like to request SB 988 Securities be placed on the next available Agriculture, Environment, and General Government Appropriations Committee agenda.

This good bill revises the circumstances under which securities transactions are exempt from registration requirements.

I appreciate your favorable consideration.

Sincerely,

A handwritten signature in blue ink that reads "Keith Truenow".

Senator Keith Truenow  
Senate District 13

KT/dd

cc: Giovanni Betta, Staff Director  
Julie Brass, Administrative Assistant

#### REPLY TO:

- Lake County Agricultural Center, 1951 Woodlea Road, Tavares, Florida 32778 (352) 750-3133
- 16207 State Road 50, Suite 401, Clermont, Florida 34711
- 304 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

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

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

988

Bill Number or Topic

April 10, 2025

Meeting Date

Approps on by, etc

Committee

Amendment Barcode (if applicable)

Name Anthony DiMarco

Phone (850) 224-2265

Address 1001 Thomawille Rd

Email adimarco@floridabankers.com

Street

Tallahassee FL 32303

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Bankers Assoc.

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

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

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

4/10/25

# The Florida Senate APPEARANCE RECORD

988

Meeting Date

Bill Number or Topic

Approps. B. En. & GG

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

Committee

Amendment Barcode (if applicable)

Name Ash Mason 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:

FL. Office of Financial Regulation

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

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

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

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

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/SB 1212

INTRODUCER: Banking and Insurance Committee and Senator DiCeglie and others

SUBJECT: Firefighter Health and Safety

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1212 amends the Florida Firefighters Occupational Safety and Health Act (FFOSHA) to expand several protections for firefighters. Specifically, the bill:

- Modifies the FFOSHA’s legislative intent to address work schedules, and occupational disease or suicide;
- Amends the requirement that the Division of State Fire Marshal (Division) assist in making the firefighter employee place of employment a safer place of work to include decreasing the frequency and severity of fatalities;
- Requires the Division to adopt rules regarding:
  - Firefighting gear that does not contain chemical hazards or toxic substances;
  - Limiting work schedules;
  - Establishing a telehealth service that provides access to mental health care and suicide prevention;
  - Mental health best practices; and
  - Expanding the duties and functions of the workplace safety committee and workplace safety coordinator to include evaluating suicide prevention programs;
  - The prevention of fatalities; and
  - Certain notices provided by employers;
- Requires the Division to develop means to identify individual firefighter employers with a high frequency of occupational disease and suicide;
- Requires the Division to conduct safety inspections and make recommendations to assist firefighter employers in reducing the number of occupational disease and suicide;

- Requires each firefighter employer of fewer than 20 firefighter employees with a high frequency or severity of fatalities to establish and administer a workplace safety committee or designate a workplace safety coordinator; and
- Subjects a firefighter employer to penalties for failing or refusing to comply with protections prescribed by Division rule for the prevention of injuries, fatalities, or occupational diseases.

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

The bill takes effect on July 1, 2025.

## II. Present Situation:

### Florida Division of the State Fire Marshal

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division). Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.

The Division consists of the following two bureaus: Bureau of Fire Prevention and Bureau of Fire Standards and Training. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 3,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities.

### Fire Incident Reporting Systems

Each state within the United States (U.S.) has a designated office, often called the “State Fire Marshal’s Office” or similar, which oversees fire safety and prevention efforts within the state. On the federal level, the mission of the U.S. Fire Administration (USFA), an entity of the U.S. Department of Homeland Security’s Federal Emergency Management Agency (FEMA), is to support and strengthen fire and emergency medical services and stakeholders to prepare for, prevent, mitigate and respond to all hazards.<sup>1</sup>

The National Fire Incident Reporting System (NFIRS) is a voluntary reporting standard that fire departments use to uniformly report the range of activities, from fire to emergency medical services to severe weather and natural disasters.<sup>2</sup> The NFIRS is the world’s largest, national, annual database of fire incident reporting which comprises about 70 percent of all fire incidents that occur annually in the U.S.<sup>3</sup>

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<sup>1</sup> Federal Emergency Management Agency (FEMA), United States Fire Administration (USFA), *About*, <https://www.usfa.fema.gov/about/> (last visited March 23, 2025).

<sup>2</sup> FEMA, USFA, *About NFIRS*, <https://www.usfa.fema.gov/nfirs/about/> (last visited March 23, 2025).

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



In Florida, the Department of Financial Services (DFS), Division of State Fire Marshal (Division), in consultation with various state agencies,<sup>4</sup> manages the Florida Fire Incident Reporting System (FFIRS) in conjunction with the NFIRS.<sup>5</sup> When submitting fire incident reports to the NFIRS, reporting states are subject to the NFIRS annual deadlines but may revise, correct and resubmit previous year's data until the current year's reporting deadline.<sup>6</sup> Three hundred and eighty-eight Florida fire departments are currently registered with the NFIRS, with 330 fire departments reporting data in 2022.<sup>7</sup>

### ***National Fire Incident Reporting Statistics***

In 2023, 22,695 local fire departments in the U.S. responded to an estimated 33.1 million incidents. These report incidents included 1.3 million fires, resulting in 3,670 civilian deaths, 93 firefighter deaths and 13,350 persons injured.<sup>8,9</sup> In 2025, the NFIRS reported 18 firefighter fatalities across the U.S.<sup>10</sup>

### ***Florida Fire Incident Reporting Statistics***

There are currently 1,876 fire departments in Florida.<sup>11</sup> In 2024, Florida reported 122 fire fatalities, 15,172 structure fires, 9,122 vehicle fires, and 27,153 other fires.<sup>12</sup> The Division has reported 26 fire fatalities and over 2,500 fire incidents in 2025.<sup>13</sup> Reports for fire related injuries in 2024 have not been identified on the Division's website;<sup>14</sup> however, in 2022, Florida reported an average of 8.9 injuries per 1,000 fires which is above the national average of 6.4 injuries per 1,000 fires.<sup>15</sup>

<sup>4</sup> Section 633.115(1)(b), F.S. (2012) The Division of Fire Marshal (Division) in consultation with the Florida Forestry Service of the Department of Agriculture and Consumer Services and the State Surgeon General of the Department of Health, in order to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis and reporting.

<sup>5</sup> Section 633.115, F.S. and Ch. 69A-66, F.A.C.

<sup>6</sup> FEMA, USFA, *NFIRS Reporting Guidelines*, <https://www.usfa.fema.gov/nfirs/guidelines/> (last visited March 23, 2025).

<sup>7</sup> FEMA, USFA, *Florida Fire Loss and Fire Department Profile*, <https://www.usfa.fema.gov/statistics/states/florida.html> (last visited March 24, 2025).

<sup>8</sup> Shelby Hall, *Fire loss in the United States* (Nov. 1, 2024), National Fire Protection Association, <https://www.nfpa.org/education-and-research/research/nfpa-research/fire-statistical-reports/fire-loss-in-the-united-states>

<sup>9</sup> FEMA, USFA, *About*, <https://www.usfa.fema.gov/about/> (last visited March 23, 2025).

<sup>10</sup> FEMA, USFA, *Firefighter Fatalities in the United States*, <https://apps.usfa.fema.gov/firefighter-fatalities> (last visited March 23, 2025). This data includes U.S. firefighter fatalities from January 5, 2025, to March 10, 2025.

<sup>11</sup> Florida Department of Environmental Protection, *Geospatial Open Data, Critical and Emergency Facilities*, <https://geodata.dep.state.fl.us/datasets/FDEP::critical-community-and-emergency-facilities/explore?layer=13&showTable=true> (last visited March 24, 2025).

<sup>12</sup> Department of Financial Services (DFS), Division of State Fire Marshal, Florida Fire Incident Reporting Section, *Florida Fires Interactive Data Portal, Here is what has happened in Florida in 2024*, <https://ffirs-fldsfm.hub.arcgis.com/> (last visited March 22, 2025).

<sup>13</sup> The DFS, Division of State Fire Marshal, Florida Fire Incident Reporting Section, *Fire Fatalities*, <https://ffirs-fldsfm.hub.arcgis.com/> (last visited March 24, 2025).

<sup>14</sup> The DFS, Division of State Fire Marshal, Florida Fire Incident Reporting Section, *Incident Series*, <https://ffirs-fldsfm.hub.arcgis.com/> (last visited March 22, 2025).

<sup>15</sup> FEMA, USFA, *Florida Fire Loss and Fire Department Profile*, <https://www.usfa.fema.gov/statistics/states/florida.html> (last visited March 22, 2025).

## Federal Occupational Safety and Health Administration (OSHA)

Section 18 of the OSHA Act of 1970 requires any state that assumes responsibility for development and enforcement of occupational safety and health standards for which a Federal standard has been promulgated to submit a State Plan that must include standards that are “at least as effective” as the protections provided for in the Federal OSHA program. There are 22 State Plans<sup>16</sup> covering both private sector and state and local government workers, and seven State Plans<sup>17</sup> covering only state and local government workers.<sup>18</sup> Florida follows Federal OSHA standards and does not have an approved State Plan.<sup>19</sup> Only private-sector firefighters in Florida are covered by Federal OSHA standards. When Federal OSHA standards apply and a state does not have an approved State Plan, state regulations cover public-sector firefighters and supplement protections for private-sector firefighters as long as they are not preempted due to a conflict with Federal OSHA standards.<sup>20</sup>

Several applicable Federal OSHA standards for private firefighters include:

- Fire brigades regulations which provide safety protections for general firefighter operations, focusing on structural fire response, training, and equipment standards.<sup>21</sup>
- Respiratory protection requirements address firefighter safety by requiring the use of Self-Contained Breathing Apparatus (SCBA) in oxygen-deficient, toxic, or smoke-filled environments, and testing equipment, training, and maintenance of equipment to prevent inhalation of harmful contaminants.<sup>22</sup>
- Personal protective equipment (PPE) standards require employers to provide and ensure the proper use of PPE that is free from hazards that could cause injury or illness.<sup>23</sup>
- Hazardous waste operations and emergency response protocols protect firefighters by requiring proper training, PPE, and safety procedures when responding to hazardous materials incidents, ensuring their health and safety during exposure to toxic substances, chemical spills, and emergency cleanups.<sup>24</sup>
- Hazard communication regulations require that the hazards of all chemicals are classified, and that employers and employees are notified of information concerning the classified hazards.<sup>25</sup>
- Bloodborne pathogen regulations protect firefighters by requiring exposure control plans, personal protective equipment, proper handling of contaminated materials, Hepatitis B

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<sup>16</sup> The 22 states with approved State Plans covering private and government sector are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

<sup>17</sup> The seven states with State Plans covering government sector only are: Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, and Virgin Islands,

<sup>18</sup> U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), *State Plans*, <https://www.osha.gov/stateplans> (last visited March 21, 2025).

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

<sup>20</sup> *See Gade v. National Solid Wastes Management Association*, 505 U.S. 88 (1992) (holding that OSHA preempts state occupational safety and health regulations addressing issues for which federal standards exist, unless the state has an OSHA-approved State Plan).

<sup>21</sup> 29 CFR 1910.156

<sup>22</sup> 29 CFR 1910.134

<sup>23</sup> 29 CFR 1910.132

<sup>24</sup> 29 CFR 1910.120

<sup>25</sup> 29 CFR 1910.1200

vaccinations, and post-exposure medical evaluations to reduce the risk of infection from bloodborne diseases.<sup>26</sup>

- Occupational noise exposure provisions protect firefighters by establishing limits on noise exposure, requiring hearing conservation programs, and mandating the use of hearing protection to prevent long-term hearing loss from sirens, alarms, and firefighting equipment.<sup>27</sup>

### **Florida Firefighters Occupational Safety and Health Act (FFOSHA or act)**

The FFOSHA was established in 2002.<sup>28</sup> Section 633.506, F.S., provides the legislative intent of the FFOSHA is:

- To enhance firefighter occupational safety and health through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of firefighter employee accidents, firefighter employee occupational diseases, and firefighter employee fatalities compensable under ch. 440, F.S., or otherwise;
- For the Division to develop a means by which the Division can identify individual firefighter employers with a high frequency or severity of work-related injuries, conduct safety inspections of those firefighter employers, and assist those firefighter employers in the development and implementation of firefighter employee safety and health programs; and
- For the Division to administer and enforce the FFOSHA; provide assistance to firefighter employers, firefighter employees, and insurers; and enforce the policies, rules, and standards of the FFOSHA.<sup>29</sup>

### ***Definitions***

The FFOSHA defines “firefighter employee” as “a firefighter, volunteer firefighter, or individual providing support services who is engaged in any employment, *public or private [emphasis added]*, under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, responding to or assisting with fire or medical emergencies, regardless of whether on duty, except those appointed under s. 590.02(1)(d), F.S.,” relating to, amongst others, firefighter rotorcraft pilots.<sup>30</sup> This definition suggests that public and private firefighter employees are subject to the provisions of the FFOSHA.

The FFOSHA defines “firefighter employer” as “the state and all political subdivisions of this state, all public and *quasi-public corporations [emphasis added]* in this state, and a person carrying on any employment for this state, political subdivisions of the state, and public and quasi-public corporations in this state which employs firefighter employees, except those appointed under s. 590.02(1)(d), F.S.”<sup>31</sup> “Quasi-public corporation” is not defined in the FFOSHA. However, Black’s Law Dictionary (12<sup>th</sup> ed. 2024) defines the term as “a for-profit

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<sup>26</sup> 29 CFR 1910.1030

<sup>27</sup> 29 CFR 1910.95

<sup>28</sup> Ch. 2002-404, L.O.F. See also ch. 633, F.S.

<sup>29</sup> Section 633.506, F.S.

<sup>30</sup> Section 633.504(1), F.S.

<sup>31</sup> Section 633.504(2), F.S.

corporation providing an essential public service” such as an electric company or other utility.<sup>32</sup> This definition suggests that the FFOSHA applies to private firefighter employers.

### ***Workplace Safety***

The FFOSHA requires the Division to assist in making the firefighter employee place of employment<sup>33</sup> a safer place to work and decreasing the frequency and severity of on-the-job injuries in such workplace.<sup>34</sup> The Division is given broad rule making authority to adopt rules for several reasons, such as to ensure safe working conditions,<sup>35</sup> to implement the section on workplace safety,<sup>36</sup> and to provide for live fire training that meets certain requirements that all firefighter employees must complete.<sup>37</sup> The FFOSHA also requires the DFS, amongst other things, to investigate and prescribe by rule what safety devices, safeguards, and other means of protection must be adopted for the prevention of accidents and injuries in every firefighter employee place of employment or at any fire scene; and adopt reasonable rules for the prevention of accidents, the safety, protection, and security of firefighter employees engaged in interior firefighting, and the prevention of occupational disease.<sup>38</sup>

The Division is required to adopt rules to establish employers’ cancer prevention best practices related to personal protective equipment, decontamination, fire suppression equipment, and fire stations.<sup>39</sup>

### ***High Frequency of Work-related Injuries***

The Division must develop a method to identify individual firefighter employers with a high frequency of firefighter employee work-related injuries. The Division must conduct safety inspections of such firefighter employers to ensure compliance with the FFOSHA and the Division's rules and make recommendations, and to assist such firefighter employers in reducing the number of work-related injuries. The Division is prohibited from assessing penalties because of such inspections. The firefighter employer and its insurer must be provided with a copy of any report made as a result of the inspection. The firefighter employer must submit a plan to correct any noncompliance issues, and the Division must review and approve or disapprove the plan within 60 days or the plan is deemed approved. Upon approval, the plan must be implemented.<sup>40</sup>

The FFOSHA requires firefighter employers who employ fewer than 20 firefighter employees with a high frequency or high severity of work-related injuries to establish and administer a workplace safety committee or designate a workplace safety coordinator who must establish and

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<sup>32</sup> Black’s Law Dictionary (12<sup>th</sup> ed. 2024), *Definition of Quasi-public Corporation*, available at [CORPORATION | Secondary Sources | FE | Westlaw Edge](#) (last visited Mar. 4, 2025).

<sup>33</sup> Section 633.504(3), F.S., defines “firefighter employment” or “employment” as any service performed by a firefighter employee for the firefighter employer. Section 633.504(4), F.S., defines “firefighter place of employment” or “place of employment” as the physical location at which the firefighter employee is employed or deployed.

<sup>34</sup> Section 633.508(1), F.S.

<sup>35</sup> Section 633.508(2), F.S.

<sup>36</sup> Section 633.508(5), F.S.

<sup>37</sup> Section 633.508(6), F.S.

<sup>38</sup> Section 633.508(7), F.S.

<sup>39</sup> Section 633.520(2), F.S.

<sup>40</sup> Section 633.522(1), F.S.

administer workplace safety activities.<sup>41</sup> The Division is required to adopt rules prescribing the duties and functions of such committee and coordinator which must include, amongst other things, establishing accident prevention and illness prevention programs.<sup>42</sup>

### *Penalties*

The FFOSHA provides the Division with the discretion to impose penalties against firefighter employers for violating the act for, amongst other things, failing or refusing to furnish or adopt any safety device, safeguard, or other means of protection adopted by Division rule for the prevention of accidents or occupational diseases. Penalties that may be imposed include:

- An administrative cease and desist order;
- An administrative fine of not less than \$100 or more than \$1,000 for each violation and each day a violation is committed; and
- A civil penalty of not less than \$100 nor more than \$5,000 for each day a failure or refusal continues after the firefighter employer has been given written notice of such failure or refusal.<sup>43</sup>

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

This bill expands several provisions of the Florida Firefighters Occupational Safety and Health Act (FFOSHA) to include protection of firefighters against occupational disease and suicide or fatalities, and to encourage firefighter employers to limit work schedules.

**Section 1** amends s. 633.506, F.S., relating to legislative intent, to provide the Legislature intends:

- To enhance firefighter occupational safety and health through the implementation of work schedules; and
- That the Division of the State Fire Marshal (Division) develop a means by which the Division can identify individual firefighter employers with a high frequency or severity of occupational disease or suicide.

Other technical amendments are made to the legislative intent provided for in FFOSHA.

**Section 2** amends s. 633.508, F.S., relating to workplace safety, to modify the Division's requirement to assist in making the firefighter employee place of employment a safer place of work to include decreasing the frequency and severity of fatalities.

The bill clarifies the Division's authority to adopt rules assisting and encouraging firefighter employers to maintain safe working conditions includes the establishment of a telehealth service that provides access to mental health care and suicide prevention tailored to the unique needs of firefighters. The bill requires the Division to adopt rules:

- Requiring firefighter employers to issue firefighting gear that does not contain chemical hazards or toxic substances if such gear becomes readily available on the commercial market. "Readily available" is defined to mean that more than one manufacturer offers firefighting

<sup>41</sup> Section 633.522(2), F.S.

<sup>42</sup> Section 633.522(3)(c)3., F.S.

<sup>43</sup> Section 633.526, F.S.

gear that does not contain chemical hazards or toxic substances. Authorizes the Division to recommend a phased approach in adopting rules for replacing firefighter gear that contains chemical hazards or toxic substances;

- Requiring firefighter employers to provide firefighter employees with notice of issued firefighter gear that contains or is manufactured with chemical hazards or toxic substances; and
- Encouraging firefighter employers to limit firefighter employees' work schedules not to exceed 42 hours per workweek.

The DFS's requirement to adopt reasonable rules for the prevention of occupational diseases is expanded to include reasonable rules regarding the prevention of fatalities.

**Section 3** amends s. 633.520, F.S., relating to safety and firefighter employer responsibilities, to require the Division to adopt rules regarding employers' cancer prevention best practices related to education on chemical hazards and toxic substances in protective gear and employers' mental health best practices related to resiliency, stress management, peer support, and access to mental healthcare.

**Section 4** amends s. 633.522, F.S., relating to firefighter employers and high frequency of work-related injuries, corrective plans and workplace safety committees and coordinators, to expand the Division's requirement to develop means to identify individual firefighter employers with a high frequency of work-related injuries to include identification of a high frequency of occupational disease and suicide. The Division's requirement to conduct safety inspections and make recommendations based on current safety and health practices to assist firefighter employers in reducing the number of work-related injuries is expanded to include making recommendations to assist in reducing the number of occupational disease and suicide. Each firefighter employer of fewer than 20 firefighter employees with a high frequency or severity of fatalities, in addition to work-related injuries required under current law, must establish and administer a workplace safety committee or designate a workplace safety coordinator who must establish and administer workplace safety activities. The bill expands the duties and functions of the workplace safety committee and workplace safety coordinator to include suicide prevention programs, in addition to evaluating accident prevention and illness prevention programs as required under current law.

**Section 5** amends s. 633.526, F.S., relating to firefighter employer penalties. The bill expands the Division's authority to impose any penalties provided for in current law (e.g., cease and desist order, administrative fine, or civil penalty) against any firefighter employer who fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by Division rule for the prevention of injuries or fatalities, in addition to the prevention of accidents and occupational diseases provided for under current law.

**Section 6** of the bill provides an effective date of July 1, 2025.

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

Article VII, s. 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. Under the bill, the Division is required to adopt rules that require firefighter employers, including public firefighter employers, to issue gear that does not contain chemical hazards or toxic substances when such gear is readily available. If the bill does qualify as a mandate, in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

However, the mandate requirements do not apply to laws having an insignificant fiscal impact, which for Fiscal Year 2025-2026 is forecast at approximately \$2.4 million.<sup>44,45,46</sup>

If costs imposed by the bill exceed \$2.4 million, the mandates provisions may apply. If the bill does qualify as a mandate; in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**E. Other Constitutional Issues:**

Provisions of the bill may conflict with the “home rule” of the Florida Constitution which provides “[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render

<sup>44</sup> FLA. CONST. art. VII, s. 18(d).

<sup>45</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 21, 2025).

<sup>46</sup> Florida Economic and Demographic Research, Florida Demographic Estimating Conference, *Tables, Conference Packet* (February 4, 2025). Florida Resident Population forecast for April 1, 2025, is 23,332,606. [https://edr.state.fl.us/content/conferences/population/ConferenceResults\\_Tables.pdf](https://edr.state.fl.us/content/conferences/population/ConferenceResults_Tables.pdf) (last visited March 21, 2025).

municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.<sup>47</sup>

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a negative indeterminate impact to local and state revenues and expenditures. The bill authorizes the Department of Financial Services (DFS) to adopt new or amend current rules. The DFS will need to create new procedures to identify, inspect or investigate, and determine the proper level of fines and sanctions authorized under the bill. In addition, the Division of State Fire Marshal (Division) is required to create a procedure for what would be classified as an occupational illness or injury and what would constitute a job-related suicide. The bill also mandates the adoption and regulation of new rules concerning a local workweek, requiring certain firefighter gear and establishing a requirement for notification of toxic substances in firefighting gear.<sup>48</sup> Any expenditures related to rulemaking can be absorbed within existing resources.

Currently the Division conducts investigations and makes recommendations surrounding workplace injuries and fatalities within the operations of a fire service provider, as well monitors data collected by other agencies and the fire service provider. These responsibilities are currently covered by one Safety Program Manager, two Compliance Officers, and five Other Personal Service (OPS) Safety Field Representatives. The DFS does not indicate the need for additional staff to implement provisions of the bill. The Division would need to amend cancer prevention best practices and monitor employers with high level suicide using existing research and resources for existing first responder mental health funding.

The DFS reports the bill, as it relates to the purchase of chemical and toxin free firefighting gear for each firefighter, is unknown.<sup>49</sup> In the event that chemical and toxin free firefighting gear becomes “readily available,” the impact to local and state firefighting agencies may be considerable. The impact is indeterminate. Depending on whether the Division recommends a phased approach in adopting rules for the replacement of firefighting gear that contain chemical hazards or toxic substances, the financial impact could be borne over several fiscal years.

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<sup>47</sup> Art. VIII, s. 2(b), Fla. Const.

<sup>48</sup> The DFS, *Senate Bill 1212 Legislative Bill Analysis for SB 1212* (March 17, 2025) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

<sup>49</sup> *Id.*



The Division manages the Florida Firefighter Assistance Grant Program<sup>50</sup> (Program) which provides volunteer fire departments and combination fire departments with financial assistance for training, personal protection gear, self-contained breath apparatus, safety related equipment and tools, wildland fire fighting and urban interface protective clothing and equipment, and cost share subsidy for Assistance to Firefighters Grants apparatus awards.<sup>51</sup> These grants are subject to appropriation, but should grant funds be appropriated and subsequently awarded, the cost of replacing such firefighting gear should be reduced by those agencies who meet award guidelines.

The DFS has raised concern that imposing mandatory gear designs may subject the agency to increased litigation due to the unfunded mandate, depending on the cost of the gear.<sup>52</sup>

For Fiscal Year 2025-2026, the Senate General Appropriations Acts, SB 2500,<sup>53</sup> appropriates four million dollars in nonrecurring funds from the General Revenue Fund for the Program. This funding is designated for Florida counties entirely within a fiscally constrained county or rural area of opportunity as defined in ss. 218.67 and 288.0656, F.S. House Bill 5001<sup>54</sup>, House Proposed General Appropriations Act, does not appropriate any additional funds for the Firefighter Assistance Program for Fiscal Year 2025-2026. The additional funding proposed in SB 2500 will be considered in the General Appropriations Act conference process.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

The amendments to the Florida Firefighters Occupational Safety and Health Act (FFOSHA) protect public-sector firefighters and private-sector firefighters to the extent that the provisions do not conflict with Federal Occupational Safety and Health Act (OSHA) standards, such as personal protection equipment (PPE) standards<sup>55</sup> that require safe firefighter gear, or hazard communication standards<sup>56</sup> that require notification of toxic substances in PPE. If the provisions conflict with Federal OSHA for private-sector firefighters, then Florida would need to request

<sup>50</sup> See s. 633.135, F.S. and Rule 69A-37.502, F.A.C.

<sup>51</sup> The DFS, Division, *Florida Firefighter Assistance Grant Program*, <https://www.myfloridacfo.com/division/sfm/volff/ff-grant> (last visited March 24, 2025). See also, FEMA, *Assistance to Firefighter Grants*, <https://www.fema.gov/grants/preparedness/firefighters/assistance-grants> (last visited March 24, 2024). Currently, the total available grant funds for Fiscal Year 2024-2025 is \$1,000,000. Applicants must meet all of the required requirements.

<sup>52</sup> The DFS, *Senate Bill 1212 Legislative Bill Analysis for SB 1212* (March 17, 2025) (on file with the Senate Committee on Banking and Insurance). The DFS analysis notes the cost of the gear is unclear because gear that does not contain chemical hazards and toxic substances is not readily available yet.

<sup>53</sup> SB 2500, *Specific Appropriation 2235*, available at: <https://flsenate.gov/Session/Bill/2025/2500/BillText/Filed/PDF>

<sup>54</sup> HB 5001, available at: <https://flhouse.gov/Sections/Documents/loadoc.aspx?FileName=HB+5001+As+Introduced.pdf&DocumentType=Bill&BillNumber=5001&Session=2025>

<sup>55</sup> 29 CFR 1910.132 & 1910.156

<sup>56</sup> 29 CFR 1910.1200

approval for a State Plan or risk preemption under *Gade v. National Solid Wastes Management Association*.

The Department of Financial Services (DFS) reports that Rule 69A-62, F.A.C. will need to be amended "...to create new procedures to identify, inspect/investigate, and determine the proper level of fines and sanctions." The bill also requires the DFS to create a procedure for what would be defined as an occupational disease or injury and what would constitute a job-related suicide.<sup>57</sup>

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 633.506, 633.508, 633.520, 633.522, and 633.526.

## 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 Banking and Insurance on March 17, 2025:**

- Amends the Florida Firefighters Occupational Safety and Health Act's (FFOSHA) legislative intent to refer to occupational disease, rather than occupational illness;
- Removes the Division of Fire Marshal's (Division) requirement to assist in decreasing the frequency and severity of on-the-job "occupational illnesses" in the firefighter employee place of employment workplace;
- Clarifies the Division's authority to adopt rules to assist and encourage firefighter employers to maintain safe working conditions by specifying this authority includes establishing a telehealth service that provides access to mental health care and suicide prevention for firefighters;
- Requires the Division to adopt rules related to "education on chemical hazards and toxic substances in protective gear";
- Removes the Department of Financial Services' (DFS) requirement to investigate and prescribe by rule what safety devices, safeguards, or other means of protection must be adopted for the prevention of illnesses and fatalities;
- Removes each firefighter employer's requirement to establish and administer a workplace safety committee or designate a workplace safety coordinator for occupational illnesses and modifies such requirement for suicides to fatalities;
- Removes the Division's authority to impose any penalties provided for in current law against any firefighter employer who fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by Division rule for occupational illnesses; and
- Defines "readily available" with respect to when toxic gear must be replaced.

### B. Amendments:

None.

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<sup>57</sup> The DFS, *Senate Bill 1212 Legislative Bill Analysis for SB 1212* (March 17, 2025) (on file with the Senate Committee on Banking and Insurance).

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

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By the Committee on Banking and Insurance; and Senators DiCeglie, Sharief, Calatayud, Bernard, Arrington, Pizzo, and Osgood

597-02490-25

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1 A bill to be entitled  
 2 An act relating to firefighter health and safety;  
 3 amending s. 633.506, F.S.; revising legislative  
 4 intent; amending s. 633.508, F.S.; requiring the  
 5 Division of State Fire Marshal within the Department  
 6 of Financial Services to assist in decreasing the  
 7 frequency and severity of fatalities; revising the  
 8 division's authority to adopt rules; requiring the  
 9 division to adopt rules; defining the term "readily  
 10 available"; authorizing the division to recommend a  
 11 phased approach in adopting certain rules related to  
 12 firefighting gear; amending s. 633.520, F.S.;  
 13 requiring the division to adopt rules relating to  
 14 education on chemical hazards and toxic substances in  
 15 protective gear and mental health best practices;  
 16 amending ss. 633.522 and 633.526, F.S.; conforming  
 17 provisions to changes made by the act; providing an  
 18 effective date.  
 19  
 20 Be It Enacted by the Legislature of the State of Florida:  
 21  
 22 Section 1. Section 633.506, Florida Statutes, is amended to  
 23 read:  
 24 633.506 Legislative intent.—It is the intent of the  
 25 Legislature to enhance firefighter occupational safety and  
 26 health in this ~~the~~ state through the implementation and  
 27 maintenance of policies, procedures, practices, rules, work  
 28 schedules, and standards that reduce the incidence of  
 29 firefighter employee accidents, firefighter employee

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30 occupational diseases, and firefighter employee fatalities  
 31 compensable under chapter 112, chapter 440, or otherwise. The  
 32 Legislature further intends that the division develop a means by  
 33 which the division can identify individual firefighter employers  
 34 with a high frequency or severity of work-related injuries,  
 35 occupational disease, or suicide; conduct safety inspections of  
 36 those firefighter employers; ~~r~~ and assist those firefighter  
 37 employers in the development and implementation of firefighter  
 38 employee safety and health programs. In addition, it is the  
 39 intent of the Legislature that the division administer and  
 40 enforce this part; provide assistance to firefighter employers,  
 41 firefighter employees, and insurers; and enforce the policies,  
 42 rules, and standards set forth in this part.  
 43 Section 2. Present subsection (7) of section 633.508,  
 44 Florida Statutes, is redesignated as subsection (8), a new  
 45 subsection (7) is added to that section, and subsections (1) and  
 46 (2) and paragraph (a) of present subsection (7) of that section  
 47 are amended, to read:  
 48 633.508 Workplace safety; rulemaking authority; division  
 49 authority.—  
 50 (1) The division shall assist in making the firefighter  
 51 employee place of employment a safer place to work and  
 52 decreasing the frequency and severity of on-the-job injuries and  
 53 fatalities in such workplace.  
 54 (2) The division shall have the authority to adopt rules  
 55 for the purpose of ensuring safe working conditions for all  
 56 firefighter employees by authorizing the enforcement of  
 57 effective standards; ~~r~~ by assisting and encouraging firefighter  
 58 employers to maintain safe working conditions, including, but

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59 not limited to, the establishment of a telehealth service that  
 60 provides access to mental health care and suicide prevention  
 61 specifically targeted to the unique needs of firefighters; and  
 62 ~~by~~ providing for education and training in the field of safety,  
 63 including training related to cancer and mental health risks  
 64 within the fire service. Specifically, the division may by rule  
 65 adopt the most current edition of all or any part of subparts C  
 66 through T and subpart Z of 29 C.F.R. s. 1910; the National Fire  
 67 Protection Association, Inc., Publication 1403, Standard on Live  
 68 Fire Training Evolutions, as limited by subsection (6); and ANSI  
 69 A 10.4.

70 (7) The division shall adopt rules relating to all of the  
 71 following:

72 (a) Requiring firefighter employers to issue firefighting  
 73 gear that does not contain chemical hazards or toxic substances  
 74 if such gear becomes readily available on the commercial market.  
 75 For purposes of this paragraph, the term "readily available"  
 76 means that more than one manufacturer offers firefighting gear  
 77 that does not contain chemical hazards or toxic substances. The  
 78 division may recommend a phased approach in adopting rules for  
 79 replacing firefighting gear that contains chemical hazards or  
 80 toxic substances.

81 (b) Requiring firefighter employers that issue firefighting  
 82 gear that contains or is manufactured with chemical hazards or  
 83 toxic substances to provide their firefighter employees notice  
 84 that the firefighting gear issued contains or is manufactured  
 85 with chemical hazards or toxic substances.

86 (c) Encouraging firefighter employers to implement work  
 87 schedules that do not require a firefighter employee's normally

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88 scheduled shifts to exceed 42 hours per workweek.

89 ~~(8)(7)~~ The department shall:

90 (a) Investigate and prescribe by rule what safety devices,  
 91 safeguards, or other means of protection must be adopted for the  
 92 prevention of accidents and injuries in every firefighter  
 93 employee place of employment or at any fire scene; determine  
 94 what suitable devices, safeguards, or other means of protection  
 95 for the prevention of occupational diseases must be adopted or  
 96 followed in any or all such firefighter places of employment or  
 97 at any emergency fire scene; and adopt reasonable rules for the  
 98 prevention of accidents, the safety, protection, and security of  
 99 firefighter employees engaged in interior firefighting, and the  
 100 prevention of occupational diseases and fatalities.

101 Section 3. Subsection (2) of section 633.520, Florida  
 102 Statutes, is amended to read:

103 633.520 Safety; firefighter employer responsibilities.—

104 (2) The division shall adopt rules to establish:

105 (a) Employers' cancer prevention best practices related to  
 106 personal protective equipment, decontamination, fire suppression  
 107 equipment, education on chemical hazards and toxic substances in  
 108 protective gear, and fire stations.

109 (b) Employers' mental health best practices related to  
 110 resiliency, stress management, peer support, and access to  
 111 mental health care.

112 Section 4. Subsection (1), paragraph (b) of subsection (2),  
 113 and paragraph (c) of subsection (3) of section 633.522, Florida  
 114 Statutes, are amended to read:

115 633.522 Firefighter employers; high frequency of work-  
 116 related injuries; corrective plans; workplace safety committees

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117 and coordinators; failure to implement a safety and health  
118 program; cancellation.—

119 (1) The division shall develop a means to identify  
120 individual firefighter employers with a high frequency of  
121 firefighter employee work-related injuries, occupational  
122 disease, and suicide. The division shall conduct safety  
123 inspections of those firefighter employers so identified to  
124 ensure compliance with this part or the division's rules and  
125 make recommendations based upon current safety and health  
126 practices and to assist such firefighter employers in reducing  
127 the number of work-related injuries, occupational disease, and  
128 suicide. The division may not assess penalties as a result of  
129 such inspections. Copies of any report made as the result of  
130 such an inspection shall be provided to the firefighter employer  
131 and its insurer. Firefighter employers shall submit a plan for  
132 the correction of any noncompliance issues to the division for  
133 approval in accordance with division rule. The division shall  
134 promptly review the plan submitted and approve or disapprove the  
135 plan within 60 days, or such plan shall be deemed approved. Upon  
136 approval by the division, the plan shall be implemented by the  
137 firefighter employer. If the plan is not submitted, does not  
138 provide corrective actions for all deficiencies, is not  
139 complete, or is not implemented, the fire service provider shall  
140 be subject to s. 633.526.

141 (2) In order to promote health and safety in firefighter  
142 employee places of employment in this state:

143 (b) Each firefighter employer of fewer than 20 firefighter  
144 employees with a high frequency or high severity of work-related  
145 injuries or fatalities, as identified by the division, shall

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146 establish and administer a workplace safety committee or  
147 designate a workplace safety coordinator who shall establish and  
148 administer workplace safety activities in accordance with rules  
149 adopted under this section.

150 (3) The division shall adopt rules:

151 (c) Prescribing the duties and functions of the workplace  
152 safety committee and workplace safety coordinator which include,  
153 but are not limited to:

154 1. Establishing procedures for workplace safety inspections  
155 by the committee.

156 2. Establishing procedures for investigating all workplace  
157 accidents, safety-related incidents, illnesses, and deaths.

158 3. Evaluating accident prevention, ~~and~~ illness prevention,  
159 and suicide prevention programs.

160 4. Prescribing guidelines for the training of safety  
161 committee members.

162 Section 5. Section 633.526, Florida Statutes, is amended to  
163 read:

164 633.526 Firefighter employer penalties.—If any firefighter  
165 employer violates or fails or refuses to comply with this part,  
166 or with any rule adopted by the division under such sections in  
167 accordance with chapter 120 for the prevention of injuries,  
168 accidents, or occupational diseases or with any lawful order of  
169 the division in connection with this part, or fails or refuses  
170 to furnish or adopt any safety device, safeguard, or other means  
171 of protection prescribed by division rule under this part for  
172 the prevention of accidents, injuries, fatalities, or  
173 occupational diseases, the division may:

174 (1) Issue an administrative cease and desist order,

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175 enforceable in the circuit court in the jurisdiction where the  
176 violation is occurring or has occurred.

177 (2) Assess an administrative fine against a firefighter  
178 employer of not less than \$100 or more than \$1,000 for each  
179 violation and each day a violation is committed.

180 (3) Assess against the firefighter employer a civil penalty  
181 of not less than \$100 nor more than \$5,000 for each day the  
182 violation, omission, failure, or refusal continues after the  
183 firefighter employer has been given written notice of such  
184 violation, omission, failure, or refusal. The total penalty for  
185 each violation shall not exceed \$50,000. The division shall  
186 adopt rules requiring penalties commensurate with the frequency  
187 or severity of safety violations. Hearings requested under this  
188 section shall be conducted in Tallahassee. All penalties  
189 assessed and collected under this section shall be deposited in  
190 the Insurance Regulatory Trust Fund.

191 Section 6. This act shall take effect July 1, 2025.



**THE FLORIDA SENATE**  
**SENATOR NICK DICEGLIE**  
District 18

**Ben Albritton**  
President of the Senate

**Jason Brodeur**  
President Pro Tempore

March 19, 2025

Dear Chair Brodeur,

I respectfully request that **SB 1212: Firefighter Health and Safety** be placed on the agenda of the Committee on Appropriations Committee on Agriculture, Environment, and General Government at your earliest convenience. If my office can be of any assistance to the committee, please do not hesitate to contact me at [DiCeglie.Nick@flsenate.gov](mailto:DiCeglie.Nick@flsenate.gov) or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

*Proudly Serving Pinellas County*

Appropriations Committee on Transportation, Tourism, and Economic Development,  
Chair ~ Governmental Oversight and Accountability, Vice Chair ~ Appropriations ~  
Appropriations Committee on Agriculture, Environment, and General Government ~  
Commerce and Tourism ~ Environment and Natural Resources ~ Judiciary ~ Rules ~  
Joint Select Committee on Collective Bargaining



The Florida Senate

APPEARANCE RECORD

4/10/25

Meeting Date

1212

Bill Number or Topic

Approps Com. Ag, Enviro, Gen Gov  
Committee

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

Amendment Barcode (if applicable)

Name Rocco Salvatori

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

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

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

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

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

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Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

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BILL: CS/SB 1612

INTRODUCER: Banking and Insurance Committee and Senator Grall

SUBJECT: Financial Institutions

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1612 provides various amendments to the financial institutions code. The bill:

- Amends the due dates by which time a financial institution must pay semiannual assessments and specifies the method and timing of when the semiannual assessments must be made.
- Authorizes the Office of Financial Regulation (OFR) to issue a certificate of acquisition to an acquiring financial institution after specified circumstances are met.
- Authorizes a credit union elected officer, director, or committee member to be reimbursed for certain necessary incidental expenses.
- Repeals the requirement for credit unions to maintain a regular reserve and modifies the definition of the term “equity” to remove reference to “regular reserve.”
- Removes a timeframe for certain requirements by directors of a proposed new bank or trust company.
- Modifies the period in which a proposed bank or trust company must open and conduct a general commercial bank or trust company business.

The bill has an insignificant negative fiscal impact on state revenues expenditures. See Section V., Fiscal Impact Statement.

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

## II. Present Situation:

### Financial Institutions

A financial institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency (OCC) within the U.S. Department of the Treasury or as state banks by a state regulator.<sup>1</sup>

The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, and related entities.<sup>2</sup> The OFR licenses and regulates 196 financial entities, including 57 state-chartered banks.<sup>3</sup> There are also 30 federally-chartered banks operating in Florida.<sup>4</sup>

### Banks and Trusts

#### *Creation and Opening of a New Bank of Trust Company – Federal Law*

Federally-chartered banks, publicly or privately held, must comply with rigorous regulatory requirements to become chartered.<sup>5</sup> No person is allowed to offer any national bank issued security unless certain registration requirements are filed with the OCC,<sup>6</sup> unless an exemption applies, such as nonpublic offerings.<sup>7</sup> The OCC grants approval of a charter application in two phases: preliminary approval and final approval.<sup>8</sup> Preliminary approval expires if the proposed national bank:

- Fails to raise the required capital within 12 months from the date the OCC grants preliminary approval.
- Does not commence business within 18 months from the date of preliminary approval, unless the OCC grants an extension.<sup>9</sup>

A national bank is required to raise its capital before business commences. For the OCC to issue final approval, organizers must complete all key phases of organizing the bank. Final approval means a charter for the bank has been issued and the bank can begin conducting business.<sup>10</sup>

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<sup>1</sup> Congressional Research Service, *Introduction to Financial Services: Banking*, p. 1 (January 5, 2023; Updated January 13, 2025), Congress.gov, Library of Congress, <https://crsreports.congress.gov/product/pdf/IF/IF10035> (last visited March 21, 2025).

<sup>2</sup> Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes: Ch. 655, financial institutions generally; Ch. 657, credit unions; Ch. 658, banks and trust companies; Ch. 660, trust business; Ch. 662, family trust companies; Ch. 663, international banking; Ch. 665, relating to associations; and Ch. 667, savings banks.

<sup>3</sup> The Office of Financial Regulation (OFR), *Fast Facts* (12<sup>th</sup> Ed., January 2025), <https://lofr.gov/docs/default-source/documents/fast-facts.pdf> (last visited March 21, 2025).

<sup>4</sup> The Office of the Comptroller of Currency (OCC), U.S. Department of Treasury, *National Banks Active As of 2/28/2025*, <https://www.occ.gov/topics/charters-and-licensing/financial-institution-lists/national-by-state.pdf> (March 21, 2025).

<sup>5</sup> See 12 CFR 16; Office of the Comptroller of the Currency, *Comptroller's Licensing Manual Charters*, p. 4 (December 2021), <https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/licensing-booklet-charters.html> (last visited March 21, 2025).

<sup>6</sup> 12 CFR 16.3

<sup>7</sup> 12 CFR 16.7

<sup>8</sup> The OCC, *Comptroller's Licensing Manual Charters*, p. 3 (December 2021), <https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/licensing-booklet-charters.html> (last visited March 21, 2025).

<sup>9</sup> 12 CFR 5.20(i)(6)(iv)

<sup>10</sup> The OCC, *Comptroller's Licensing Manual Charters*, p. 3 (December 2021), <https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/licensing-booklet-charters.html> (last visited March 21, 2025).

### ***Creation and Opening of a New Bank of Trust Company – Florida Law***

State laws specify requirements that a proposed new bank or trust company must comply with to be chartered. Directors are required to complete the stock offering and file with the OFR a list of subscribers of a proposed bank or trust company detailing specified information within six months of corporate existence and at least 30 days prior to opening for business.<sup>11</sup> The OFR reports “[t]he 6-month time requirement has been a problem for recent bank start-ups and is more restrictive than [the 12-month requirement] federally.”<sup>12</sup> Directors must also provide the OFR with any additional information relating to finances, business, or biography as the commission or the OFR may reasonable require for certain subscribers of stock,<sup>13</sup> and the OFR must conduct an investigation of their character and certain financial criteria.<sup>14</sup>

Banks and trust companies are required to open and conduct a general commercial bank or trust company no later than 12 months after it commences its corporate existence.<sup>15</sup> The corporation must notify the OFR, within a specified time, of its intended opening date and confirm its compliance with any orders issued by the OFR.<sup>16</sup> The OFR must conduct a preopening examination and issue a certificate of authorization to transact a general commercial bank or trust business if certain requirements are met.<sup>17</sup>

### ***Financial Institutions Assessments***

Financial institutions are required to pay semiannual assessments based on the total assets as of the last business day of June and December of each year,<sup>18</sup> covering the six-month period following the first day of the month in which they are due.<sup>19</sup> The semiannual assessments must be calculated and sent to the OFR within a 30-day period. They must be received (if by mail) or transmitted (if by wire transfer, an automated clearinghouse, or other electronic means approved by the OFR) by January and July 31 of each year. The OFR may levy late penalties of up to \$100 per day or any part of the day that a semiannual assessment is overdue unless the OFR excuses the overdue payment for good cause. The OFR may levy an administrative fine of up to \$1,000 per day for an intentional late payment of a semiannual assessment.<sup>20</sup>

### ***Certificate of Acquisition***

Florida law allows a financial institution to acquire 50 percent or more of the assets, liabilities, or a combination of both of any financial institution subject to the OFR approval and other specified conditions. For instance, both financial institutions must adopt a plan for the acquisition, assumption, or sale which must contain specified information.<sup>21</sup> The OFR is required

<sup>11</sup> Section 658.235(1), F.S.

<sup>12</sup> Office of Financial Regulation, *Senate Bill 1612 Legislative Bill Analysis* (March 10, 2025) (on file with the Senate Committee on Banking and Insurance).

<sup>13</sup> Section 658.235(2), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 658.25(1), F.S.

<sup>16</sup> Section 658.25(2), F.S.

<sup>17</sup> Section 658.25(3), F.S.

<sup>18</sup> Section 655.047(1), F.S.

<sup>19</sup> Section 655.047(3), F.S.

<sup>20</sup> Section 655.047(2), F.S.

<sup>21</sup> Section 655.414(2), F.S.

to approve or disapprove of the plan and, following adoption of the plan by the transferring financial institution, must certify in writing that the plan has been approved.<sup>22</sup> The transferring financial institution may abandon the transaction despite the members' or stockholders' approval and the OFR's certification of the plan.<sup>23</sup> Unlike the OFR's authority to issue a Certificate of Merger when two credit unions merge,<sup>24</sup> the OFR does not have authority to issue a Certificate of Acquisition when a financial institution purchases or wholly acquires another financial institution.<sup>25</sup>

### **Credit Unions**

A credit union must have a federal or state charter to operate in Florida. Credit unions are chartered and regulated as a national credit union by the National Credit Union Association (NCUA).<sup>26</sup> Such membership is limited to a group or groups with a common bond of occupation or association within a defined community. Deposits into a federal credit union allow members to become owners of the credit union, run to become a credit union official, and vote on certain matters.<sup>27</sup>

The Florida Financial Institutions Codes apply to all state-chartered credit unions.<sup>28</sup> There are approximately 138 credit unions in Florida<sup>29</sup> with 67 of them being state-chartered.<sup>30</sup> Florida law provides that any person may be admitted to a credit union upon payment of any required fee, payment of shares, and compliance with the credit union bylaws.<sup>31</sup> State-chartered credit unions operate as financial institutions except for exercising certain incidental powers authorized by law.<sup>32</sup>

### **Compensation**

A credit union's elected officer, director, or committee member, except for the chief executive officer, may not be compensated for his or her service.<sup>33</sup> Such individuals may not, directly or indirectly, participate in the deliberation or determination of any issues relating to his or her pecuniary interest or the pecuniary interest of any corporation, partnership, or association in which he or she or a member of his or her immediate family is directly or indirectly interested.<sup>34</sup>

<sup>22</sup> Section 655.414(4) and (5), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 657.065, F.S.

<sup>25</sup> Section 655.414(5), F.S.

<sup>26</sup> National Credit Union Administration (NCUA), *Overview of the Charter Application Process* (April 14, 2022), <https://ncua.gov/regulation-supervision/manuals-guides/federal-credit-union-charter-application-guide/overview-charter-application-process> (last visited March 21, 2025).

<sup>27</sup> National Credit Union Administration, *Overview of Federal Credit Unions* (April 14, 2022), <https://ncua.gov/regulation-supervision/manuals-guides/federal-credit-union-charter-application-guide/overview-federal-credit-unions> (last visited March 21, 2025).

<sup>28</sup> Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes ch. 657, credit unions.

<sup>29</sup> National Credit Union Service Organization, Credit Unions, *Florida Credit Unions*, <https://ncuso.org/credit-union/fl/> (last visited March 21, 2025).

<sup>30</sup> The Office of Financial Regulation (OFR), *Fast Facts* (12<sup>th</sup> Ed., January 2025), p. 4, <https://flofr.gov/docs/default-source/documents/fast-facts.pdf> (last visited March 21, 2025).

<sup>31</sup> Section 657.023(1), F.S.

<sup>32</sup> Section 657.031(3), F.S.

<sup>33</sup> Section 657.028(2), F.S.

<sup>34</sup> Section 657.028(5), F.S.

### ***Reserve Accounts***

Florida law requires credit unions to maintain the following reserve accounts:

- Allowance for loan and lease losses;
- Regular reserve to meet losses which must not be decreased unless the OFR approves the decrease or as provided by rule of the commission;<sup>35</sup>
- Allowance for investment losses; and
- Special reserves to protect members against losses from risk assets or extended credit when required by rule or other specified circumstances.<sup>36</sup>

In 2022, the NCUA amended federal regulations and removed the requirement for federal credit unions to maintain a regular reserve account.<sup>37</sup>

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

This bill makes various revisions to the financial institutions code.

**Section 1** amends s. 655.047, F.S., relating to assessments; financial institutions. The bill modifies the deadlines for when financial institutions must pay semiannual assessments from January 31 and July 31 to March 31 and September 30 of each year. The bill removes the distinction of the method and time for which electronic payments must be transmitted, and provides that all payments whether sent by mail, wire transfer, or automated clearinghouse, or other electronic means approved by the OFR must be received by the due date. The bill also removes the provision that specifies the assessment covers a six-month period following the first day of the month in which they are due and instead provides that the payments are for the six-month periods beginning January 1 and July 1.

The OFR reports that financial institutions are often forced to make asset estimates when determining their semiannual assessment because of the short deadlines provided for under current law. The OFR and financial institutions must recalculate the semiannual assessments once the institutions' actual total assets are determined. The bill provides for two additional months to calculate and pay the assessment which should allow for more efficiency by reducing the need for subsequent adjustments and saving the OFR and financial institutions' staff time.<sup>38</sup>

**Section 2** amends s. 655.414, F.S., relating to the acquisition of assets and assumption of liabilities, to authorize the OFR to issue a certificate of acquisition to an acquiring financial institution confirming that the acquisition, assumption, or sale transaction has been completed. The OFR suggests that issuing certificates of acquisition is "valuable to institutions for several

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<sup>35</sup> Section 657.043(2), F.S.

<sup>36</sup> Section 657.043, F.S.

<sup>37</sup> The NCUA, *Risk-Based Capital Frequently Asked Questions: Is Prompt Corrective Action (PCA) for Credit Unions Changing with the Revised Capital Adequacy Standards?* (April 14, 2022), <https://ncua.gov/regulation-supervision/regulatory-compliance-resources/risk-based-capital-rule-resources/risk-based-capital-faqs> (last visited March 21, 2025).

<sup>38</sup> Office of Financial Regulation, *Senate Bill 1612 Legislative Bill Analysis* (March 10, 2025) (on file with the Senate Committee on Banking and Insurance).

reasons including filing with local municipalities as proof of a transaction.”<sup>39</sup> Authorizing the OFR with this statutory authority would give the agency a similar power that it has with respect to issuing certificates of mergers for credit unions.

**Section 3** amends s. 657.002, F.S., relating to definitions, to amend the definition of “equity” to remove reference to “regular reserve.”

**Section 4** amends s. 657.028, F.S., relating to activities of directors, officers, committee members, employees and agents, to authorize a credit union’s elected officer, director, or committee member to be reimbursed for necessary expenses incidental to performing official credit union business.

**Section 5** amends s. 657.043 F.S., relating to reserves, to repeal the provision requiring credit unions to maintain a regular reserve to meet losses and prohibiting such reserve from being decreased without the prior written approval of the OFR or as prescribed by rule. This amendment is consistent with the removal of the regular reserve requirement from federal regulation, and allows state credit unions to close their regular reserve into undivided earnings without prior OFR approval.<sup>40</sup> Given that credit unions must still comply with the requirement to have an allowance for loan losses reserve account and given OFR’s ability to require a credit union to establish special reserves in certain circumstances, a regular reserve account has become unnecessary.<sup>41</sup> **Section 3** amends the definition of equity to remove reference to “regular reserve” since the requirement to maintain such reserve was repealed.

**Section 6** amends s. 658.235, F.S., relating to subscriptions of stock and approval of major stakeholders. The bill removes directors’ time requirement to complete a stock offering and file with the OFR a final list of subscribers with certain information within six months after commencement of corporate existence. Such offering and submission of the list must still be completed at least 30 days before the proposed bank or trust company opens. This allows more time for organizing groups to raise capital needed to start a new bank or trust company.<sup>42</sup>

**Section 7** amends s. 658.25, F.S., relating to opening for business, to modify the timeframe in which a new bank or trust company must open and conduct general commercial bank or trust business to within 18 months after the issuance of a final order of approval by the OFR, rather than no later than 12 months after the commencement of its corporate existence. This change “facilitates *de novo* bank and trust company start-ups and eliminates Florida’s disadvantage compared to federal regulations.”<sup>43</sup>

**Section 8** of the bill provides for the effective date of July 1, 2025.

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Office of Financial Regulation, *Senate Bill 1612 Legislative Bill Analysis* (March 10, 2025) (on file with the Senate Committee on Banking and Insurance).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill has a minimal impact to state revenues or expenditures.<sup>44</sup> Any expenses related to rulemaking can be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Rules 69U-120.730, 69U-110.053, and 69U-140.020, F.A.C., need to be amended to update financial institutions' new deadlines for payment of semiannual assessments.<sup>45</sup>

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.*



**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 655.047, 655.414, 657.002, 657.043, 658.235, 658.25, and 657.028.

**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 Banking and Insurance on March 17, 2025:**

- Reinstates current law that restricts credit unions from investing more than five percent of their capital in fixed assets; and
- Allows credit union elected officers, directors, or committee members to be reimbursed for certain necessary incidental expenses.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Grall

597-02491-25

20251612c1

1 A bill to be entitled  
 2 An act relating to financial institutions; amending s.  
 3 655.047, F.S.; requiring state financial institutions  
 4 to pay a semiannual assessment for specified time  
 5 periods; requiring that the semiannual assessment be  
 6 received by the Office of Financial Regulation in a  
 7 specified manner and by specified dates; amending s.  
 8 655.414, F.S.; authorizing the office to issue a  
 9 specified certificate under certain circumstances;  
 10 amending s. 657.002, F.S.; revising the definition of  
 11 the term "equity"; amending s. 657.028, F.S.;

12 authorizing elected officers, directors, or committee  
 13 members of a credit union to be reimbursed for certain  
 14 expenses; amending s. 657.043, F.S.; conforming  
 15 provisions to changes made by the act; amending s.  
 16 658.235, F.S.; revising the timeframe for certain  
 17 requirements by the directors of a proposed bank or  
 18 trust company; amending s. 658.25, F.S.; revising the  
 19 timeframe within which a bank or trust company  
 20 corporation is required to open and conduct specified  
 21 business; providing an effective date.

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

24  
 25 Section 1. Section 655.047, Florida Statutes, is amended to  
 26 read:

27 655.047 Assessments; financial institutions.—

28 (1) Each state financial institution shall pay to the  
 29 office a semiannual assessment for the 6-month periods beginning

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

597-02491-25

20251612c1

30 January 1 and July 1. Assessments must be based on the total  
 31 assets as shown on the statement of condition of the financial  
 32 institution on the last business day in December and the last  
 33 business day in June of each year.

34 (2) ~~If mailed,~~ The semiannual assessment must be received  
 35 by the office by mail, wire transfer, automated clearinghouse,  
 36 or other electronic means approved by the office on or before  
 37 March January 31 and September 30 July 31 of each year following  
 38 the semiannual assessment period. ~~If transmitted through a wire~~  
 39 ~~transfer, an automated clearinghouse, or other electronic means~~  
 40 ~~approved by the office, the semiannual assessment must be~~  
 41 ~~transmitted to the office on or before January 31 and July 31 of~~  
 42 ~~each year.~~ The office may levy a late payment penalty of up to  
 43 \$100 per day or part thereof that a semiannual assessment  
 44 payment is overdue, unless it is excused for good cause.  
 45 However, for intentional late payment of a semiannual  
 46 assessment, the office shall levy an administrative fine of up  
 47 to \$1,000 a day for each day the semiannual assessment is  
 48 overdue.

49 (3) ~~The assessments required by this section cover the 6-~~  
 50 ~~month period following the first day of the month in which they~~  
 51 ~~are due.~~ The office may prorate the amount of the semiannual  
 52 assessment; however, no portion of a semiannual assessment is  
 53 refundable.

54 Section 2. Subsection (5) of section 655.414, Florida  
 55 Statutes, is amended to read:

56 655.414 Acquisition of assets; assumption of liabilities.—

57 With prior approval of the office, and upon such conditions as  
 58 the commission prescribes by rule, a financial institution may

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20251612c1

59 acquire 50 percent or more of the assets of, liabilities of, or  
60 a combination of assets and liabilities of any other financial  
61 institution in accordance with the procedures and subject to the  
62 following conditions and limitations:

63 (5) ADOPTED PLAN; APPROVAL CERTIFICATION CERTIFICATE;  
64 ABANDONMENT; CERTIFICATE OF ACQUISITION, ASSUMPTION, OR SALE.—

65 (a) If the plan is adopted by the members or stockholders  
66 of the transferring financial institution, the president or vice  
67 president and the cashier, manager, or corporate secretary of  
68 such institution shall submit the adopted plan to the office,  
69 together with a certified copy of the resolution of the members  
70 or stockholders approving it.

71 (b) Upon receipt of the certified copies and evidence that  
72 the participating financial institutions have complied with all  
73 applicable state and federal law and rules, the office shall  
74 certify, in writing, to the participants that the plan has been  
75 approved.

76 (c) Notwithstanding approval of the members or stockholders  
77 or certification by the office, the board of directors of the  
78 transferring financial institution may abandon the such a  
79 transaction without further action or approval by the members or  
80 stockholders, subject to the rights of third parties under any  
81 contracts relating thereto.

82 (d) After the acquiring financial institution completes the  
83 plan and submits a request with any evidence required by the  
84 office to confirm the transaction's completion, the office may  
85 issue a certificate to the acquiring financial institution  
86 confirming that the acquisition, assumption, or sale transaction  
87 has been completed.

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597-02491-25

20251612c1

88 Section 3. Subsection (6) of section 657.002, Florida  
89 Statutes, is amended to read:

90 657.002 Definitions.—As used in this chapter:

91 (6) "Equity" means undivided earnings, ~~regular reserves,~~  
92 and other reserves.

93 Section 4. Subsection (2) of section 657.028, Florida  
94 Statutes, is amended to read

95 657.028 Activities of directors, officers, committee  
96 members, employees, and agents.—

97 (2) An elected officer, director, or committee member,  
98 other than the chief executive officer, may not be compensated  
99 for her or his service to the credit union but an elected  
100 officer, director, or committee member may be reimbursed for  
101 necessary expenses incidental to performing official business  
102 for the credit union as such.

103 Section 5. Subsections (2) and (4) of section 657.043,  
104 Florida Statutes, are amended to read:

105 657.043 Reserves.—

106 ~~(2) REGULAR RESERVE. The regular reserve shall belong to~~  
107 ~~the credit union and shall be used to meet losses. The regular~~  
108 ~~reserve may not be decreased without the prior written approval~~  
109 ~~of the office or as provided by rule of the commission.~~

110 (3)(4) SPECIAL RESERVES.—In addition to such regular  
111 ~~reserve,~~ Special reserves shall be established:

112 (a) To protect members against losses resulting from credit  
113 extended or from risk assets when required by rule, or when  
114 found by the office, in any special case, to be necessary for  
115 that purpose; or

116 (b) As authorized by the board of directors.

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597-02491-25

20251612c1

117 Section 6. Subsection (1) of section 658.235, Florida  
118 Statutes, is amended to read:

119 658.235 Subscriptions for stock; approval of major  
120 shareholders.—

121 (1) ~~Within 6 months after commencement of corporate~~  
122 ~~existence, and~~ At least 30 days before ~~prior to~~ opening, the  
123 directors shall have completed the stock offering and shall file  
124 with the office a final list of subscribers to all of the  
125 capital stock of the proposed bank or trust company showing the  
126 name and residence of each subscriber and the amount of stock of  
127 every class subscribed for by each.

128 Section 7. Subsection (1) of section 658.25, Florida  
129 Statutes, is amended to read:

130 658.25 Opening for business.—

131 (1) A bank or trust company corporation shall open and  
132 conduct a general commercial bank or trust business within 18  
133 months after the issuance of a final order of approval by the  
134 office ~~no later than 12 months after the commencement of its~~  
135 ~~corporate existence.~~

136 Section 8. This act shall take effect July 1, 2025.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Brodeur, Chair  
Appropriations Committee on Agriculture, Environment, and General  
Government

**Subject:** Committee Agenda Request

**Date:** March 20, 2025

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I respectfully request that **Senate Bill #1612**, relating to Financial Institutions, be placed on the:

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

A handwritten signature in blue ink that reads "Erin K. Grall".

---

Senator Erin Grall  
Florida Senate, District 29



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ERIN GRALL**  
29th District

**COMMITTEES:**

Children, Families, and Elder Affairs, *Chair*  
Agriculture, *Vice Chair*  
Appropriations  
Appropriations Committee on Agriculture, Environment,  
and General Government  
Appropriations Committee on Transportation, Tourism,  
and Economic Development  
Ethics and Elections  
Governmental Oversight and Accountability

**SELECT COMMITTEE:**

Joint Select Committee on Collective Bargaining

**JOINT COMMITTEE:**

Joint Administrative Procedures Committee,  
*Alternating Chair*

April 9, 2025

Dear Chair Brodeur,

Please accept this letter as notification that Senator McClain will be presenting SB 1612, Financial Institutions in the Appropriations Committee on Agriculture, Environment, and General Government on Thursday, April 10, 2025.

Please let me know if you need any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Erin K. Grall".

Erin Grall

REPLY TO:

- 3209 Virginia Avenue, Suite A149, Fort Pierce, Florida 34981 (772) 595-1398
- 1069 U.S. Highway 27 North, Lake Placid, Florida 33852 (863) 699-1080
- 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

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

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

04/10/25

Meeting Date

1612

Bill Number or Topic

AFG

Committee

Amendment Barcode (if applicable)

Name Christopher Hodge

Phone 850-375-2532

Address 3652 Coolidge Ct.

Email Christopher.Hodge@the-league.coop

Street

Tallahassee

City

FL

State

32311

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Credit Union 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

April 10, 2025  
Meeting Date

1612  
Bill Number or Topic

Appropr on Ag, etc  
Committee

Amendment Barcode (if applicable)

Anthony DiMarco  
Name

(850) 224-7247  
Phone

100, Thomasville Rd  
Address  
Street

adimarco@flbankers.com  
Email

Tallahassee FL 32303  
City State Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:  
Florida Bankers Assoc

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

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

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



2/10/25

# The Florida Senate APPEARANCE RECORD

1612

Meeting Date

Bill Number or Topic

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

Approps Ag., En. & GA  
Committee

Amendment Barcode (if applicable)

Name Ash Mason

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:

*FL. Office of Financial Regulation*

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

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

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



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ERIN GRALL**  
29th District

April 9, 2025

Dear Chair Brodeur,

I respectfully request an excused absence from the Appropriations Committee on Agriculture, Environment, and General Government on April 10, 2025 at 11:00am.

Thank you for your consideration,

A handwritten signature in blue ink that reads "Erin K. Grall".

---

Senator Erin Grall  
Florida Senate, District 29

**COMMITTEES:**  
Education Postsecondary, *Chair*  
Agriculture  
Appropriations  
Appropriations Committee on Agriculture,  
Environment, and General Government  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Education Pre-K -12  
Ethics and Elections

**SELECT COMMITTEE:**  
Select Committee on Resiliency

**JOINT COMMITTEE:**  
Joint Administrative Procedures Committee

**REPLY TO:**

- 3209 Virginia Avenue, Suite A149, Fort Pierce, Florida 34981 (772) 595-1398
- 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

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

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

# CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Appropriations Committee on Agriculture, Environment, and General Government

Judge:

Started: 4/10/2025 11:00:43 AM

Ends: 4/10/2025 12:02:48 PM

Length: 01:02:06

11:00:46 AM Sen. Brodeur (Chair)  
11:01:45 AM S 978  
11:01:47 AM Sen. Berman  
11:02:48 AM Sen. Brodeur  
11:03:06 AM Sen. Berman  
11:03:08 AM Sen. Brodeur  
11:03:43 AM S 1388  
11:03:53 AM Sen. Trumbull  
11:04:00 AM Sen. Brodeur  
11:04:02 AM Am. 243006  
11:04:10 AM Sen. Trumbull  
11:05:43 AM Sen. Brodeur  
11:05:57 AM S 1388 (cont.)  
11:06:05 AM Sen. Berman  
11:06:15 AM Sen. Trumbull  
11:06:24 AM Sen. Berman  
11:06:32 AM Sen. Trumbull  
11:07:08 AM Sen. Brodeur  
11:07:13 AM Sen. Berman  
11:07:20 AM Sen. Trumbull  
11:07:32 AM Sen. Brodeur  
11:07:37 AM Travis Moore, Lobbyist, Defenders of Wildlife  
11:09:05 AM Sen. Brodeur  
11:09:13 AM Sen. Berman  
11:09:29 AM Sen. Brodeur  
11:09:31 AM Sen. Truenow  
11:10:06 AM Sen. Brodeur  
11:10:11 AM Sen. Trumbull  
11:10:48 AM Sen. Brodeur  
11:11:28 AM S 880  
11:11:32 AM Sen. Rodriguez  
11:12:13 AM Sen. Brodeur  
11:12:18 AM Sen. Burton  
11:12:33 AM Sen. Rodriguez  
11:13:13 AM Sen. Brodeur  
11:13:20 AM Olyvia Collins  
11:15:27 AM Jackson Oberlink  
11:18:14 AM Sen. Brodeur  
11:18:21 AM Sen. Burton  
11:18:59 AM Sen. Brodeur  
11:19:06 AM Sen. Burton  
11:19:11 AM Sen. Brodeur  
11:19:18 AM Sen. Rodriguez  
11:19:44 AM Sen. Brodeur  
11:20:17 AM S 830  
11:20:22 AM Sen. Rodriguez  
11:21:10 AM Sen. Brodeur  
11:21:13 AM Am. 912704  
11:21:15 AM Sen. Rodriguez  
11:21:25 AM Sen. Brodeur  
11:21:31 AM S 830 (cont.)  
11:21:39 AM Robert Reyes, Lobbyist, Monroe County (waives in support)

11:21:42 AM Sen. Brodeur  
11:21:47 AM Sen. Rodriguez  
11:21:50 AM Sen. Brodeur  
11:22:24 AM S 1326  
11:22:26 AM Sen. Rodriguez  
11:22:45 AM Sen. Brodeur  
11:22:49 AM Am. 848396  
11:22:54 AM Sen. Rodriguez  
11:23:11 AM Sen. Brodeur  
11:23:23 AM S 1326 (cont.)  
11:23:30 AM Robert Reyes, Lobbyist, Monroe County (waives in support)  
11:23:33 AM Kim Dinkins, Lobbyist, 1000 Friends of Florida (waives in support)  
11:23:37 AM Sen. Brodeur  
11:23:40 AM Sen. Rodriguez  
11:23:44 AM Sen. Brodeur  
11:24:17 AM S 490  
11:24:22 AM Sen. Collins  
11:25:04 AM Sen. Brodeur  
11:25:09 AM William Smith, Lobbyist, Florida Police Benevolent Association (waives in support)  
11:25:12 AM Sen. Brodeur  
11:25:17 AM Sen. Collins  
11:25:18 AM Sen. Brodeur  
11:25:52 AM S 26  
11:25:58 AM Sen. Gruters  
11:27:03 AM Sen. Brodeur  
11:27:16 AM Sen. Pizzo  
11:27:38 AM Sen. Brodeur  
11:27:44 AM Sen. Gruters  
11:28:05 AM Sen. Brodeur  
11:28:39 AM S 988  
11:28:45 AM Sen. Truenow  
11:29:43 AM Sen. Brodeur  
11:29:47 AM Anthony DiMarco, Lobbyist, Florida Bankers Association (waives in support)  
11:29:51 AM Ash Mason, Lobbyist, Florida Office of Financial Regulation (waives in support)  
11:29:55 AM Sen. Brodeur  
11:30:02 AM Sen. Truenow  
11:30:04 AM Sen. Brodeur  
11:30:34 AM S 1212  
11:30:40 AM Sen. DiCeglie  
11:31:40 AM Sen. Brodeur  
11:31:46 AM Rocco Salvatori, Lobbyist, Florida Professional Firefighters  
11:32:28 AM Sen. Brodeur  
11:32:38 AM Sen. Collins  
11:33:44 AM Sen. Brodeur  
11:33:49 AM Sen. DiCeglie  
11:34:39 AM Sen. Brodeur  
11:35:15 AM S 196  
11:35:20 AM Sen. Gruters  
11:35:55 AM Sen. Brodeur  
11:35:57 AM Am. 773420  
11:36:05 AM Sen. Gruters  
11:36:33 AM Sen. Brodeur  
11:36:39 AM Sen. Calatayud  
11:37:20 AM Sen. Brodeur  
11:37:23 AM Sen. Sharief  
11:37:31 AM Sen. Brodeur  
11:37:44 AM Sen. Sharief  
11:37:50 AM Sen. Gruters  
11:37:56 AM Sen. Sharief  
11:38:04 AM Sen. Brodeur  
11:38:16 AM S 196 (cont.)  
11:38:23 AM Sen. Gruters

11:38:40 AM Sen. Sharief  
11:38:51 AM Sen. Brodeur  
11:38:59 AM Sen. Gruters  
11:39:08 AM Sen. Brodeur  
11:39:42 AM S 1300  
11:39:45 AM Sen. Simon  
11:40:56 AM Sen. Brodeur  
11:41:02 AM Captain TJ Sanders (waives in support)  
11:41:07 AM Kim Dinkins, Lobbyist, 1000 Friends of Florida (waives in support)  
11:41:10 AM Kahreem Golden, Lobbyist, The Nature Conservancy (waives in support)  
11:41:15 AM Adrienne Johnson, Florida Shellfish Aquaculture Association (waives in support)  
11:41:21 AM Hunter Leavine  
11:43:30 AM Jeff Wren  
11:44:13 AM Sen. Brodeur  
11:44:24 AM Sen. Simon  
11:44:51 AM Sen. Brodeur  
11:45:24 AM S 1612  
11:45:31 AM Sen. McClain  
11:46:30 AM Sen. Brodeur  
11:46:36 AM Christopher Hodge, Lobbyist, Florida Credit Union Association (waives in support)  
11:46:41 AM Anthony DiMarco, Lobbyist, Florida Bankers Association (waives in support)  
11:46:45 AM Ash Mason, Lobbyist, Florida Office of Financial Regulation (waives in support)  
11:46:50 AM Sen. Brodeur  
11:46:57 AM Sen. McClain  
11:46:59 AM Sen. Brodeur  
11:47:30 AM S 492  
11:47:38 AM Sen. McClain  
11:47:40 AM Sen. Brodeur  
11:47:42 AM Am. 694246  
11:47:48 AM Sen. McClain  
11:49:40 AM Sen. Brodeur  
11:50:02 AM S 492 (cont.)  
11:50:26 AM Elizabeth Alvi, Lobbyist, Audubon Florida  
11:53:15 AM Sen. Brodeur  
11:53:17 AM Sen. Pizzo  
11:53:57 AM E. Alvi  
11:54:50 AM Sen. Pizzo  
11:55:10 AM E. Alvi  
11:55:54 AM Sen. Pizzo  
11:56:26 AM Sen. Brodeur  
11:56:29 AM Cameron Fink, Lobbyist, Associated Industries of Florida (waives in support)  
11:56:32 AM Chris Lyon, Lobbyist, Florida Association of Mitigation Bankers (waives in support)  
11:56:38 AM Kim Dinkins, Lobbyist, 1000 Friends of Florida (waives in opposition)  
11:56:42 AM Kahreem Golden, Lobbyist, The Nature Conservancy (waives in opposition)  
11:56:58 AM Sen. Brodeur  
11:57:05 AM Sen. McClain  
11:59:15 AM Sen. Brodeur  
11:59:57 AM TABS 1 - 5 Senate Confirmation Hearings  
12:00:11 PM Sen. Pizzo  
12:00:14 PM Sen. Brodeur  
12:00:16 PM Sen. Pizzo  
12:00:17 PM Sen. Brodeur  
12:00:18 PM Sen. Pizzo  
12:00:20 PM Sen. Brodeur  
12:00:28 PM Kahreem Golden, Lobbyist, The Nature Conservancy (waives in support)  
12:00:36 PM Sen. Brodeur  
12:01:21 PM Sen. Rodriguez  
12:01:27 PM Sen. Brodeur  
12:01:29 PM Sen. DiCeglie  
12:01:34 PM Sen. Brodeur  
12:01:36 PM Sen. Pizzo  
12:01:40 PM Sen. Brodeur

**12:01:46 PM** Sen. Berman  
**12:01:59 PM** Sen. Brodeur  
**12:02:00 PM** Sen. McClain  
**12:02:08 PM** Sen. Brodeur  
**12:02:15 PM** Sen. Truenow  
**12:02:29 PM** Sen. Brodeur