

<b>Tab 1</b>	<b>CS/CS/SB 166</b> by <b>CM, RI, Steube (CO-INTRODUCERS) Brandes, Hutson, Young;</b> (Compare to CS/H 00141) Alcoholic Beverages						
761514	D	S	L	RCS	AGG, Steube	Delete everything after	04/14 01:57 PM
<b>Tab 2</b>	<b>CS/SB 168</b> by <b>GO, Latvala (CO-INTRODUCERS) Steube, Campbell;</b> (Compare to H 00247) Salaries of Specified Officers and Firefighters						
<b>Tab 3</b>	<b>CS/SB 400</b> by <b>RI, Perry;</b> (Similar to CS/CS/CS/H 00689) Alcoholic Beverages						
404846	A	S		RCS	AGG, Perry	btw L.334 - 335:	04/14 02:01 PM
<b>Tab 4</b>	<b>CS/CS/SB 554</b> by <b>CM, RI, Young (CO-INTRODUCERS) Latvala;</b> (Similar to H 00679) Craft Breweries						
<b>Tab 5</b>	<b>CS/SB 590</b> by <b>JU, Brandes (CO-INTRODUCERS) Stargel, Gibson;</b> (Similar to CS/CS/CS/H 01337) Child Support and Parenting Time Plans						
377888	D	S		RCS	AGG, Brandes	Delete everything after	04/14 02:07 PM
199492	AA	S	L	RCS	AGG, Brandes	Delete L.592:	04/14 02:07 PM
<b>Tab 6</b>	<b>CS/SB 594</b> by <b>BI, Garcia;</b> (Similar to H 00347) Consumer Finance						
<b>Tab 7</b>	<b>SB 814</b> by <b>Broxson;</b> (Similar to CS/H 00307) Florida Life and Health Insurance Guaranty Association						
<b>Tab 8</b>	<b>CS/SB 872</b> by <b>BI, Rouson;</b> (Similar to H 00595) Consumer Finance Loans						
723518	A	S		RCS	AGG, Rouson	Delete L.679:	04/14 02:28 PM
<b>Tab 9</b>	<b>CS/SB 1310</b> by <b>GO, Mayfield;</b> (Identical to CS/H 01141) State Employment						

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS SUBCOMMITTEE ON GENERAL**  
**GOVERNMENT**  
**Senator Grimsley, Chair**  
**Senator Bean, Vice Chair**

**MEETING DATE:** Thursday, April 13, 2017  
**TIME:** 2:30—3:30 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Grimsley, Chair; Senator Bean, Vice Chair; Senators Broxson, Campbell, Garcia, Mayfield, Rodriguez, Rouson, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/CS/SB 166</b> Commerce and Tourism / Regulated Industries / Steube (Compare CS/H 141)	Alcoholic Beverages; Providing that the ownership, management, operation, or control of up to three vendor's licenses for the sale of alcoholic beverages by a designated Florida Craft Distillery is not prohibited under specified laws; requiring the Division of Alcoholic Beverages and Tobacco to issue permits to designated Florida Craft Distilleries to conduct certain tastings and sales; specifying authorized products for sale by craft distilleries; permitting craft distilleries to retain and renew a vendor's license under specified circumstances, etc.  RI 02/08/2017 Fav/CS CM 04/03/2017 Fav/CS AGG 04/13/2017 Fav/CS AP	Fav/CS Yeas 7 Nays 2
2	<b>CS/SB 168</b> Governmental Oversight and Accountability / Latvala (Compare H 247)	Salaries of Specified Officers and Firefighters; Requiring each state agency that employs law enforcement officers, correctional officers, correctional probation officers, and firefighters to provide a monthly salary adjustment, etc.  GO 03/27/2017 Fav/CS AGG 04/13/2017 Favorable AP	Favorable Yeas 9 Nays 0
3	<b>CS/SB 400</b> Regulated Industries / Perry (Similar CS/CS/H 689)	Alcoholic Beverages; Authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to appoint division personnel; revising the entities that may issue a certificate indicating an alcoholic beverage license applicant's place of business meets all of the sanitary requirements of the state; revising provisions authorizing a restaurant to allow a patron to remove a resealed wine container from a restaurant for off-premises consumption, etc.  RI 02/22/2017 Temporarily Postponed RI 03/15/2017 Fav/CS AGG 04/13/2017 Fav/CS AP	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**Appropriations Subcommittee on General Government  
Thursday, April 13, 2017, 2:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/CS/SB 554</b> Commerce and Tourism / Regulated Industries / Young (Similar H 679)	Craft Breweries; Exempting certain vendors from specified delivery restrictions under certain circumstances; providing that certain manufacturers may transport malt beverages in vehicles owned or leased by certain persons other than the manufacturers, etc.  RI 02/22/2017 Fav/CS CM 03/27/2017 Fav/CS AGG 04/13/2017 Temporarily Postponed AP	Temporarily Postponed
5	<b>CS/SB 590</b> Judiciary / Brandes (Similar CS/H 1337)	Child Support and Parenting Time Plans; Authorizing the Department of Revenue to establish parenting time plans agreed to by both parents in Title IV-D child support actions; providing the purpose and requirements for Title IV-D Standard Parenting Time Plans; requiring the department to refer parents who do not agree on a parenting time plan to a circuit court; authorizing the department to incorporate either an agreed-upon parenting time plan or a Title IV-D Standard Parenting Time Plan in a child support order, etc.  CF 03/06/2017 Favorable JU 03/28/2017 Fav/CS AGG 04/13/2017 Fav/CS AP	Fav/CS Yeas 8 Nays 0
6	<b>CS/SB 594</b> Banking and Insurance / Garcia (Similar H 347)	Consumer Finance; Authorizing a licensee under the Florida Consumer Finance Act to charge, contract for, and receive a specified interest rate on certain loans; specifying limitations for delinquency charges; revising a provision authorizing insufficient funds fees under certain circumstances, etc.  BI 03/27/2017 Fav/CS AGG 04/13/2017 Favorable AP RC	Favorable Yeas 6 Nays 3
7	<b>SB 814</b> Broxson (Similar CS/H 307)	Florida Life and Health Insurance Guaranty Association; Revising applicability of the Florida Life and Health Insurance Guaranty Association Act as to specified annuity contracts; specifying the association's maximum liability as to certain health insurance policies, etc.  BI 03/14/2017 Favorable AGG 04/13/2017 Favorable AP	Favorable Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Subcommittee on General Government  
Thursday, April 13, 2017, 2:30—3:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>CS/SB 872</b> Banking and Insurance / Rouson (Similar H 595)	Consumer Finance Loans; Establishing the Access to Responsible Credit Pilot Program within the Office of Financial Regulation; prohibiting a person from certain activities relating to program loans unless the person obtains a pilot program license from the office; providing requirements for and limitations on program loans; requiring arrangements between a program licensee and a referral partner to be specified in a written agreement; requiring the office to examine program licensees at specified intervals beginning on a specified date, etc.  BI 03/27/2017 Fav/CS AGG 04/13/2017 Fav/CS AP	Fav/CS Yeas 5 Nays 3
9	<b>CS/SB 1310</b> Governmental Oversight and Accountability / Artilles (Identical CS/H 1141)	State Employment; Repealing provisions relating to Florida State Employees' Charitable Campaign; prohibiting an organization, entity, or person from intentionally soliciting state employees for fundraising or business purposes within specified areas during specified times, etc.  GO 04/03/2017 Fav/CS AGG 04/13/2017 Favorable AP	Favorable Yeas 9 Nays 0
Other Related Meeting Documents			

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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 Subcommittee on General Government

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**BILL:** PCS/CS/CS/SB 166 (431800)

**INTRODUCER:** Appropriations Subcommittee on General Government; Commerce and Tourism Committee; Regulated Industries; Committee; and Senator Steube and others

**SUBJECT:** Alcoholic Beverages

**DATE:** April 17, 2017

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Oxamendi	McSwain	RI	<b>Fav/CS</b>
2. Askey	McKay	CM	<b>Fav/CS</b>
3. Davis	Betta	AGG	<b>Recommend: Fav/CS</b>
4. _____	_____	AP	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

PCS/CS/CS/SB 166 increases the number of factory-sealed individual containers of distilled spirits that a craft distillery may sell in a face-to-face transaction with a consumer to a maximum of six containers of each brand. Current law permits the distillery to sell to consumers in a face-to-face transaction, per calendar year, two containers of each brand of distilled spirits, three containers of one brand and one container of a second brand, or four containers of a single brand.

The bill does not impact state revenues or expenditures.

The bill takes effect upon becoming law.

**II. Present Situation:**

In Florida, alcoholic beverages are regulated by the Beverage Law,<sup>1</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.<sup>2</sup> The division administers and enforces the Beverage Law.<sup>3</sup>

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<sup>1</sup> Section 561.01(6), F.S., provides that the "The Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>2</sup> See s. 561.14, F.S.

<sup>3</sup> Section 561.02, F.S.

### Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages. The distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor (retailer) makes the ultimate sale to the consumer. Manufacturers may not sell directly to retailers or directly to consumers.

Generally, Florida follows the three-tier system. Only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.<sup>4</sup> Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.<sup>5</sup> Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.<sup>6</sup>

### Tied House Evil Prohibitions

The system is deeply rooted in the perceived evils of the “tied house” in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.<sup>7</sup> Activities are heavily regulated to prevent a manufacturer or distributor from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor.

### Three-Tier System Exceptions

Exceptions to the three-tier regulatory system permit in-state wineries,<sup>8</sup> breweries,<sup>9</sup> and craft distilleries to sell directly to consumers.<sup>10</sup> Restaurants licensed as vendors (brew pubs) may manufacture a limited quantity of malt beverages and sell directly to consumers for consumption on the licensed premises of a restaurant.<sup>11</sup>

A winery, even if licensed as a distributor,<sup>12</sup> may be licensed as a vendor for a licensed premises situated on property contiguous to the manufacturing premises of the winery. A winery may not be issued more than three vendor licenses.<sup>13</sup>

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<sup>4</sup> Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

<sup>5</sup> Section 561.22, F.S.

<sup>6</sup> Sections 563.022(14) and 561.14(1), F.S.

<sup>7</sup> Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington’s Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, (June 2004) available at: [http://www.lanepowell.com/wp-content/uploads/2009/04/pricee\\_001.pdf](http://www.lanepowell.com/wp-content/uploads/2009/04/pricee_001.pdf) (last visited January 31, 2017).

<sup>8</sup> See s. 561.221(1), F.S.

<sup>9</sup> See s. 561.221(2), F.S.

<sup>10</sup> See s. 565.03, F.S.

<sup>11</sup> See s. 561.221(3), F.S.

<sup>12</sup> Section 561.14(1), F.S., permits manufacturers to distribute at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.

<sup>13</sup> See s. 561.221(1), F.S.

The division may issue permits for a certified Florida Farm Winery<sup>14</sup> to conduct tasting and sales of its wines at Florida fairs, trade shows, expositions, and festivals. The permit is limited to the length of the event. The certified Florida Farm Winery is required to pay all entry fees and must have a winery representative present during the event.

### **Distilleries and Craft Distilleries**

Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

A “distillery” is a manufacturer of distilled spirits,<sup>15</sup> and a “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises. A craft distillery must notify the division in writing of its decision to qualify as a craft distillery.<sup>16</sup>

Distilleries and craft distilleries pay the same amount of state license tax. All distilleries engaged solely in the business of manufacturing distilled spirits, or engaged in the business of blending and rectifying<sup>17</sup> distilled spirits must pay a state license tax of \$4,000 for each plant or branch operating in Florida. Persons who engage in the business of distilling spirits may also rectify and blend spirituous liquors without paying an additional license tax.<sup>18</sup>

There are 45 distilleries that produced fewer than 75,000 gallons of distilled spirits in 2016.<sup>19</sup> The DBPR advises that 23 distilleries have provided the division with written notification that it qualifies as a craft distillery.

### **Retail Sales by Distilleries**

A craft distillery is allowed to sell to consumers branded products<sup>20</sup> distilled on the licensed premises. The products must be in factory-sealed containers that are filled at the distillery and sold for off-premises consumption.<sup>21</sup> The sales must occur at the distillery’s souvenir gift shop located on private property contiguous to the licensed distillery premises, and included on the sketch submitted with the license application.<sup>22</sup> The division must approve any subsequent revisions to a craft distillery’s sketch to verify that the retail location operated by the craft

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<sup>14</sup> Section 599.004, F.S., establishes the Florida Farm Winery Program within the Department of Agriculture and Consumer Services. The requirements for certification include that a winery produce or sell less than 250,000 gallons of wine annually and that 60 percent of the wine produced is made from state agricultural products.

<sup>15</sup> Section 565.03(1)(c), F.S.

<sup>16</sup> Section 565.03(1)(b), F.S.

<sup>17</sup> Merriam-Webster defines rectify as the purification (of alcohol) especially by repeated or fractional distillation, *available at* <http://www.merriam-webster.com/dictionary/rectify> (last visited April 13, 2017).

<sup>18</sup> Section 565.03(3), F.S.

<sup>19</sup> See 2017 Agency Legislative Bill Analysis issued by the DBPR for SB 166, dated January 17, 2017 (on file with Senate Committee on Regulated Industries) at page 2.

<sup>20</sup> Section 565.03(1)(a), F.S., defines “branded product” to mean “any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.”

<sup>21</sup> Section 565.03(2)(c), F.S.

<sup>22</sup> *Id.*

distillery is “owned or leased by the craft distillery and on property contiguous to the craft distillery’s production building.”<sup>23</sup> The craft distillery is not required to obtain, in addition to its manufacturer’s license, a vendor’s license in order to sell distilled spirits to consumers.

Sales must be in face-to-face transactions with consumers<sup>24</sup> who are making a purchase of no more than:

- Two individual containers of each branded product;
- Three individual containers of a single branded product and up to one individual container of a second branded product; or
- Four individual containers of a single branded product.<sup>25</sup>

Each container sold must comply with the container limits in s. 565.10, F.S., which prohibits the sale and distribution of distilled spirits in any size container in excess of 1.75 liters or 59.18 ounces.<sup>26</sup>

A craft distillery must report to the division within five business days after it has reached the 75,000-gallon production limit and cease making sales to consumers on the day after it reaches the production limit.<sup>27</sup>

A craft distillery may not ship, arrange to ship, or deliver distilled spirits to consumers, but may ship, arrange to ship, or deliver distilled spirits to manufacturers of distilled spirits, wholesale distributors of distilled spirits, state or federal bonded warehouses, and exporters.<sup>28</sup>

A craft distillery may not transfer its license or any ownership interest to any individual or entity with a direct or indirect interest in another distillery licensed in any other state, territory, or country.<sup>29</sup> However, a craft distillery may be affiliated with another distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises or in any other state, territory, or country.<sup>30</sup>

A craft distillery must submit beverage excise taxes on distilled spirits sold to consumers in its monthly report to the division.<sup>31</sup>

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<sup>23</sup> *Id.*

<sup>24</sup> Section 565.03(2)(c)4., F.S.

<sup>25</sup> Section 565.03(2)(c)1., F.S.

<sup>26</sup> Section 565.03(2)(c)2., F.S.

<sup>27</sup> Section 565.03(2)(c)3., F.S.

<sup>28</sup> Section 565.03(2)(c)4., F.S.

<sup>29</sup> Section 565.03(2)(c)5., F.S.

<sup>30</sup> Section 565.03(2)(c)6., F.S.

<sup>31</sup> Section 565.03(5), F.S. Section 565.12, F.S., requires manufactures and distributors to pay an excise tax on alcoholic beverages, with the tax rate per gallon depending on the percent of alcohol by volume of the beverage. Section 565.13, F.S., requires every distributor selling spirituous beverages within the state to pay the tax to the division monthly on or before the 10th day of the following month.



**III. Effect of Proposed Changes:**

The bill amends s. 565.03(2)(c), F.S., to increase the number of factory-sealed individual containers of distilled spirits that a craft distillery may sell in a face-to-face transaction with a consumer to a maximum of six containers of each brand.

The bill takes effect upon becoming law.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

The bill will likely have a positive impact on craft distilleries that sell their branded products directly to consumers from their gift shop.

**C. Government Sector Impact:**

The bill does not impact state revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 565.03 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.)

**Recommended CS/CS/CS by Appropriations Subcommittee on General Government on April 13, 2017:**

The proposed committee substitute (PCS) increases the number of factory-sealed individual containers of distilled spirits that a craft distillery may sell in a face-to-face transaction with a consumer to a maximum of six containers of each brand.

The PCS removes the provisions from the bill that:

- Permit a craft distillery to own, manage, operate, or control up to three vendor licenses and to conduct tastings and sales at Florida fairs, trade shows, expositions, and festivals.
- Permit a certified Florida Farm Winery or a craft distillery to transfer wine or distilled spirits produced at the winery or distillery from their federal bonded space or non-bonded space at its licensed premises or storage areas to its vendor-licensed premises or approved sales room.
- Increase the maximum number of gallons that a distillery may produce to qualify as a craft distillery from 75,000 to 250,000 gallons per calendar year.
- Provide that a distillery is certified by the division as a “craft distillery” upon the distillery providing written notification of the distillery’s decision to qualify as a craft distillery.
- Permit a craft distillery to have one additional sales room located in the same county as the distillery’s production building, which shall be an extension of the craft distillery’s licensed premises, without requiring a vendor’s license for that additional location.
- Repeal the limitation on the number of individual containers of distilled spirits that a craft distillery may sell to consumers.
- Permit a craft distillery that reaches the production qualification limit of 250,000 gallons per calendar year to continue retail sales if the distillery has a vendor’s license for each craft distillery and additional sales room.
- Provide that a craft distillery may retain and renew its vendor’s license(s) if it exceeds the 250,000-gallon production limitation.
- Repeal the prohibition against the transfer of a craft distillery’s license or any ownership interest to any individual or entity with a direct or indirect interest in another distillery licensed in any other state, territory, or country.
- Permit a craft distillery to conduct tastings of distilled spirits products at the premises of any vendor licensed for the sale of such products by package or for consumption on the premises.

**CS/CS by Commerce and Tourism on April 3, 2017:**

The committee substitute reinstates the requirement that a craft distillery’s sales must be for the consumer’s personal use and not for resale, which was removed from law in the original bill.

**CS by Regulated Industries on February 8, 2017:**

The committee substitute:

- Amends s. 561.221(1), F.S., to replace the term “certified” with the term “designated” in reference to a Florida craft distillery;
- Does not reduce the annual license tax for a craft distillery in s. 565.03(2)(a)1., F.S.;
- Revises s. 565.03(1)(b), F.S., to provide that a distillery is “designated” instead of “certified” by the division as a “craft distillery” when the distillery provides written notice to the division of its decision to qualify as a craft distillery; and
- Amends. 565.03(2)(c)3., F.S., to provide that a craft distillery may retain and renew its vendor’s licenses if it exceeds the production limitation to qualify as a craft distillery.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2017	.	
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Appropriations Subcommittee on General Government (Steube)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

565.03 License fees; manufacturers, distributors, brokers,  
sales agents, and importers of alcoholic beverages; vendor  
licenses and fees; craft distilleries.—

(2)



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11 (c) A craft distillery licensed under this section may sell  
12 to consumers, at its souvenir gift shop, branded products  
13 distilled on its premises in this state in factory-sealed  
14 containers that are filled at the distillery for off-premises  
15 consumption. Such sales are authorized only on private property  
16 contiguous to the licensed distillery premises in this state and  
17 included on the sketch or diagram defining the licensed premises  
18 submitted with the distillery's license application. All sketch  
19 or diagram revisions by the distillery shall require the  
20 division's approval verifying that the souvenir gift shop  
21 location operated by the licensed distillery is owned or leased  
22 by the distillery and on property contiguous to the distillery's  
23 production building in this state.

24 1. A craft distillery may not sell any factory-sealed  
25 individual containers of spirits except in face-to-face sales  
26 transactions with consumers who are making a purchase of no more  
27 than six individual containers of each branded product.÷

28 ~~a. Two individual containers of each branded product;~~

29 ~~b. Three individual containers of a single branded product~~  
30 ~~and up to one individual container of a second branded product;~~

31 ~~or~~

32 ~~c. Four individual containers of a single branded product.~~

33 2. Each container sold in face-to-face transactions with  
34 consumers must comply with the container limits in s. 565.10,  
35 per calendar year for the consumer's personal use and not for  
36 resale and who are present at the distillery's licensed premises  
37 in this state.

38 3. A craft distillery must report to the division within 5  
39 days after it reaches the production limitations provided in



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40 paragraph (1)(b). Any retail sales to consumers at the craft  
41 distillery's licensed premises are prohibited beginning the day  
42 after it reaches the production limitation.

43 4. A craft distillery may not ship or arrange to ship any  
44 of its distilled spirits to consumers and may sell and deliver  
45 only to consumers within the state in a face-to-face transaction  
46 at the distillery property. However, a craft distiller licensed  
47 under this section may ship, arrange to ship, or deliver such  
48 spirits to manufacturers of distilled spirits, wholesale  
49 distributors of distilled spirits, state or federal bonded  
50 warehouses, and exporters.

51 5. Except as provided in subparagraph 6., it is unlawful to  
52 transfer a distillery license for a distillery that produces  
53 75,000 or fewer gallons per calendar year of distilled spirits  
54 on its premises or any ownership interest in such license to an  
55 individual or entity that has a direct or indirect ownership  
56 interest in any distillery licensed in this state; another  
57 state, territory, or country; or by the United States government  
58 to manufacture, blend, or rectify distilled spirits for beverage  
59 purposes.

60 6. A craft distillery shall not have its ownership  
61 affiliated with another distillery, unless such distillery  
62 produces 75,000 or fewer gallons per calendar year of distilled  
63 spirits on each of its premises in this state or in another  
64 state, territory, or country.

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

66

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

68 And the title is amended as follows:



761514

69           Delete everything before the enacting clause  
70 and insert:

71                               A bill to be entitled  
72           An act relating to craft distilleries; amending s.  
73           565.03, F.S.; revising the limitations on retail sales  
74           by craft distilleries to consumers; providing an  
75           effective date.

By the Committees on Commerce and Tourism; and Regulated Industries; and Senators Steube, Brandes, Hutson, and Young

577-03328-17

2017166c2

1 A bill to be entitled  
 2 An act relating to alcoholic beverages; amending s.  
 3 561.221, F.S.; providing that the ownership,  
 4 management, operation, or control of up to three  
 5 vendor's licenses for the sale of alcoholic beverages  
 6 by a designated Florida Craft Distillery is not  
 7 prohibited under specified laws; requiring the  
 8 Division of Alcoholic Beverages and Tobacco to issue  
 9 permits to designated Florida Craft Distilleries to  
 10 conduct certain tastings and sales; requiring such  
 11 distilleries to pay entry fees and have a  
 12 representative present during certain events;  
 13 authorizing the transfer of wine and distilled spirits  
 14 to vendors by specified wineries and distilleries  
 15 under certain circumstances; requiring the division to  
 16 approve certain storage areas; requiring wineries and  
 17 distilleries to report all such transfers to the  
 18 division and to include them in monthly excise tax  
 19 payments; amending s. 565.03, F.S.; redefining the  
 20 term "craft distillery"; specifying authorized  
 21 products for sale by craft distilleries; providing  
 22 limitations on retail sales by craft distilleries to  
 23 consumers; permitting craft distilleries to retain and  
 24 renew a vendor's license under specified  
 25 circumstances; authorizing craft distilleries to  
 26 transfer distilled spirits under certain conditions;  
 27 requiring the division to approve certain storage  
 28 areas; requiring distilleries to report all such  
 29 transfers to the division and to include them in

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

577-03328-17

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30 monthly excise tax payments; deleting certain  
 31 prohibitions on the transfer of a distillery license  
 32 and affiliated ownership; authorizing craft  
 33 distilleries to apply for a sales room location under  
 34 certain circumstances; amending s. 565.17, F.S.;  
 35 authorizing craft distilleries to conduct tastings  
 36 under certain circumstances; providing an effective  
 37 date.  
 38  
 39 Be It Enacted by the Legislature of the State of Florida:  
 40  
 41 Section 1. Subsection (1) of section 561.221, Florida  
 42 Statutes, is amended to read:  
 43 561.221 Licensing of manufacturers and distributors as  
 44 vendors and of vendors as manufacturers; conditions and  
 45 limitations.—  
 46 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
 47 other provision of the Beverage Law prohibits the ownership,  
 48 management, operation, or control of not more than three  
 49 vendor's licenses for the sale of alcoholic beverages by a  
 50 manufacturer of wine or a designated Florida Craft Distillery  
 51 ~~who is~~ licensed and engaged in the manufacture of wine or  
 52 distilled spirits in this state, even if such manufacturer is  
 53 also licensed as a distributor; provided that ~~ne~~ such vendor's  
 54 license is not ~~shall be~~ owned, managed, operated, or controlled  
 55 by any licensed manufacturer of wine or any craft distillery  
 56 unless the licensed premises of the vendor are situated on  
 57 property contiguous to the manufacturing premises of the  
 58 licensed manufacturer of wine or distilled spirits or in its

Page 2 of 7

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59 sales room pursuant to s. 565.03.

60 (b) The Division of Alcoholic Beverages and Tobacco shall  
61 issue permits to a certified Florida Farm Winery or a designated  
62 Florida Craft Distillery to conduct tasting and sales of wine or  
63 distilled spirits produced by certified Florida Farm Wineries or  
64 designated Florida Craft Distilleries at Florida fairs, trade  
65 shows, expositions, and festivals. The certified Florida Farm  
66 Winery or designated Florida Craft Distillery shall pay all  
67 entry fees and shall have a winery or distillery representative  
68 present during the event. The permit is limited to the length of  
69 the event.

70 (c) A certified Florida Farm Winery or designated Florida  
71 Craft Distillery may transfer wine or distilled spirits produced  
72 at such winery or distillery, respectively, out of its federal  
73 bonded space or nonbonded space at its licensed premises or  
74 storage areas to its vendor's licensed premises or approved  
75 sales room. The division shall approve the storage areas,  
76 provided that each is included in the winery's or distillery's  
77 current state tax bond. All such transfers of wine or distilled  
78 spirits shall be reported to the division pursuant to s. 561.55  
79 and included in the winery's or distillery's excise tax payment  
80 to the state each month.

81 Section 2. Paragraph (b) of subsection (1) and paragraph  
82 (c) of subsection (2) of section 565.03, Florida Statutes, are  
83 amended to read:

84 565.03 License fees; manufacturers, distributors, brokers,  
85 sales agents, and importers of alcoholic beverages; vendor  
86 licenses and fees; craft distilleries.—

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

Page 3 of 7

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88 (b) "Craft distillery" means a licensed distillery that  
89 produces 250,000 ~~75,000~~ or fewer gallons per calendar year of  
90 distilled spirits on its premises and is designated as a craft  
91 distillery by ~~has notified~~ the division upon notification in  
92 writing of its decision to qualify as a craft distillery.

93 (2) (c) A craft distillery licensed under this section may  
94 sell to consumers, at its souvenir gift shop, branded products  
95 distilled and bottled on its premises in this state in factory-  
96 sealed containers approved for sale ~~that are filled at the~~  
97 distillery for off-premises consumption. Such sales are  
98 authorized only on ~~private~~ property owned or leased by the  
99 distillery which is contiguous to the licensed distillery  
100 premises and at one other approved sales room located in the  
101 same county as the distillery's production building which shall  
102 be an extension of the craft distillery's licensed premises ~~in~~  
103 ~~this state~~ and included on the sketch or diagram defining the  
104 licensed premises submitted with the distillery's license  
105 application. All sketch or diagram revisions by the distillery  
106 shall require local zoning approval and the division's approval  
107 verifying that the souvenir gift shop location and all areas  
108 used and operated by the licensed distillery ~~are~~ ~~is~~ owned or  
109 leased by the distillery and on property contiguous to the  
110 distillery's production building in this state or within the  
111 extended licensed premises.

112 1. A craft distillery licensed under this section may not  
113 sell any factory-sealed individual containers of spirits except  
114 in face-to-face sales transactions at the craft distillery's  
115 licensed premises with consumers who are making a purchase ~~of no~~  
116 ~~more than:~~

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117 ~~a. Two individual containers of each branded product,~~  
 118 ~~b. Three individual containers of a single branded product~~  
 119 ~~and up to one individual container of a second branded product,~~  
 120 ~~or~~  
 121 ~~c. Four individual containers of a single branded product.~~

122 2. Each container sold in face-to-face transactions with  
 123 consumers must comply with the container limits in s. 565.10,  
 124 ~~per calendar year~~ for the consumer's personal use and not for  
 125 resale and who are present at the distillery's licensed premises  
 126 in this state.

127 3. A craft distillery licensed under this section must  
 128 report to the division within 5 days after it reaches the  
 129 production limitations provided in paragraph (1)(b). Any retail  
 130 sales to consumers at the craft distillery's licensed premises  
 131 are prohibited beginning the day after it reaches the production  
 132 limitation unless it has been issued a vendor's license at each  
 133 craft distillery and additional sales room authorized in s.  
 134 561.221. Notwithstanding any of the provisions of this section  
 135 or s. 561.221, a craft distillery which holds a vendor's license  
 136 may retain and renew such license, if such craft distillery  
 137 exceeds the production limitation in paragraph (1)(b).

138 4. A craft distillery licensed under this section may not  
 139 ship or arrange to ship any of its distilled spirits to  
 140 consumers and may sell and deliver only to consumers within the  
 141 state in a face-to-face transaction at the distillery property.  
 142 However, a craft distiller licensed under this section may ship,  
 143 arrange to ship, or deliver such spirits to manufacturers of  
 144 distilled spirits, wholesale distributors of distilled spirits,  
 145 state or federal bonded warehouses, and exporters.

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146 5. A craft distillery may transfer distilled spirits it  
 147 manufactures from its federal bonded space or nonbonded space at  
 148 its licensed premises or storage areas to its souvenir gift shop  
 149 and additional sales room. The division shall approve all  
 150 storage areas requested by the craft distillery which are  
 151 included in its current state bond. All such transfers of  
 152 distilled spirits shall be reported to the division pursuant to  
 153 s. 561.55 and included in the excise tax payment due the state  
 154 ~~Except as provided in subparagraph 6., it is unlawful to~~  
 155 ~~transfer a distillery license for a distillery that produces~~  
 156 ~~75,000 or fewer gallons per calendar year of distilled spirits~~  
 157 ~~on its premises or any ownership interest in such license to an~~  
 158 ~~individual or entity that has a direct or indirect ownership~~  
 159 ~~interest in any distillery licensed in this state; another~~  
 160 ~~state, territory, or country; or by the United States government~~  
 161 ~~to manufacture, blend, or rectify distilled spirits for beverage~~  
 162 ~~purposes.~~

163 6. A craft distillery may include a sales room location  
 164 authorized by this subsection on its original license  
 165 application or by an amendment to its license application on  
 166 forms prescribed by the division shall not have its ownership  
 167 ~~affiliated with another distillery, unless such distillery~~  
 168 ~~produces 75,000 or fewer gallons per calendar year of distilled~~  
 169 ~~spirits on each of its premises in this state or in another~~  
 170 ~~state, territory, or country.~~

171 Section 3. Section 565.17, Florida Statutes, is amended to  
 172 read:  
 173 565.17 Beverage tastings by distributors and vendors.—A  
 174 licensed distributor of spirituous beverages, or any vendor or

Page 6 of 7

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2017166c2

175 craft distillery, is authorized to conduct spirituous beverage  
176 tastings upon any licensed premises authorized to sell  
177 spirituous beverages by package or for consumption on premises  
178 without being in violation of s. 561.42, provided that the  
179 conduct of the spirituous beverage tasting shall be limited to  
180 and directed toward the general public of the age of legal  
181 consumption.

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

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

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

4-13-17

*Meeting Date*

166

*Bill Number (if applicable)*

Topic Craft Distilleries

*Amendment Barcode (if applicable)*

Name Roger Morenc

Job Title CEO/Founder of Marlin Barrel Distillery

Address 115 S. 2nd Street

Phone 321-230-4755

*Street*

Fernandina

FL 32034

Email roger@marlinbarrel.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Marlin Barrel Distillery

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/17  
Meeting Date

SB 166  
Bill Number (if applicable)

Topic Craft Distilleries

Amendment Barcode (if applicable)

Name Scott Ashley

Job Title President & General Counsel

Address 215 S. Monroe St. #800-A

Phone (850) 681-8700

Street Talla. FL 32308

Email scott@wsdflorida.com

City State Zip

Speaking:  For  Against  Information

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

Representing Wine & Spirits Distributors of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

4-13-2017

*Meeting Date*

166

*Bill Number (if applicable)*

Topic Craft Distilleries

*Amendment Barcode (if applicable)*

Name Jason Unger

Job Title \_\_\_\_\_

Address 301 South Bronough Street

Phone 577-9090

*Street*

TLH

FL

32301

Email junger@gray-robinson.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Distillers Guild

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

1449

Bill Number (if applicable)

Topic Craft Distilleries

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St  
Street

Phone 521-1200

Tallahassee FL 32301  
City State Zip

Email cjohnson@flchamber.com

Speaking:  For  Against  Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Chair*  
Banking and Insurance, *Vice Chair*  
Agriculture  
Appropriations Subcommittee on Finance and Tax  
Regulated Industries

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

### SENATOR GREG STEUBE

23rd District

April 3, 2017

The Honorable Denise Grimsley  
Florida Senate  
413 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Grimsley,

I am writing this letter because my bill, SB 166 – Alcoholic Beverages, has been referred to the Senate Appropriations Subcommittee on General Government. This bill passed the Senate Regulated Industries Committee on February 8, and the Commerce and Tourism Committee on April 3. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

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

Very respectfully yours,

A handwritten signature in blue ink, appearing to read "W. Gregory Steube".

W. Gregory Steube, District 23

#### REPLY TO:

- 722 Apex Road, Unit A, Sarasota, Florida 34240 (941)342-9162
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore



**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 Subcommittee on General Government

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**BILL:** CS/SB 168

**INTRODUCER:** Governmental Oversight and Accountability Committee and Senator Latvala and others

**SUBJECT:** Salaries of Specified Officers and Firefighters

**DATE:** April 12, 2017      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ferrin</u>	<u>Ferrin</u>	<u>GO</u>	<b>Fav/CS</b>
2.	<u>Davis</u>	<u>Betta</u>	<u>AGG</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 168 requires each state agency that employs law enforcement, correctional officers, correctional probation officers, or firefighters to offer a monthly salary enhancement equal to the full amount provided to officers and firefighters who participate in the established incentive programs for credit earned towards a postsecondary degree or completion of approved career development program training classes.

Doubling the existing monthly salary enhancement is intended to strengthen the ability of state agencies to provide career development incentives and to retain well-qualified officers and firefighters.

The bill provides a new benefit that is expected to cost approximately \$13.5 million annually for eligible employees of state agencies filling career service positions. Each state agency that employs law enforcement officers, correctional probation officers, correctional officers, or firefighters will incur new costs equal to the amount the agency currently spends on career service positions for the current salary incentive programs.

The bill provides an effective date of July 1, 2017.

## II. Present Situation:

### Career Development Programs

Outside of the provisions in ss. 943.22 and 1009.265, F.S., there is not a uniform approach to career development. Efforts are primarily agency-specific and limited in scope. Some examples are:<sup>1</sup>

- Filling higher level sworn supervisor vacancies from within internal sworn ranks;
- Agency training academies and trainee programs which unit employee must complete before they perform law enforcement duties and responsibilities;
- Mentoring new officers through Field Training Officer programs;
- Requiring maintenance of certain certifications and ongoing training requirements (e.g., firearms);
- Providing opportunities for additional voluntary training online and in person, including training candidates for specialty positions; and
- Providing clear career paths to officers and the training requirement associated with specific ranks.

### *Incentive Pay for Law Enforcement Officers and Firefighters*

The Legislature has expressed intent to attract and retain competent, qualified, and experienced officers in law enforcement agencies and correctional institutions, and to provide for a statewide minimum salary, monetary supplement, and educational and training standards for these officers.<sup>2</sup> Similarly, the Legislature has recognized the need for supplemental compensation for firefighters who pursue educational opportunities that directly relate to the improvement of the health, safety, and welfare of firefighters and those who firefighters protect.<sup>3</sup>

Section 943.22, F.S., and s. 633.422, F.S., provide salary incentive increases for law enforcement officers and firefighters who successfully complete and are awarded an Associate Degree or a Bachelor Degree. The following increases or supplements are available to all full-time law

---

<sup>1</sup> Joint Submission by the Department of Management Services and the Florida Police Benevolent Association in Accordance with Ch. 2016-62, Section 65, Laws of Florida, Implementing the 2016-2017 General Appropriations Act, dated January 17, 2017 (on file with the Senate Committee on Governmental Accountability and Oversight).

<sup>2</sup> Section 943.085, F.S.

<sup>3</sup> Section 633.422(1), F.S.

enforcement officers, correctional officers, correctional probation officers,<sup>4</sup> and firefighters<sup>5</sup> employed by any municipality of the state or any political subdivision thereof:

- \$30 per month for law enforcement officers with an Associate Degree;
- \$50 per month for law enforcement officers with a Bachelors Degree;
- \$50 per month for firefighters with an Associate Degree; and
- \$110 per month for firefighters with a Bachelors Degree.

Law enforcement officers can also receive incentive increases up to \$120 per month for completion of 480 hours of approved career development program training classes.<sup>6</sup> Such training completed after June 30, 1985 must be in courses established to enhance an officer's knowledge, skills, and abilities for the job he or she performs or is related to promotion to a higher rank or position.<sup>7</sup> The maximum amount an officer can receive for a college degree or completion of career development courses is \$130 per month.<sup>8</sup>

### ***Tuition Waivers***

In order to facilitate educational attainment for the state workforce, all state employees,<sup>9</sup> including law enforcement officers and firefighters, are eligible to have tuition at state university and Florida College System institutions waived.<sup>10</sup> Participation in the program is subject to approval by an employee's agency head, and limited to up to six credit hours per term on a space-available basis.<sup>11</sup>

### **Career Development Plan Workgroup**

On January 17, 2017, the Department of Management Services (DMS) submitted a career development plan, as required by Chapter 2016-62, L.O.F., implementing the

---

<sup>4</sup> "Law enforcement officer" is defined in s. 943.10(1), F.S. as 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. This definition includes all certified supervisory and command personnel whose duties 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 but does not include support personnel employed by the employing agency. "Correctional probation officer" is defined in 943.10(3), F.S. as 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. "Correctional officer" is defined in 943.10(2), F.S. as 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.

<sup>5</sup> "Firefighter" is defined in s. 633.102(9), F.S. as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshall within the Department of Financial Services.

<sup>6</sup> Section 943.22(2)(d), F.S.

<sup>7</sup> Sections 943.17(1)(b) and (c), F.S.

<sup>8</sup> Section 943.22(2)(e), F.S.

<sup>9</sup> Section 1009.265(5), F.S. excludes persons employed by a state university.

<sup>10</sup> Section 1009.265, F.S.

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

Fiscal Year 2016-2017 General Appropriations Act on behalf of the DMS and the Florida Police Benevolent Association (PBA).<sup>12</sup> The referenced implementing bill directed DMS to organize a work group to develop a sworn law enforcement officers' Career Development Plan (CDP) to attract and retain quality employees that emphasizes job training, job skills, educational attainment, experience and retention.<sup>13</sup> The 2016 legislation did not include correctional officers, correctional probation officers or firefighters. Therefore, the work group's focus included the Highway Patrol, Law Enforcement Officer, Lottery, and Florida Department of Law Enforcement Special Agent bargaining units represented by the PBA.<sup>14</sup>

### ***Workgroup Recommendations***

The CDP work group met and agreed<sup>15</sup> upon the following concepts to recommend as potential plan components that will attract and retain quality employees and improve job training, job skills, educational attainment, experience and retention. They are listed in the order in which the work group participants believed will have the greatest impact. The work group recommended the Legislature consider:<sup>16</sup>

- Revising the hiring minimum for entry level classes and consider salary compression impacts within the adjusted and higher level classes;
- Reviewing Salary Incentive Program pay amounts that have not been adjusted since its inception in 1974;
- Establishing consistent career pathing requirements across state agencies; and
- Reviewing Competitive Area Differential (CAD) additive amounts and approved locations, which are currently \$4999.80 per year in Broward, Dade, Monroe, and Palm Beach counties.

The work group also recommended the establishment of metrics to determine the level of effectiveness of the CDP.<sup>17</sup>

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

**Section 1** requires each state agency that employs law enforcement, correctional officers, correctional probation officers, or firefighters to provide a monthly salary enhancement equal to the full amount provided to officers and firefighters who participate in the established salary incentive and supplemental compensation programs provided in ss. 943.22, F.S. and 633.422, F.S.

The bill states that the additional monthly salary enhancement is intended to strengthen the ability of state agencies to provide career development incentives and to retain well-qualified officers and firefighters.

**Section 2** establishes the effective date for this bill of July 1, 2017.

---

<sup>12</sup> See *supra* note 1.

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

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

<sup>15</sup> The Police Benevolent Association attached a separate submission describing areas in which the parties were unable to reach agreement.

<sup>16</sup> See *supra* note 1.

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

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill provides a new benefit that is expected to cost approximately \$13.5 million statewide for eligible employees of state agencies filling career service positions. Each state agency that employs law enforcement officers, correctional probation officers, correctional officers, or firefighters can expect to incur new costs equal to the amount the agency currently spends on career service positions for the current salary incentive programs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 110.2035 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 Governmental Oversight and Accountability on March 27, 2017:**

The amendment adopted by the Senate Committee on Governmental Oversight and Accountability requires each state agency that employs law enforcement, correctional officers, correctional probation officers, or firefighters to offer a monthly salary enhancement equal to the full amount provided to officers and firefighters who participate in the established incentive programs for credit earned towards a postsecondary degree or completion of approved career development program training classes.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;  
and Senators Latvala and Steube

585-02961-17

2017168c1

1 A bill to be entitled  
2 An act relating to salaries of specified officers and  
3 firefighters; amending s. 110.2035, F.S.; requiring  
4 each state agency that employs law enforcement  
5 officers, correctional officers, correctional  
6 probation officers, and firefighters to provide a  
7 monthly salary adjustment; specifying eligibility for  
8 the monthly salary adjustment; providing an effective  
9 date.

10

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

12

13 Section 1. Subsection (9) is added to section 110.2035,  
14 Florida Statutes, to read:

15

110.2035 Classification and compensation program.—

16

17 (9) In order to strengthen the ability of state agencies to  
18 provide career development incentives and to retain well-  
19 qualified law enforcement officers, correctional officers,  
20 correctional probation officers, and firefighters, each state  
21 agency that employs such officers or firefighters shall provide  
22 a monthly salary enhancement equal to the full amount provided  
23 to officers and firefighters who participate in the salary  
24 incentive program provided in s. 943.22 or are paid supplemental  
25 compensation in accordance with s. 633.422. The monthly salary  
26 enhancement shall be made available to law enforcement officers,  
27 correctional officers, and correctional probation officers, as  
28 defined in s. 943.10, and firefighters, as defined in s.  
29 633.102, who are employed by a state agency in a career service  
position.

Page 1 of 2

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

585-02961-17

2017168c1

30 Section 2. This act shall take effect July 1, 2017.

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17  
Meeting Date

168  
Bill Number (if applicable)

Topic Officers and Firefighters

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 343 W Madison St

Phone 850-224-7333

Tallahassee FL 32301  
City State Zip

Email RoccoSalvatori@icloud.com

Speaking:  For  Against  Information

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

Representing Florida Professional Firefighters

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/2017

Meeting Date

168

Bill Number (if applicable)

Topic Career Development for certain officers Amendment Barcode (if applicable)

Name Matt Pickett

Job Title lobbyist

Address 300 East Brevard St. Phone \_\_\_\_\_

Street

Tallahassee FL 32301

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission,  
*Alternating Chair*

### SENATOR JACK LATVALA

16th District

March 28, 2017

The Honorable Denise Grimsley  
413 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Grimsley,

I respectfully request you place Committee Substitute for Senate Bill 168, relating to Career Development for Officers and Firefighters, on your Appropriations Subcommittee on General Government agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in blue ink that reads "Jack Latvala".

Jack Latvala  
Senator, 16<sup>th</sup> District

cc: Giovanni Betta, Staff Director

**REPLY TO:**

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- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

**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 Subcommittee on General Government

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**BILL:** PCS/CS/SB 400 (411446)

**INTRODUCER:** Appropriations Subcommittee on General Government; Regulated Industries Committee; and Senator Perry

**SUBJECT:** Alcoholic Beverages

**DATE:** April 17, 2017      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Betta</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 400 provides Select Exempt Service status to the following employees of the Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR): chiefs, assistant chiefs, regional managers (including majors), and district or office managers (including captains).

The bill adds the Agency for Health Care Administration as one of the agencies from which an applicant for an alcoholic beverage license for consumption on premises must obtain a certificate that the applicant's place of business meets all sanitary requirements.

Existing law requires that a caterer licensed to sell beer, wine, and distilled spirits must derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. The bill provides that the percentage is based on a caterer's "gross food and nonalcoholic beverage revenue" instead of "gross revenue." A caterer must comply with the 51 percent requirement for each catered event.

Regarding a caterer's license to sell beer, wine and, distilled spirits, the bill expands the types of records that must be maintained to demonstrate compliance with its license. It requires that a caterer maintain all records and receipts for each catered event, including all contracts, customers' names, locations, dates, food purchases and sales, alcoholic beverage purchases and

sales, nonalcoholic beverage purchases and sales, and any other records required by rule of the DBPR.

The bill also:

- Repeals the fee for a temporary license issued in connection with an application to transfer an alcoholic beverage to the purchaser of a licensed business or to change the type or series of a license;
- Revises the definition of “wine” to include “sake” which is a Japanese alcoholic beverage made of fermented rice;
- Repeals the wine container limits, which under current law are limited to containers that hold no more than one gallon, unless it is in a reusable container that holds 5.16 gallons;
- Permits the sale of cider in 32 ounce, 64 ounce, or one gallon growlers in the same manner and with the same restrictions applicable to malt beverages;
- Repeals the requirement that a restaurant patron must purchase and consume a full course meal in order to be able to take home a partially consumed bottle of wine, but retains the requirement that the restaurant patron purchase a meal with the bottle of wine; and
- Reduces the annual license tax for a craft distillery from \$4,000 to \$1,000.

On March 24, 2017, the Revenue Estimating Conference considered PCS/HB 689, the substantive provisions of which were similar sections 4 and 8 of CS/SB 400. The Conference estimated the bill will reduce revenues by approximately \$351,500 annually. *See* Section V.

The effective date of the bill is July 1, 2017.

## II. Present Situation:

### Division of Alcoholic Beverages and Tobacco

The division<sup>1</sup> administers and enforces the Beverage Law,<sup>2</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor. The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

### State Employment

Parts I – V of ch. 110, F.S., provide the system of personnel management in the state. Part I contains general state employment provisions; part II addresses the Career Service System; part III deals with the Senior Management Service System; part IV relates to volunteers; and part V establishes the Select Exempt Service System.

The terms “career service” and “career service employee” are not defined in the statutes. A “career service employee” who has satisfactorily completed at least a one-year probationary period may only be suspended or dismissed for cause. Cause includes negligence, inefficiency or inability to perform assigned duties, insubordination, willful violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or

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<sup>1</sup> Section 561.02, F.S. Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>2</sup> *See* s. 561.14, F.S.

conviction of any crime.<sup>3</sup> Career service employees are entitled a grievance process<sup>4</sup> and the right to appeal a suspension, reduction in pay, demotion, involuntary transfer of more than 50 miles by highway, or dismissal.<sup>5</sup>

Section 110.205(2), F.S., lists the personnel positions that are exempt from the career service classification, including all members, officers, and employees of the Legislature. The career service classification also does not include assistant division directors, deputy division directors, and bureau chief positions in any department, and those positions determined by a department to have managerial responsibilities comparable to those positions.<sup>6</sup> Each department head may exempt a maximum of 20 policymaking or managerial positions from the Career Service System.<sup>7</sup>

Select Exempt Service is a separate system of personnel administration for positions that are exempt from the Career Service System and have duties and responsibilities that are managerial/policymaking, professional, or nonmanagerial/nonpolicymaking.<sup>8</sup> Employees in the Select Exempt Service serve at the pleasure of the agency head and are subject to suspension, dismissal, reduction in pay, demotions, transfer, or other personnel action at the discretion of the agency head.<sup>9</sup>

### **Alcoholic Beverage License Applications – Sanitation Safety Certificate**

Section 561.17(2), F.S., requires that alcoholic beverage licenses for consumption on the premises include a certificate from the Division of Hotels and Restaurants of the DBPR, the Department of Agriculture and Consumer Services, the Department of Health (DOH), or the county health department that the place of business meets all of the sanitary requirements of the state.

Chapter 2010-161, L.O.F., amended the food service establishment inspection jurisdiction of the DOH to more explicitly delineate the food service establishment entities inspected by DOH, which effectively excluded hospitals and nursing homes. Hospitals and certain nursing homes are licensed under the jurisdiction of the Agency for Health Care Administration (AHCA), and following the 2010 legislation, are subject to inspection for the storage, preparation, serving, and display of food within AHCA's licensure and inspection processes. Chapter 2010-161, L.O.F., and subsequent laws did not amend s. 561.17(2), F.S., to include the new jurisdiction of AHCA as the agency with the primary jurisdiction for certification on these requirements at nursing homes and hospitals.

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<sup>3</sup> Section 110.227(1), F.S.

<sup>4</sup> Section 110.227(4), F.S.

<sup>5</sup> Sections 110.227(5) and (6), F.S.,

<sup>6</sup> Section 110.205(2)(m), F.S.

<sup>7</sup> Section 110.205(2)(n), F.S., provides that policymaking or managerial positions are defined by the Department of Management Services and approved by the Administration Commission. Created in 14.202, F.S., the Administration Commission is part of the Executive Office of the Governor and is composed of the Governor and Cabinet.

<sup>8</sup> Section 110.602, F.S.

<sup>9</sup> Section 110.604, F.S.

## Caterers and Food Service Establishments

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

The limitation on the number of quota licenses per county does not apply to a food service establishment that has 2,500 square feet, is equipped to serve 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages, during the first 60-day operating period and each 12-month operating period thereafter. This type of license is known as a “special restaurant license” or an “SRX license.” A food service establishment holding an SRX license issued after January 1, 1958, may not operate a package store under the license and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed. Failure by a licensee to satisfy the requirements as to the percentages of food and nonalcoholic beverages results in revocation of the special license. A licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation.<sup>10</sup>

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

In addition, the limitation on the number of quota licenses per county does not apply to a caterer licensed by the Division of Hotels and Restaurants under ch. 509, F.S., who derives at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages, and sells or serves beer, wine, and distilled spirits only for consumption on the premises of a catered event at which the licensee provides prepared food. Current law does not specify the period during which the 51 percent requirement applies. In contrast, the quota license exception for restaurants requires that a restaurant derive at least 51 percent of its gross food and beverage revenue from the sale of food and non-alcoholic beverages for the initial 60-day operating period and each subsequent 12-month period.<sup>11</sup>

A caterer must also prominently display its license at any catered event at which the caterer is selling or serving alcoholic beverages.<sup>12</sup>

The annual fee is \$1,820 for a caterer’s alcoholic beverage license to sell or serve beer, wine, and distilled spirits on the premises of events at which the caterer provides prepared food.<sup>13</sup>

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<sup>10</sup> Section 565.02(1)(b) – (f), F.S.

<sup>11</sup> Section 561.20(2)(a)4., F.S.

<sup>12</sup> Section 561.20(2)(a)5., F.S.

<sup>13</sup> See ss. 561.20(2)(a)5., and 565.02(1)(b), F.S.

A caterer is required to maintain for three years all records required by the rule of the DBPR to demonstrate compliance with its license requirements.

### **Temporary License Application Fees**

An alcoholic beverages licensee may sell its licensed business and transfer its alcoholic beverages license to the purchaser of the business.<sup>14</sup> Section 561.331(1), F.S., provides the process for license transfers. The applicant for a transfer is entitled as a matter of right to receive a temporary license of the same type and series as that held by the seller of the business if the application does not on its face disclose a reason for denying the application. The temporary license is valid until the application is denied or 14 days after the initial approval of temporary license. The fee for a temporary license transferred to the purchaser of a business is \$100.

However, before the license is transferred, the purchaser of a beer, wine, or beer and wine license must pay a transfer fee of 10 percent of the annual license tax to the division. The fee to transfer a quota license is assessed on the average annual value of gross sales of alcoholic beverages for the license in the three years immediately preceding transfer. The fee is levied at the rate of four mills (four one-thousandths of a dollar), but the transfer fee may not exceed \$5,000. An applicant may elect to pay \$5,000 in lieu of the four-mill assessment.<sup>15</sup>

An alcoholic beverage licensee may receive a temporary license upon an application to change the location of a license if the application does not on its face disclose a reason to deny the application. There is no temporary license fee to change the location of a license.<sup>16</sup>

An alcoholic beverages licensee may also apply to change the type or series of an alcoholic beverage license. The division may issue the temporary licenses if the application does not on its face disclose a reason to deny the application. These temporary licenses are valid until the application is denied or 14 days after the initial temporary license approval.<sup>17</sup> If the fee for the new license is greater than the fee of the license held by the applicant, the temporary license fee is \$100 or one-fourth of the difference between the license fees, whichever is greater. A fee for the temporary license is not required if the license fee is the same as or less than the license fee for the license then held by the applicant.<sup>18</sup>

### **Wine and Cider Containers**

Section 564.05, F.S., prohibits the sale of wine in an individual container that hold more than one gallon of wine. However, wine may be sold in a reusable container that holds 5.16 gallons. Distributors and manufacturers may sell wine to other distributors and manufacturers in

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<sup>14</sup> Section 561.32, F.S.

<sup>15</sup> Section 561.331(1), F.S.

<sup>16</sup> Section 561.331(2), F.S.

<sup>17</sup> Section 561.331(3), F.S.

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

containers of any size. Any person who violates the prohibition in s. 564.05, F.S., commits a second degree misdemeanor.<sup>19</sup>

Section 564.055, F.S., prohibits the sale of cider<sup>20</sup> at retail in any individual container that holds more than 32 ounces of cider. However, cider may be packaged and sold in bulk, in kegs or barrels, or in any individual container that holds one gallon or more of cider, regardless of container type.

### **Growlers**

Malt beverages must be sold or offered for sale in containers that hold no more than 32 ounces, but malt beverages may be packaged and sold in bulk, in kegs or barrels, or in any individual container that contains one gallon or more of cider, regardless of individual container type.<sup>21</sup>

However, malt beverages may also be sold or offered for sale in a “growler,” which is a 32 ounce, 64 ounce, or 128 ounce malt beverage container that is filled or refilled at the point of sale. Growlers must identify or be imprinted or labeled with certain information, including the percentage of alcohol by volume, and have an unbroken seal or be incapable of being immediately consumed.<sup>22</sup>

### **Wine and Sake**

“Wine” means all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States. “Wine” includes all sparkling wines, champagnes, combination of these beverages, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste. The ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.<sup>23</sup>

A “fortified wine” is a wine containing more than 17.259 percent of alcohol by volume.<sup>24</sup>

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<sup>19</sup> Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083, F.S., provides that the penalty for a misdemeanor of the second degree is a fine not to exceed \$500.

<sup>20</sup> Section 564.06(4), F.S., provides that “cider” is “made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume.” “Must” is the expressed juice of a fruit before and during fermentation. *See* <https://www.merriam-webster.com/dictionary/must> (last visited March 16, 2017).

<sup>21</sup> Section 563.06(6), F.S.

<sup>22</sup> Section 563.06(7), F.S.

<sup>23</sup> Section 564.01(1), F.S.

<sup>24</sup> Section 564.01(2), F.S.



“Sake” is a Japanese alcoholic beverage made of fermented rice.<sup>25</sup> As of February 2017, there are approximately 573 alcoholic beverage brand registrations in Florida for brand names referencing the term “sake.”<sup>26</sup>

The division currently collects excise taxes on sake products pursuant to s. 564.06(1), F.S., which relates to the excise taxes on wines and beverages.<sup>27</sup> Wines, except natural sparkling wines, cider and malt beverages, containing 0.5 percent or more alcohol by volume and less than 17.259 percent alcohol by volume, are taxed at the rate of \$2.25 per gallon.<sup>28</sup> Wines, except natural sparkling wines, containing 17.259 percent or more alcohol by volume, are taxed at the rate of \$3.00 per gallon.<sup>29</sup> Natural sparkling wines are taxed at the rate of \$3.50 per gallon.<sup>30</sup>

### **Restaurants - Off-Premises Consumption of Wine**

Restaurants licensed to sell wine on the premises may permit patrons to remove one bottle of wine for consumption off the licensed premises under the following conditions:

- The patron must have purchased a full-course meal consisting of a salad or vegetable, entrée, a beverage, and bread and consumed a portion of the bottle of wine with the meal;
- Before the partially-consumed bottle of wine is removed from the premises, the bottle must be securely resealed by the licensee, or the licensee’s employee, and placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been opened or tampered with after having been sealed;
- A dated receipt for the wine and meal must be attached to the container; and
- The container must be placed in a locked glove compartment, trunk, or other area behind the last upright seat of a motor vehicle that does not have a trunk.<sup>31</sup>

### **Craft Distilleries**

Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

A “distillery” is a manufacturer of distilled spirits,<sup>32</sup> and a “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises. A distillery must notify the division in writing of its decision to qualify as a craft distillery.<sup>33</sup>

Distilleries and craft distilleries pay the same amount of state license tax. All distilleries engaged solely in the business of manufacturing distilled spirits, or engaged in the business of blending

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<sup>25</sup> See <https://www.merriam-webster.com/dictionary/sake> (last visited April 12, 2017).

<sup>26</sup> See Revenue Estimating Conference, *Sake Reference in Chapter 564, F.S., Definition of Wine*, page 501 (April 4, 2017) [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/\\_pdf/Impact0407.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0407.pdf) (last visited April 12, 2017).

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

<sup>28</sup> Section 564.06(1), F.S.

<sup>29</sup> Section 564.06(2), F.S.

<sup>30</sup> Section 564.06(3), F.S.

<sup>31</sup> Section 564.09, F.S.

<sup>32</sup> Section 565.03(1)(c), F.S.

<sup>33</sup> Section 565.03(1)(b), F.S.

and rectifying<sup>34</sup> distilled spirits must pay a state license tax of \$4,000 for each plant or branch operating in Florida. Persons who engage in the business of distilling spirits may also rectify and blend spirituous liquors without paying an additional license tax.<sup>35</sup>

A craft distillery may sell to consumers branded products<sup>36</sup> distilled on the licensed premises. The products must be in factory-sealed containers filled at the distillery and sold for off-premises consumption.<sup>37</sup> The sales must occur at the distillery's souvenir gift shop located on private property contiguous to the licensed distillery premises, and included on the sketch submitted with the license application.<sup>38</sup> The craft distillery is not required to obtain, in addition to its manufacturer's license, a vendor's license in order to sell distilled spirits to consumers. Sales must be in face-to-face transactions with consumers<sup>39</sup> who are making a purchase of no more than:

- Two individual containers of each branded product;
- Three individual containers of a single branded product and up to one individual container of a second branded product; or
- Four individual containers of a single branded product.<sup>40</sup>

There are 17 distilleries currently designated as craft distilleries, and an additional 21-licensed distilleries that produce fewer than 75,000 gallons of distilled spirits a year.<sup>41</sup>

### III. Effect of Proposed Changes:

#### Division Personnel

**Section 1** amends s. 561.11(2), F.S., dealing with the power and authority of the division, to provide Select Exempt Service status to chief, assistant chiefs, regional managers (including majors), and district or office managers (including captains). This means these positions become at-will employees. These positions are eligible for greater benefits relating to health insurance, disability, and leave.

#### Alcoholic Beverage License Applications – Sanitation Safety Certificate

**Section 2** amends s. 561.17(2), F.S., to add the Agency for Health Care Administration as one of the agencies from which an applicant for a consumption on premises license must obtain a certificate that its place of business meets all sanitary requirements.

<sup>34</sup> Merriam-Webster defines rectify as the purification (of alcohol) especially by repeated or fractional distillation, *available at* <http://www.merriam-webster.com/dictionary/rectify> (last visited February 15, 2017).

<sup>35</sup> Section 565.03(3), F.S.

<sup>36</sup> Section 565.03(1)(a), F.S., defines “branded product” to mean “any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.”

<sup>37</sup> Section 565.03(1)(c), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> Section 565.03(1)(c)4., F.S.

<sup>40</sup> Section 565.03(1)(c)1., F.S.

<sup>41</sup> See 2017 Agency Legislative Bill Analysis issued by the DBPR for CS/SB 400, dated March 31, 2017 (on file with Senate Appropriations Subcommittee on General Government) at page 11.

## **Caterers**

**Section 3** amends s. 561.20(2)(a)5., F.S., to revise the method used to calculate the percentage of food and nonalcoholic beverages sold by a caterer licensed to sell beer, wine, and distilled spirits. It provides that the percentage is based on a caterer's gross food and nonalcoholic beverages revenue. A caterer must comply with the 51 percent requirement for each catered event.

The bill expands the types of records that a caterer must maintain to demonstrate compliance with its license. A caterer must maintain all records and receipts for each catered event, including all contracts, customers' names, locations, dates, food purchases and sales, alcoholic beverage purchases and sales, nonalcoholic beverage purchases and sales, and any other records required by rule of the DBPR.

## **Temporary License Application Fees**

**Section 4** amends s. 561.331(1), F.S., to repeal the \$100 fee for a temporary alcoholic beverage license issued in connection with the transfer of a license to the purchaser of a licensed business. It also repeals the fees in s. 561.331(3), F.S., for a temporary license issued in connection with an application to change the type or series of a license.

## **Wine and Sake**

**Section 5** amends the definition of "wine" in s. 564.01(1), F.S., to include sake.

## **Wine Containers**

**Section 6** repeals the wine container size limits in s. 565.055, F.S.

## **Cider Containers**

**Section 7** amends s. 564.055, F.S., to permit cider to be packaged, filled, refilled, or sold in 32 ounce, 64 ounce, and one gallon growlers in the same manner and under the same restrictions authorized for malt beverages under s. 563.06(7), F.S.

## **Restaurants - Off-Premises Consumption of Wine**

**Section 8** amends s. 564.09, F.S., to repeal the requirement that a restaurant patron must purchase and consume a full course meal in order to be able to take home a partially consumed bottle of wine. The bill retains the requirement that the restaurant patron purchase a meal with the bottle of wine.

## **Craft Distilleries**

**Section 9** amends s. 565.03(2)(a)1., F.S., to reduce the annual license tax for a craft distillery from \$4,000 to \$1,000 if the craft distillery is distilling and bottling all of its distilled products in containers approved for sale.

**Effective Date**

**Section 10** provides the bill takes effect July 1, 2017.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

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

The bill repeals the \$100 license fee for a temporary alcoholic beverage license issued in connection with the transfer of a license to the purchaser of a licensed business. The bill also repeals the fee for a temporary license issued in connection with an application to change the type or series of license. This temporary license fee is \$100 or one-fourth of the difference between the license fees, whichever is greater, if the fee for the new license is greater than the fee for the license held by the applicant. A fee for the temporary license is not required if the license fee is the same as or less than the license fee for the license then held by the applicant.

The bill reduces the annual license tax for a craft distillery from \$4,000 to \$1,000 if the craft distillery is distilling and bottling all of its distilled products in containers approved for sale.

**B. Private Sector Impact:****Fee Elimination for Temporary Licenses<sup>42</sup>**

Licensees will save at least \$100 or more on each temporary license in these license transactions.

In addition, licensees may see increased sales revenue due to the continued operation of businesses throughout their modification of licenses.

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<sup>42</sup> *Id* at page 8.

**Craft Distilleries<sup>43</sup>**

Craft distilleries that qualify for the craft distillery designation will see a 75 percent reduction in the annual license fee for a distillery license, or a savings of \$3,000 per license each year.

C. Government Sector Impact:

**Division Personnel<sup>44</sup>**

The bill provides Select Exempt Service (SES) status to specified employees of the division. The DBPR estimates that the conversion of Career Service positions to SES positions will cost between \$5,499 and \$19,800 annually, depending on how many of the 11 positions choose single health insurance coverage and how many choose family health coverage, but it believes this additional cost can be absorbed within existing resources.

	Career Service 11 FTE	Select Exempt 11 FTE	Benefit Increase
Single (low estimate)	84,854.88	90,354.00	5,499.12
Family (high estimate)	182,107.20	201,907.20	19,800.00

Additionally, there may be an occasional increase in cost for annual leave payouts at the time of separation. Any increase is anticipated by the DBPR to be minimal.<sup>45</sup>

**Temporary License Application Fees**

The DBPR states that the revenue from temporary licenses issued in connection with an application for a more expensive license type or series varies by year based on individual licensee circumstances and business discretion. Temporary license fees and transfer fees were \$191,600 for Fiscal Year 2014-2015 and \$251,300 for Fiscal Year 2015-2016.<sup>46</sup>

Current law requires that 24 percent of the license tax collected in a county for a manufacturer’s license or the vendor’s license authorized in the bill be returned to the appropriate county tax collector.<sup>47</sup> Thirty-eight percent of the license taxes collected within a municipality for those types of licenses are returned to the appropriate municipal officer.<sup>48</sup> The state receives the remaining revenue from those licenses, and that revenue is credited to the Alcoholic Beverage and Tobacco Trust Fund (AB&T TF) for the operation of the division and the DBPR.

Assuming issuance of the same number of temporary licenses as the division issued in Fiscal Year 2015-2016, the bill may reduce annual license tax revenue returned to counties and municipalities by up to \$60,312 and \$95,494, respectively, with a reduction in payments to the AB&T TF of \$95,494.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at page 10.

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

<sup>46</sup> *Id.*

<sup>47</sup> Section 561.342(1), F.S.

<sup>48</sup> Section 561.342(2), F.S.

**Wine and Sake**

On April 7, 2017, the Revenue Estimating Conference determined that revising the definition of wine to include sake would have no impact on state revenue.<sup>49</sup>

**Craft Distilleries**

The bill reduces the annual license tax for a craft distillery from \$4,000 to \$1,000 if the craft distillery is distilling and bottling all of its distilled products in containers approved for sale. The DBPR states that there are 17 distilleries currently designated as a craft distillery, and an additional 21-licensed distilleries that produce fewer than the 75,000 gallons of distilled spirits a year required to qualify as a craft distillery, for a total of 38 distilleries that may be affected by the fee reduction.<sup>50</sup> The DBPR anticipates that the fee reduction will result in an \$114,000 revenue reduction if the 21 distilleries that are currently not designated as craft distillery become designated as such.

The DBPR anticipates the reduction may cause license taxes returned to counties and municipalities to be reduced annually by up to \$27,360 and \$43,320, respectively, and the reduction in payments to the AB&T TF to be \$43,320.

**Total Revenue Impact**

In total, the bill will reduce net revenue to the AB&T TF by \$138,814. The bill also will result in a decrease in General Revenue of approximately \$11,105, due to the eight percent service charge for General Revenue. The bill will result in a decrease in taxes returned to counties and municipalities of approximately \$216,486.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 561.11, 561.17, 561.20, 561.331, 564.01, 564.055, and 565.03.

This bill repeals section 564.05 of the Florida Statutes.

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<sup>49</sup>See Revenue Estimating Conference, *Sake Reference in Chapter 564, F.S., Definition of Wine*, page 501 (April 4, 2017) [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/\\_pdf/Impact0407.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0407.pdf)

<sup>50</sup> See *2017 Agency Legislative Bill Analysis issued by the DBPR for SB 400*, dated February 15, 2017 (on file with Senate Committee on Regulated Industries) at page 10.

**IX. Additional Information:**

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

**Recommended CS/CS by Appropriations Subcommittee on General Government on April 13, 2017:**

The proposed committee substitute amends the definition of “wine” in s. 564.01(1), F.S., to include sake.

**CS by Regulated Industries on March 15, 2017:**

The committee substitute (CS):

- Retains current law in s. 561.20(2)(a)4., F.S., which provides that the minimum square footage for a food service establishment to qualify for a special license is 2,500 square feet and the minimum equipped serving capacity is 150 persons.
- Amends s. 561.331(3), F.S., to provide that a temporary license may be issued in connection with an application to change the type or series of a license without the assessment of any additional fee or tax.
- Repeals the wine containers size limitations in s. 565.05, F.S.
- Amends s. 564.055, F.S., to permit cider to be packaged, filled, refilled, or sold in 32 ounce, 64 ounce, and one gallon growlers in the same manner and under the same restrictions authorized for malt beverages under s. 563.06(7), F.S.
- Amends s. 564.09, F.S., to repeal the requirement that a restaurant patron must purchase and consume a full course meal in order to be able to take home a partially consumed bottle of wine. The CS retains the requirement that the restaurant patron must purchase a meal with the bottle of wine.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2017	.	
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Appropriations Subcommittee on General Government (Perry)  
recommended the following:

**Senate Amendment (with title amendment)**

Between lines 334 and 335

insert:

Section 5. Subsection (1) of section 564.01, Florida  
Statutes, is amended to read:

564.01 Definitions.—

(1) "Wine" means all beverages made from fresh fruits,  
berries, or grapes, either by natural fermentation or by natural  
fermentation with brandy added, in the manner required by the





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11 laws and regulations of the United States, and includes all  
12 sparkling wines, champagnes, combination of the aforesaid  
13 beverages, sake, vermouths, and like products. Sugar, flavors,  
14 and coloring materials may be added to wine to make it conform  
15 to the consumer's taste, except that the ultimate flavor or the  
16 color of the product may not be altered to imitate a beverage  
17 other than wine or to change the character of the wine.

18

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

20 And the title is amended as follows:

21       Between lines 18 and 19

22 insert:

23       amending s. 564.01, F.S.; redefining the term "wine";

By the Committee on Regulated Industries; and Senator Perry

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1 A bill to be entitled  
 2 An act relating to alcoholic beverages; amending s.  
 3 561.11, F.S.; authorizing the Division of Alcoholic  
 4 Beverages and Tobacco of the Department of Business  
 5 and Professional Regulation to appoint division  
 6 personnel; requiring specified personnel to have  
 7 Selected Exempt Service status; amending s. 561.17,  
 8 F.S.; revising the entities that may issue a  
 9 certificate indicating an alcoholic beverage license  
 10 applicant's place of business meets all of the  
 11 sanitary requirements of the state; amending s.  
 12 561.20, F.S.; revising who may be issued a special  
 13 license in counties otherwise subject to limits on the  
 14 number of licenses issued; revising the requirements  
 15 for retaining certain business records; amending s.  
 16 561.331, F.S.; requiring certain temporary beverage  
 17 licenses to be issued by the district supervisor of a  
 18 district without assessing additional fees or taxes;  
 19 repealing s. 564.05, F.S., relating to limitations on  
 20 the size of individual wine containers; amending s.  
 21 564.055, F.S.; authorizing the packaging, filling,  
 22 refilling, or sale, of cider in growlers amending s.  
 23 564.09, F.S.; revising provisions authorizing a  
 24 restaurant to allow a patron to remove a resealed wine  
 25 container from a restaurant for off-premises  
 26 consumption; amending s. 565.03, F.S.; specifying the  
 27 state license tax for craft distilleries; providing an  
 28 effective date.  
 29

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30 Be It Enacted by the Legislature of the State of Florida:  
 31  
 32 Section 1. Subsection (2) of section 561.11, Florida  
 33 Statutes, is amended to read:  
 34 561.11 Power and authority of division.—  
 35 (2) The division shall have full power and authority to  
 36 provide for the continuous training, appointment, and upgrading  
 37 of all division personnel in their respective positions with the  
 38 division. Notwithstanding any other law, chiefs, assistant  
 39 chiefs, regional managers, including majors, and district or  
 40 office managers, including captains, shall have Selected Exempt  
 41 Service status in the state personnel designation. The ~~This~~  
 42 training shall include the attendance of division personnel at  
 43 workshops, seminars, or special schools established by the  
 44 division or other organizations when attendance at such  
 45 educational programs shall in the opinion of the division be  
 46 deemed appropriate to the particular position that ~~which~~ the  
 47 employee holds.  
 48 Section 2. Subsection (2) of section 561.17, Florida  
 49 Statutes, is amended to read:  
 50 561.17 License and registration applications; approved  
 51 person.—  
 52 (2) All applications for alcoholic beverage licenses for  
 53 consumption on the premises shall be accompanied by a  
 54 certificate of the Division of Hotels and Restaurants of the  
 55 Department of Business and Professional Regulation or the  
 56 Department of Agriculture and Consumer Services or the  
 57 Department of Health or the Agency for Health Care  
 58 Administration or the county health department that the place of

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59 business wherein the business is to be conducted meets all of  
60 the sanitary requirements of the state.

61 Section 3. Paragraph (a) of subsection (2) of section  
62 561.20, Florida Statutes, is amended to read:

63 561.20 Limitation upon number of licenses issued.—

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

67 1. Any bona fide hotel, motel, or motor court of not fewer  
68 than 80 guest rooms in any county having a population of less  
69 than 50,000 residents, and of not fewer than 100 guest rooms in  
70 any county having a population of 50,000 residents or greater;  
71 or any bona fide hotel or motel located in a historic structure,  
72 as defined in s. 561.01(21), with fewer than 100 guest rooms  
73 which derives at least 51 percent of its gross revenue from the  
74 rental of hotel or motel rooms, which is licensed as a public  
75 lodging establishment by the Division of Hotels and Restaurants;  
76 provided, however, that a bona fide hotel or motel with no fewer  
77 than 10 and no more than 25 guest rooms which is a historic  
78 structure, as defined in s. 561.01(21), in a municipality that  
79 on the effective date of this act has a population, according to  
80 the University of Florida's Bureau of Economic and Business  
81 Research Estimates of Population for 1998, of no fewer than  
82 25,000 and no more than 35,000 residents and that is within a  
83 constitutionally chartered county may be issued a special  
84 license. This special license shall allow the sale and  
85 consumption of alcoholic beverages only on the licensed premises  
86 of the hotel or motel. In addition, the hotel or motel must  
87 derive at least 60 percent of its gross revenue from the rental

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88 of hotel or motel rooms and the sale of food and nonalcoholic  
89 beverages; provided that ~~the provisions of~~ this subparagraph  
90 shall supersede local laws requiring a greater number of hotel  
91 rooms;

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

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

107 4. A food service establishment that has 2,500 square feet  
108 of service area, is equipped to serve meals to 150 persons at  
109 one time, and derives at least 51 percent of its gross food and  
110 beverage revenue from the sale of food and nonalcoholic  
111 beverages during the first 60-day operating period and each 12-  
112 month operating period thereafter. A food service establishment  
113 granted a special license on or after January 1, 1958, pursuant  
114 to general or special law may not operate as a package store and  
115 may not sell intoxicating beverages under such license after the  
116 hours of serving or consumption of food have elapsed. Failure by

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117 a licensee to meet the required percentage of food and  
 118 nonalcoholic beverage gross revenues during the covered  
 119 operating period shall result in revocation of the license or  
 120 denial of the pending license application. A licensee whose  
 121 license is revoked or an applicant whose pending application is  
 122 denied, or any person required to qualify on the special license  
 123 application, is ineligible to have any interest in a subsequent  
 124 application for such a license for a period of 120 days after  
 125 the date of the final denial or revocation;

126 5. Any caterer, deriving at least 51 percent of its gross  
 127 food and beverage revenue from the sale of food and nonalcoholic  
 128 beverages, licensed by the Division of Hotels and Restaurants  
 129 under chapter 509. This subparagraph does not apply to a  
 130 culinary education program, as defined in s. 381.0072(2), which  
 131 is licensed as a public food service establishment by the  
 132 Division of Hotels and Restaurants and provides catering  
 133 services. Notwithstanding any other ~~provision of~~ law to the  
 134 contrary, a licensee under this subparagraph shall sell or serve  
 135 alcoholic beverages only for consumption on the premises of a  
 136 catered event at which the licensee is also providing prepared  
 137 food, and shall prominently display its license at any catered  
 138 event at which the caterer is selling or serving alcoholic  
 139 beverages. The caterer must ensure that each catered event meets  
 140 the 51 percent food and nonalcoholic beverage requirement. A  
 141 licensee under this subparagraph shall purchase all alcoholic  
 142 beverages it sells or serves at a catered event from a vendor  
 143 licensed under s. 563.02(1), s. 564.02(1), or licensed under s.  
 144 565.02(1) subject to the limitation imposed in subsection (1),  
 145 as appropriate. A licensee under this subparagraph may not store

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146 any alcoholic beverages to be sold or served at a catered event.  
 147 Any alcoholic beverages purchased by a licensee under this  
 148 subparagraph for a catered event that are not used at that event  
 149 must remain with the customer; provided that if the vendor  
 150 accepts unopened alcoholic beverages, the licensee may return  
 151 such alcoholic beverages to the vendor for a credit or  
 152 reimbursement. Regardless of the county or counties in which the  
 153 licensee operates, a licensee under this subparagraph shall pay  
 154 the annual state license tax set forth in s. 565.02(1)(b). A  
 155 licensee under this subparagraph must maintain for a period of 3  
 156 years all records and receipts for each catered event, including  
 157 all contracts, customers' names, locations, dates, food  
 158 purchases and sales, alcoholic beverage purchases and sales,  
 159 nonalcoholic beverage purchases and sales, and any other records  
 160 required by the department by rule to demonstrate compliance  
 161 with the requirements of this subparagraph, ~~including licensed~~  
 162 ~~vendor receipts for the purchase of alcoholic beverages and~~  
 163 ~~records identifying each customer and the location and date of~~  
 164 ~~each catered event.~~ Notwithstanding any ~~provision of~~ law to the  
 165 contrary, any vendor licensed under s. 565.02(1) subject to the  
 166 limitation imposed in subsection (1), may, without any  
 167 additional licensure under this subparagraph, serve or sell  
 168 alcoholic beverages for consumption on the premises of a catered  
 169 event at which prepared food is provided by a caterer licensed  
 170 under chapter 509. If a licensee under this subparagraph also  
 171 possesses any other license under the Beverage Law, the license  
 172 issued under this subparagraph shall not authorize the holder to  
 173 conduct activities on the premises to which the other license or  
 174 licenses apply that would otherwise be prohibited by the terms

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175 of that license or the Beverage Law. Nothing in this section  
 176 shall permit the licensee to conduct activities that are  
 177 otherwise prohibited by the Beverage Law or local law. The  
 178 Division of Alcoholic Beverages and Tobacco is hereby authorized  
 179 to adopt rules to administer the license created in this  
 180 subparagraph, to include rules governing licensure,  
 181 recordkeeping, and enforcement. The first \$300,000 in fees  
 182 collected by the division each fiscal year pursuant to this  
 183 subparagraph shall be deposited in the Department of Children  
 184 and Families' Operations and Maintenance Trust Fund to be used  
 185 only for alcohol and drug abuse education, treatment, and  
 186 prevention programs. The remainder of the fees collected shall  
 187 be deposited into the Hotel and Restaurant Trust Fund created  
 188 pursuant to s. 509.072; or

189 6. A culinary education program as defined in s.  
 190 381.0072(2) which is licensed as a public food service  
 191 establishment by the Division of Hotels and Restaurants.

192 a. This special license shall allow the sale and  
 193 consumption of alcoholic beverages on the licensed premises of  
 194 the culinary education program. The culinary education program  
 195 shall specify designated areas in the facility where the  
 196 alcoholic beverages may be consumed at the time of application.  
 197 Alcoholic beverages sold for consumption on the premises may be  
 198 consumed only in areas designated pursuant to s. 561.01(11) and  
 199 may not be removed from the designated area. Such license shall  
 200 be applicable only in and for designated areas used by the  
 201 culinary education program.

202 b. If the culinary education program provides catering  
 203 services, this special license shall also allow the sale and

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204 consumption of alcoholic beverages on the premises of a catered  
 205 event at which the licensee is also providing prepared food. A  
 206 culinary education program that provides catering services is  
 207 not required to derive at least 51 percent of its gross revenue  
 208 from the sale of food and nonalcoholic beverages.  
 209 Notwithstanding any other provision of law to the contrary, a  
 210 licensee that provides catering services under this sub-  
 211 subparagraph shall prominently display its beverage license at  
 212 any catered event at which the caterer is selling or serving  
 213 alcoholic beverages. Regardless of the county or counties in  
 214 which the licensee operates, a licensee under this sub-  
 215 subparagraph shall pay the annual state license tax set forth in  
 216 s. 565.02(1)(b). A licensee under this sub-subparagraph must  
 217 maintain for a period of 3 years all records required by the  
 218 department by rule to demonstrate compliance with the  
 219 requirements of this sub-subparagraph.

220 c. If a licensee under this subparagraph also possesses any  
 221 other license under the Beverage Law, the license issued under  
 222 this subparagraph does not authorize the holder to conduct  
 223 activities on the premises to which the other license or  
 224 licenses apply that would otherwise be prohibited by the terms  
 225 of that license or the Beverage Law. Nothing in this  
 226 subparagraph shall permit the licensee to conduct activities  
 227 that are otherwise prohibited by the Beverage Law or local law.  
 228 Any culinary education program that holds a license to sell  
 229 alcoholic beverages shall comply with the age requirements set  
 230 forth in ss. 562.11(4), 562.111(2), and 562.13.

231 d. The Division of Alcoholic Beverages and Tobacco may  
 232 adopt rules to administer the license created in this

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233 subparagraph, to include rules governing licensure,  
234 recordkeeping, and enforcement.

235 e. A license issued pursuant to this subparagraph does not  
236 permit the licensee to sell alcoholic beverages by the package  
237 for off-premises consumption.

238  
239 However, any license heretofore issued to any such hotel, motel,  
240 motor court, or restaurant or hereafter issued to any such  
241 hotel, motel, or motor court, including a condominium  
242 accommodation, under the general law shall not be moved to a new  
243 location, such license being valid only on the premises of such  
244 hotel, motel, motor court, or restaurant. Licenses issued to  
245 hotels, motels, motor courts, or restaurants under the general  
246 law and held by such hotels, motels, motor courts, or  
247 restaurants on May 24, 1947, shall be counted in the quota  
248 limitation contained in subsection (1). Any license issued for  
249 any hotel, motel, or motor court under ~~the provisions of~~ this  
250 law shall be issued only to the owner of the hotel, motel, or  
251 motor court or, in the event the hotel, motel, or motor court is  
252 leased, to the lessee of the hotel, motel, or motor court; and  
253 the license shall remain in the name of the owner or lessee so  
254 long as the license is in existence. Any special license now in  
255 existence heretofore issued under ~~the provisions of~~ this law  
256 cannot be renewed except in the name of the owner of the hotel,  
257 motel, motor court, or restaurant or, in the event the hotel,  
258 motel, motor court, or restaurant is leased, in the name of the  
259 lessee of the hotel, motel, motor court, or restaurant in which  
260 the license is located and must remain in the name of the owner  
261 or lessee so long as the license is in existence. Any license

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262 issued under this section shall be marked "Special," and nothing  
263 herein provided shall limit, restrict, or prevent the issuance  
264 of a special license for any restaurant or motel which shall  
265 hereafter meet the requirements of the law existing immediately  
266 prior to the effective date of this act, if construction of such  
267 restaurant has commenced prior to the effective date of this act  
268 and is completed within 30 days thereafter, or if an application  
269 is on file for such special license at the time this act takes  
270 effect; and any such licenses issued under this proviso may be  
271 annually renewed as now provided by law. Nothing herein prevents  
272 an application for transfer of a license to a bona fide  
273 purchaser of any hotel, motel, motor court, or restaurant by the  
274 purchaser of such facility or the transfer of such license  
275 pursuant to law.

276 Section 4. Subsections (1) and (3) of section 561.331,  
277 Florida Statutes, are amended to read:

278 561.331 Temporary license upon application for transfer,  
279 change of location, or change of type or series.—

280 (1) Upon the filing of a properly completed application for  
281 transfer pursuant to s. 561.32, which application does not on  
282 its face disclose any reason for denying an alcoholic beverage  
283 license, by any purchaser of a business that which possesses a  
284 beverage license of any type or series, the purchaser of such  
285 business and the applicant for transfer are entitled as a matter  
286 of right to receive a temporary beverage license of the same  
287 type and series as that held by the seller of such business. The  
288 temporary license will be valid for all purposes under the  
289 Beverage Law until the application is denied or until 14 days  
290 after the application is approved. Such temporary beverage

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291 license shall be issued by the district supervisor of the  
 292 district in which the application for transfer is made without  
 293 the assessment of any additional fee or tax upon the payment of  
 294 a fee of \$100. A purchaser operating under ~~the provisions of~~  
 295 this subsection is subject to the same rights, privileges,  
 296 duties, and limitations of a beverage licensee as are provided  
 297 by law, except that purchases of alcoholic beverages during the  
 298 term of such temporary license shall be for cash only. However,  
 299 such cash-only restriction does not apply if the entity holding  
 300 a temporary license pursuant to this section purchases alcoholic  
 301 beverages as part of a single-transaction cooperative purchase  
 302 placed by a pool buying agent or if such entity is also the  
 303 holder of a state beverage license authorizing the purchase of  
 304 the same type of alcoholic beverages as authorized under the  
 305 temporary license.

306 (3) Upon the filing of a properly completed application to  
 307 change the type or series of a beverage license by any qualified  
 308 licensee having a beverage license of any type or series, which  
 309 application does not on its face disclose any reason for denying  
 310 an alcoholic beverage license, the licensee is entitled as a  
 311 matter of right to receive a temporary beverage license of the  
 312 type or series applied for, which temporary license is valid for  
 313 all purposes under the Beverage Law until the application is  
 314 denied or until 14 days after the application is approved. Such  
 315 temporary license shall be issued by the district supervisor of  
 316 the district in which the application for change of type or  
 317 series is made without the assessment of any additional fee or  
 318 tax. If the department issues a notice of intent to deny the  
 319 license application for failure of the applicant to disclose the

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320 information required by s. 561.15(2) or (4), the temporary  
 321 license for transfer, change of location, or change of type of  
 322 series expires and shall not be extended during any proceeding  
 323 for administrative or judicial review pursuant to chapter 120.  
 324 ~~If the fee for the type or series or license applied for is~~  
 325 ~~greater than the fee for the license then held by the applicant,~~  
 326 ~~the applicant for such temporary license must pay a fee in the~~  
 327 ~~amount of \$100 or one-fourth of the difference between the fees,~~  
 328 ~~whichever amount is greater. A fee is not required for an~~  
 329 ~~application for a temporary license of a type or series for~~  
 330 ~~which the fee is the same as or less than the fee for the~~  
 331 ~~license then held by the applicant.~~ The holder of a temporary  
 332 license under this subsection is subject to the same rights,  
 333 privileges, duties, and limitations of a beverage licensee as  
 334 are provided by law.

335 Section 5. Section 564.05, Florida Statutes, is repealed.

336 Section 6. Section 564.055, Florida Statutes, is amended to  
 337 read

338 564.055 Cider containers.—Notwithstanding any other law to  
 339 the contrary, cider, as defined in s. 564.06(4), may be sold by  
 340 vendors at retail in any size individual container containing no  
 341 more than 32 ounces of cider; however, this section does not  
 342 prohibit cider from being packaged and sold in bulk, in kegs or  
 343 barrels, or in any individual container that contains 1 gallon  
 344 or more of cider, regardless of container type. In addition,  
 345 cider may be packaged, filled, refilled, or sold in 32 ounce, 64  
 346 ounce, and 1 gallon growlers in the same manner and under the  
 347 same restrictions as authorized for malt beverages pursuant to  
 348 s. 563.06(7).

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349 Section 7. Section 564.09, Florida Statutes, is amended to  
350 read:

351 564.09 Restaurants; off-premises consumption of wine.—  
352 Notwithstanding any other provision of law, a restaurant  
353 licensed to sell wine on the premises may permit a patron to  
354 remove one unsealed bottle of wine for consumption off the  
355 premises if the patron has purchased a ~~full-course~~ meal  
356 ~~consisting of a salad or vegetable, entree, a beverage, and~~  
357 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~  
358 ~~meal~~ on the restaurant premises. A partially consumed bottle of  
359 wine that is to be removed from the premises must be securely  
360 resealed by the licensee or its employees before removal from  
361 the premises. The partially consumed bottle of wine shall be  
362 placed in a bag or other container that is secured in such a  
363 manner that it is visibly apparent if the container has been  
364 subsequently opened or tampered with, and a dated receipt for  
365 the bottle of wine and ~~full-course~~ meal shall be provided by the  
366 licensee and attached to the container. If transported in a  
367 motor vehicle, the container with the resealed bottle of wine  
368 must be placed in a locked glove compartment, a locked trunk, or  
369 the area behind the last upright seat of a motor vehicle that is  
370 not equipped with a trunk.

371 Section 8. Paragraph (a) of subsection (2) of section  
372 565.03, Florida Statutes, is amended to read:

373 565.03 License fees; manufacturers, distributors, brokers,  
374 sales agents, and importers of alcoholic beverages; vendor  
375 licenses and fees; craft distilleries.—

376 (2) (a) A distillery authorized to do business under the  
377 Beverage Law shall pay an annual state license tax for each

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378 plant or branch operating in the state, as follows:

379 1. If engaged in the business of manufacturing distilled  
380 spirits, not including craft distilleries, a state license tax  
381 of \$4,000.

382 2. If engaged in the business of manufacturing distilled  
383 spirits as a craft distillery, a state license tax of \$1,000.

384 ~~3.2-~~ If engaged in the business of rectifying and blending  
385 spirituous liquors and nothing else, a state license tax of  
386 \$4,000.

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

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

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

04/13/2017

*Meeting Date*

400

*Bill Number (if applicable)*

404846

*Amendment Barcode (if applicable)*Topic Alcoholic BeveragesName Warren Husband

Job Title \_\_\_\_\_

Address PO Box 10909*Street*Tallahassee*City*FL*State*32302*Zip*Phone (850) 205-9000

Email \_\_\_\_\_

Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*Representing Florida Restaurant and Lodging AssociationAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/2017

Meeting Date

SB-400

Bill Number (if applicable)

Topic SB 400

Amendment Barcode (if applicable)

Name Jo Morris

Job Title Legislative Affairs Director (DBPR)

Address 2601 Blair Stone Road

Phone (850)487-4827

Tallahassee FL 32399

City State Zip

Email

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

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

Representing DBPR

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

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

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Denise Grimsley, Chair  
Appropriations Subcommittee on General Government

**Subject:** Committee Agenda Request

**Date:** March 23, 2017

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I respectfully request that **Senate Bill #400**, relating to Alcoholic Beverages, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

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Senator Keith Perry  
Florida Senate, District 8

**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 Subcommittee on General Government

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BILL: CS/CS/SB 554

INTRODUCER: Commerce and Tourism Committee; Regulated Industries Committee; and Senator Young and others

SUBJECT: Craft Breweries

DATE: April 12, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Askey</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Davis</u>	<u>Betta</u>	<u>AGG</u>	<u>Recommend: Favorable</u>
4.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 554 authorizes a craft brewery with a retail vendor's license to sell, transport, and deliver its own beer from its brewery to other vendors. A craft brewery that distributes beer to a vendor is subject to the same restrictions as a licensed distributor (i.e., the brewer cannot give the vendor any financial assistance, such as a gift, loan, or rebate).

A craft brewery may self-distribute to a vendor only beer in kegs or similar containers that hold 5.16 gallons (i.e., a 1/6<sup>th</sup> keg), 7.75 gallons (i.e., a "pony keg") or 15.5 gallons (i.e., a keg). A craft brewery may not distribute its own beer to a vendor if it has a franchise agreement with a distributor to distribute its product anywhere in the state, or has a total production volume of more than 7,000 kegs (i.e., 108,500 gallons) of malt beverages a year.

Deliveries of beer to a vendor must be made in vehicles owned by the brewery or in a vehicle owned by a person required to be disclosed on the alcoholic beverage application.

The bill allows brew pubs to transfer beer to a restaurant, of common owner affiliation, which is a part of a restaurant group of not more than 15 restaurants.

The bill has no impact on state revenues or expenditures because any new costs will be paid from existing resources.

## II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,<sup>1</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.<sup>2</sup> The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.<sup>3</sup>

### Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer. A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.

Generally, Florida has adopted the three-tier system. Only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.<sup>4</sup> Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.<sup>5</sup> Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.<sup>6</sup>

### Tied House Evil Prohibitions

The three-tier system is deeply rooted in the perceived evils of the “tied house” in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.<sup>7</sup> Section 561.42, F.S., regulates the permitted and prohibited relationships and interactions of manufacturers and distributors with vendors in order to prevent a manufacturer or distributor from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor, and to prevent a manufacturer or distributor from giving a vendor gifts, loans or property, or rebates. However, s. 561.423, F.S., permits a distributor of beer or malt beverages to provide in-store servicing of beer or malt beverages.

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<sup>1</sup> Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>2</sup> See s. 561.14, F.S.

<sup>3</sup> Section 561.02, F.S.

<sup>4</sup> Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

<sup>5</sup> Section 561.22, F.S.

<sup>6</sup> Sections 563.022(14) and 561.14(1), F.S.

<sup>7</sup> Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington’s Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, (June 2004) available at: [http://www.lanepowell.com/wp-content/uploads/2009/04/pricce\\_001.pdf](http://www.lanepowell.com/wp-content/uploads/2009/04/pricce_001.pdf) (last visited February 13, 2017).

### **Three-Tier System Exceptions**

Exceptions to the three-tier regulatory system permit in-state wineries,<sup>8</sup> breweries,<sup>9</sup> and craft distilleries to be licensed as a vendor and sell directly to consumers.<sup>10</sup> Restaurants licensed as vendors (brew pubs) may manufacture a limited quantity of malt beverages and sell directly to consumers for consumption on the licensed premises of a restaurant.<sup>11</sup>

### **Craft Breweries**

Section 561.221(2), F.S., authorizes the division to issue a vendor's license to a manufacturer of malt beverages for the sale of alcoholic beverages on property consisting of a single complex that includes a brewery (craft brewery), which may be divided by no more than one public street or highway. A vendor license to a craft brewery is an exception to the three-tier system described in ss. 561.14 and 561.22, F.S., and to the tied-house evil restrictions in s. 561.42, F.S.

A craft brewery with multiple manufacturing licenses may transfer malt beverages that it produces between its breweries, as provided in s. 563.022(14)(d), F.S. Such transfers are limited to an amount equal to 100 percent of the yearly production of the receiving brewery.

All malt beverages and other alcoholic beverages that are not manufactured by the craft brewery must be obtained through a distributor, an importer, sales agent, or broker.

A craft brewery may not make deliveries as provided in s. 561.57(1), F.S., which permits a vendor to deliver products sold at the licensed place of business to an off-site location. Telephone or mail orders received at a vendor's licensed place of business are considered a sale actually made at the vendor's licensed place of business. However, deliveries made by a vendor away from his or her place of business may only be made in vehicles that are owned or leased by the licensee. By acceptance of an alcoholic beverage licensee, the vendor is presumed to have agreed to the inspection of the vehicle without a search warrant by employees of the division or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws.<sup>12</sup>

The division may not issue more than eight vendor's licenses to a manufacturer of malt beverages.<sup>13</sup>

### **Come-to-Rest Requirement**

Section 561.5101, F.S., requires, for purposes of inspection and tax-revenue control, all malt beverages to come to rest at the licensed premises of an alcoholic beverage wholesaler in this state before being sold to a vendor by the wholesaler. The come-to-rest requirement does not apply to malt beverages that a craft brewery manufactures and sells to consumers as a vendor, or

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<sup>8</sup> See s. 561.221(1), F.S.

<sup>9</sup> See s. 561.221(2), F.S.

<sup>10</sup> See s. 565.03, F.S.

<sup>11</sup> See s. 561.221(3), F.S.

<sup>12</sup> Section 561.57(2), F.S.

<sup>13</sup> Section 561.221(2)(e), F.S.

to malt beverages manufactured and sold by a brew pub. It is a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.,<sup>14</sup> for any person in the business of selling alcoholic beverages to knowingly and intentionally sell malt beverages in a manner inconsistent with the come-to-rest requirement, whether the sale is to a vendor or to an ultimate consumer.

### **Excise Tax Reporting and Payment**

Craft brewers are required to report and pay the excise tax on malt beverages imposed by s. 563.05, F.S. Manufacturers and distributors are required to compute and submit the applicable excise taxes on alcoholic beverages with the report required by s. 561.55, F.S., to the division, on or before the 10th of each month, for all beverages sold during the previous calendar month.<sup>15</sup>

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

Section 1 amends s. 561.221, F.S., to authorize a craft brewery to sell, transport, and deliver (distribute) its own beer from its licensed premises to vendors.

A craft brewery that distributes beer to a vendor is subject to the same restrictions as a licensed distributor under ss. 561.42 and 561.423, F.S., (e.g., the brewer cannot give the vendor any financial assistance, such as a gift, loan, or rebate).

A craft brewery may distribute to a vendor only beer in kegs<sup>16</sup> or similar containers that hold 5.16 gallons (i.e., a 1/6<sup>th</sup> keg), 7.75 gallons (i.e., a “pony keg”) or 15.5 gallons (i.e., a keg).

A craft brewery may not distribute to a vendor, if it:

- Has a franchise agreement with a distributor to distribute its product anywhere in the state; or
- Has a total production volume of more than 7,000 kegs (i.e., 108,500 gallons) of malt beverages a year.

Section 1 allows brew pubs to transfer beer to a restaurant, of common owner affiliation, which is a part of a restaurant group of not more than 15 restaurants.

Section 2 amends s. 561.5101, F.S., the come-to-rest requirement, to exempt certain deliveries made by a craft distillery to a vendor as provided in s. 561.221(2)(f), F.S.

Section 3 amends s. 561.57, F.S., to require a brewery to deliver beer to a vendor in a vehicle owned by the brewery or in a vehicle owned by a person required to be disclosed on the alcoholic beverage application,<sup>17</sup> as provided in s. 561.57, F.S.

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<sup>14</sup> Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000. Section 775.084, F.S., provides increased penalties for habitual offenders.

<sup>15</sup> Section 561.50, F.S.

<sup>16</sup> Section 561.221(3)(a)1., F.S. provides that a “keg” equals 15.5 gallons.

<sup>17</sup> Section 561.17, F.S., requires that the alcoholic beverage license application include all persons, officers, shareholders, and directors of the applicant that have a direct or indirect interest in the business seeking to be licensed under the Beverage Law.

Section 4 amends s. 561.022, F.S., to provide that the Beverage Law does not prohibit a delivery from a brewery to a vendor's licensed premises as provided in s. 561.221(2)(f), F.S.

The effective date of the bill is July 1, 2017.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DBPR, modifications to the Electronic Data Submission (EDS) System will be necessary to implement this bill. The costs of such modification can be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 561.221, 561.5101, 561.57, and 563.022.



**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 Commerce and Tourism Committee on March 27, 2017:**

The committee substitute allows brew pubs to transfer beer to a restaurant, of common owner affiliation, which is a part of a restaurant group of not more than 15 restaurants.

**CS by Regulated Industries Committee on February 22, 2017:**

The committee substitute:

- Allows a craft brewery to distribute kegs or similar containers that hold 5.16 gallons (i.e., a 1/6<sup>th</sup> keg), 7.75 gallons (i.e., a “pony keg”) or 15.5 gallons (i.e., a keg), of malt beverages manufactured on its licensed premises; and
- Clarifies that the authority to distribute does not apply to a manufacturer who has a total production volume of more than 7,000 kegs, (i.e., 108,500 gallons) of malt beverages a year.

- B. **Amendments:**

None.

By the Committees on Commerce and Tourism; and Regulated Industries; and Senators Young and Latvala

577-02922-17

2017554c2

1 A bill to be entitled  
 2 An act relating to craft breweries; amending s.  
 3 561.221, F.S.; exempting certain vendors from  
 4 specified delivery restrictions under certain  
 5 circumstances; providing applicability; authorizing  
 6 vendors licensed as manufacturers under ch. 561, F.S.,  
 7 to transfer malt beverages to certain restaurants with  
 8 common ownership affiliations; amending s. 561.5101,  
 9 F.S.; revising applicability; amending s. 561.57,  
 10 F.S.; providing that certain manufacturers may  
 11 transport malt beverages in vehicles owned or leased  
 12 by certain persons other than the manufacturers;  
 13 amending s. 563.022, F.S.; conforming a provision to  
 14 changes made by the act; providing an effective date.  
 15  
 16 Be It Enacted by the Legislature of the State of Florida:  
 17  
 18 Section 1. Paragraph (d) of subsection (2) of section  
 19 561.221, Florida Statutes, is amended, paragraph (f) is added to  
 20 that subsection, paragraph (a) of subsection (3) of that section  
 21 is amended, and subsection (4) is added to that section, to  
 22 read:  
 23 561.221 Licensing of manufacturers and distributors as  
 24 vendors and of vendors as manufacturers; conditions and  
 25 limitations.—  
 26 (2)  
 27 (d) A manufacturer possessing a vendor's license under this  
 28 subsection is not permitted to make deliveries under s.  
 29 561.57(1), except as provided in paragraph (f).

Page 1 of 4

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

577-02922-17

2017554c2

30 (f) Notwithstanding any other provision of the Beverage  
 31 Law, a manufacturer possessing a vendor's license under this  
 32 subsection may sell, transport, and deliver to vendors, from the  
 33 manufacturer's licensed premises, malt beverages that have been  
 34 manufactured on its licensed premises if the manufacturer  
 35 complies with the requirements in ss. 561.42 and 561.423, as  
 36 applicable, to the same extent as if the manufacturer were a  
 37 distributor.  
 38 1. The authority provided in this paragraph is limited to  
 39 the sale, transport, and delivery of kegs or similar containers  
 40 that hold 5.16 gallons, 7.75 gallons, or 15.5 gallons.  
 41 2. Any delivery under this paragraph is subject to the  
 42 provisions of s. 561.57(2) related to deliveries by licensees.  
 43 3. This paragraph does not apply to a manufacturer who:  
 44 a. Has a franchise agreement with a distributor pursuant to  
 45 s. 563.022; or  
 46 b. Has a total production volume of more than 7,000 kegs of  
 47 malt beverages a year.  
 48 (3) (a) Notwithstanding other provisions of the Beverage  
 49 Law, any vendor licensed in this state may be licensed as a  
 50 manufacturer of malt beverages upon a finding by the division  
 51 that:  
 52 1. The vendor will be engaged in brewing malt beverages at  
 53 a single location and in an amount which will not exceed 10,000  
 54 kegs per year. For purposes of this ~~section~~ subsection, the term  
 55 "keg" means 15.5 gallons.  
 56 2. The malt beverages so brewed will be sold to consumers  
 57 for consumption on the vendor's licensed premises or on  
 58 contiguous licensed premises owned by the vendor.

Page 2 of 4

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

577-02922-17

2017554c2

59 (4) Notwithstanding any other provision of the Beverage  
 60 Law, any vendor licensed as a manufacturer under this section  
 61 may transfer malt beverages to any restaurant with which it has  
 62 common ownership affiliations, which restaurant is part of a  
 63 restaurant group that comprises not more than 15 restaurants.

64 Section 2. Subsection (1) of section 561.5101, Florida  
 65 Statutes, is amended to read:

66 561.5101 Come-to-rest requirement; exceptions; penalties.—

67 (1) For purposes of inspection and tax-revenue control, all  
 68 malt beverages, except those manufactured and sold by the same  
 69 licensee, pursuant to s. 561.221(2) or (3), must come to rest at  
 70 the licensed premises of an alcoholic beverage wholesaler in  
 71 this state before being sold to a vendor by the wholesaler. The  
 72 prohibition contained in this subsection does not apply to the  
 73 shipment of malt beverages commonly known as private labels. The  
 74 prohibition contained in this subsection shall not prevent a  
 75 manufacturer from shipping malt beverages for storage at a  
 76 bonded warehouse facility, provided that such malt beverages are  
 77 distributed as provided in this subsection or to an out-of-state  
 78 entity. The prohibition contained in this subsection does not  
 79 apply to a manufacturer delivering alcoholic beverages to a  
 80 licensed vendor as provided in s. 561.221(2)(f).

81 Section 3. Subsection (2) of section 561.57, Florida  
 82 Statutes, is amended to read:

83 561.57 Deliveries by licensees.—

84 (2) Deliveries made by a manufacturer, distributor, or  
 85 vendor away from his or her place of business may be made only  
 86 in vehicles that ~~which~~ are owned or leased by the licensee.  
 87 However, a manufacturer authorized to make deliveries under s.

Page 3 of 4

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

577-02922-17

2017554c2

88 561.221(2)(f) to the licensed premises of a vendor may transport  
 89 malt beverages if the vehicle used to transport the alcoholic  
 90 beverages is owned or leased by the manufacturer or any person  
 91 who has been disclosed on a license application filed by the  
 92 manufacturer and approved by the division. By acceptance of an  
 93 alcoholic beverage license and the use of such vehicles, the  
 94 licensee agrees that such vehicle shall always be subject to be  
 95 inspected and searched without a search warrant, for the purpose  
 96 of ascertaining that all provisions of the alcoholic beverage  
 97 laws are complied with, by authorized employees of the division  
 98 and also by sheriffs, deputy sheriffs, and police officers  
 99 during business hours or other times the vehicle is being used  
 100 to transport or deliver alcoholic beverages.

101 Section 4. Paragraph (d) of subsection (14) of section  
 102 563.022, Florida Statutes, is amended to read:

103 563.022 Relations between beer distributors and  
 104 manufacturers.—

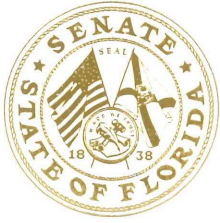
105 (14) MANUFACTURER; PROHIBITED INTERESTS.—

106 (d) Nothing in the Beverage Law shall be construed to  
 107 prohibit a manufacturer from shipping products to or between its  
 108 breweries, or between its breweries and the licensed premises of  
 109 a vendor as provided in s. 561.221(2)(f), without a  
 110 distributor's license.

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

Page 4 of 4

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

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

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR DANA YOUNG**

18th District

March 28, 2017

Senator Denise Grimsley, Chair  
Senate Appropriations Subcommittee on General Government  
201 The Capitol  
404 S. Monroe Street  
Tallahassee, Florida 32399-1100

Dear Chairman Grimsley,

My Senate Bill 554, Craft Breweries has been referred to your committee for a hearing. I respectfully request that this bill be placed on your next available agenda.

Thank you for your consideration of this request. If I need to provide you with more information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Dana Young".

Dana Young  
State Senator – 18<sup>th</sup> District

cc: Giovanni Betta, Staff Director – Senate Appropriations Subcommittee on General Government

#### REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

**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 Subcommittee on General Government

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BILL: PCS/CS/SB 590 (765792)

INTRODUCER: Appropriations Subcommittee on General Government; Judiciary Committee; and Senator Brandes and others

SUBJECT: Child Support and Parenting Time Plans

DATE: April 17, 2017

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2. <u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
3. <u>Blizzard</u>	<u>Betta</u>	<u>AGG</u>	<b>Recommend: Fav/CS</b>
4. _____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

PCS/CS/SB 590 authorizes the Department of Revenue (department) to establish parenting time plans agreed to by both parents in Title IV-D child support actions. The department will be required to provide parents Title IV-D Parenting Time Plans with a proposed administrative support order. The bill also creates a standard Title IV-D Parenting Time Plan that may be used by parents. In the event the parents cannot agree on a parenting time plan, they will be referred to the circuit court for the establishment of a plan. In these instances, parents will not pay a fee to file a petition to determine a parenting time plan.

The bill has a significant impact on the Department of Revenue and appropriates \$1,041,126 from the General Revenue Fund to the department to carry out the provisions of the bill. The bill has an indeterminate impact on the workload of the state court system. See Section V.

The bill takes effect January 1, 2018.

**II. Present Situation:**

Chapter 61, Florida Statutes, addresses the issues of dissolution of marriage, child support, and parenting time plans. In a dissolution of marriage, matters relating to the marriage are settled as part of the judicial proceeding or through the adoption of a marital settlement agreement. If the

parties to the dissolution cannot agree then the circuit court has the jurisdiction to resolve outstanding issues.

The Legislature designated the Department of Revenue (department) as the state agency responsible for the administration of the child support enforcement program, Title IV-D of the Social Security Act, 42 USC. ss. 651 et seq.<sup>1</sup> As the state Title IV-D agency, the department has the authority to take actions to carry out the public policy of ensuring children are maintained from the resources of their parents to the extent possible. The department's authority includes, but is not limited to, the establishment of paternity or support obligations, as well as modifications, enforcement, and collection of support obligations.<sup>2</sup> According to the department's website, as of federal fiscal year 2014, the department collected \$1.57 billion in child support whereby 98 percent went to the families. The remaining 2 percent reimbursed public assistance dollars. Additionally, \$1.02 billion in child support was collected through income withholding from the parent's paycheck. For every dollar spent the child support program collects \$5.75<sup>3</sup>.

The Title IV-D program plays a critical role in assuring that parents who live apart from their children meet their financial obligations.<sup>4</sup> Child well-being is improved by positive and consistent emotional and financial support from both parents.<sup>5</sup> Engaged fathering significantly enhances children's social, cognitive, and academic behavior in a positive manner.<sup>6</sup>

There is no systematic, efficient mechanism for families to establish parenting time agreements for children whose parents were not married at the time of their birth.<sup>7</sup> While divorcing parents often establish parenting time agreements as part of the divorce proceedings in circuit court, child support systems require unmarried parents to participate in multiple, often overlapping, legal proceedings in order to resolve issues of child support and parenting time.<sup>8</sup> Addressing both the calculation of child support and the amount of parenting time as part of the same process increases efficiency and reduces the burdens on parents of being involved in multiple administrative or judicial processes. A structured, formal approach to parenting time helps both parents manage their co-parenting relationship and reduce conflict, ambiguity, unpredictability about parenting time arrangements, and may increase child support compliance.<sup>9</sup>

A handful of states or jurisdictions (Michigan, Texas, Orange County, California, Hennepin County, Minnesota) have child support initiatives that incorporate parenting time agreements into initial child support orders, many focusing on parenting agreements where the parents

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<sup>1</sup> s. 409.2557(1), F.S.

<sup>2</sup> section 409.2557(2), F.S.

<sup>3</sup> Florida Department of Revenue, Child Support Enforcement website, *available at* <http://floridarevenue.com/dor/childsupport/pdf/cs1001x.pdf> and last visited March 1, 2017.

<sup>4</sup> U.S. Department of Health and Human Services, Administration for Children & Families, *Promoting Child Well-Being & Family Self-Sufficiency, Child Support and Parenting Time: Improving Coordination to Benefit Children*, Child Support Fact Sheet Series, Number 13, on file with the Senate Committee on Children, Families & Elder Affairs.

<sup>5</sup> *Id.*

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

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

<sup>8</sup> *Id.* at page 2.

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

already agree on the division of time.<sup>10</sup> Texas is the most standardized, statewide program incorporating parenting time agreements into child support orders.<sup>11</sup> The Texas Family Code requires that a final order that stems from a suit affecting a parent-child relationship must include a parenting plan.<sup>12</sup> Unlike other states, Texas provides a statutory “standard possession order” that is presumed to provide a noncustodial parent with reasonable minimum time with his or her child and to be in the best interest of the child.<sup>13</sup>

In 1989, the Texas Legislature moved forward with not only the required child support guidelines as required by the federal government, but also with statutory presumptive visitation guidelines in the form of a standard order.<sup>14</sup> If there is a history of domestic violence or sexual abuse, the standard possession order may be inapplicable. The court must consider the commission of family violence or sexual abuse in determining whether to deny, restrict, or limit the possession of a child by a noncustodial parent.<sup>15</sup>

In the initial creation of the Title IV-D program, the United States Congress provided financial subsidies for the operation of state Title IV-D programs through financial incentives based on support collections. Because the activities that are eligible for federal funding are limited to those required to establish paternity, establish and enforce child support obligations, collect and distribute payment, and locate absent parents, most states have taken the position that child support orders obtained or issued by IV-D programs not include provisions regarding parenting time, at the risk of jeopardizing federal funding for their programs.<sup>16</sup>

Texas has managed to include parenting plans in its support order for the last 30 years by maintaining that the cost of establishing a visitation order, coinciding with the establishment of paternity and/or a support obligation is a reasonable and minimal expense that must be incurred as part of the support order establishment process. Texas has argued that its success is based on:

- the existence in Texas law of the standard possession order,
- simple child support guidelines,
- agency policies and practices with dealing with cases where any dispute regarding parenting time, and
- the agency’s successful public educational and outreach activities.<sup>17</sup>

The Texas Office of Attorney General (the Title IV-D agency in Texas) has adopted policies and practices to make the visitation order establishment process highly efficient. The agency is not involved in the resolution of any disputed possession issue between the parties. Disputed cases are referred to the appropriate trial court for a final resolution of visitation disputes.<sup>18</sup> However,

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

<sup>11</sup> *Id.* at page 3.

<sup>12</sup> Alicia G. Key, *Parenting Time in Texas Child Support Cases*, Family Court Review, Vol 53 No. 2, April 2015 258-266, on file with the Senate Committee on Children, Families & Elder Affairs.

<sup>13</sup> See Tex. Fam. Code Section 153.252 (West 2013).

<sup>14</sup> Key, *supra* note 4, at 111.

<sup>15</sup> Key, *supra* at 261.

<sup>16</sup> See 45 C.F.R., Section 304.20(b) (1982).

<sup>17</sup> Key, *supra* at 263.

<sup>18</sup> See Tex. Fam. Code Section 201.007(b)

the parties do not need to file additional pleadings or incur additional expense at the second hearing for a decision on the visitation issues that may be in dispute.<sup>19</sup>

In s. 409.2563, F.S., the legislative intent is clear that the jurisdiction of the circuit courts to hear and determine issues regarding child support were not limited. The intent was to provide the department with an alternative procedure to establish child support obligations in Title IV-D cases in a fair and expeditious manner when there is no court order of support.<sup>20</sup> The Legislature did not grant the department the jurisdiction to hear or determine issues of dissolution of marriage, separation, alimony or spousal support, termination of parental rights, dependency, disputed paternity except as otherwise provided in statute, or award of or change of time-sharing.<sup>21</sup> In Title IV-D cases, if parents want to establish a shared parenting time schedule that is enforceable by the courts, they have to file a separate cause of action in the circuit court.

### III. Effect of Proposed Changes:

**Section 1** amends s. 409.2551, F.S., to provide that it is the public policy of the state to encourage frequent contact between child and each parent.

**Section 2** amends s. 409.2554, F.S., to provide definitions for “State Case Registry,” “State Disbursement Unit,” and “Title IV-D Standard Parenting Time Plans.”

**Section 3** amends s. 409.2557, F.S., to provide the department the authority to establish Title IV-D Standard Parenting Time Plans or any other parenting time plan agreed to and signed by the parents.

**Section 4** amends s. 409.2563, F.S., to allow the department to establish parenting time plans only if the parents are in agreement. This section also provides that, if the parents do not have a parenting time plan and do not agree to a Title IV-D Standard Parenting Time Plan, a time plan will not be included in the initial administrative order setting child support. A statement explaining the absence of the parenting time plan will be included with the initial administrative order setting child support.

Any notifications by the department to parents will not include a Title IV-D Standard Parenting Time Plan if Florida is not the child’s home state or one parent does not reside in Florida. The Title IV-D Standard Parenting Time Plan is not intended for use by and shall not be provided to either parent if there is a request for nondisclosure due to domestic or family violence, or if the parent who owes child support is incarcerated.

The bill also provides that if both parents have agreed to a parenting time plan before the administrative support order is established, the plan will be incorporated into the administrative support order. However, the department does not have the jurisdiction to enforce any parenting time plan that is incorporated into an administrative support order. When the department provides notice of proceeding to establish an administrative support order it must include a copy of the Title IV-D Standard Parenting Time Plan. Copies of proposed administrative support

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<sup>19</sup> Key, *supra* at 263.

<sup>20</sup> section 409.2568(2)(a), F.S.

<sup>21</sup> section 409.2568(2)(b), F.S.



orders provided to parents will include a copy of the Title IV-D Standard Parenting Time Plan, along with other required documents. If a hearing is held, an administrative support order will include a parenting time plan or Title IV-D Standard Parenting Time Plan agreed to by both parents.

**Section 5** creates s. 409.25633, F.S., to provide that a Title IV-D Standard Parenting Time Plan must be included in any administrative action to establish child support taken by the department if the parents agree to and sign the plan. If there is no agreement as to a parenting time plan, then the department must enter an administrative order for child support and refer the parents to a court of appropriate jurisdiction to establish a parenting time plan. The department must also develop a form petition and provide information to the parents on the process to establish such plan.

This section also creates a Title IV-D Standard Parenting Time Plan that will be presented to parents in an administrative child support action. The agreed upon parenting time plan is to be in the best interest of the child and special consideration should be given to the age and needs of each child. There is no presumption for or against the father or mother of the child or against any specific time-sharing schedule when a parenting time plan is created. The Title IV-D Standard Parenting Time Plans are not intended for use by and shall not be provided to parents and families with domestic or family violence concerns.

The department is directed to create and provide a form for a petition to establish a parenting time plan for parents who have not agreed to a parenting schedule at the time of the child support hearing. The department will provide the form to the parents but will not file the petition or represent either parent at a hearing to establish parenting time. The parents will not be required to pay a fee to file the petition to establish a parenting time plan.

**Section 6** amends s. 409.2564, F.S., to provide that when the department institutes an action to secure the payment of current support or any arrearage that may have accrued under an existing order of support, and a parenting time plan was not incorporated into the existing order of support and is appropriate, the department will include either a parenting time plan or Title IV-D Standard Parenting Time Plan that has been agreed to and signed by the parents.

**Section 7** amends s. 409.256, F.S., to correct cross-references.

**Section 8** amends s. 409.2572, F.S., to correct cross-references.

**Section 9** directs the Department of Revenue to report to the Governor, the President of the Senate and the Speaker of the House of Representatives by December 31, 2018, on:

- The status of the implementation of this act;
- The number of parenting plans that were entered into with the administrative child support orders;
- The number of parents that were referred to circuit court for the establishment of parenting time plans; and
- Any recommendations the department may have to further implement this act.

**Section 10** provides an appropriation to the Department of Revenue of \$690,650 in nonrecurring general revenue and \$350,476 in recurring general revenue for the 2017-2018 fiscal year to implement the provisions in the bill.

**Section 11** provides an effective date of January 1, 2018.

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

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

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

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

None.

**C. Trust Funds Restrictions:**

None.

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

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This bill provides what appears to be a simple and cost-effective means of determining parenting time plans to separated or never-married parents who generally have a low income. If the parents can agree on the standard parenting time plan or another parenting time plan, they will not need to proceed in circuit court and incur the related costs to acquire a parenting time order.

**C. Government Sector Impact:**

The bill appropriates \$1,041,126 from the General Revenue Fund to the Department of Revenue (department) for Fiscal Year 2017-2018. Of that amount, \$690,650 in nonrecurring general revenue is appropriated to update the department's Child Support Automated Management System to meet new requirements, and \$350,476 in recurring general revenue is appropriated to develop and deploy new forms, notices, procedures, and training.

The impact on the workload of the state court system is indeterminate but is expected to be insignificant. The bill waives the filing fee for parents who go through the Title IV-D administrative action but cannot agree on a parenting time plan, and who then proceed in circuit court. Currently, the parent who files an action in circuit court presumably must

pay the filing fee. However, the number of these cases currently filed each year, as well as the number that will be filed under the bill, is unknown.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 409.2551, 409.2554, 409.2557, 409.2563, 409.2564, 409.256, and 409.2572.

This bill creates section 409.25633 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.)

**Recommended CS/CS by Appropriations Subcommittee on General Government on April 13, 2017:**

The bill:

- Clarifies that parents must agree to and sign any parenting time plan that will be incorporated into an administrative child support order.
- Removes the reference to separate parenting time plans for children under the age of three and removes the reference for Title IV-D Standard Parenting Time Plan for parents that live more than 100 miles of each other.
- Clarifies that the Title IV-D Standard Parenting Time Plan is not for the use by and will not be provided to parents and families with domestic or family violence concerns.
- Directs the department to report to the Governor, the President of the Senate and the Speaker of the House of Representatives by December 31, 2018, on:
  - The status of implementation of this act;
  - The number of parenting plans that were entered into with the administrative child support orders;
  - The number of parents that were referred to circuit court for the establishment of parenting time plans; and
  - Any recommendations the department may have to further implement this act.
- Provides an appropriation of \$1,041,126 from the General Revenue Fund to the department to implement the provisions in this act.

**CS by Judiciary on March 28, 2017:**

Clarifies that the parents in a Title IV-D action to determine paternity or to establish or modify child support must be presented with a Title IV-D Standard Parenting Time Plan,

and that the standard plan or another parenting time plan must be incorporated in the administrative order resulting from the action if the parents agree to one of the plans.

**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	.	
04/14/2017	.	
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Appropriations Subcommittee on General Government (Brandes)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 409.2551, Florida Statutes, is amended  
to read:

409.2551 Legislative intent.—Common-law and statutory  
procedures governing the remedies for enforcement of support for  
financially dependent children by persons responsible for their  
support have not proven sufficiently effective or efficient to



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11 cope with the increasing incidence of financial dependency. The  
12 increasing workload of courts, prosecuting attorneys, and the  
13 Attorney General has resulted in a growing burden on the  
14 financial resources of the state, which is constrained to  
15 provide public assistance for basic maintenance requirements  
16 when parents fail to meet their primary obligations. The state,  
17 therefore, exercising its police and sovereign powers, declares  
18 that the common-law and statutory remedies pertaining to family  
19 desertion and nonsupport of dependent children shall be  
20 augmented by additional remedies directed to the resources of  
21 the responsible parents. In order to render resources more  
22 immediately available to meet the needs of dependent children,  
23 it is the legislative intent that the remedies provided herein  
24 are in addition to, and not in lieu of, existing remedies. It is  
25 declared to be the public policy of this state that this act be  
26 construed and administered to the end that children shall be  
27 maintained from the resources of their parents, thereby  
28 relieving, at least in part, the burden presently borne by the  
29 general citizenry through public assistance programs. It is also  
30 the public policy of this state to encourage frequent contact  
31 between a child and each parent to optimize the development of a  
32 close and continuing relationship between each parent and the  
33 child.

34 Section 2. Section 409.2554, Florida Statutes, is reordered  
35 and amended to read:

36 409.2554 Definitions; ss. 409.2551-409.2598.—As used in ss.  
37 409.2551-409.2598, the term:

38 (5)~~(1)~~ "Department" means the Department of Revenue.

39 (6)~~(2)~~ "Dependent child" means any unemancipated person



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40 under the age of 18, any person under the age of 21 and still in  
41 school, or any person who is mentally or physically  
42 incapacitated when such incapacity began before ~~prior to~~ such  
43 person reaching the age of 18. This definition may ~~shall~~ not be  
44 construed to impose an obligation for child support beyond the  
45 child's attainment of majority except as imposed in s. 409.2561.

46 (3) "Court" means the circuit court.

47 (4) "Court order" means any judgment or order of any court  
48 of appropriate jurisdiction of the state, or an order of a court  
49 of competent jurisdiction of another state, ordering payment of  
50 a set or determinable amount of support money.

51 (7)~~(5)~~ "Health insurance" means coverage under a fee-for-  
52 service arrangement, health maintenance organization, or  
53 preferred provider organization, and other types of coverage  
54 available to either parent, under which medical services could  
55 be provided to a dependent child.

56 (8)~~(6)~~ "Obligee" means the person to whom support payments  
57 are made pursuant to an alimony or child support order.

58 (9)~~(7)~~ "Obligor" means a person who is responsible for  
59 making support payments pursuant to an alimony or child support  
60 order.

61 (12)~~(8)~~ "Public assistance" means money assistance paid on  
62 the basis of Title IV-E and Title XIX of the Social Security  
63 Act, temporary cash assistance, or food assistance benefits  
64 received on behalf of a child under 18 years of age who has an  
65 absent parent.

66 (10)~~(9)~~ "Program attorney" means an attorney employed by  
67 the department, under contract with the department, or employed  
68 by a contractor of the department, to provide legal



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69 representation for the department in a proceeding related to the  
70 determination of paternity or the establishment, modification,  
71 or enforcement of support brought pursuant to law.

72 (11)~~(10)~~ "Prosecuting attorney" means any private attorney,  
73 county attorney, city attorney, state attorney, program  
74 attorney, or an attorney employed by an entity of a local  
75 political subdivision who engages in legal action related to the  
76 determination of paternity or the establishment, modification,  
77 or enforcement of support brought pursuant to this act.

78 (13) "State Case Registry" means the automated registry  
79 maintained by the Title IV-D agency, containing records of each  
80 Title IV-D case and of each support order established or  
81 modified in the state on or after October 1, 1998. Such records  
82 must consist of data elements as required by the United States  
83 Secretary of Health and Human Services.

84 (14) "State Disbursement Unit" means the unit established  
85 and operated by the Title IV-D agency to provide one central  
86 address for collection and disbursement of child support  
87 payments made in cases enforced by the department pursuant to  
88 Title IV-D of the Social Security Act and in cases not being  
89 enforced by the department in which the support order was  
90 initially issued in this state on or after January 1, 1994, and  
91 in which the obligor's child support obligation is being paid  
92 through income deduction order.

93 (16) "Title IV-D Standard Parenting Time Plan" means a  
94 document which may be agreed to by the parents to govern the  
95 relationship between the parents and to provide the parent who  
96 owes support a reasonable minimum amount of time with his or her  
97 child. The plan set forth in s. 409.25633 include timetables





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98 that specify the time, including overnights and holidays, that a  
99 child may spend with each parent.

100 (15)-(11) "Support," unless otherwise specified, means:

101 (a) Child support, and, when the child support obligation  
102 is being enforced by the Department of Revenue, spousal support  
103 or alimony for the spouse or former spouse of the obligor with  
104 whom the child is living.

105 (b) Child support only in cases not being enforced by the  
106 Department of Revenue.

107 (1)-(12) "Administrative costs" means any costs, including  
108 attorney's fees, clerk's filing fees, recording fees and other  
109 expenses incurred by the clerk of the circuit court, service of  
110 process fees, or mediation costs, incurred by the Title IV-D  
111 agency in its effort to administer the Title IV-D program. The  
112 administrative costs that ~~which~~ must be collected by the  
113 department shall be assessed on a case-by-case basis based upon  
114 a method for determining costs approved by the Federal  
115 Government. The administrative costs shall be assessed  
116 periodically by the department. The methodology for determining  
117 administrative costs shall be made available to the judge or any  
118 party who requests it. Only those amounts ordered independent of  
119 current support, arrears, or past public assistance obligation  
120 shall be considered and applied toward administrative costs.

121 (2)-(13) "Child support services" includes any civil,  
122 criminal, or administrative action taken by the Title IV-D  
123 program to determine paternity, establish, modify, enforce, or  
124 collect support.

125 (17)-(14) "Undistributable collection" means a support  
126 payment received by the department which the department



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127 determines cannot be distributed to the final intended  
128 recipient.

129 ~~(15)~~ (18) "Unidentifiable collection" means a payment  
130 received by the department for which a parent, depository or  
131 circuit civil numbers, or source of the payment cannot be  
132 identified.

133 Section 3. Subsection (2) of section 409.2557, Florida  
134 Statutes, is amended to read:

135 409.2557 State agency for administering child support  
136 enforcement program.—

137 (2) The department in its capacity as the state Title IV-D  
138 agency has ~~shall have~~ the authority to take actions necessary to  
139 carry out the public policy of ensuring that children are  
140 maintained from the resources of their parents to the extent  
141 possible. The department's authority includes ~~shall include~~, but  
142 is not ~~be~~ limited to, the establishment of paternity or support  
143 obligations, the establishment of a Title IV-D Standard  
144 Parenting Time Plan or any other parenting time plan agreed to  
145 and signed by the parents, and ~~as well as~~ the modification,  
146 enforcement, and collection of support obligations.

147 Section 4. Subsections (2), (4), (5), and (7) of section  
148 409.2563, Florida Statutes, are amended to read:

149 409.2563 Administrative establishment of child support  
150 obligations.—

151 (2) PURPOSE AND SCOPE.—

152 (a) It is not the Legislature's intent to limit the  
153 jurisdiction of the circuit courts to hear and determine issues  
154 regarding child support or parenting time. This section is  
155 intended to provide the department with an alternative procedure



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156 for establishing child support obligations and establishing a  
157 parenting time plan only if the parents are in agreement, in  
158 Title IV-D cases in a fair and expeditious manner when there is  
159 no court order of support. The procedures in this section are  
160 effective throughout the state and shall be implemented  
161 statewide.

162 (b) If the parents do not have an existing time sharing  
163 schedule or parenting time plan and do not agree to a parenting  
164 time plan, a plan will not be included in the initial  
165 administrative order, only a statement explaining its absence.

166 (c) If the parents have a judicially established parenting  
167 time plan, the plan will not be included in the administrative  
168 or initial judicial order.

169 (d) Any notification provided by the department will not  
170 include a Title IV-D Standard Parenting Time Plan if Florida is  
171 not the child's home state, when one parent does not reside in  
172 Florida, if either parent has requested nondisclosure for fear  
173 of harm from the other parent, or when the parent who owes  
174 support is incarcerated.

175 (e) ~~(b)~~ The administrative procedure set forth in this  
176 section concerns only the establishment of child support  
177 obligations and, if agreed to and signed by both parents, a  
178 parenting time plan or Title IV-D Standard Parenting Time Plan.

179 This section does not grant jurisdiction to the department or  
180 the Division of Administrative Hearings to hear or determine  
181 issues of dissolution of marriage, separation, alimony or  
182 spousal support, termination of parental rights, dependency,  
183 disputed paternity, except for a determination of paternity as  
184 provided in s. 409.256, ~~or award of~~ or change of time-sharing.



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185 If both parents have agreed to and signed a parenting time plan  
186 before the establishment of the administrative support order,  
187 the department or the Division of Administrative Hearings will  
188 incorporate the agreed-upon parenting time plan into the  
189 administrative support order. This paragraph notwithstanding,  
190 the department and the Division of Administrative Hearings may  
191 make findings of fact that are necessary for a proper  
192 determination of a parent's support obligation as authorized by  
193 this section.

194 (f)(e) If there is no support order for a child in a Title  
195 IV-D case whose paternity has been established or is presumed by  
196 law, or whose paternity is the subject of a proceeding under s.  
197 409.256, the department may establish a parent's child support  
198 obligation pursuant to this section, s. 61.30, and other  
199 relevant provisions of state law. The administrative support  
200 order will include a parenting time plan or Title IV-D Standard  
201 Parenting Time Plan as agreed to and signed by both parents. The  
202 parent's obligation determined by the department may include any  
203 obligation to pay retroactive support and any obligation to  
204 provide for health care for a child, whether through insurance  
205 coverage, reimbursement of expenses, or both. The department may  
206 proceed on behalf of:

- 207 1. An applicant or recipient of public assistance, as  
208 provided by ss. 409.2561 and 409.2567;  
209 2. A former recipient of public assistance, as provided by  
210 s. 409.2569;  
211 3. An individual who has applied for services as provided  
212 by s. 409.2567;  
213 4. Itself or the child, as provided by s. 409.2561; or



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214           5. A state or local government of another state, as  
215 provided by chapter 88.

216           (g)~~(d)~~ Either parent, or a caregiver if applicable, may at  
217 any time file a civil action in a circuit court having  
218 jurisdiction and proper venue to determine parental support  
219 obligations, if any. A support order issued by a circuit court  
220 prospectively supersedes an administrative support order  
221 rendered by the department.

222           (h)~~(e)~~ Pursuant to paragraph (e) ~~(b)~~, neither the  
223 department nor the Division of Administrative Hearings has  
224 jurisdiction to ~~award or~~ change child custody or rights of  
225 parental contact. The department or the Division of  
226 Administrative Hearings will incorporate a parenting time plan  
227 or Title IV-D Standard Parenting Time Plan as agreed to and  
228 signed by both parents into the administrative support order.  
229 Either parent may at any time file a civil action in a circuit  
230 having jurisdiction and proper venue for a determination of  
231 child custody and rights of parental contact.

232           (i)~~(f)~~ The department shall terminate the administrative  
233 proceeding and file an action in circuit court to determine  
234 support if within 20 days after receipt of the initial notice  
235 the parent from whom support is being sought requests in writing  
236 that the department proceed in circuit court or states in  
237 writing his or her intention to address issues concerning time-  
238 sharing or rights to parental contact in court and if within 10  
239 days after receipt of the department's petition and waiver of  
240 service the parent from whom support is being sought signs and  
241 returns the waiver of service form to the department.

242           (j)~~(g)~~ The notices and orders issued by the department



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243 under this section shall be written clearly and plainly.

244 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE  
245 SUPPORT ORDER.—To commence a proceeding under this section, the  
246 department shall provide to the parent from whom support is not  
247 being sought and serve the parent from whom support is being  
248 sought with a notice of proceeding to establish administrative  
249 support order, a copy of the Title IV-D Standard Parenting Time  
250 Plan, and a blank financial affidavit form. The notice must  
251 state:

252 (a) The names of both parents, the name of the caregiver,  
253 if any, and the name and date of birth of the child or children;

254 (b) That the department intends to establish an  
255 administrative support order as defined in this section;

256 (c) That the department will incorporate a parenting time  
257 plan or Title IV-D Standard Parenting Time Plan, as agreed to  
258 and signed by both parents, into the administrative support  
259 order;

260 (d)~~(e)~~ That both parents must submit a completed financial  
261 affidavit to the department within 20 days after receiving the  
262 notice, as provided by paragraph (13) (a);

263 (e)~~(d)~~ That both parents, or parent and caregiver if  
264 applicable, are required to furnish to the department  
265 information regarding their identities and locations, as  
266 provided by paragraph (13) (b);

267 (f)~~(e)~~ That both parents, or parent and caregiver if  
268 applicable, are required to promptly notify the department of  
269 any change in their mailing addresses to ensure receipt of all  
270 subsequent pleadings, notices, and orders, as provided by  
271 paragraph (13) (c);



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272            (g)~~(f)~~ That the department will calculate support  
273 obligations based on the child support guidelines schedule in s.  
274 61.30 and using all available information, as provided by  
275 paragraph (5) (a), and will incorporate such obligations into a  
276 proposed administrative support order;

277            (h)~~(g)~~ That the department will send by regular mail to  
278 both parents, or parent and caregiver if applicable, a copy of  
279 the proposed administrative support order, the department's  
280 child support worksheet, and any financial affidavits submitted  
281 by a parent or prepared by the department;

282            (i)~~(h)~~ That the parent from whom support is being sought  
283 may file a request for a hearing in writing within 20 days after  
284 the date of mailing or other service of the proposed  
285 administrative support order or will be deemed to have waived  
286 the right to request a hearing;

287            (j)~~(i)~~ That if the parent from whom support is being sought  
288 does not file a timely request for hearing after service of the  
289 proposed administrative support order, the department will issue  
290 an administrative support order that incorporates the findings  
291 of the proposed administrative support order, and any agreed-  
292 upon parenting time plan. The department will send by regular  
293 mail a copy of the administrative support order and any  
294 incorporated parenting time plan to both parents, or parent and  
295 caregiver if applicable;

296            (k)~~(j)~~ That after an administrative support order is  
297 rendered incorporating any agreed-upon parenting time plan, the  
298 department will file a copy of the order with the clerk of the  
299 circuit court;

300            (l)~~(k)~~ That after an administrative support order is



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301 rendered, the department may enforce the administrative support  
302 order by any lawful means. The department does not have  
303 jurisdiction to enforce any parenting time plan that is  
304 incorporated into an administrative support order;

305 (m) ~~(l)~~ That either parent, or caregiver if applicable, may  
306 file at any time a civil action in a circuit court having  
307 jurisdiction and proper venue to determine parental support  
308 obligations, if any, and that a support order issued by a  
309 circuit court supersedes an administrative support order  
310 rendered by the department;

311 (n) ~~(m)~~ That neither the department nor the Division of  
312 Administrative Hearings has jurisdiction to ~~award or~~ change  
313 child custody or rights of parental contact or time-sharing, and  
314 these issues may be addressed only in circuit court. The  
315 department or the Division of Administrative Hearings may  
316 incorporate, if agreed to and signed by both parents, a  
317 parenting time plan or Title IV-D Standard Parenting Time Plan  
318 when the administrative support order is established.

319 1. The parent from whom support is being sought may request  
320 in writing that the department proceed in circuit court to  
321 determine his or her support obligations.

322 2. The parent from whom support is being sought may state  
323 in writing to the department his or her intention to address  
324 issues concerning custody or rights to parental contact in  
325 circuit court.

326 3. If the parent from whom support is being sought submits  
327 the request authorized in subparagraph 1., or the statement  
328 authorized in subparagraph 2. to the department within 20 days  
329 after the receipt of the initial notice, the department shall





330 file a petition in circuit court for the determination of the  
331 parent's child support obligations, and shall send to the parent  
332 from whom support is being sought a copy of its petition, a  
333 notice of commencement of action, and a request for waiver of  
334 service of process as provided in the Florida Rules of Civil  
335 Procedure.

336 4. If, within 10 days after receipt of the department's  
337 petition and waiver of service, the parent from whom support is  
338 being sought signs and returns the waiver of service form to the  
339 department, the department shall terminate the administrative  
340 proceeding without prejudice and proceed in circuit court.

341 5. In any circuit court action filed by the department  
342 pursuant to this paragraph or filed by a parent from whom  
343 support is being sought or other person pursuant to paragraph  
344 (m) ~~(l)~~ or paragraph (o) ~~(n)~~, the department shall be a party  
345 only with respect to those issues of support allowed and  
346 reimbursable under Title IV-D of the Social Security Act. It is  
347 the responsibility of the parent from whom support is being  
348 sought or other person to take the necessary steps to present  
349 other issues for the court to consider;—

350 (o) ~~(n)~~ That if the parent from whom support is being sought  
351 files an action in circuit court and serves the department with  
352 a copy of the petition within 20 days after being served notice  
353 under this subsection, the administrative process ends without  
354 prejudice and the action must proceed in circuit court;

355 (p) ~~(e)~~ Information provided by the Office of State Courts  
356 Administrator concerning the availability and location of self-  
357 help programs for those who wish to file an action in circuit  
358 court but who cannot afford an attorney.



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The department may serve the notice of proceeding to establish an administrative support order and agreed-upon parenting plan or Title IV-D Standard Parenting Time Plan by certified mail, restricted delivery, return receipt requested. Alternatively, the department may serve the notice by any means permitted for service of process in a civil action. For purposes of this section, an authorized employee of the department may serve the notice and execute an affidavit of service. Service by certified mail is completed when the certified mail is received or refused by the addressee or by an authorized agent as designated by the addressee in writing. If a person other than the addressee signs the return receipt, the department shall attempt to reach the addressee by telephone to confirm whether the notice was received, and the department shall document any telephonic communications. If someone other than the addressee signs the return receipt, the addressee does not respond to the notice, and the department is unable to confirm that the addressee has received the notice, service is not completed and the department shall attempt to have the addressee served personally. The department shall provide the parent from whom support is not being sought or the caregiver with a copy of the notice by regular mail to the last known address of the parent from whom support is not being sought or caregiver.

(5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

(a) After serving notice upon a parent in accordance with subsection (4), the department shall calculate that parent's child support obligation under the child support guidelines schedule as provided by s. 61.30, based on any timely financial



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388 affidavits received and other information available to the  
389 department. If either parent fails to comply with the  
390 requirement to furnish a financial affidavit, the department may  
391 proceed on the basis of information available from any source,  
392 if such information is sufficiently reliable and detailed to  
393 allow calculation of guideline schedule amounts under s. 61.30.  
394 If a parent receives public assistance and fails to submit a  
395 financial affidavit, the department may submit a financial  
396 affidavit or written declaration for that parent pursuant to s.  
397 61.30(15). If there is a lack of sufficient reliable information  
398 concerning a parent's actual earnings for a current or past  
399 period, it shall be presumed for the purpose of establishing a  
400 support obligation that the parent had an earning capacity equal  
401 to the federal minimum wage during the applicable period.

402 (b) The department shall send by regular mail to both  
403 parents, or to a parent and caregiver if applicable, copies of  
404 the proposed administrative support order, a copy of the Title  
405 IV-D Standard Parenting Time Plan, its completed child support  
406 worksheet, and any financial affidavits submitted by a parent or  
407 prepared by the department. The proposed administrative support  
408 order must contain the same elements as required for an  
409 administrative support order under paragraph (7)(e).

410 (c) The department shall provide a notice of rights with  
411 the proposed administrative support order, which notice must  
412 inform the parent from whom support is being sought that:

413 1. The parent from whom support is being sought may, within  
414 20 days after the date of mailing or other service of the  
415 proposed administrative support order, request a hearing by  
416 filing a written request for hearing in a form and manner



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417 specified by the department;

418         2. If the parent from whom support is being sought files a  
419 timely request for a hearing, the case shall be transferred to  
420 the Division of Administrative Hearings, which shall conduct  
421 further proceedings and may enter an administrative support  
422 order;

423         3. A parent from whom support is being sought who fails to  
424 file a timely request for a hearing shall be deemed to have  
425 waived the right to a hearing, and the department may render an  
426 administrative support order pursuant to paragraph (7) (b);

427         4. The parent from whom support is being sought may consent  
428 in writing to entry of an administrative support order without a  
429 hearing;

430         5. The parent from whom support is being sought may, within  
431 10 days after the date of mailing or other service of the  
432 proposed administrative support order, contact a department  
433 representative, at the address or telephone number specified in  
434 the notice, to informally discuss the proposed administrative  
435 support order and, if informal discussions are requested timely,  
436 the time for requesting a hearing will be extended until 10 days  
437 after the department notifies the parent that the informal  
438 discussions have been concluded; and

439         6. If an administrative support order that establishes a  
440 parent's support obligation and incorporates either a parenting  
441 time plan or Title IV-D Standard Parenting Time Plan agreed to  
442 and signed by both parents is rendered, whether after a hearing  
443 or without a hearing, the department may enforce the  
444 administrative support order by any lawful means. The department  
445 does not have the jurisdiction or authority to enforce a



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446 parenting time plan.

447 (d) If, after serving the proposed administrative support  
448 order but before a final administrative support order is  
449 rendered, the department receives additional information that  
450 makes it necessary to amend the proposed administrative support  
451 order, it shall prepare an amended proposed administrative  
452 support order, with accompanying amended child support  
453 worksheets and other material necessary to explain the changes,  
454 and follow the same procedures set forth in paragraphs (b) and  
455 (c).

456 (7) ADMINISTRATIVE SUPPORT ORDER.—

457 (a) If a hearing is held, the administrative law judge of  
458 the Division of Administrative Hearings shall issue an  
459 administrative support order that will include a parenting time  
460 plan or Title IV-D Standard Parenting Time Plan agreed to and  
461 signed by both parents, or a final order denying an  
462 administrative support order, which constitutes final agency  
463 action by the department. The Division of Administrative  
464 Hearings shall transmit any such order to the department for  
465 filing and rendering.

466 (b) If the parent from whom support is being sought does  
467 not file a timely request for a hearing, the parent will be  
468 deemed to have waived the right to request a hearing.

469 (c) If the parent from whom support is being sought waives  
470 the right to a hearing, or consents in writing to the entry of  
471 an order without a hearing, the department may render an  
472 administrative support order that will include a parenting time  
473 plan or Title IV-D Standard Parenting Time Plan agreed to and  
474 signed by both parents.



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475 (d) The department shall send by regular mail a copy of the  
476 administrative support order that will include a parenting time  
477 plan or Title IV-D Standard Parenting Time Plan agreed to and  
478 signed by both parents, or the final order denying an  
479 administrative support order, to both parents, or a parent and  
480 caregiver if applicable. The parent from whom support is being  
481 sought shall be notified of the right to seek judicial review of  
482 the administrative support order in accordance with s. 120.68.

483 (e) An administrative support order must comply with ss.  
484 61.13(1) and 61.30. The department shall develop a standard form  
485 or forms for administrative support orders. An administrative  
486 support order must provide and state findings, if applicable,  
487 concerning:

- 488 1. The full name and date of birth of the child or  
489 children;
- 490 2. The name of the parent from whom support is being sought  
491 and the other parent or caregiver;
- 492 3. The parent's duty and ability to provide support;
- 493 4. The amount of the parent's monthly support obligation;
- 494 5. Any obligation to pay retroactive support;
- 495 6. The parent's obligation to provide for the health care  
496 needs of each child, whether through health insurance,  
497 contribution toward the cost of health insurance, payment or  
498 reimbursement of health care expenses for the child, or any  
499 combination thereof;
- 500 7. The beginning date of any required monthly payments and  
501 health insurance;
- 502 8. That all support payments ordered must be paid to the  
503 ~~Florida~~ State Disbursement Unit as provided by s. 61.1824;



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504           9. That the parents, or caregiver if applicable, must file  
505 with the department when the administrative support order is  
506 rendered, if they have not already done so, and update as  
507 appropriate the information required pursuant to paragraph  
508 (13) (b);

509           10. That both parents, or parent and caregiver if  
510 applicable, are required to promptly notify the department of  
511 any change in their mailing addresses pursuant to paragraph  
512 (13) (c); and

513           11. That if the parent ordered to pay support receives  
514 reemployment assistance or unemployment compensation benefits,  
515 the payor shall withhold, and transmit to the department, 40  
516 percent of the benefits for payment of support, not to exceed  
517 the amount owed.

518  
519           An income deduction order as provided by s. 61.1301 must be  
520 incorporated into the administrative support order or, if not  
521 incorporated into the administrative support order, the  
522 department or the Division of Administrative Hearings shall  
523 render a separate income deduction order.

524           Section 5. Section 409.25633, Florida Statutes, is created  
525 to read:

526           409.25633. Title IV-D Standard Parenting Time Plans.-The  
527 best interests of the child is the primary consideration of the  
528 parenting plan and special consideration should be given to the  
529 age and needs of each child. There is no presumption for or  
530 against the father or mother of the child or for or against any  
531 specific time-sharing schedule when a parenting time plan is  
532 created.



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533           (1) A Title IV-D Standard Parenting Time Plan will be  
534 presented to the parents in any administrative action taken by  
535 the Title IV-D program to establish or modify child support or  
536 to determine paternity. If the parents agree to the Title IV-D  
537 Standard Parenting Time Plan or to another parenting time plan,  
538 the plan must be signed by the parents and incorporated into the  
539 administrative order. If the parents do not agree to a Title IV-  
540 D Standard Parenting Time Plan or if an agreed-upon parenting  
541 time plan is not included, the Department of Revenue must enter  
542 an administrative support order and refer the parents to the  
543 court of appropriate jurisdiction to establish a parenting time  
544 plan. The department must note on the referral that an  
545 administrative support order has been entered. If a parenting  
546 time plan is not included in the administrative support order  
547 entered under s. 409.2563, the department must provide  
548 information to the parents on the process to establish such  
549 plan.

550           (2) The parent who owes support is entitled to parenting  
551 time with the child. If the parents do not have a signed,  
552 agreed-upon parenting time plan, the following Title IV-D  
553 Standard Parenting Time Plan must be incorporated into an  
554 administrative support order if agreed to and signed by the  
555 parents:

556           (a) Every other weekend.—The second and fourth full weekend  
557 of the month from 6 p.m. on Friday through 6 p.m. on Sunday. The  
558 weekends may begin upon the child's release from school on  
559 Friday and end on Sunday at 6 p.m. or when the child returns to  
560 school on Monday morning. The weekend time may be extended by  
561 holidays that fall on Friday or Monday;





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562 (b) One evening per week.—One weekday beginning at 6 p.m.  
563 and ending at 8 p.m. or, if both parents agree, from when the  
564 child is released from school until 8 p.m.;

565 (c) Thanksgiving break.—In even-numbered years, the  
566 Thanksgiving break from 6 p.m. on the Wednesday before  
567 Thanksgiving until 6 p.m. on the Sunday following Thanksgiving.  
568 If both parents agree, the Thanksgiving break parenting time may  
569 begin upon the child's release from school and end upon the  
570 child's return to school the following Monday;

571 (d) Winter break.—In odd-numbered years, the first half of  
572 winter break, from the child's release from school, beginning at  
573 6 p.m. or, if both parents agree, upon the child's release from  
574 school, until noon on December 26. In even-numbered years, the  
575 second half of winter break from noon on December 26 until 6  
576 p.m. on the day before school resumes or, if both parents agree,  
577 upon the child's return to school;

578 (e) Spring break.—In even-numbered years, the week of  
579 spring break from 6 p.m. the day the child is released from  
580 school until 6 p.m. the night before school resumes. If both  
581 parents agree, the spring break parenting time may begin upon  
582 the child's release from school and end upon the child's return  
583 to school the following Monday; and

584 (f) Summer break.—For 2 weeks in the summer beginning at 6  
585 p.m. the first Sunday following the last day of school.

586 (4) In the event the parents have not agreed on a parenting  
587 schedule at the time of the child support hearing, the  
588 department will enter an administrative support order and refer  
589 the parents to a court of appropriate jurisdiction for the  
590 establishment of a parenting time plan.



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591       (5) The Title IV-D Standard Parenting Time Plan is not  
592 intended for use by parents and families with domestic or family  
593 violence concerns.

594       (6) If after the incorporation of an agreed-upon parenting  
595 time plan into an administrative support order, a parent becomes  
596 concerned about the safety of the child during the child's time  
597 with the other parent, a modification of the parenting time plan  
598 may be sought through a court of appropriate jurisdiction.

599       (7) The department will create and provide a form for a  
600 petition to establish a parenting time plan for parents who have  
601 not agreed on a parenting schedule at the time of the child  
602 support hearing. The department will provide the form to the  
603 parents but will not file the petition or represent either  
604 parent at the hearing.

605       (8) The parents will not be required to pay a fee to file  
606 the petition to establish a parenting plan.

607       (9) The department may adopt rules to implement and  
608 administer this section.

609       Section 6. Subsections (1) and (2) of section 409.2564,  
610 Florida Statutes, are amended to read:

611       409.2564 Actions for support.—

612       (1) In each case in which regular support payments are not  
613 being made as provided herein, the department shall institute,  
614 within 30 days after determination of the obligor's reasonable  
615 ability to pay, action as is necessary to secure the obligor's  
616 payment of current support, and any arrearage that ~~which~~ may  
617 have accrued under an existing order of support, and if a  
618 parenting time plan was not incorporated into the existing order  
619 of support include either a signed, agreed-upon parenting time



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620 plan or a signed Title IV-D Standard Parenting Time Plan, if  
621 appropriate. The department shall notify the program attorney in  
622 the judicial circuit in which the recipient resides setting  
623 forth the facts in the case, including the obligor's address, if  
624 known, and the public assistance case number. Whenever  
625 applicable, the procedures established under ~~the provisions of~~  
626 chapter 88, Uniform Interstate Family Support Act, chapter 61,  
627 Dissolution of Marriage; Support; Time-sharing, chapter 39,  
628 Proceedings Relating to Children, chapter 984, Children and  
629 Families in Need of Services, and chapter 985, Delinquency;  
630 Interstate Compact on Juveniles, may govern actions instituted  
631 under ~~the provisions of~~ this act, except that actions for  
632 support under chapter 39, chapter 984, or chapter 985 brought  
633 pursuant to this act shall not require any additional  
634 investigation or supervision by the department.

635 (2) The order for support entered pursuant to an action  
636 instituted by the department under ~~the provisions of~~ subsection  
637 (1) shall require that the support payments be made periodically  
638 to the department through the depository. An order for support  
639 entered under the provisions of subsection (1) must include  
640 either a signed, agreed-upon parenting time plan or a signed  
641 Title IV-D Standard Parenting Time Plan, if appropriate. Upon  
642 receipt of a payment made by the obligor pursuant to any order  
643 of the court, the depository shall transmit the payment to the  
644 department within 2 working days, except those payments made by  
645 personal check which shall be disbursed in accordance with s.  
646 61.181. Upon request, the depository shall furnish to the  
647 department a certified statement of all payments made by the  
648 obligor. Such statement shall be provided by the depository at



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649 no cost to the department.

650 Section 7. Paragraph (g) of subsection (2) and paragraph  
651 (a) of subsection (4) of section 409.256, Florida Statutes, are  
652 amended to read:

653 409.256 Administrative proceeding to establish paternity or  
654 paternity and child support; order to appear for genetic  
655 testing.—

656 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO  
657 THE COURTS.—

658 (g) Section 409.2563(2)(h), (i), and (j) ~~409.2563(2)(e),~~  
659 ~~(f), and (g)~~ apply to a proceeding under this section.

660 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR  
661 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC  
662 TESTING; MANNER OF SERVICE; CONTENTS.—The Department of Revenue  
663 shall commence a proceeding to determine paternity, or a  
664 proceeding to determine both paternity and child support, by  
665 serving the respondent with a notice as provided in this  
666 section. An order to appear for genetic testing may be served at  
667 the same time as a notice of the proceeding or may be served  
668 separately. A copy of the affidavit or written declaration upon  
669 which the proceeding is based shall be provided to the  
670 respondent when notice is served. A notice or order to appear  
671 for genetic testing shall be served by certified mail,  
672 restricted delivery, return receipt requested, or in accordance  
673 with the requirements for service of process in a civil action.  
674 Service by certified mail is completed when the certified mail  
675 is received or refused by the addressee or by an authorized  
676 agent as designated by the addressee in writing. If a person  
677 other than the addressee signs the return receipt, the



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678 department shall attempt to reach the addressee by telephone to  
679 confirm whether the notice was received, and the department  
680 shall document any telephonic communications. If someone other  
681 than the addressee signs the return receipt, the addressee does  
682 not respond to the notice, and the department is unable to  
683 confirm that the addressee has received the notice, service is  
684 not completed and the department shall attempt to have the  
685 addressee served personally. For purposes of this section, an  
686 employee or an authorized agent of the department may serve the  
687 notice or order to appear for genetic testing and execute an  
688 affidavit of service. The department may serve an order to  
689 appear for genetic testing on a caregiver. The department shall  
690 provide a copy of the notice or order to appear by regular mail  
691 to the mother and caregiver, if they are not respondents.

692 (a) A notice of proceeding to establish paternity must  
693 state:

694 1. That the department has commenced an administrative  
695 proceeding to establish whether the putative father is the  
696 biological father of the child named in the notice.

697 2. The name and date of birth of the child and the name of  
698 the child's mother.

699 3. That the putative father has been named in an affidavit  
700 or written declaration that states the putative father is or may  
701 be the child's biological father.

702 4. That the respondent is required to submit to genetic  
703 testing.

704 5. That genetic testing will establish either a high degree  
705 of probability that the putative father is the biological father  
706 of the child or that the putative father cannot be the



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707 biological father of the child.

708           6. That if the results of the genetic test do not indicate  
709 a statistical probability of paternity that equals or exceeds 99  
710 percent, the paternity proceeding in connection with that child  
711 shall cease unless a second or subsequent test is required.

712           7. That if the results of the genetic test indicate a  
713 statistical probability of paternity that equals or exceeds 99  
714 percent, the department may:

715           a. Issue a proposed order of paternity that the respondent  
716 may consent to or contest at an administrative hearing; or

717           b. Commence a proceeding, as provided in s. 409.2563, to  
718 establish an administrative support order for the child. Notice  
719 of the proceeding shall be provided to the respondent by regular  
720 mail.

721           8. That, if the genetic test results indicate a statistical  
722 probability of paternity that equals or exceeds 99 percent and a  
723 proceeding to establish an administrative support order is  
724 commenced, the department shall issue a proposed order that  
725 addresses paternity and child support. The respondent may  
726 consent to or contest the proposed order at an administrative  
727 hearing.

728           9. That if a proposed order of paternity or proposed order  
729 of both paternity and child support is not contested, the  
730 department shall adopt the proposed order and render a final  
731 order that establishes paternity and, if appropriate, an  
732 administrative support order for the child.

733           10. That, until the proceeding is ended, the respondent  
734 shall notify the department in writing of any change in the  
735 respondent's mailing address and that the respondent shall be



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736 deemed to have received any subsequent order, notice, or other  
737 paper mailed to the most recent address provided or, if a more  
738 recent address is not provided, to the address at which the  
739 respondent was served, and that this requirement continues if  
740 the department renders a final order that establishes paternity  
741 and a support order for the child.

742 11. That the respondent may file an action in circuit court  
743 for a determination of paternity, child support obligations, or  
744 both.

745 12. That if the respondent files an action in circuit court  
746 and serves the department with a copy of the petition or  
747 complaint within 20 days after being served notice under this  
748 subsection, the administrative process ends without prejudice  
749 and the action must proceed in circuit court.

750 13. That, if paternity is established, the putative father  
751 may file a petition in circuit court for a determination of  
752 matters relating to custody and rights of parental contact.

753  
754 A notice under this paragraph must also notify the respondent of  
755 the provisions in s. 409.2563(4)(n) and (p) ~~s. 409.2563(4)(m)~~  
756 ~~and (o)~~.

757 Section 8. Subsection (5) of section 409.2572, Florida  
758 Statutes, is amended to read:

759 409.2572 Cooperation.—

760 (5) As used in this section only, the term "applicant for  
761 or recipient of public assistance for a dependent child" refers  
762 to such applicants and recipients of public assistance as  
763 defined in s. 409.2554(12) ~~s. 409.2554(8)~~, with the exception of  
764 applicants for or recipients of Medicaid solely for the benefit



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765 of a dependent child.

766       Section 9. The Department of Revenue will report to the  
767 Governor, the President of the Senate and the Speaker of the  
768 House of Representatives by December 31, 2018, on the status of  
769 the implementation of this act, how many parenting plans were  
770 entered with administrative support orders, how many parents  
771 were referred to the circuit court to determine a parenting plan  
772 and make recommendations to further implement this act.

773       Section 10. For the 2017-2018 fiscal year, the sums of  
774 \$350,476 in recurring funds and \$690,650 in nonrecurring funds  
775 are appropriated from the General Revenue Fund to the Department  
776 of Revenue for the purpose of implementing this act.

777       Section 11. This act shall take effect January 1, 2018.

778  
779 ===== T I T L E   A M E N D M E N T =====

780 And the title is amended as follows:

781       Delete everything before the enacting clause  
782 and insert:

783                               A bill to be entitled  
784       An act relating to child support and parenting time  
785       plans; amending s. 409.2551, F.S.; stating legislative  
786       intent to encourage frequent contact between a child  
787       and each parent; amending s. 409.2554, F.S.; defining  
788       terms; amending s. 409.2557, F.S.; authorizing the  
789       Department of Revenue to establish parenting time  
790       plans agreed to by both parents in Title IV-D child  
791       support actions; amending s. 409.2563, F.S.; requiring  
792       the department to mail a Title IV-D Standard Parenting  
793       Time Plan with proposed administrative support orders;





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794 providing requirements for including parenting time  
795 plans in certain administrative orders; creating s.  
796 409.25633, F.S.; providing the purpose and  
797 requirements for a Title IV-D Standard Parenting Time  
798 Plan; requiring the department to refer parents who do  
799 not agree on a parenting time plan to a circuit court;  
800 requiring the department to create and provide a form  
801 for a petition to establish a parenting time plan  
802 under certain circumstances; specifying that the  
803 parents are not required to pay a fee to file the  
804 petition; authorizing the department to adopt rules;  
805 amending s. 409.2564, F.S.; authorizing the department  
806 to incorporate either a signed, agreed-upon parenting  
807 time plan or a signed Title IV-D Standard Parenting  
808 Time Plan in a child support order; amending ss.  
809 409.256 and 409.2572, F.S.; conforming cross-  
810 references; providing an appropriation; providing an  
811 effective date.



199492

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2017	.	
	.	
	.	
	.	

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Appropriations Subcommittee on General Government (Brandes)  
recommended the following:

**Senate Amendment to Amendment (377888)**

Delete line 592

and insert:

intended for the use by and shall not be provided to parents and  
families with domestic or family

By the Committee on Judiciary; and Senators Brandes, Stargel,  
and Gibson

590-02996-17

2017590c1

1 A bill to be entitled  
2 An act relating to child support and parenting time  
3 plans; amending s. 409.2551, F.S.; stating legislative  
4 intent to encourage frequent contact between a child  
5 and each parent; amending s. 409.2554, F.S.; defining  
6 terms; amending s. 409.2557, F.S.; authorizing the  
7 Department of Revenue to establish parenting time  
8 plans agreed to by both parents in Title IV-D child  
9 support actions; amending s. 409.2563, F.S.; requiring  
10 the department to mail Title IV-D Standard Parenting  
11 Time Plans with proposed administrative support  
12 orders; providing requirements for including parenting  
13 time plans in certain administrative orders; creating  
14 s. 409.25633, F.S.; providing the purpose and  
15 requirements for Title IV-D Standard Parenting Time  
16 Plans; requiring the department to refer parents who  
17 do not agree on a parenting time plan to a circuit  
18 court; requiring the department to create and provide  
19 a form for a petition to establish a parenting time  
20 plan under certain circumstances; specifying that the  
21 parents are not required to pay a fee to file the  
22 petition; authorizing the department to adopt rules;  
23 amending s. 409.2564, F.S.; authorizing the department  
24 to incorporate either an agreed-upon parenting time  
25 plan or a Title IV-D Standard Parenting Time Plan in a  
26 child support order; amending ss. 409.256 and  
27 409.2572, F.S.; conforming cross-references; providing  
28 an appropriation; providing an effective date.  
29

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

590-02996-17

2017590c1

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

31  
32 Section 1. Section 409.2551, Florida Statutes, is amended  
33 to read:

34 409.2551 Legislative intent.—Common-law and statutory  
35 procedures governing the remedies for enforcement of support for  
36 financially dependent children by persons responsible for their  
37 support have not proven sufficiently effective or efficient to  
38 cope with the increasing incidence of financial dependency. The  
39 increasing workload of courts, prosecuting attorneys, and the  
40 Attorney General has resulted in a growing burden on the  
41 financial resources of the state, which is constrained to  
42 provide public assistance for basic maintenance requirements  
43 when parents fail to meet their primary obligations. The state,  
44 therefore, exercising its police and sovereign powers, declares  
45 that the common-law and statutory remedies pertaining to family  
46 desertion and nonsupport of dependent children shall be  
47 augmented by additional remedies directed to the resources of  
48 the responsible parents. In order to render resources more  
49 immediately available to meet the needs of dependent children,  
50 it is the legislative intent that the remedies provided herein  
51 are in addition to, and not in lieu of, existing remedies. It is  
52 declared to be the public policy of this state that this act be  
53 construed and administered to the end that children shall be  
54 maintained from the resources of their parents, thereby  
55 relieving, at least in part, the burden presently borne by the  
56 general citizenry through public assistance programs. It is also  
57 the public policy of this state to encourage frequent contact  
58 between a child and each parent to optimize the development of a

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

590-02996-17

2017590c1

59 close and continuing relationship between each parent and the  
 60 child. There is no presumption for or against the father or  
 61 mother of the child or for or against any specific time-sharing  
 62 schedule when a parenting time plan is created.

63 Section 2. Section 409.2554, Florida Statutes, is reordered  
 64 and amended to read:

65 409.2554 Definitions; ss. 409.2551-409.2598.—As used in ss.  
 66 409.2551-409.2598, the term:

67 (5)-(1) "Department" means the Department of Revenue.

68 (6)-(2) "Dependent child" means any unemancipated person  
 69 under the age of 18, any person under the age of 21 and still in  
 70 school, or any person who is mentally or physically  
 71 incapacitated when such incapacity began before ~~prior to~~ such  
 72 person reaching the age of 18. This definition may ~~shall~~ not be  
 73 construed to impose an obligation for child support beyond the  
 74 child's attainment of majority except as imposed in s. 409.2561.

75 (3) "Court" means the circuit court.

76 (4) "Court order" means any judgment or order of any court  
 77 of appropriate jurisdiction of the state, or an order of a court  
 78 of competent jurisdiction of another state, ordering payment of  
 79 a set or determinable amount of support money.

80 (7)-(5) "Health insurance" means coverage under a fee-for-  
 81 service arrangement, health maintenance organization, or  
 82 preferred provider organization, and other types of coverage  
 83 available to either parent, under which medical services could  
 84 be provided to a dependent child.

85 (8)-(6) "Obligee" means the person to whom support payments  
 86 are made pursuant to an alimony or child support order.

87 (9)-(7) "Obligor" means a person who is responsible for

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88 making support payments pursuant to an alimony or child support  
 89 order.

90 (12)-(8) "Public assistance" means money assistance paid on  
 91 the basis of Title IV-E and Title XIX of the Social Security  
 92 Act, temporary cash assistance, or food assistance benefits  
 93 received on behalf of a child under 18 years of age who has an  
 94 absent parent.

95 (10)-(9) "Program attorney" means an attorney employed by  
 96 the department, under contract with the department, or employed  
 97 by a contractor of the department, to provide legal  
 98 representation for the department in a proceeding related to the  
 99 determination of paternity or the establishment, modification,  
 100 or enforcement of support brought pursuant to law.

101 (11)-(10) "Prosecuting attorney" means any private attorney,  
 102 county attorney, city attorney, state attorney, program  
 103 attorney, or an attorney employed by an entity of a local  
 104 political subdivision who engages in legal action related to the  
 105 determination of paternity or the establishment, modification,  
 106 or enforcement of support brought pursuant to this act.

107 (13) "State Case Registry" means the automated registry  
 108 maintained by the Title IV-D agency, containing records of each  
 109 Title IV-D case and of each support order established or  
 110 modified in the state on or after October 1, 1998. Such records  
 111 must consist of data elements as required by the United States  
 112 Secretary of Health and Human Services.

113 (14) "State Disbursement Unit" means the unit established  
 114 and operated by the Title IV-D agency to provide one central  
 115 address for collection and disbursement of child support  
 116 payments made in cases enforced by the department pursuant to

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117 Title IV-D of the Social Security Act and in cases not being  
 118 enforced by the department in which the support order was  
 119 initially issued in this state on or after January 1, 1994, and  
 120 in which the obligor's child support obligation is being paid  
 121 through income deduction order.

122 (16) "Title IV-D Standard Parenting Time Plan" means a  
 123 document which may be agreed to by the parents to govern the  
 124 relationship between the parents and to provide the parent who  
 125 owes support a reasonable minimum amount of time with his or her  
 126 child. The plans set forth in s. 409.25633 include timetables  
 127 that specify the time, including overnights and holidays, that a  
 128 minor child 3 years of age or older may spend with each parent.

129 (15)(11) "Support," unless otherwise specified, means:

130 (a) Child support, and, when the child support obligation  
 131 is being enforced by the Department of Revenue, spousal support  
 132 or alimony for the spouse or former spouse of the obligor with  
 133 whom the child is living.

134 (b) Child support only in cases not being enforced by the  
 135 Department of Revenue.

136 (1)(12) "Administrative costs" means any costs, including  
 137 attorney's fees, clerk's filing fees, recording fees and other  
 138 expenses incurred by the clerk of the circuit court, service of  
 139 process fees, or mediation costs, incurred by the Title IV-D  
 140 agency in its effort to administer the Title IV-D program. The  
 141 administrative costs ~~that~~ which must be collected by the  
 142 department shall be assessed on a case-by-case basis based upon  
 143 a method for determining costs approved by the Federal  
 144 Government. The administrative costs shall be assessed  
 145 periodically by the department. The methodology for determining

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146 administrative costs shall be made available to the judge or any  
 147 party who requests it. Only those amounts ordered independent of  
 148 current support, arrears, or past public assistance obligation  
 149 shall be considered and applied toward administrative costs.

150 (2)(13) "Child support services" includes any civil,  
 151 criminal, or administrative action taken by the Title IV-D  
 152 program to determine paternity, establish, modify, enforce, or  
 153 collect support.

154 (17)(14) "Undistributable collection" means a support  
 155 payment received by the department which the department  
 156 determines cannot be distributed to the final intended  
 157 recipient.

158 (18)(15) "Unidentifiable collection" means a payment  
 159 received by the department for which a parent, depository or  
 160 circuit civil numbers, or source of the payment cannot be  
 161 identified.

162 Section 3. Subsection (2) of section 409.2557, Florida  
 163 Statutes, is amended to read:

164 409.2557 State agency for administering child support  
 165 enforcement program.—

166 (2) The department in its capacity as the state Title IV-D  
 167 agency ~~has shall have~~ the authority to take actions necessary to  
 168 carry out the public policy of ensuring that children are  
 169 maintained from the resources of their parents to the extent  
 170 possible. The department's authority includes ~~shall include~~, but  
 171 is not be limited to, the establishment of paternity or support  
 172 obligations, the establishment of a Title IV-D Standard  
 173 Parenting Time Plan or any other parenting time plan agreed to  
 174 by the parents, and ~~as well as~~ the modification, enforcement,

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175 and collection of support obligations.

176 Section 4. Subsections (2), (4), (5), and (7) of section  
177 409.2563, Florida Statutes, are amended to read:

178 409.2563 Administrative establishment of child support  
179 obligations.—

180 (2) PURPOSE AND SCOPE.—

181 (a) It is not the Legislature's intent to limit the  
182 jurisdiction of the circuit courts to hear and determine issues  
183 regarding child support or parenting time. This section is  
184 intended to provide the department with an alternative procedure  
185 for establishing child support obligations and establishing a  
186 parenting time plan only if the parents are in agreement, in  
187 Title IV-D cases in a fair and expeditious manner when there is  
188 no court order of support. The procedures in this section are  
189 effective throughout the state and shall be implemented  
190 statewide.

191 (b) If the parents do not have an existing time sharing  
192 schedule or parenting time plan and do not agree to a parenting  
193 time plan, a parenting time plan will not be included in the  
194 initial administrative order, only a statement explaining its  
195 absence.

196 (c) If the parents have a judicially established parenting  
197 time plan, the plan will not be included in the administrative  
198 or initial judicial order.

199 (d) Any notification provided by the department will not  
200 include Title IV-D Standard Parenting Time Plans if Florida is  
201 not the child's home state, when one parent does not reside in  
202 Florida, if either parent has requested nondisclosure for fear  
203 of harm from the other parent, or when the parent who owes

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204 support is incarcerated.

205 ~~(e)(b)~~ The administrative procedure set forth in this  
206 section concerns only the establishment of child support  
207 obligations and, if agreed to by both parents, a parenting time  
208 plan or Title IV-D Standard Parenting Time Plan. This section  
209 does not grant jurisdiction to the department or the Division of  
210 Administrative Hearings to hear or determine issues of  
211 dissolution of marriage, separation, alimony or spousal support,  
212 termination of parental rights, dependency, disputed paternity,  
213 except for a determination of paternity as provided in s.  
214 409.256, ~~or award of~~ or change of time-sharing. If both parents  
215 have agreed to a parenting time plan before the establishment of  
216 the administrative support order, the department or the Division  
217 of Administrative Hearings will incorporate the agreed-upon  
218 parenting time plan into the administrative support order. This  
219 paragraph notwithstanding, the department and the Division of  
220 Administrative Hearings may make findings of fact that are  
221 necessary for a proper determination of a parent's support  
222 obligation as authorized by this section.

223 ~~(f)(e)~~ If there is no support order for a child in a Title  
224 IV-D case whose paternity has been established or is presumed by  
225 law, or whose paternity is the subject of a proceeding under s.  
226 409.256, the department may establish a parent's child support  
227 obligation pursuant to this section, s. 61.30, and other  
228 relevant provisions of state law. The administrative support  
229 order will include a parenting time plan or Title IV-D Standard  
230 Parenting Time Plan as agreed to by both parents. The parent's  
231 obligation determined by the department may include any  
232 obligation to pay retroactive support and any obligation to

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233 provide for health care for a child, whether through insurance  
234 coverage, reimbursement of expenses, or both. The department may  
235 proceed on behalf of:

- 236 1. An applicant or recipient of public assistance, as  
237 provided by ss. 409.2561 and 409.2567;  
238 2. A former recipient of public assistance, as provided by  
239 s. 409.2569;  
240 3. An individual who has applied for services as provided  
241 by s. 409.2567;  
242 4. Itself or the child, as provided by s. 409.2561; or  
243 5. A state or local government of another state, as  
244 provided by chapter 88.

245 (g)~~(d)~~ Either parent, or a caregiver if applicable, may at  
246 any time file a civil action in a circuit court having  
247 jurisdiction and proper venue to determine parental support  
248 obligations, if any. A support order issued by a circuit court  
249 prospectively supersedes an administrative support order  
250 rendered by the department.

251 (h)~~(e)~~ Pursuant to paragraph (e) ~~(b)~~, neither the  
252 department nor the Division of Administrative Hearings has  
253 jurisdiction to ~~award or~~ change child custody or rights of  
254 parental contact. The department or the Division of  
255 Administrative Hearings will incorporate a parenting time plan  
256 or Title IV-D Standard Parenting Time Plan as agreed to by both  
257 parents into the administrative support order. Either parent may  
258 at any time file a civil action in a circuit having jurisdiction  
259 and proper venue for a determination of child custody and rights  
260 of parental contact.

261 (i)~~(f)~~ The department shall terminate the administrative

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262 proceeding and file an action in circuit court to determine  
263 support if within 20 days after receipt of the initial notice  
264 the parent from whom support is being sought requests in writing  
265 that the department proceed in circuit court or states in  
266 writing his or her intention to address issues concerning time-  
267 sharing or rights to parental contact in court and if within 10  
268 days after receipt of the department's petition and waiver of  
269 service the parent from whom support is being sought signs and  
270 returns the waiver of service form to the department.

271 (j)~~(g)~~ The notices and orders issued by the department  
272 under this section shall be written clearly and plainly.

273 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE  
274 SUPPORT ORDER.—To commence a proceeding under this section, the  
275 department shall provide to the parent from whom support is not  
276 being sought and serve the parent from whom support is being  
277 sought with a notice of proceeding to establish administrative  
278 support order, a copy of the Title IV-D Standard Parenting Time  
279 Plans, and a blank financial affidavit form. The notice must  
280 state:

281 (a) The names of both parents, the name of the caregiver,  
282 if any, and the name and date of birth of the child or children;

283 (b) That the department intends to establish an  
284 administrative support order as defined in this section;

285 (c) That the department will incorporate a parenting time  
286 plan or Title IV-D Standard Parenting Time Plan, as agreed to by  
287 both parents, into the administrative support order;

288 (d)~~(c)~~ That both parents must submit a completed financial  
289 affidavit to the department within 20 days after receiving the  
290 notice, as provided by paragraph (13) (a);

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291 ~~(e)-(d)~~ That both parents, or parent and caregiver if  
 292 applicable, are required to furnish to the department  
 293 information regarding their identities and locations, as  
 294 provided by paragraph (13) (b);

295 ~~(f)-(e)~~ That both parents, or parent and caregiver if  
 296 applicable, are required to promptly notify the department of  
 297 any change in their mailing addresses to ensure receipt of all  
 298 subsequent pleadings, notices, and orders, as provided by  
 299 paragraph (13) (c);

300 ~~(g)-(f)~~ That the department will calculate support  
 301 obligations based on the child support guidelines schedule in s.  
 302 61.30 and using all available information, as provided by  
 303 paragraph (5) (a), and will incorporate such obligations into a  
 304 proposed administrative support order;

305 ~~(h)-(g)~~ That the department will send by regular mail to  
 306 both parents, or parent and caregiver if applicable, a copy of  
 307 the proposed administrative support order, the department's  
 308 child support worksheet, and any financial affidavits submitted  
 309 by a parent or prepared by the department;

310 ~~(i)-(h)~~ That the parent from whom support is being sought  
 311 may file a request for a hearing in writing within 20 days after  
 312 the date of mailing or other service of the proposed  
 313 administrative support order or will be deemed to have waived  
 314 the right to request a hearing;

315 ~~(j)-(i)~~ That if the parent from whom support is being sought  
 316 does not file a timely request for hearing after service of the  
 317 proposed administrative support order, the department will issue  
 318 an administrative support order that incorporates the findings  
 319 of the proposed administrative support order, and any agreed-

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320 upon parenting time plan. The department will send by regular  
 321 mail a copy of the administrative support order and any  
 322 incorporated parenting time plan to both parents, or parent and  
 323 caregiver if applicable;

324 ~~(k)-(j)~~ That after an administrative support order is  
 325 rendered incorporating any agreed-upon parenting time plan, the  
 326 department will file a copy of the order with the clerk of the  
 327 circuit court;

328 ~~(l)-(k)~~ That after an administrative support order is  
 329 rendered, the department may enforce the administrative support  
 330 order by any lawful means. The department does not have  
 331 jurisdiction to enforce any parenting time plan that is  
 332 incorporated into an administrative support order;

333 ~~(m)-(l)~~ That either parent, or caregiver if applicable, may  
 334 file at any time a civil action in a circuit court having  
 335 jurisdiction and proper venue to determine parental support  
 336 obligations, if any, and that a support order issued by a  
 337 circuit court supersedes an administrative support order  
 338 rendered by the department;

339 ~~(n)-(m)~~ That neither the department nor the Division of  
 340 Administrative Hearings has jurisdiction to ~~award or~~ change  
 341 child custody or rights of parental contact or time-sharing, and  
 342 these issues may be addressed only in circuit court. The  
 343 department or the Division of Administrative Hearings may  
 344 incorporate, if agreed to by both parents, a parenting time plan  
 345 or Title IV-D Standard Parenting Time Plan when the  
 346 administrative support order is established.

347 1. The parent from whom support is being sought may request  
 348 in writing that the department proceed in circuit court to



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349 determine his or her support obligations.

350 2. The parent from whom support is being sought may state  
351 in writing to the department his or her intention to address  
352 issues concerning custody or rights to parental contact in  
353 circuit court.

354 3. If the parent from whom support is being sought submits  
355 the request authorized in subparagraph 1., or the statement  
356 authorized in subparagraph 2. to the department within 20 days  
357 after the receipt of the initial notice, the department shall  
358 file a petition in circuit court for the determination of the  
359 parent's child support obligations, and shall send to the parent  
360 from whom support is being sought a copy of its petition, a  
361 notice of commencement of action, and a request for waiver of  
362 service of process as provided in the Florida Rules of Civil  
363 Procedure.

364 4. If, within 10 days after receipt of the department's  
365 petition and waiver of service, the parent from whom support is  
366 being sought signs and returns the waiver of service form to the  
367 department, the department shall terminate the administrative  
368 proceeding without prejudice and proceed in circuit court.

369 5. In any circuit court action filed by the department  
370 pursuant to this paragraph or filed by a parent from whom  
371 support is being sought or other person pursuant to paragraph  
372 (m) (1) or paragraph (o) (n), the department shall be a party  
373 only with respect to those issues of support allowed and  
374 reimbursable under Title IV-D of the Social Security Act. It is  
375 the responsibility of the parent from whom support is being  
376 sought or other person to take the necessary steps to present  
377 other issues for the court to consider;=

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378 ~~(o) (n)~~ That if the parent from whom support is being sought  
379 files an action in circuit court and serves the department with  
380 a copy of the petition within 20 days after being served notice  
381 under this subsection, the administrative process ends without  
382 prejudice and the action must proceed in circuit court;

383 ~~(p) (e)~~ Information provided by the Office of State Courts  
384 Administrator concerning the availability and location of self-  
385 help programs for those who wish to file an action in circuit  
386 court but who cannot afford an attorney.

387  
388 The department may serve the notice of proceeding to establish  
389 an administrative support order and Title IV-D Standard  
390 Parenting Time Plans by certified mail, restricted delivery,  
391 return receipt requested. Alternatively, the department may  
392 serve the notice by any means permitted for service of process  
393 in a civil action. For purposes of this section, an authorized  
394 employee of the department may serve the notice and execute an  
395 affidavit of service. Service by certified mail is completed  
396 when the certified mail is received or refused by the addressee  
397 or by an authorized agent as designated by the addressee in  
398 writing. If a person other than the addressee signs the return  
399 receipt, the department shall attempt to reach the addressee by  
400 telephone to confirm whether the notice was received, and the  
401 department shall document any telephonic communications. If  
402 someone other than the addressee signs the return receipt, the  
403 addressee does not respond to the notice, and the department is  
404 unable to confirm that the addressee has received the notice,  
405 service is not completed and the department shall attempt to  
406 have the addressee served personally. The department shall

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407 provide the parent from whom support is not being sought or the  
 408 caregiver with a copy of the notice by regular mail to the last  
 409 known address of the parent from whom support is not being  
 410 sought or caregiver.

411 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.—

412 (a) After serving notice upon a parent in accordance with  
 413 subsection (4), the department shall calculate that parent's  
 414 child support obligation under the child support guidelines  
 415 schedule as provided by s. 61.30, based on any timely financial  
 416 affidavits received and other information available to the  
 417 department. If either parent fails to comply with the  
 418 requirement to furnish a financial affidavit, the department may  
 419 proceed on the basis of information available from any source,  
 420 if such information is sufficiently reliable and detailed to  
 421 allow calculation of guideline schedule amounts under s. 61.30.  
 422 If a parent receives public assistance and fails to submit a  
 423 financial affidavit, the department may submit a financial  
 424 affidavit or written declaration for that parent pursuant to s.  
 425 61.30(15). If there is a lack of sufficient reliable information  
 426 concerning a parent's actual earnings for a current or past  
 427 period, it shall be presumed for the purpose of establishing a  
 428 support obligation that the parent had an earning capacity equal  
 429 to the federal minimum wage during the applicable period.

430 (b) The department shall send by regular mail to both  
 431 parents, or to a parent and caregiver if applicable, copies of  
 432 the proposed administrative support order, a copy of the Title  
 433 IV-D Standard Parenting Time Plans, its completed child support  
 434 worksheet, and any financial affidavits submitted by a parent or  
 435 prepared by the department. The proposed administrative support

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436 order must contain the same elements as required for an  
 437 administrative support order under paragraph (7) (e).

438 (c) The department shall provide a notice of rights with  
 439 the proposed administrative support order, which notice must  
 440 inform the parent from whom support is being sought that:

441 1. The parent from whom support is being sought may, within  
 442 20 days after the date of mailing or other service of the  
 443 proposed administrative support order, request a hearing by  
 444 filing a written request for hearing in a form and manner  
 445 specified by the department;

446 2. If the parent from whom support is being sought files a  
 447 timely request for a hearing, the case shall be transferred to  
 448 the Division of Administrative Hearings, which shall conduct  
 449 further proceedings and may enter an administrative support  
 450 order;

451 3. A parent from whom support is being sought who fails to  
 452 file a timely request for a hearing shall be deemed to have  
 453 waived the right to a hearing, and the department may render an  
 454 administrative support order pursuant to paragraph (7) (b);

455 4. The parent from whom support is being sought may consent  
 456 in writing to entry of an administrative support order without a  
 457 hearing;

458 5. The parent from whom support is being sought may, within  
 459 10 days after the date of mailing or other service of the  
 460 proposed administrative support order, contact a department  
 461 representative, at the address or telephone number specified in  
 462 the notice, to informally discuss the proposed administrative  
 463 support order and, if informal discussions are requested timely,  
 464 the time for requesting a hearing will be extended until 10 days

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465 after the department notifies the parent that the informal  
466 discussions have been concluded; and

467 6. If an administrative support order that establishes a  
468 parent's support obligation and incorporates either a parenting  
469 time plan or Title IV-D Standard Parenting Time Plan agreed to  
470 by both parents is rendered, whether after a hearing or without  
471 a hearing, the department may enforce the administrative support  
472 order by any lawful means. The department does not have the  
473 jurisdiction or authority to enforce a parenting time plan.

474 (d) If, after serving the proposed administrative support  
475 order but before a final administrative support order is  
476 rendered, the department receives additional information that  
477 makes it necessary to amend the proposed administrative support  
478 order, it shall prepare an amended proposed administrative  
479 support order, with accompanying amended child support  
480 worksheets and other material necessary to explain the changes,  
481 and follow the same procedures set forth in paragraphs (b) and  
482 (c).

483 (7) ADMINISTRATIVE SUPPORT ORDER.—

484 (a) If a hearing is held, the administrative law judge of  
485 the Division of Administrative Hearings shall issue an  
486 administrative support order that will include a parenting time  
487 plan or Title IV-D Standard Parenting Time Plan agreed to by  
488 both parents, or a final order denying an administrative support  
489 order, which constitutes final agency action by the department.  
490 The Division of Administrative Hearings shall transmit any such  
491 order to the department for filing and rendering.

492 (b) If the parent from whom support is being sought does  
493 not file a timely request for a hearing, the parent will be

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494 deemed to have waived the right to request a hearing.

495 (c) If the parent from whom support is being sought waives  
496 the right to a hearing, or consents in writing to the entry of  
497 an order without a hearing, the department may render an  
498 administrative support order that will include a parenting time  
499 plan or Title IV-D Standard Parenting Time Plan agreed to by  
500 both parents.

501 (d) The department shall send by regular mail a copy of the  
502 administrative support order that will include a parenting time  
503 plan or Title IV-D Standard Parenting Time Plan agreed to by  
504 both parents, or the final order denying an administrative  
505 support order, to both parents, or a parent and caregiver if  
506 applicable. The parent from whom support is being sought shall  
507 be notified of the right to seek judicial review of the  
508 administrative support order in accordance with s. 120.68.

509 (e) An administrative support order must comply with ss.  
510 61.13(1) and 61.30. The department shall develop a standard form  
511 or forms for administrative support orders. An administrative  
512 support order must provide and state findings, if applicable,  
513 concerning:

- 514 1. The full name and date of birth of the child or
- 515 children;
- 516 2. The name of the parent from whom support is being sought
- 517 and the other parent or caregiver;
- 518 3. The parent's duty and ability to provide support;
- 519 4. The amount of the parent's monthly support obligation;
- 520 5. Any obligation to pay retroactive support;
- 521 6. The parent's obligation to provide for the health care
- 522 needs of each child, whether through health insurance,

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523 contribution toward the cost of health insurance, payment or  
 524 reimbursement of health care expenses for the child, or any  
 525 combination thereof;

526 7. The beginning date of any required monthly payments and  
 527 health insurance;

528 8. That all support payments ordered must be paid to the  
 529 ~~Florida~~ State Disbursement Unit as provided by s. 61.1824;

530 9. That the parents, or caregiver if applicable, must file  
 531 with the department when the administrative support order is  
 532 rendered, if they have not already done so, and update as  
 533 appropriate the information required pursuant to paragraph  
 534 (13) (b);

535 10. That both parents, or parent and caregiver if  
 536 applicable, are required to promptly notify the department of  
 537 any change in their mailing addresses pursuant to paragraph  
 538 (13) (c); and

539 11. That if the parent ordered to pay support receives  
 540 reemployment assistance or unemployment compensation benefits,  
 541 the payor shall withhold, and transmit to the department, 40  
 542 percent of the benefits for payment of support, not to exceed  
 543 the amount owed.

544  
 545 An income deduction order as provided by s. 61.1301 must be  
 546 incorporated into the administrative support order or, if not  
 547 incorporated into the administrative support order, the  
 548 department or the Division of Administrative Hearings shall  
 549 render a separate income deduction order.

550 Section 5. Section 409.25633, Florida Statutes, is created  
 551 to read:

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552 409.25633. Title IV-D Standard Parenting Time Plans.—

553 (1) A Title IV-D Standard Parenting Time Plan must be  
 554 presented to the parents in any administrative action taken by  
 555 the Title IV-D program to establish or modify child support or  
 556 to determine paternity. If the parents agree to the Title IV-D  
 557 Standard Parenting Time Plan or to another parenting time plan,  
 558 the plan must be incorporated into the administrative order. If  
 559 the parents do not agree to a Title IV-D Standard Parenting Time  
 560 Plan or if an agreed-upon parenting time plan is not included,  
 561 the Department of Revenue must enter an administrative support  
 562 order and refer the parents to the court of appropriate  
 563 jurisdiction to establish a parenting time plan. The department  
 564 must note on the referral that an administrative support order  
 565 has been entered. If a parenting time plan is not included in  
 566 the administrative support order entered under s. 409.2563, the  
 567 department must provide information to the parents on the  
 568 process to establish such plan.

569 (2) If the parents live within 100 miles of each other and  
 570 the child is 3 years of age or older, the parent who owes  
 571 support shall have parenting time with the child:

572 (a) Every other weekend.—The second and fourth full weekend  
 573 of the month from 6 p.m. on Friday through 6 p.m. on Sunday. The  
 574 weekends may begin upon the child's release from school on  
 575 Friday and end on Sunday at 6 p.m. or when the child returns to  
 576 school on Monday morning. The weekend time may be extended by  
 577 holidays that fall on Friday or Monday;

578 (b) One evening per week.—One weekday beginning at 6 p.m.  
 579 and ending at 8 p.m. or if both parents agree, from when the  
 580 child is released from school until 8 p.m.;

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581 (c) Thanksgiving break.—In even-numbered years, the  
 582 Thanksgiving break from 6 p.m. on the Wednesday before  
 583 Thanksgiving until 6 p.m. on the Sunday following Thanksgiving.  
 584 If both parents agree, the Thanksgiving break parenting time may  
 585 begin upon the child's release from school and end upon the  
 586 child's return to school the following Monday;

587 (d) Winter break.—In odd-numbered years, the first half of  
 588 winter break, from the day school is released, beginning at 6  
 589 p.m. or, if both parents agree, upon the child's release from  
 590 school, until noon on December 26. In even-numbered years, the  
 591 second half of winter break from noon on December 26 until 6  
 592 p.m. on the day before school resumes or, if both parents agree,  
 593 upon the child's return to school;

594 (e) Spring break.—In even-numbered years, the week of  
 595 spring break from 6 p.m. the day that school is released until 6  
 596 p.m. the night before school resumes. If both parents agree, the  
 597 spring break parenting time may begin upon the child's release  
 598 from school and end upon the child's return to school the  
 599 following Monday; and

600 (f) Summer break.—For 2 weeks in the summer beginning at 6  
 601 p.m. the first Sunday following the last day of school.

602 (3) If the parents live more than 100 miles from each other  
 603 and the child is 3 years of age or older, the parties may agree  
 604 to follow the schedule set forth in subsection (2), or else the  
 605 parent who owes child support has parenting time with the child:

606 (a) One weekend per month.—The second or fourth full  
 607 weekend of the month throughout the year beginning Friday at 6  
 608 p.m. through Sunday at 6 p.m. The parent who owes child support  
 609 can choose the one weekend per month within 90 days after the

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610 parents begin to live more than 100 miles apart; and

611 (b) Summer break.—Forty-two days of parenting time during  
 612 the summer months. The parent who is owed child support will  
 613 have parenting time one weekend beginning on Friday at 6 p.m.  
 614 through Sunday at 6 p.m. during any one extended period during  
 615 the summer.

616 (4) If the child is under 3 years of age, the parents may  
 617 agree on a parenting time plan that includes more frequent  
 618 visitation with shorter timeframes, gradually leading into  
 619 overnight visits and either a parenting time plan agreed to by  
 620 both parents or the Title IV-D Standard Parenting Time Plan set  
 621 out in this section.

622 (5) In the event the parents have not agreed on a parenting  
 623 schedule at the time of the child support hearing, the  
 624 department will enter an administrative support order and refer  
 625 the parents to a court of appropriate jurisdiction for the  
 626 establishment of a parenting time plan.

627 (6) The Title IV-D Standard Parenting Time Plans are not  
 628 intended for use by parents and families with domestic or family  
 629 violence concerns.

630 (7) If after the incorporation of an agreed-upon parenting  
 631 time plan into an administrative support order, a parent becomes  
 632 concerned about the safety of the child during the child's time  
 633 with the other parent, a modification of the parenting time plan  
 634 may be sought through a court of appropriate jurisdiction.

635 (8) The department will create and provide a form for a  
 636 petition to establish a parenting time plan for parents who have  
 637 not agreed on a parenting schedule at the time of the child  
 638 support hearing. The department will provide the form to the

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639 parents but will not file the petition or represent either  
 640 parent at the hearing.

641 (9) The parents will not be required to pay a fee to file  
 642 the petition to establish a parenting plan.

643 (10) The department may adopt rules to implement and  
 644 administer this section.

645 Section 6. Subsections (1) and (2) of section 409.2564,  
 646 Florida Statutes, are amended to read:

647 409.2564 Actions for support.—

648 (1) In each case in which regular support payments are not  
 649 being made as provided herein, the department shall institute,  
 650 within 30 days after determination of the obligor's reasonable  
 651 ability to pay, action as is necessary to secure the obligor's  
 652 payment of current support, ~~and~~ any arrearage that which may  
 653 have accrued under an existing order of support, and if a  
 654 parenting time plan was not incorporated into the existing order  
 655 of support and is appropriate, include either an agreed-upon  
 656 parenting time plan or Title IV-D Standard Parenting Time Plan.

657 The department shall notify the program attorney in the judicial  
 658 circuit in which the recipient resides setting forth the facts  
 659 in the case, including the obligor's address, if known, and the  
 660 public assistance case number. Whenever applicable, the  
 661 procedures established under ~~the provisions of~~ chapter 88,  
 662 Uniform Interstate Family Support Act, chapter 61, Dissolution  
 663 of Marriage; Support; Time-sharing, chapter 39, Proceedings  
 664 Relating to Children, chapter 984, Children and Families in Need  
 665 of Services, and chapter 985, Delinquency; Interstate Compact on  
 666 Juveniles, may govern actions instituted under ~~the provisions of~~  
 667 this act, except that actions for support under chapter 39,

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668 chapter 984, or chapter 985 brought pursuant to this act shall  
 669 not require any additional investigation or supervision by the  
 670 department.

671 (2) The order for support entered pursuant to an action  
 672 instituted by the department under ~~the provisions of~~ subsection  
 673 (1) shall require that the support payments be made periodically  
 674 to the department through the depository. An order for support  
 675 entered under the provisions of subsection (1) must include  
 676 either an agreed-upon parenting time plan or Title IV-D Standard  
 677 Parenting Time Plan, if appropriate. Upon receipt of a payment  
 678 made by the obligor pursuant to any order of the court, the  
 679 depository shall transmit the payment to the department within 2  
 680 working days, except those payments made by personal check which  
 681 shall be disbursed in accordance with s. 61.181. Upon request,  
 682 the depository shall furnish to the department a certified  
 683 statement of all payments made by the obligor. Such statement  
 684 shall be provided by the depository at no cost to the  
 685 department.

686 Section 7. Paragraph (g) of subsection (2) and paragraph  
 687 (a) of subsection (4) of section 409.256, Florida Statutes, are  
 688 amended to read:

689 409.256 Administrative proceeding to establish paternity or  
 690 paternity and child support; order to appear for genetic  
 691 testing.—

692 (2) JURISDICTION; LOCATION OF HEARINGS; RIGHT OF ACCESS TO  
 693 THE COURTS.—

694 (g) Section 409.2563(2)(h), (i), and (j) ~~409.2563(2)(e),~~  
 695 ~~(f), and (g)~~ apply to a proceeding under this section.

696 (4) NOTICE OF PROCEEDING TO ESTABLISH PATERNITY OR

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697 PATERNITY AND CHILD SUPPORT; ORDER TO APPEAR FOR GENETIC  
 698 TESTING; MANNER OF SERVICE; CONTENTS.—The Department of Revenue  
 699 shall commence a proceeding to determine paternity, or a  
 700 proceeding to determine both paternity and child support, by  
 701 serving the respondent with a notice as provided in this  
 702 section. An order to appear for genetic testing may be served at  
 703 the same time as a notice of the proceeding or may be served  
 704 separately. A copy of the affidavit or written declaration upon  
 705 which the proceeding is based shall be provided to the  
 706 respondent when notice is served. A notice or order to appear  
 707 for genetic testing shall be served by certified mail,  
 708 restricted delivery, return receipt requested, or in accordance  
 709 with the requirements for service of process in a civil action.  
 710 Service by certified mail is completed when the certified mail  
 711 is received or refused by the addressee or by an authorized  
 712 agent as designated by the addressee in writing. If a person  
 713 other than the addressee signs the return receipt, the  
 714 department shall attempt to reach the addressee by telephone to  
 715 confirm whether the notice was received, and the department  
 716 shall document any telephonic communications. If someone other  
 717 than the addressee signs the return receipt, the addressee does  
 718 not respond to the notice, and the department is unable to  
 719 confirm that the addressee has received the notice, service is  
 720 not completed and the department shall attempt to have the  
 721 addressee served personally. For purposes of this section, an  
 722 employee or an authorized agent of the department may serve the  
 723 notice or order to appear for genetic testing and execute an  
 724 affidavit of service. The department may serve an order to  
 725 appear for genetic testing on a caregiver. The department shall

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726 provide a copy of the notice or order to appear by regular mail  
 727 to the mother and caregiver, if they are not respondents.  
 728 (a) A notice of proceeding to establish paternity must  
 729 state:  
 730 1. That the department has commenced an administrative  
 731 proceeding to establish whether the putative father is the  
 732 biological father of the child named in the notice.  
 733 2. The name and date of birth of the child and the name of  
 734 the child's mother.  
 735 3. That the putative father has been named in an affidavit  
 736 or written declaration that states the putative father is or may  
 737 be the child's biological father.  
 738 4. That the respondent is required to submit to genetic  
 739 testing.  
 740 5. That genetic testing will establish either a high degree  
 741 of probability that the putative father is the biological father  
 742 of the child or that the putative father cannot be the  
 743 biological father of the child.  
 744 6. That if the results of the genetic test do not indicate  
 745 a statistical probability of paternity that equals or exceeds 99  
 746 percent, the paternity proceeding in connection with that child  
 747 shall cease unless a second or subsequent test is required.  
 748 7. That if the results of the genetic test indicate a  
 749 statistical probability of paternity that equals or exceeds 99  
 750 percent, the department may:  
 751 a. Issue a proposed order of paternity that the respondent  
 752 may consent to or contest at an administrative hearing; or  
 753 b. Commence a proceeding, as provided in s. 409.2563, to  
 754 establish an administrative support order for the child. Notice

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755 of the proceeding shall be provided to the respondent by regular  
756 mail.

757 8. That, if the genetic test results indicate a statistical  
758 probability of paternity that equals or exceeds 99 percent and a  
759 proceeding to establish an administrative support order is  
760 commenced, the department shall issue a proposed order that  
761 addresses paternity and child support. The respondent may  
762 consent to or contest the proposed order at an administrative  
763 hearing.

764 9. That if a proposed order of paternity or proposed order  
765 of both paternity and child support is not contested, the  
766 department shall adopt the proposed order and render a final  
767 order that establishes paternity and, if appropriate, an  
768 administrative support order for the child.

769 10. That, until the proceeding is ended, the respondent  
770 shall notify the department in writing of any change in the  
771 respondent's mailing address and that the respondent shall be  
772 deemed to have received any subsequent order, notice, or other  
773 paper mailed to the most recent address provided or, if a more  
774 recent address is not provided, to the address at which the  
775 respondent was served, and that this requirement continues if  
776 the department renders a final order that establishes paternity  
777 and a support order for the child.

778 11. That the respondent may file an action in circuit court  
779 for a determination of paternity, child support obligations, or  
780 both.

781 12. That if the respondent files an action in circuit court  
782 and serves the department with a copy of the petition or  
783 complaint within 20 days after being served notice under this

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784 subsection, the administrative process ends without prejudice  
785 and the action must proceed in circuit court.

786 13. That, if paternity is established, the putative father  
787 may file a petition in circuit court for a determination of  
788 matters relating to custody and rights of parental contact.  
789

790 A notice under this paragraph must also notify the respondent of  
791 the provisions in s. 409.2563(4)(n) and (p) ~~s. 409.2563(4)(m)~~  
792 ~~and (e)~~.

793 Section 8. Subsection (5) of section 409.2572, Florida  
794 Statutes, is amended to read:

795 409.2572 Cooperation.—

796 (5) As used in this section only, the term "applicant for  
797 or recipient of public assistance for a dependent child" refers  
798 to such applicants and recipients of public assistance as  
799 defined in s. 409.2554(12) ~~s. 409.2554(8)~~, with the exception of  
800 applicants for or recipients of Medicaid solely for the benefit  
801 of a dependent child.

802 Section 9. The sum of \$419,520 in nonrecurring general  
803 revenue is appropriated for contracted services to the  
804 Department of Revenue for the fiscal year 2017-2018 for the  
805 purpose of implementing this act. The sum of \$20,729 in  
806 recurring general revenue is appropriated for expenses, and the  
807 sum of \$91,127 in recurring general revenue is appropriated for  
808 salaries and benefits to the Department of Revenue for the  
809 fiscal year 2017-2018 for the purpose of implementing this act.

810 Section 10. This act shall take effect January 1, 2018.



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-13-17

Meeting Date

590

Bill Number (if applicable)

377 888

Amendment Barcode (if applicable)

Topic Child Support and Parenting Time Plans

Name Andrea Reid

Job Title Attorney

Address 2300 Glades Rd Ste 203E

Street

Phone \_\_\_\_\_

Boca Raton FL 33431

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing The Florida Bar Family Law Section

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-13-17

Meeting Date

590

Bill Number (if applicable)

Topic Child Support and Parenting Plans

Amendment Barcode (if applicable)

Name Andrea Reid

Job Title Attorney

Address 2300 Glades Rd. Ste 203 E

Phone 561-361-8360

Street

Boca Raton Florida 33431

Email AREID@ISAACSREIDLAW.COM

City

State

Zip

Speaking:  For  Against  Information

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

Representing The Florida Bar Family Law Section

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

SB 590

Bill Number (if applicable)

Topic SB 590

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title \_\_\_\_\_

Address 106 S Monroe

Phone 813-205-0658

Street

Tallahassee

FL

32301

Email Mark@Consultanderson.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Non-Custodial Parent Employment Program

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Denise Grimsley,  
Appropriations Subcommittee on  
General Government

**Subject:** Committee Agenda Request

**Date:** March 28th, 2017

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I respectfully request that **Senate Bill #590**, relating to **Child Support and Parenting Time Plans**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes  
Florida Senate, District 24

**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 Subcommittee on General Government

**BILL:** CS/SB 594

**INTRODUCER:** Banking and Insurance Committee and Senator Garcia

**SUBJECT:** Consumer Finance

**DATE:** April 12, 2017      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	<b>Fav/CS</b>
2.	Sanders	Betta	AGG	<b>Recommend: Favorable</b>
3.			AP	
4.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 594 allows a licensed consumer finance lender to make a consumer finance loan of less than \$5,000 with a maximum annual interest rate of 36 percent per year. Such loans are subject to additional restrictions and underwriting standards. The current maximum allowable interest rates for such loans are:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal from \$3,001 to \$4,000; and
- 18 percent per year on that part of principal from \$4,001 to \$25,000.

The bill does not affect state revenues or expenditures.<sup>1</sup> The Office of Financial Regulation (OFR) indicates a small, but insignificant cost associated with rulemaking, which can be absorbed within existing resources.

The bill takes effect on July 1, 2017.

<sup>1</sup> Office of Financial Regulation, Senate Bill 594 Fiscal Analysis (on file with the Senate Appropriations Subcommittee on General Government).

## II. Present Situation:

### Federal Truth in Lending Act (TILA)

The purpose of the TILA,<sup>2</sup> is to promote the informed use of credit through “a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available.”<sup>3</sup> Regulation Z, which implements the TILA, requires the calculation and disclosure of the Annual Percentage Rate (APR) for consumer loans.<sup>4</sup> Finance charges include interest, any charges, or fees payable by the consumer and imposed by the financial institution as an incident to or as a condition of an extension of consumer credit. Regulation Z includes examples applicable both to open-end and closed-end credit transactions, of what must, must not, or need not be included in the calculation and disclosure of the finance charge.<sup>5</sup>

### State Regulation of Consumer Lending

The OFR has regulatory oversight of state-chartered financial institutions, securities brokers, investment advisers, mortgage loan originators, deferred presentment providers or payday loan lenders, consumer finance companies, title loan lenders, debt collectors, and other financial service entities. The Division of Financial Institutions of the OFR charters and regulates entities that engage in financial institution business in Florida in accordance with the Florida Financial Institutions Codes (codes).<sup>6</sup> The OFR may examine, investigate, and take disciplinary actions against such state-chartered financial institutions for violation of the codes.<sup>7</sup>

### Consumer Finance Loans

The Florida Consumer Finance Act (ch. 516, F.S.) sets forth licensing requirements for consumer finance lenders and the terms and conditions under which a consumer loan is authorized in Florida. The act sets forth maximum interest rates for consumer finance loans, which are “loan[s] of money, credit, goods, or a provision of a line of credit, in an amount or to a value of \$25,000 or less at an interest rate greater than 18 percent per annum.”<sup>8</sup> The maximum allowable interest rates on consumer finance loans are tiered and limited based on the principal amount that falls within each tier of the loan, as provided below:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal between \$3,001 to \$4,000; and
- 18 percent per year on that part of principal between \$4,001 to \$25,000.<sup>9</sup>

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<sup>2</sup> 15 U.S.C. s. 1601 et seq., as implemented by Regulation Z, 12 C.F.R. part 226.

<sup>3</sup> 15 U.S.C. s. 1601(a).

<sup>4</sup> 15 U.S.C. s. 1604-1606.

<sup>5</sup> 12 C.F.R. s. 1026.4.

<sup>6</sup> Chapters 655, 657, 658, 660, 663, 665, and 667, F.S.

<sup>7</sup> These entities are also subject to laws and regulation by various federal entities. For example, the Federal Deposit Insurance Corporation (FDIC) supervises state-chartered banks that are not members of the Federal Reserve System and state-chartered savings associations. The FDIC also insures deposits in banks and savings associations in the event of bank failure. The Federal Reserve Board supervises state-chartered banks that are members of the Federal Reserve System.

<sup>8</sup> Section 516.01(2), F.S.

<sup>9</sup> Section 516.031(1), F.S.

These principal amounts are the same as the financed amounts determined by the TILA and Regulation Z.<sup>10</sup> The APR for all loans under the act may equal, but cannot exceed, the APR for the loan as required to be computed and disclosed by the TILA and Regulation Z.<sup>11</sup> Lenders are required to provide written disclosures to consumers that include the APR under Regulation Z. Besides the applicable interest rates described above, the act allows consumer finance lenders to charge borrowers the following charges and fees:<sup>12</sup>

- Up to \$25 for investigating the credit and character of the borrower;
- A \$25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans and appraisals of real property offered as security;
- Intangible personal property tax, if secured by a loan note on real property;
- Documentary excise tax and lawful fees;
- Insurance premiums;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for recovering the collateral property;
- Delinquency charges of up to \$15 for each payment in default for at least ten days, if agreed upon in writing before the charge is imposed; and
- A dishonored check charge of up to \$20.

Lastly, the act requires all consumer finance loans must be repaid in equal monthly installments, except for repayment on a line of credit.<sup>13</sup>

### III. Effect of Proposed Changes:

The bill amends s. 516.031, F.S., to allow an interest rate of no more than 36 percent, per annum, to be applied to consumer finance loans with a principal amount less than \$5,000. Such loans must:

- Provide written notice to the borrower that the borrower may rescind the loan by returning the full principal amount borrowed within two business days after the loan was made;
- Prohibit the lender from taking any security interest on the loan;
- Provide that the loan term is a minimum of 120 days and a maximum of 37 months; and
- Require simple interest be fixed for the life of the loan and be computed on the original principal amount.

Consumer finance lenders are prohibited from inducing a borrower from taking out more than one loan. Refinancing the loan is prohibited unless 60 percent of the original loan's principal is not in default.

Before issuing a loan, the lender must determine if the borrower's residual income allows the borrower to afford the loan payment while still being able to afford basic living expenses. Verification of residual income includes payroll receipts, tax returns, bank statements, benefit letters, or other reliable third party means, less debt payments and basic living expenses. The

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<sup>10</sup> Section 516.031(2), F.S.

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

<sup>12</sup> Section 516.031(3), F.S.

<sup>13</sup> Section 516.36, F.S.

lender must also disclose to the borrower information regarding the OFR's consumer credit counseling services.

The consumer finance lender must report each borrower's full payment performance under the loan to at least one consumer reporting agency.

The bill restricts the lender from requiring repayment by one or more electronic funds transfers or predated checks. The lender also may not attempt more than two consecutive electronic funds transfers for payment when the account in which the payment withdrawal approved by the borrower indicates there are insufficient funds. The bill allows an insufficient funds fee of \$20 to be applied to electronic funds transfers. Currently, a lender is allowed to charge a \$15 delinquency fee if more than ten days past due on a payment.<sup>14</sup> However, due to the added bi-weekly payment schedule allowed, the bill prohibits a lender from collecting more than one delinquency fee per month regardless if the borrower was delinquent more than once during the month.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Borrowers could be subject to higher interest rates than currently allowed.

The OFR provided the below chart comparing a \$2,500 and \$5,000 loan under current law versus the change in interest rate proposed in the bill.<sup>15</sup>

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<sup>14</sup> Section 516.031(3)(a)9., F.S.

<sup>15</sup> Email received by the Office on March 27, 2017 (on file with the Senate Committee on Banking and Insurance).



Law	Principal Amount	Term	Interest Rate	Finance Charge	Increase in Finance Charge	Monthly Payment	Increase in Monthly Payment
Current Law	\$2,500	24 Months	30%	\$854.83	\$186.65	\$139.78	\$7.97
SB 594	\$2,500	24 Months	36%	\$1,041.48		\$147.75	
Current Law	\$5,000	24 Months	Approx 28.42%	\$1,612.48	\$473.15	\$275.52	\$19.72
SB 594	\$5,000	24 Months	36%	\$2,085.63		\$295.24	

**C. Government Sector Impact:**

This bill does not impact state revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 516.031 and 516.36.

**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 27, 2017:**

The CS:

- Allows a borrower to return the full principal amount borrowed and rescind the agreement within two business days of receiving the loan.
- Reduces the maximum loan amount from \$10,000 to \$5,000 for loans that allow interest of up to 36 percent.
- Sets the maximum terms for such loans at no more than 37 months.
- Clarifies a lender cannot offer any other loan when issuing a 36 percent interest loan.
- Removes the debt to income threshold for offering such loans of no more than 50 percent and replaces it with an evaluation of basic living expenses compared to verified residual income.
- Allows one delinquency charge of \$15 per month, even if the borrower is delinquent more than one time during the month.
- Makes technical changes when referencing federal regulations.

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 the Committee on Banking and Insurance; and Senator Garcia

597-02940-17

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A bill to be entitled

An act relating to consumer finance; amending s. 516.031, F.S.; authorizing a licensee under the Florida Consumer Finance Act to charge, contract for, and receive a specified interest rate on certain loans; authorizing such licensee to make certain loans subject to certain conditions; defining the term "payment transfer"; specifying limitations for delinquency charges; revising a provision authorizing insufficient funds fees under certain circumstances; providing an effective date.

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

Section 1. Subsections (1) and (3) of section 516.031, Florida Statutes, are amended to read:

516.031 Finance charge; maximum rates.—

(1) INTEREST RATES.—A licensee may lend any sum of money up to \$25,000. A licensee may not take a security interest secured by land on any loan less than \$1,000. The licensee may charge, contract for, and receive thereon interest charges as provided and authorized by this section. If two or more interest rates are applied to the principal amount of a loan, the licensee may charge, contract for, and receive interest at that single annual percentage rate that, if applied according to the actuarial method to each of the scheduled periodic balances of principal, would produce at maturity the same total amount of interest as would result from the application of the two or more rates otherwise permitted, based upon the assumption that all payments

Page 1 of 7

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

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are made as agreed.

(a) Except as provided in paragraph (b), the maximum interest rate shall be 30 percent per annum, computed on the first \$3,000 of the principal amount; 24 percent per annum on that part of the principal amount exceeding \$3,000 and up to \$4,000; and 18 percent per annum on that part of the principal amount exceeding \$4,000 and up to \$25,000. The original principal amount as used in this ~~paragraph section~~ is the same as the amount financed as defined by the federal Truth in Lending Act and Regulation Z of the federal Consumer Financial Protection Bureau Board of Governors of the Federal Reserve System. In determining compliance with the statutory maximum interest and finance charges set forth in this subsection ~~herein~~, the computations used must shall be simple interest and not add-on interest or any other computations.

(b) A licensee may make a loan in a principal amount less than \$5,000 and charge, contract for, and receive interest charges and other charges authorized by this chapter, subject to the following:

1. A borrower may rescind the loan by notifying the licensee of such intent, and returning to the licensee the full principal amount of the loan advanced to the borrower, as well as any payments made for ancillary products, within 2 business days after the date the loan is made. The licensee must disclose such right in writing to the borrower before the loan is made.

2. A licensee may not take any security interest on the loan.

3. The term of the loan may not be less than 120 days or more than 37 months.

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59 4. The maximum annual interest rate of the loan shall be 36  
 60 percent per annum, computed on the original principal amount of  
 61 the loan. The interest rate of the loan calculated as of the  
 62 date the loan is made must be fixed for the life of the loan.  
 63 The original principal amount of the loan is equal to the amount  
 64 financed as defined by the federal Truth in Lending Act and  
 65 Regulation Z of the federal Consumer Financial Protection  
 66 Bureau. In determining compliance with the statutory maximum  
 67 interest rate in this paragraph, the computations used must be  
 68 simple interest and may not be add-on interest or any other  
 69 computations.

70 5. A licensee may not induce or permit any person to become  
 71 obligated to the licensee, directly or contingently, or both,  
 72 under more than one loan with the licensee made under this  
 73 subsection at the same time.

74 6. A licensee may not refinance a loan made under this  
 75 paragraph with another loan made under this paragraph, unless  
 76 the borrower has repaid at least 60 percent of the principal  
 77 amount of his or her outstanding loan and his or her outstanding  
 78 loan is not in default. For purposes of this paragraph, the term  
 79 "refinance" means the replacement or revision of an existing  
 80 loan contract with a borrower that results in an extension of  
 81 additional principal to that borrower.

82 7. A licensee shall make a determination of a borrower's  
 83 ability to repay a loan made under this paragraph by determining  
 84 that the borrower's residual income will be sufficient for the  
 85 consumer to make the scheduled payments when due under the loan  
 86 and meet basic living expenses during the term of the loan. The  
 87 borrower's residual income must be calculated using net income,

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88 verified by payroll receipts, tax returns, bank statements,  
 89 benefit letters, or other reliable third party means, less debt  
 90 payments and basic living expenses. Basic living expenses,  
 91 including housing and utility costs, may be estimated using any  
 92 reasonable means or database.

93 8. The licensee must report each borrower's full payment  
 94 performance under the loan, including positive payment  
 95 performance, to at least one consumer reporting agency that  
 96 compiles and maintains files on consumers on a nationwide basis  
 97 as defined in s. 603(p) of the federal Fair Credit Reporting  
 98 Act, 15 U.S.C. s. 1681a(p), upon the licensee's acceptance as a  
 99 data furnisher by that consumer reporting agency.

100 9. Before making the loan, the licensee must disclose in  
 101 writing to the borrower information about the office's consumer  
 102 credit counseling services available under s. 516.32.

103 10. A licensee shall make available to the borrower by  
 104 electronic or physical means, at the time that a payment is made  
 105 by the borrower, a plain and complete receipt of payment.

106 11.a. A licensee may not initiate a payment transfer from a  
 107 borrower's bank account in connection with collecting an amount  
 108 due under the loan after the licensee has attempted to initiate  
 109 the payment transfer two consecutive times and each attempt  
 110 resulted in a return indicating that the borrower's bank account  
 111 lacked sufficient funds. A licensee may collect only one  
 112 insufficient funds fee for each payment transfer that is  
 113 dishonored, regardless of whether the payment transfer was  
 114 initiated and dishonored a second time. A licensee may not  
 115 condition the making of a loan on the borrower's repayment by  
 116 one or more electronic funds transfers or predated checks.

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117 b. For purposes of this paragraph, the term "payment  
 118 transfer" means a debit or funds withdrawal and includes, but is  
 119 not limited to, an electronic funds transfer as defined in the  
 120 federal Electronic Funds Transfer Act and Regulation E, 12  
 121 C.F.R. part 1005, of the federal Consumer Financial Protection  
 122 Bureau, or a paper check processed through a funds-transfer  
 123 system, as defined in s. 670.105, or through the Automated  
 124 Clearing House (ACH) network ~~If two or more interest rates are~~  
 125 ~~applied to the principal amount of a loan, the licensee may~~  
 126 ~~charge, contract for, and receive interest at that single annual~~  
 127 ~~percentage rate which, if applied according to the actuarial~~  
 128 ~~method to each of the scheduled periodic balances of principal,~~  
 129 ~~would produce at maturity the same total amount of interest as~~  
 130 ~~would result from the application of the two or more rates~~  
 131 ~~otherwise permitted, based upon the assumption that all payments~~  
 132 ~~are made as agreed.~~

133 (3) OTHER CHARGES.—

134 (a) In addition to the interest, delinquency, and insurance  
 135 charges provided in this section, further or other charges or  
 136 amount for any examination, service, commission, or other thing  
 137 or otherwise may not be directly or indirectly charged,  
 138 contracted for, or received as a condition to the grant of a  
 139 loan, except:

- 140 1. An amount of up to \$25 to reimburse a portion of the  
 141 costs for investigating the character and credit of the person  
 142 applying for the loan;  
 143 2. An annual fee of \$25 on the anniversary date of each  
 144 line-of-credit account;  
 145 3. Charges paid for the brokerage fee on a loan or line of

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146 credit of more than \$10,000, title insurance, and the appraisal  
 147 of real property offered as security if paid to a third party  
 148 and supported by an actual expenditure;

149 4. Intangible personal property tax on the loan note or  
 150 obligation if secured by a lien on real property;

151 5. The documentary excise tax and lawful fees, if any,  
 152 actually and necessarily paid out by the licensee to any public  
 153 officer for filing, recording, or releasing in any public office  
 154 any instrument securing the loan, which may be collected when  
 155 the loan is made or at any time thereafter;

156 6. The premium payable for any insurance in lieu of  
 157 perfecting any security interest otherwise required by the  
 158 licensee in connection with the loan if the premium does not  
 159 exceed the fees which would otherwise be payable, which may be  
 160 collected when the loan is made or at any time thereafter;

161 7. Actual and reasonable attorney fees and court costs as  
 162 determined by the court in which suit is filed;

163 8. Actual and commercially reasonable expenses for  
 164 repossession, storing, repairing and placing in condition for  
 165 sale, and selling of any property pledged as security; or

166 9. A delinquency charge of up to \$15 for each payment in  
 167 default for at least 10 days if the charge is agreed upon, in  
 168 writing, between the parties before imposing the charge. No more  
 169 than one delinquency charge may be imposed for each payment in  
 170 default. A maximum delinquency charge of \$15 may be imposed for  
 171 loans repayable in monthly installments. For loans repayable in  
 172 installments due less than monthly, the maximum of all  
 173 delinquency charges imposed during a calendar month may not  
 174 exceed \$15.

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Any charges, including interest, in excess of the combined total of all charges authorized and permitted by this chapter constitute a violation of chapter 687 governing interest and usury, and the penalties of that chapter apply. In the event of a bona fide error, the licensee shall refund or credit the borrower with the amount of the overcharge immediately but within 20 days after the discovery of such error.

(b) Notwithstanding ~~the provisions of~~ paragraph (a), any lender of money who receives a check, draft, electronic funds transfer as defined in the federal Electronic Funds Transfer Act and Regulation E of the federal Consumer Financial Protection Bureau, negotiable order of withdrawal, or like instrument or transfer drawn on a bank or other depository institution, which instrument or transfer is given by a borrower as full or partial repayment of a loan, may, if such instrument or transfer is not paid or is dishonored by such institution, make and collect from the borrower an insufficient funds fee ~~a bad check charge~~ of not more than the greater of \$20 or an amount equal to the actual fee charged ~~charge made~~ to the lender by the depository institution for the return of the unpaid or dishonored instrument or transfer.

Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17  
Meeting Date

594  
Bill Number (if applicable)

Topic Consumer Finance

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556-3121

Street

Tallahassee FL 32303

Email alicevickers@flapc.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Alliance for Consumer Protection

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17  
Meeting Date

CS/SB 594  
Bill Number (if applicable)

Topic Consumer Finance

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 200 W. College Ave, Ste 304

Phone 850-228-6387

Jallahassee FL 32301  
City State Zip

Email dobarker@crak.org

Speaking:  For  Against  Information

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

Representing AARP Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE

APPEARANCE RECORD

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

9/13/17  
Meeting Date

594  
Bill Number (if applicable)

Topic Consumer Finance

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title \_\_\_\_\_

Address 104 S. Monroe Street

Phone 850-425-1344

Tallahassee FL 32301  
City State Zip

Email TcgLobby@aol.com

Speaking:  For  Against  Information

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

Representing Florida State Conference of NAACP Branches

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**The Florida Senate**  
State Senator René García  
36<sup>th</sup> District

**Please reply to:**

□ **District Office:**

1490 West 68 Street  
Suite # 201  
Hialeah, FL. 33014  
Phone# (305) 364-3100

March 28<sup>th</sup>, 2017

The Honorable Denise Grimsley  
Chair, Appropriations Subcommittee on General Government  
201 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Grimsley,

Please have this letter serve as my formal request to have **SB 594: Consumer Finance** be heard during the next scheduled Appropriations Subcommittee on General Government Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García  
District 36

CC: Giovanni Betta  
Lisa Waddell

**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 Subcommittee on General Government

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BILL: SB 814

INTRODUCER: Senator Broxson

SUBJECT: Florida Life and Health Insurance Guaranty Association

DATE: April 12, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AGG</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

---

**I. Summary:**

SB 814 revises coverage and assessment provisions relating to the Florida Life and Health Insurance Guaranty Association (association). In 1979, the Legislature created the association to protect policyholders against failure in the performance of contractual obligations under life and health insurance policies and annuity contracts due to the impairment or insolvency of the member insurer that issued the policies or contracts.

The bill increases the limit on coverage for specified health insurance policies from \$300,000 to \$500,000 for any one person. The bill expands the association's scope of coverage to include annuities issued by an insurer pursuant to an individual retirement annuity and annuities issued by an insurer and held by a third party custodian or trustee pursuant to an individual retirement account. The bill also increases the cap on Class A assessments on member insurers from \$250 to \$500, which are used to fund administrative and general expenses.

The bill does not affect state revenues or expenditures.

The bill has an effective date of July 1, 2017.

**II. Present Situation:**

**Insurer Insolvency**

States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. Solvency regulations are designed to protect policyholders against the risk that insurers will not be able to meet their financial responsibilities. In Florida, the Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers and other risk-

bearing entities.<sup>1</sup> The OIR is primarily responsible for monitoring the solvency of regulated insurers and examining insurers to determine compliance with applicable laws, and taking administrative action, if necessary. The Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS) is responsible for rehabilitating or liquidating insurance companies.<sup>2</sup>

Chapter 631, F.S., relating to insurer insolvency and guaranty payment, governs the receivership process for insurance companies in Florida.<sup>3</sup> Federal law specifies that insurance companies cannot file for bankruptcy. Instead, they are either "rehabilitated" or "liquidated" by the state. Florida has five insurance guaranty funds that protect policyholders of liquidated insurers from financial losses and delays in claim payment and settlement, up to limits provided by law.<sup>4</sup> A guaranty association generally is a not-for-profit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company. A guaranty association accomplishes its mission by assuming responsibility for settling claims and refunding unearned premiums<sup>5</sup> to policyholders. As a condition of transacting business in Florida, all insurers are required to participate in a guaranty association.

### **Florida Life and Health Insurance Guaranty Association**

Part III of ch. 631, F.S., governs the powers and duties of the Florida Life and Health Insurance Guaranty Association (association).<sup>6</sup> All insurers licensed to write life and health insurance policies or annuities (with exceptions) in Florida are required, as a condition of doing business in the state, to be members of the association.<sup>7</sup> The board of directors is composed of nine member insurers.<sup>8</sup>

In the event a member insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Upon liquidation, the association automatically becomes liable for the policy

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<sup>1</sup> Section 20.121(3), F.S.

<sup>2</sup> Typically, insurers are placed into liquidation when the company is insolvent whereas insurers are put into rehabilitation for numerous reasons, one of which is an unsound financial condition. The goal of rehabilitation is to return the insurer to a sound financial condition. The goal of liquidation, however, is to dissolve the insurer. *See* s. 631.051, F.S., for the grounds for rehabilitation and s. 631.061, F.S., for the grounds for liquidation.

<sup>3</sup> The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. *See* 15 U.S.C. ss. 1011- 1012.

<sup>4</sup> The Florida Life and Health Insurance Guaranty Association generally is responsible for claims settlement and premium refunds for health and life insurers who are impaired or insolvent. The Florida Health Maintenance Organization Consumer Assistance Plan assists members of insolvent health maintenance organizations, and the Florida Workers' Compensation Insurance Guaranty Association protects policyholders of insolvent workers' compensation insurers. The Florida Self-Insurers Guaranty Association protects policyholders of insolvent individual self-insured employers for workers' compensation claims. The Florida Insurance Guaranty Association is responsible for paying claims for insolvent insurers for most remaining lines of insurance, including residential and commercial property insurance, automobile insurance, and liability insurance, among others.

<sup>5</sup> The term "unearned premium" refers to that portion of a premium that is paid in advance, typically for six months or one year, and which is still owed on the unexpired portion of the policy.

<sup>6</sup> *Florida Life and Health Insurance Guaranty Association Act*. s. 1, ch. 79-189, Laws of Fla.

<sup>7</sup> Section 631.713(3), F.S.

<sup>8</sup> Section 631.716(1), F.S.

obligations that the liquidated insurer owed to its Florida policyholders.<sup>9</sup> The association services the policies, collects premiums and pays valid claims under the policies. The rights of the association under the policies are those that applied to the insurer prior to liquidation. The association may cancel the policy if the insurer could have done so, but generally, the association continues the policies until the association can transfer or substitute the policies to a new, stable insurer with approval of the OIR.<sup>10</sup>

The National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is a voluntary association comprised of the life and health insurance guaranty associations of all 50 states and the District of Columbia. The NOLHGA assembles a task force of guaranty association officials to address situations where insurers licensed in multiple states are facing insolvency or are declared insolvent. This task force analyzes the companies' policies, ensures that covered claims are paid, and arranges for the transfer of covered policies to another insurer (when possible). This allows the receiver and potential assuming carriers to deal with a single point of contact and contracting instead of having to engage in multiple discussions, negotiations, and contracts with a variety of different associations.<sup>11</sup> The NOLHGA allocates these expenses<sup>12</sup> to affected guaranty associations for payment.<sup>13</sup>

### ***Covered Policies***

Generally, direct life insurance policies, health insurance policies, individual and allocated<sup>14</sup> annuity contracts, and supplemental contracts<sup>15</sup> issued by member insurers are covered. A policy must meet coverage requirements, and association payments are limited for any one person as follows:

- Life Insurance Death Benefit: \$300,000 per insured life.
- Life Insurance Cash Surrender: \$100,000 per insured life.
- Health Insurance Claims: \$300,000 per insured life.
- Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: \$300,000 per contract owner.<sup>16</sup>

In addition, s. 631.713(3), F.S., excludes all of the following from coverage by the association:

- any portion or part of a variable life insurance contract or a variable annuity contract that is not guaranteed by a licensed insurer;
- any portion or part of any policy or contract under which the risk is borne by the policyholder;
- any policy or contract or part thereof assumed by the failed insurer under a contract of reinsurance, unless assumption certificates were issued;

<sup>9</sup> Generally, FLAHIGA covers only policyholders and certificate holders who were Florida residents on the date that a member insurer is declared insolvent and liquidated with some exceptions. (s. 631.713(2), F.S.).

<sup>10</sup> See <http://www.flahiga.org/aboutus.cfm> (last viewed Mar. 10, 2017).

<sup>11</sup> See <https://www.nolhga.com/resource/file/costs/Report16.pdf> (last viewed Mar. 12, 2017).

<sup>12</sup> <https://www.nolhga.com/aboutnolhga/main.cfm/location/whatisnolhga> (last viewed Mar. 12, 2017).

<sup>13</sup> Section 631.721, F.S.

<sup>14</sup> Allocated annuity contracts are directly issued to and owned by individuals or annuities that directly guarantee benefits to individuals by the insurer.

<sup>15</sup> Section 631.713(1), F.S.

<sup>16</sup> Section 631.717(9), F.S., and FLAHIGA, *Frequently Asked Questions*, available at <http://www.flahiga.org/faq.cfm> (last viewed Mar. 1, 2017).

- fraternal benefit society products;
- health maintenance insurance;
- dental service plan insurance;
- pharmaceutical service plan insurance;
- optometric service plan insurance;
- ambulance service association insurance;
- preneed funeral merchandise or service contract insurance;
- prepaid health clinic insurance;
- certain federal employees group policies;
- any annuity contract or group annuity contract that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed directly and not through an intermediary to an individual by an insurer under such contract or certificate.<sup>17</sup>

### ***Assessments***

The association has three operating accounts: health insurance, life insurance, and annuity for purposes of administration and assessments. The association may impose two classes of assessments: Class A for administrative costs and general expenses and Class B to carry out the powers and duties of the association with regard to an impaired or insolvent domestic insurer.<sup>18</sup> Class A assessments may not exceed \$250 per year per member insurer. Class B assessments are calculated based on the premiums collected by each assessed member insurer on policies or contracts covered for each account in proportion to premiums collected by all assessed member insurers for the three most recent years. Florida law limits assessments on a member insurer to a maximum of one percent of the insurer's premiums written in the state regarding business covered by the account received during the three calendar years preceding the year in which the assessment is made, divided by three.<sup>19</sup>

### **The National Association of Insurance Commissioners**

The National Association of Insurance Commissioners (NAIC) is an association of insurance regulators that coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states. In 2017, the NAIC released and updated the Life and Health Insurance Guaranty Association Act.<sup>20</sup> The model act is designed to protect policy owners, insureds, beneficiaries, annuitants, payees and assignees against losses (both in terms of payment of claims and continuation of coverage), which might otherwise occur due to an impairment or insolvency of an insurer. The limit on the Class A non-pro rata assessment is currently \$300. Further, the model provides a maximum

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<sup>17</sup> The association provides coverage for an annuity contract or certificate if the insurer issues an annuity to an individual and guarantees annuity benefits directly to the individual and does not guarantee through an intermediary. Under federal law, annuities of a custodial individual retirement account (IRA) are deemed owned by the individuals and are subject to control of the individuals. [26 United States Code ss. 408(a) and (b).] Currently, the association does not provide coverage of custodial IRA annuities because of the inclusion of “*guaranteed directly and not through an intermediary*” in the annuity coverage language provided in s. 631.713(3)(l), F.S. See DFS and association correspondence (on file with Banking and Insurance Committee).

<sup>18</sup> Section 631.718(2), F.S.

<sup>19</sup> Section 631.718(5)(a), F.S.

<sup>20</sup> NAIC, Life and Health Insurance Guaranty Association Model Act 520-1 (1<sup>st</sup> Quarter 2017) available at: <http://www.naic.org/store/free/MDL-520.pdf> (last viewed Feb. 9, 2017).

liability of \$500,000 for basic hospital medical and surgical insurance or major medical insurance.

### III. Effect of Proposed Changes:

**Section 1** amends s. 631.713, F.S., to revise the types of policies covered by the association. The bill expands coverage to include annuities issued by an insurer under 26 U.S.C. s. 408(b), relating to individual retirement annuities, and annuities issued by an insurer and held by a custodian or trustee in accordance with the requirements of 26 U.S.C. s. 408 (a), relating to individual retirement accounts.

**Section 2** amends s. 631.717, F.S., to increase the association's liability for the contractual obligations of an insolvent insurer for basic hospital expense health insurance policies, basic medical-surgical health insurance policies, or major medical expense health insurance policies from \$300,000 to \$500,000 with respect to any one life.

**Section 3** amends s. 631.718, F.S., to increase the Class A assessment cap from \$250 to \$500 per member insurer in any one calendar year.

**Section 4** provides this act will take effect July 1, 2017.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the association's liability for health insurance benefits from \$300,000 to \$500,000, which will provide greater protections for insureds who exceed the current limit and who are covered by an insolvent insurer. Further, the added coverage of annuities under an individual retirement account (IRA) or individual retirement annuity may provide additional consumer protections to beneficiaries of such annuities in the event of an insolvency.

Member insurers could be subject to additional Class A assessments since the bill increases the limit on the Class A assessments from \$250 to \$500. Further, the increase in the health insurance coverage limits from \$300,000 to \$500,000 and coverage of annuities under an IRA may lead to additional assessments on member insurers in the event of the insolvency of an insurer. The bill does not change the current one percent annual assessment cap.

**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: 631.713, 631.717, and 631.718.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.



By Senator Broxson

1-00852-17

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1 A bill to be entitled  
 2 An act relating to the Florida Life and Health  
 3 Insurance Guaranty Association; amending s. 631.713,  
 4 F.S.; revising applicability of the Florida Life and  
 5 Health Insurance Guaranty Association Act as to  
 6 specified annuity contracts; amending s. 631.717,  
 7 F.S.; revising the association's maximum aggregate  
 8 liability for the contractual obligations of an  
 9 insolvent insurer with respect to one life; specifying  
 10 the association's maximum liability as to certain  
 11 health insurance policies; amending s. 631.718, F.S.;  
 12 revising the maximum limit of a certain annual  
 13 assessment levied on member insurers by the  
 14 association's board of directors; providing an  
 15 effective date.

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

17 Section 1. Paragraph (1) of subsection (3) of section  
 18 631.713, Florida Statutes, is amended to read:

19 631.713 Application of part.—

20 (3) This part does not apply to:

21 (1) Any annuity contract or group annuity contract that is  
 22 not issued to and owned by an individual, except to the extent  
 23 of any annuity benefits:

24 1. Guaranteed directly and not through an intermediary to  
 25 an individual by an insurer under such contract or certificate;

26 2. Under an annuity issued by an insurer under 26 U.S.C. s.  
 27 408 (b); or

28 3. Under an annuity issued by an insurer and held by a  
 29 custodian or trustee in accordance with 26 U.S.C. 408(a).

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33 This paragraph applies to every insolvency regardless of its  
 34 date of inception, and an assessment base may not include  
 35 premiums for such excluded products.

36 Section 2. Subsection (9) of section 631.717, Florida  
 37 Statutes, is amended to read:

38 631.717 Powers and duties of the association.—

39 (9) The association's liability for the contractual  
 40 obligations of the insolvent insurer must ~~shall~~ be as great as,  
 41 but no greater than, the contractual obligations of the insurer  
 42 in the absence of such insolvency, unless such obligations are  
 43 reduced as permitted by subsection (4), but the aggregate  
 44 liability of the association with respect to one life may ~~shall~~  
 45 not exceed the following:

46 (a) For life insurance, \$100,000 in net cash surrender and  
 47 net cash withdrawal values. ~~for life insurance,~~

48 (b) For deferred annuity contracts, \$250,000 in net cash  
 49 surrender and net cash withdrawal values. ~~for deferred annuity~~  
 50 ~~contracts, or~~

51 (c) For all benefits, \$300,000, ~~for all benefits~~ including  
 52 cash values, except as provided in paragraph (d) ~~with respect to~~  
 53 ~~any one life.~~

54 (d) For basic hospital expense health insurance policies,  
 55 basic medical-surgical health insurance policies, or major  
 56 medical expense health insurance policies, \$500,000.

57  
 58 In no event is ~~shall~~ the association ~~be~~ liable for any penalties  
 59 or interest.

60 Section 3. Paragraph (a) of subsection (3) of section  
 61 631.718, Florida Statutes, is amended to read:

1-00852-17

2017814\_\_

62 631.718 Assessments.-

63 (3) (a) The amount of any Class A assessment must ~~shall~~ be  
64 determined by the board and may be made on a non-pro rata basis.  
65 The assessment may not be credited against future insolvency  
66 assessments and may not exceed \$500 ~~\$250~~ per member insurer in  
67 any one calendar year.

68 Section 4. This act shall take effect July 1, 2017.

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

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

04/13/17

Meeting Date

SB0814

Bill Number (if applicable)Topic The Florida Life & Health Guaranty Assoc.Amendment Barcode (if applicable)Name Jane A. HennessyJob Title LobbyistAddress 106 S. Monroe St.Phone 850-222-7200StreetTallahasseeFL32301Email jahennessy@aol.comCityStateZipSpeaking:  For  Against  InformationWaive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*Representing FL Life & Health Guaranty Assoc. & Florida Insurance CouncilAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**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 Subcommittee on General Government

**BILL:** PCS/CS/SB 872 (485526)

**INTRODUCER:** Appropriations Subcommittee on General Government; Banking and Insurance Committee; and Senator Rouson

**SUBJECT:** Consumer Finance Loans

**DATE:** April 17, 2017      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**  
 COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

PCS/CS/SB 872 establishes the Access to Responsible Credit Pilot Program. The purpose of the program is to provide greater access to small dollar consumer loans and assist consumers in building their credit. The Office of Financial Regulation (OFR) is responsible for regulating this program. The pilot program will operate under the following terms and conditions:

- A program licensee may make loans of at least \$300 and no more than \$3,000, at a maximum fixed interest rate of 36 percent.
- A program licensee may also charge the borrower an origination fee of six percent of the principal amount of the program loan exclusive of the origination fee or \$75, whichever is less.
- The borrower has a right to rescind the program loan and return the principal amount by the end of the next business day.
- A program loan must have a minimum term of 120 days and may not have a prepayment penalty.
- A program licensee must underwrite each program loan to determine the borrower's ability and willingness to repay. A program licensee must not make a program loan if the borrower's monthly debt service, including the program loan, exceeds 35 percent of the borrower's gross monthly income.
- The OFR is required to examine licensees at least once every 24 months.
- A program licensee may use a referral partner to perform marketing, servicing, and other services on behalf of the program licensee. The compensation for a referral partner is capped

at \$60 per program loan, on average, assessed annually, and \$2 for each payment received by the referral partner on behalf of the program licensee.

- In order to participate in the pilot program, a person must be licensed as a consumer finance lender with the OFR under ch. 516, F.S., and must submit a pilot program application and \$1,000 fee.

Currently, the Florida Consumer Finance Act (act) sets forth licensing requirements for consumer finance lenders and the terms and conditions under which a consumer finance loan is allowed in Florida. The act sets forth maximum interest rates for consumer finance loans, which are loans of money, credit, goods, or a provision of a line of credit, in an amount or to a value of \$25,000 or less. The allowable interest rates on such loans are tiered and limited based on the principal amount that falls within each tier of the loan, as follows:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal from \$3,001 to \$4,000; and
- 18 percent per year on that part of principal from \$4,001 to \$25,000.

In order to implement the provisions of the bill, the OFR's licensing and examination software program would require updates at a projected cost of \$125,000. If participation in the program is small, the OFR indicated workload can be absorbed within existing resources.

The bill has an effective date of July 1, 2018.

## II. Present Situation:

### Federal Truth in Lending Act (TILA)

The purpose of the TILA,<sup>1</sup> is to promote the informed use of credit through “a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available.”<sup>2</sup> Regulation Z, which implements the TILA, requires the calculation and disclosure of the Annual Percentage Rate (APR) for consumer loans.<sup>3</sup> Finance charges include interest, any charges, or fees payable by the consumer and imposed by the financial institution as an incident to or as a condition of an extension of consumer credit. Regulation Z includes examples, applicable both to open-end and closed-end credit transactions, of what must, must not, or need not be included in the calculation and disclosure of the finance charge.<sup>4</sup>

### State Regulation of Consumer Lending

The Office of Financial Regulation (OFR) has regulatory oversight of state-chartered financial institutions, securities brokers, investment advisers, mortgage loan originators, deferred presentment providers or payday loan lenders, consumer finance companies, title loan lenders, debt collectors, and other financial service entities. The Division of Financial Institutions of the OFR, charters and regulates entities that engage in financial institution business in Florida in

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<sup>1</sup> 15 U.S.C. s. 1601 et seq., as implemented by Regulation Z, 12 C.F.R. part 226.

<sup>2</sup> 15 U.S.C. s. 1601(a).

<sup>3</sup> 15 U.S.C. s. 1604-1606.

<sup>4</sup> 12 C.F.R. s. 1026.4.

accordance with the Florida Financial Institutions Codes (codes).<sup>5</sup> The OFR may examine, investigate, and take disciplinary actions against such state-chartered financial institutions for violation of the codes.<sup>6</sup>

### **Consumer Finance Loans**

The Florida Consumer Finance Act (ch. 516, F.S.) sets forth licensing requirements for consumer finance lenders and the terms and conditions under which a consumer loan is authorized in Florida. The act sets forth maximum interest rates for consumer finance loans, which are “loan[s] of money, credit, goods, or a provision of a line of credit, in an amount or to a value of \$25,000 or less at an interest rate greater than 18 percent per annum.”<sup>7</sup> The maximum allowable interest rates on consumer finance loans are tiered and limited based on the principal amount that falls within each tier of the loan, as provided below:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal between \$3,001 to \$4,000; and
- 18 percent per year on that part of principal between \$4,001 to \$25,000.<sup>8</sup>

These principal amounts are the same as the financed amounts determined by the TILA and Regulation Z.<sup>9</sup> The APR for all loans under the act may equal, but cannot exceed, the APR for the loan as required to be computed and disclosed by the TILA and Regulation Z.<sup>10</sup> Lenders are required to provide written disclosures to consumers that include the APR under Regulation Z. Besides the applicable interest rates described above, the act allows consumer finance lenders to charge borrowers the following charges and fees:<sup>11</sup>

- Up to \$25 for investigating the credit and character of the borrower;
- A \$25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans and appraisals of real property offered as security;
- Intangible personal property tax, if secured by a loan note on real property;
- Documentary excise tax and lawful fees;
- Insurance premiums;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for recovering the collateral property;
- Delinquency charges of up to \$15 for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed; and
- A dishonored check charge of up to \$20.

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<sup>5</sup> Chapters 655, 657, 658, 660, 663, 665, and 667, F.S.

<sup>6</sup> These entities are also subject to laws and regulation by various federal entities. For example, the Federal Deposit Insurance Corporation (FDIC) supervises state-chartered banks that are not members of the Federal Reserve System and state-chartered savings associations. The FDIC also insures deposits in banks and savings associations in the event of bank failure. The Federal Reserve Board supervises state-chartered banks that are members of the Federal Reserve System.

<sup>7</sup> Section 516.01(2), F.S.

<sup>8</sup> Section 516.031(1), F.S.

<sup>9</sup> Section 516.031(2), F.S.

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

<sup>11</sup> Section 516.031(3), F.S.

Lastly, the act requires all consumer finance loans must be repaid in equal monthly installments, except for repayment on lines of credit.<sup>12</sup>

### California Small Dollar Loan Pilot Programs

Based on a business model developed by California-based Progreso Financiero (Progress Financial), the California State Assembly enacted the Affordable Credit Building Opportunities Pilot Program in 2010.<sup>13</sup> The pilot program covers consumer loans of \$250-\$2,500. The goal was to increase consumers' access to capital by encouraging development of a more robust small dollar loan market in California. In 2015, California enacted legislation to revise provisions relating to the small-dollar loan pilot program.<sup>14</sup> The new pilot program covers consumer loans of \$300-\$2,500 and allows the use of "finders" to connect borrowers with lenders. Finders cannot provide advice or counseling to borrowers. They can distribute lenders' marketing materials, provide information about loan terms and conditions, help borrowers with loan applications and obtain borrowers' signatures on documents, and other functions. Their fees are capped at \$65 per loan plus \$2 for each payment received by a finder. The fees are paid by lenders, cannot be based on the principal amount of loans, and cannot be passed on to borrowers. According to the California Senate staff analysis, the proponents view the use of finders as a means to lower costs of customer acquisition, which is the largest cost of maintaining a small dollar loan program.<sup>15</sup>

The California pilot program legislation also required the state's Department of Business Oversight (DBO) to post a report summarizing findings of the pilot program. In June 2015, the California DBO's report noted the following findings from 2011-2014:

- *Lender participation:* At the end of 2014, six lenders and six finders participated in the program.
- *Loan applications:* Borrower applications increased by 58.5 percent after the state revised the pilot program.
- *Dollar amounts:* Smaller loans (\$300-\$499) decreased by 42.3 percent, while larger loans (\$500-\$999) increased by 106 percent.
- *Interest rates:* Smaller loans generally carried an annual percentage rate (APR) of 40-50 percent. Mid-range loans generally carried an APR of 35-50 percent. Larger loans (\$1,500-\$2,499) saw a more even APR distribution.
- *Delinquency rates:* In 2014, 22.5 percent were delinquent for seven days to 29 days, 7.3 percent were delinquent for 30 days to 59 days, and 3.9 percent were delinquent for 60 days or more.
- *Credit scores:* The share of multiple-loan borrowers who obtained higher credit scores on subsequent loans averaged 61 percent annually over the four-year period.
- *Loan term:* In 2014, of the 164,300 loans made, 50.9 percent were for 360 days or more. The ratios for other terms: 120 days to 179 days, essentially 0 percent (only two loans); 180 days to 269 days, 20.2 percent; and 270 days to 359 days, 28.8 percent.

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<sup>12</sup> Section 516.36, F.S.

<sup>13</sup> See [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=200920100SB1146](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200920100SB1146) (last visited March 27, 2017).

<sup>14</sup> See [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201520160SB235](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB235) (last visited March 27, 2017).

<sup>15</sup> Id.

- *Loan purpose:* Of the 164,300 loans made in 2014, borrowers took out 45 percent (74,026) to build or repair credit.

The California DBO noted that while the revised pilot program did increase lender participation from its inception in 2010, the total number of participating lenders remains less than ten. Additionally, the revisions did not significantly affect the amount of lending activity conducted by the individual companies.<sup>16</sup>

### III. Effect of Proposed Changes:

#### Access to Responsible Credit Pilot Program (Section 1)

**Section 1** creates s. 516.40, F.S., to establish the Access to Responsible Credit Pilot Program (program). The program will allow consumers to enter into a program loan with a principal amount of at least \$300 and up to a maximum of \$3,000 at an interest rate not to exceed 36 percent. Under current law, licensed consumer finance lenders may make loans in this amount at a maximum rate of 30 percent per annum, with no minimum or maximum loan term.

#### Definitions (Section 2)

**Section 2** creates s. 516.41, F.S., to provide the definitions for purposes of the program.

The Fair Credit Reporting Act (FCRA) defines “consumer reporting agency” as any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.<sup>17</sup>

This section adopts the definition of a consumer reporting agency as defined in section 603(p) of 15 U.S.C. Section 1681a(p). Under this section, the FCRA defines a “consumer reporting agency that compiles and maintains files on consumers on a nationwide basis” as a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer’s credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

- Public record information; and,
- Credit account information from persons who furnish that information regularly and in the ordinary course of business.<sup>18</sup>

The term “credit score,” as defined within the FCRA, means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or

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<sup>16</sup> California Department of Business Oversight, Report of Activity under Small Dollar Loan Pilot Programs (Jun. 2015), at [http://www.dbo.ca.gov/Licensees/Finance\\_Lenders/pdf/Pilot%20Program%20Report%202015%20Final.pdf](http://www.dbo.ca.gov/Licensees/Finance_Lenders/pdf/Pilot%20Program%20Report%202015%20Final.pdf). (last visited March 27, 2017).

<sup>17</sup> Section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(f).

<sup>18</sup> Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).



arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from such analysis may also be referred to as a “risk predictor” or “risk score”). “Credit score” does not include any mortgage score or rating of an automated underwriting system that considers one or more factors in addition to credit information, including the loan to value ratio, the amount of down payment, or the financial assets of a consumer; or any other elements of the underwriting process or underwriting decision.<sup>19</sup>

“Data furnisher” means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a “data furnisher” when it:

- Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 605(a) and (f) of the FCRA;
- Is acting as a “consumer reporting agency” as defined in section 630(f) of the FCRA;
- Is a consumer to whom the furnished information pertains; or
- Is a neighbor, friend or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer’s character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.<sup>20</sup>

“Pilot program or program” means the Access to Responsible Credit Pilot Program, as established by this bill.

“Pilot program license” means a license issued under ss. 516.40-516.46, F.S., authorizing a program licensee to make and collect program loans.

“Program branch office” means a location, other than a program licensee’s or referral partner’s principal place of business:

- The address of which appears on business cards, stationery, or advertising used by the program licensee in connection with the business conducted under this chapter;
- At which the program licensee’s name, advertising or promotional materials, or signage suggests that program loans are originated, negotiated, funded or serviced; or
- At which program loans are originated, negotiated, funded or serviced by a program licensee.

“Program branch office licensee” means a license issued to a program licensee for each program branch office in the state.

“Program licensee” means a person who is licensed to make and collect program loans under this chapter and who is approved by the office to participate in the program.

“Program loan” means a consumer finance loan with a principal amount of at least \$300 and no more than \$3,000 originated pursuant to ss. 516.40-516.44, F.S., excluding the amount of the origination fee authorized under s. 516.43(3), F.S.

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<sup>19</sup> See s. 609(f)(2)(A) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681g(f)(2)(A).

<sup>20</sup> See s. 12 C.F.R. s. 1022.41(c).

“Referral partner” means an entity that, at the referral partner’s physical location for business or through other means, performs one or more of the services authorized in s. 516.44(2), F.S., on behalf of a program licensee. A referral partner is not a credit service organization as defined in s. 817.7001, F.S., or a loan broker as defined in s. 687.14, F.S.

“Refinance program loan” means a program loan that extends additional principal to a borrower and replaces and revises an existing program loan contract with the borrower. A refinance program loan does not include an extension, a deferral, or a rewrite of the program loan.

### **Regulation of Program Licensees (Lenders) and Referral Partners (Sections 3 and 5)**

#### ***Program Licensees***

**Section 3** creates s. 516.42, F.S. to require persons seeking to participate in the program as a lender must obtain a pilot program license from the Office of Financial Regulation (OFR). Pilot program licensees must meet the following criteria:

- Be licensed to make consumer finance loans under ch. 516, F.S.;
- Not be the subject of any insolvency proceedings;
- Not be the subject of an enforcement action within the OFR or any another state, territory or jurisdiction; and
- Not have a deficiency at the time of the person’s application.

Applicants are required to pay a \$1,000 nonrefundable application fee and an application with the OFR. The biennial renewal fee is \$1,000. The legislation provides for the establishment of application forms by rule.

Each branch office of a program licensee requires licensure. The program licensee must submit an application and an initial nonfundable fee of \$30 per program branch office. The biennial renewal fee for each branch office is \$30.

The bill requires applicant’s acceptance as a “data furnisher” with a consumer-reporting agency<sup>21</sup> before the OFR may approve an applicant as a program licensee. The bill also provides that the OFR must “withdraw” approval for pilot program participation from a program licensee if the applicant fails to become a data furnisher by a consumer-reporting agency within six months of commencing lending under the pilot program.

#### ***Referral Partners***

**Section 5** creates s. 516.44, F.S., to allow a program licensee to engage in arrangements with referral partners. All such arrangements must be in writing; must contain a provision that the referral partner agrees to comply with s 16.44, F.S., and must contain a provision allowing the OFR access to the referral partner’s books and records related to the referral partner’s operations under the agreement with the program licensee.

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<sup>21</sup> The bill defines “consumer reporting agency” as the same definition in federal Fair Credit Reporting Act: “Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.”

A referral partner may engage in the following activities:

- Advertising on behalf of the program licensee;
- Providing written factual information about the pilot program and discussing the program information with a prospective borrower in general terms;
- Notifying the prospective borrower of information needed to complete an application under the program;
- Entering information provided by a prospective borrower on a preprinted or electronic application form or in a preformatted computer database, assemble credit applications, contact the program licensee to determine the status of the borrower's application;
- Assembling credit applications and other materials obtained in the course of a credit application transaction for submission to the program licensee;
- Contacting the program licensee to determine the status of a program loan application;
- Communicating with a borrower or respective borrower a response that is returned by the program licensee's automated underwriting system;
- Obtaining a borrower's signature on documents prepared by the program licensee, and delivering final copies of the documents to the borrower;
- Obtaining a borrower's signature on documents prepared by the program licensee and delivering final copies of the documents to the borrower;
- Disbursing program loan proceeds to a borrower, and receiving program loan payments from a borrower;
- Receiving a program loan payment from the borrower if this method of payment is acceptable to the borrower; and
- Operating an electronic access point through which a prospective borrower may directly access the website of the program licensee to apply for a program loan.

A referral partner is prohibited from participating in any of the following activities:

- Providing counseling or advice to a borrower or prospective borrower with respect to any loan term;
- Providing loan-related marketing material to the borrower or prospective borrower that has not been previously approved by the program licensee;
- Negotiating a loan term between a program licensee and a prospective borrower;
- Offering information pertaining to a single prospective borrower to more than one program licensee unless such program licensee has declined to offer a program loan to the prospective borrower and has done so in writing; and
- Requiring a borrower to pay any fees or charges to the referral partner or any other person in connection with a program loan other than those permitted under ss. 516.40-516.46, F.S.

Any program payments received by a referral partner must be applied to the program loan and be deemed received by the program licensee at the time the referral partner receives the payment. When payment is made, a referral partner must deliver a receipt to the borrower that includes certain information<sup>22</sup>. Additionally, the bill holds a borrower harmless if a referral partner fails to transmit, or is delayed in transmitting, a payment to the program licensee. A referral partner must maintain records related to disbursements and payments for two years, or for one month following a regular examination by the OFR, whichever is later.

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<sup>22</sup> See s. 516.43(1)(h), F.S.

Referral partners are required to provide certain communications and disclosures to program loan applicants related to identifying information of the program licensee and referral partner. The bill requires a referral partner to make a good faith effort to assist the applicant in making direct contact with the program licensee in cases where a referral partner is not permitted to answer questions about the loan program. A program licensee must ensure that consummation of the program loan does not occur until after two-way communication between the applicant and program licensee. The legislation provides a definition for the term “two-way communication.”

The bill allows a program licensee to compensate a referral partner. Compensation paid to a referral partner is excluded from being charged to a borrower. The compensation must be made pursuant to a written agreement and a mutually agreed upon compensation schedule.

Additionally, the compensation must meet the following requirements:

- Compensation may not be paid to a referral partner until the program loan is consummated;
- Compensation may not be paid to a referral partner based upon the principal amount of the program loan;
- The total compensation paid to a referral partner over the life of a program loan may not exceed the sum of the origination fee and interest charges paid by the borrower in connection with that program loan; and
- Subject to certain limitations, the total compensation paid by a program licensee to a referral partner may not exceed the sum of \$60 per program loan, on average; and \$2 per payment received by the referral partner on behalf of the program licensee for the duration of the loan.

### *Miscellaneous Provisions*

A program licensee is required to furnish certain information to the OFR, within 15 days after entering into a contract with a referral partner. The information provided to the OFR must include the following:

- The name, business address, and licensing details of the referral partner and all locations at which the referral partner will perform services;
- The name and contact information for an employee of the referral partner who is knowledgeable about, and has the authority to execute, the referral partner agreement;
- The name and contact information for a referral partner’s employee or employees responsible for referring activities on behalf of the program licensee; and
- A statement by the program licensee that it has conducted due diligence regarding the referral partner and has confirmed the referral partner and, in some instances, the affiliated party<sup>23</sup>, is not subject to:
  - A filing of petition of bankruptcy or reorganization under the United States Bankruptcy Code;
  - An administrative or judicial license suspension or revocation proceeding, or the denial of a license request or renewal, by any state, the District of Columbia, any United State territory, or any foreign country in which the referral partner operates, plans to operate or is licensed to operate;
  - A felony indictment;

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<sup>23</sup> Affiliated Party, as defined in this section, means a director, an officer, a responsible person, an employee, or a foreign affiliate of a referral partner; or a partner who has a controlling interest in a referral partner.

- A felony conviction, guilty plea, or plea of nolo contendere, regardless of adjudication;
- Any suspected criminal act perpetrated in the State of Florida relating to this act; and
- Criminal investigation.

A referral partner must provide notices of changes to the program licensee, in writing and by registered mail, within 30 days after any changes occur to the information provided or after the occurrence or knowledge of any events specified in this section.

The program licensee is responsible for any violation of s. 516.40, F.S., by its referral partner, subject to the authority granted between the parties in their contract, if the program licensee had actual knowledge or should have known of the violation.

#### **Terms and Conditions of the Small Dollar Loans (Section 4)**

**Section 4** creates s. 516.43, F.S., to require a program licensee to comply with certain conditions in making program loans, including the following:

- A program loan must:
  - Be unsecured;
  - Have a minimum term of 120 days, except it may not have a prepayment penalty;
  - Be repayable in substantially equal weekly, biweekly, or monthly installments;
  - Include a borrower's right to rescind the program loan by notifying the program licensee of the borrower's intent to rescind the program loan and returning the principal advanced by the end of the business day after the program loan was consummated; and
  - Not exceed an interest rate of 36 percent, which must be fixed for the term of the loan and be calculated on a simple-interest basis through the application of a daily periodic rate to the actual unpaid principal balance each day.
- A program licensee must provide a receipt for payments made.

When refinancing a program loan, the principal amount may not include more than 60 days' unpaid interest accrued on the previous program loan. Additionally, a program licensee is prohibited from refinancing a program loan unless the borrower is current on the outstanding program loan at the time the borrower submits an application to refinance.

A program licensee must underwrite each program loan to determine the borrower's willingness and ability to repay the program loan. A program licensee may not make a loan if it determines that a borrower's total monthly debt service payments, including the program loan and all outstanding forms of credit that can be independently verified by the program licensee, exceed 35 percent of the borrower's gross monthly income.

#### ***Fees***

The bill allows a program licensee to contract for and receive an origination fee once within 12 months, which may not exceed six percent of the principal amount, exclusive of the origination fee, or \$75, whichever is less.

The bill imposes current law fees for insufficient funds of \$20, and a delinquency charge of \$15 for each payment in default greater than ten days.<sup>24</sup> Only one delinquency fee may be imposed per delinquent payment, and no more than two delinquency fees may be imposed during a period of 30 consecutive days. In attempting to collect a delinquent payment, a program licensee or its wholly owned subsidiary must attempt to collect the payment for 30 days before selling or assigning the unpaid debt to an independent party for collection.

### *Consumer Disclosures*

The bill requires that a program licensee must provide the following written disclosures to a borrower:

- The amount, date, and maturity date of the program loan;
- The name and address of the borrower and of the program licensee;
- The interest rate charged;
- The monthly installment payment amount;
- The delinquency charge amount;
- A specified statement relating to a borrower's ability to reduce the interest amount by repaying the loan early; and
- A statement describing the borrower's right of rescission.

Additionally, the bill allows the disclosures to be completed in any language the loan is negotiated in; but requires a program licensee to pay for any translation costs incurred by the OFR when issuing loans in languages other than English.

Before disbursing program proceeds to a borrower, a program licensee must direct a borrower to consumer credit counseling services promoted by the OFR or invite the borrower to attend a free credit education program or free seminar offered by an independent third party.

The bill prohibits a program licensee from requiring a borrower to waive any right, penalty, remedy, forum, or procedure. Further, the lender may not require a borrower to agree to the application of laws other than those of Florida or require a borrower to agree to resolve disputes in a jurisdiction outside of Florida. Any waiver, other than a prohibited waiver, must be knowing, voluntary, in writing, and not expressly made as a condition of doing business with the program licensee. A waiver that is required as a condition of doing business with the program licensee is presumed involuntary, unconscionable, against public policy, and unenforceable. The program licensee has the burden of proving that a waiver of any rights, penalties, forums, or procedures was knowing, voluntary, and not expressly made a condition of the contract with the borrower.

### **Examination and Disciplinary Actions of Program Licensees (Section 6)**

**Section 6** creates s. 516.45, F.S., to require that a program licensee or referral partner must maintain, preserve, and keep available for examination, all books, accounts, or other documents required by this chapter, by any rule or order adopted under this chapter, or by any agreement entered into with the OFR. The OFR is required to examine each program licensee at least once

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<sup>24</sup> Section 516.01(3), F.S.

every 24 months beginning January 1, 2019. Costs of examination are borne by the program licensee.

A program licensee who violates any provision of this act is subject to disciplinary action.<sup>25</sup> Any referral partner who violates s. 516.44, F.S., is subject to the following disciplinary actions:

- Disqualification from performing services as defined in this act;
- Barred from performing services at one or more specific locations of the referral partner;
- Termination of a written agreement between the referral partner and the program licensee;
- Imposition of an administrative fine not to exceed \$1,000 for each violation; and
- Prohibition of the referral partner to use the referral partner, if OFR deems it to be in the public's interest.

### **Reporting Requirements (Sections 4, 5, and 7)**

#### ***Program Licensee***

**Section 4.** The bill requires a program licensee to report a borrower's payment performance to at least one consumer-reporting agency that compiles and maintains files on consumers on a nationwide basis. In addition, as part of the credit reporting requirements, a licensee must provide the borrower with the name(s) of the credit reporting agency or agencies to which it will report the borrower's payment history.

**Section 5.** The program licensee is required to provide certain information to the OFR within 15 days after entering into a contract with a referral partner. Such information includes the referral partner's identifying information, and a provision that allows the OFR to request any other information.

#### ***OFR Program Report***

**Section 7** creates s. 516.46, F.S., to establish annual reports for the program licensee and the OFR. A program licensee is required to file, on or before March 15 of each year, a report with the OFR in a manner prescribed by rule. The bill directs the OFR to post a report on its website by January 1, 2020, summarizing the results of the program. The report must include information on licensed program participants, the loans themselves, and borrowers. Such information includes but is not limited to, the number of licensed participants in the program, the number and total amount of program loans made, the average size of the increased credit score, and information on delinquency charges assessed.

**Section 8** provides that ss. 516.40-516.47, F.S., are subject to repeal on December 31, 2022, unless reenacted or superseded by another enacted law before that date.

**Section 9** provides the act is effective July 1, 2018.

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<sup>25</sup> See ss. 516.07(2), 516.44 and 120.60, F.S.

In its bill analysis, the OFR provided the below chart comparing a \$1,100 and \$300 loan under current law versus the change in interest rate and fees proposed in the bill.<sup>26</sup>

<b>Law</b>	<b>Principal Amount</b>	<b>Term (Days)</b>	<b>Interest Rate</b>	<b>Finance Charge</b>	<b>Fees</b>	<b>APR</b>	<b>Total</b>	<b>Difference</b>
Current	\$1,100	480	30% per year	\$433.97	\$0.00	30.00%	\$1,533.97	
Proposed	\$1,100	480	36% per year plus 6% of loan amount	\$520.77	\$66.00	40.56%	\$1,686.77	\$152.79
Current	\$300	120	30% per year	\$29.59	\$0.00	30.00%	\$329.59	
Proposed	\$300	120	36% per year plus 6% of loan amount	\$35.51	\$18.00	54.25%	\$353.51	\$23.92

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Persons that want to participate in the Access to Responsible Credit Pilot Loan Program (program) will be required to obtain a consumer finance license as well as a program license. The bill requires a \$1,000 application fee and \$1,000 biennial renewal fee for program licensees in addition to a \$30 branch application and \$30 renewal fee. Furthermore, the bill provides for a \$30 referral partner fee for each referral partner filed

<sup>26</sup> Office of Financial Regulation, Senate Bill 872 Bill Analysis (Feb. 22, 2017) (on file with the Senate Committee on Banking and Insurance.)



with the Office of Financial Regulation (OFR). The bill also provides rulemaking authority to establish costs for examinations of program licensees.

In allowing weekly and bi-weekly payment schedules, the bill allows for two delinquency chargers assessed per 30-day period, current law only allows one delinquency charge per 30-day period.

**B. Private Sector Impact:**

Indeterminate at this time. The number of lenders, referral partners, and borrowers who would participate in this pilot program is unknown at this time.

**C. Government Sector Impact:**

The Office of Financial Regulation (OFR) will be required to process applications; process complaints; examine records of program licensees and referral partners; and, if necessary, initiate enforcement actions for non-compliance or fraud. The State of California currently has eight program licensees. Assuming a comparable number of businesses apply to become a program licensee, the Division of Consumer Finance believes it can absorb the workload associated with the above-mentioned tasks.

However, implementation of the bill will require updates to the OFR's licensing and examination software as well as information technology support and increased data storage to integrate applications by program licensees. The bill will likely require the OFR to create electronic forms for applications and reporting. The bill requires the OFR to post on its website a report that includes extensive information regarding the pilot program. Implementing such changes are expected to cost the agency approximately \$125,000.<sup>27</sup>

The OFR is currently in the process of redesigning its online portal; the redesign is set to conclude in fall of 2017. Staff has requested an effective date of July 1, 2018, to allow time to input the new system changes required by the bill.<sup>28</sup>

The OFR may experience a slight increase in revenue due to the application and renewal fees related to program licensees, branch applications and referral partner licensing.

**VI. Technical Deficiencies:**

Line 262 should clarify the 36 percent interest is per annum.

**VII. Related Issues:**

The legislation allows the Office of Financial Regulation (OFR) to examine the records of licensees and referral partners but makes no mention as to whether such records become public

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<sup>27</sup> Office of Financial Regulation, Senate Bill 872 Bill Analysis (Feb. 22, 2017) (on file with the Senate Committee on Banking and Insurance.)

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

record once examined by the OFR. Pursuant to ch. 119, F.S., records held by an agency are public records, unless expressly exempted. There are currently no public records exemptions for ch. 516, F.S.

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

This bill creates the following sections of the Florida Statutes: 516.40, 516.41, 516.42, 516.43, 516.44, 516.45 and 516.46.

#### **IX. Additional Information:**

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

##### **Recommended CS/CS by Appropriations Subcommittee on General Government on April 13, 2017:**

The committee substitute authorizes the Office of Financial Regulation to examine each program license accepted into the Access to Responsible Credit Pilot Program beginning January 1, 2019.

##### **CS by Banking and Insurance on March 27, 2017:**

The CS:

- Defines a program branch office license.
- Clarifies an applicant cannot be subject to any disciplinary actions in another state, territory or jurisdiction.
- Changes digital application to electronic.
- Removes contradicting language regarding an applicant's need to be licensed under ch. 516, F.S.
- Removes the ability for an applicant to apply for two licenses at the same time.
- Removes semi-monthly as a payment term.
- Requires a program licensee to pay for any translation costs incurred by the office when issuing loans in languages other than English.
- Limits origination fees by a lender to no more than one per 12 months.
- Restores the current \$20 limit on an insufficient funds fee, changes the limit on a delinquency fee to \$15, and restores current delinquency timeframe to more than 10 days.
- Clarifies the section pertaining to certain rights that cannot be negotiable within a loan.
- Requires a program licensee or referral partner must maintain, preserve, and keep available for examination, all books, accounts, or other documents required by this chapter, by any rule or order adopted under this chapter, or by any agreement entered into with the office.
- Changes the effective date to July 1, 2018.

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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723518

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2017	.	
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	.	

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Appropriations Subcommittee on General Government (Rouson)  
recommended the following:

**Senate Amendment**

Delete line 679  
and insert:  
2019, the office shall examine each program licensee that is

By the Committee on Banking and Insurance; and Senator Rouson

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1 A bill to be entitled  
 2 An act relating to consumer finance loans; creating s.  
 3 516.40, F.S.; establishing the Access to Responsible  
 4 Credit Pilot Program within the Office of Financial  
 5 Regulation; providing legislative findings and intent;  
 6 creating s. 516.41, F.S.; defining terms; creating s.  
 7 516.42, F.S.; prohibiting a person from certain  
 8 activities relating to program loans unless the person  
 9 obtains a pilot program license from the office;  
 10 providing criteria for participation in the pilot  
 11 program; specifying application requirements and fees;  
 12 providing for construction; specifying a renewal fee;  
 13 providing that only one pilot program license is  
 14 required for a person to make program loans; requiring  
 15 that branch offices of a program licensee be licensed;  
 16 specifying requirements and a fee for applications for  
 17 a program branch office license; requiring program  
 18 branch office licenses to be renewed biennially and  
 19 specifying a branch office renewal fee; creating s.  
 20 516.43, F.S.; providing requirements for and  
 21 limitations on program loans; requiring a program  
 22 licensee to provide specified disclosures; authorizing  
 23 licensees to provide certain documents in the language  
 24 in which the loan was negotiated; requiring a program  
 25 licensee to pay for certain translation costs incurred  
 26 by the office; authorizing a program licensee to  
 27 contract for and receive a specified nonrefundable  
 28 origination fee from a borrower on a program loan;  
 29 authorizing a program licensee to collect specified

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30 insufficient funds fees and delinquency charges;  
 31 requiring a program licensee to provide specified  
 32 credit education to a borrower before disbursing  
 33 program loan proceeds; requiring a program licensee to  
 34 report borrowers' payment performance to at least one  
 35 specified consumer reporting agency and provide  
 36 borrowers with the names of such agencies; prohibiting  
 37 the office from approving a person for the program  
 38 before the person is accepted as a data furnisher by a  
 39 consumer reporting agency; requiring a program  
 40 licensee to underwrite each program loan; prohibiting  
 41 a program licensee from making a program loan under  
 42 certain circumstances; providing required and  
 43 authorized procedures for a program licensee to  
 44 determine a borrower's ability and willingness to  
 45 repay the program loan; prohibiting a program licensee  
 46 from requiring certain waivers from a borrower or from  
 47 certain acts against a borrower who refuses certain  
 48 waivers; providing for applicability and construction;  
 49 creating s. 516.44, F.S.; requiring arrangements  
 50 between a program licensee and a referral partner to  
 51 be specified in a written agreement; providing  
 52 requirements for such agreement; specifying authorized  
 53 services for referral partners; providing requirements  
 54 for a referral partner who accepts loan payments from  
 55 a borrower; providing for construction; prohibiting  
 56 specified activities by a referral partner; requiring  
 57 a referral partner to provide a specified notice to an  
 58 applicant for a program loan and certain assistance to

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59 the applicant under certain circumstances; specifying  
 60 requirements, limitations, and prohibitions for the  
 61 compensation of a referral partner by a program  
 62 licensee; requiring a program licensee to provide a  
 63 specified notice to the office after entering into a  
 64 contract with a referral partner; requiring a referral  
 65 partner to provide written notice to the program  
 66 licensee of certain information within a specified  
 67 time; specifying the program licensee's responsibility  
 68 for acts of its referral partner; requiring a program  
 69 licensee to pay a specified fee to the office to file  
 70 a referral partner notice; requiring rulemaking by the  
 71 Financial Services Commission; creating s. 516.45,  
 72 F.S.; requiring the office to examine program  
 73 licensees at specified intervals beginning on a  
 74 specified date; providing an exception; requiring  
 75 program licensees to pay the cost of examinations;  
 76 authorizing the office to maintain an action for  
 77 recovery of the cost; authorizing a method to  
 78 determine the cost of examinations; providing a  
 79 recordkeeping requirement for program licensees and  
 80 referral partners; providing that a program licensee  
 81 is subject to certain disciplinary action for certain  
 82 violations; authorizing the office to take certain  
 83 disciplinary actions; requiring rulemaking by the  
 84 commission; creating s. 516.46, F.S.; requiring a  
 85 program licensee to file a specified annual report  
 86 with the office beginning on a certain date; requiring  
 87 the office to post a report to its website summarizing

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88 the use of the program by a certain date; specifying  
 89 information to be contained in the office's report;  
 90 providing for conditional future repeal of the  
 91 program; providing an effective date.  
 92

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

94  
 95 Section 1. Section 516.40, Florida Statutes, is created to  
 96 read:

97 516.40 Access to Responsible Credit Pilot Program.-

98 (1) There is established within the Office of Financial  
 99 Regulation the Access to Responsible Credit Pilot Program.

100 (2) The Legislature finds that demand for responsible  
 101 consumer finance loans in principal amounts of at least \$300 and  
 102 no more than \$3,000 exceeds the supply of these loans. As a  
 103 first step toward addressing this gap, the Access to Responsible  
 104 Credit Pilot Program would allow more Floridians to obtain  
 105 responsible consumer finance loans of at least \$300 and no more  
 106 than \$3,000. The pilot program is also intended to assist  
 107 consumers in building their credit and has additional consumer  
 108 protections for these loans which exceed current protections  
 109 under general law.

110 Section 2. Section 516.41, Florida Statutes, is created to  
 111 read:

112 516.41 Definitions for ss. 516.40-516.46.-As used in ss.

113 516.40-516.46, the term:

114 (1) "Consumer reporting agency" has the same meaning as in  
 115 s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s.  
 116 1681a(p).

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- 117 (2) "Credit score" has the same meaning as in s.  
 118 609(f)(2)(A) of the Fair Credit Reporting Act, 15 U.S.C. s.  
 119 1681g(f)(2)(A).
- 120 (3) "Data furnisher" has the same meaning as the term  
 121 "furnisher" in 12 C.F.R. s. 1022.41(c).
- 122 (4) "Pilot program" or "program" means the Access to  
 123 Responsible Credit Pilot Program.
- 124 (5) "Pilot program license" means a license issued under  
 125 ss. 516.40-516.46 authorizing a program licensee to make and  
 126 collect program loans.
- 127 (6) "Program branch office" means a location, other than a  
 128 program licensee's or referral partner's principal place of  
 129 business:
- 130 (a) The address of which appears on business cards,  
 131 stationery, or advertising used by the program licensee in  
 132 connection with business conducted under this chapter;
- 133 (b) At which the program licensee's name, advertising or  
 134 promotional materials, or signage suggests that program loans  
 135 are originated, negotiated, funded, or serviced; or
- 136 (c) At which program loans are originated, negotiated,  
 137 funded, or serviced by a program licensee.
- 138 (7) "Program branch office license" means a license issued  
 139 to a program licensee for each program branch office in the  
 140 state.
- 141 (8) "Program licensee" means a person who is licensed to  
 142 make and collect program loans under this chapter and who is  
 143 approved by the office to participate in the program.
- 144 (9) "Program loan" means a consumer finance loan with a  
 145 principal amount of at least \$300 and no more than \$3,000

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- 146 originated pursuant to ss. 516.40-516.44, excluding the amount  
 147 of the origination fee authorized under s. 516.43(3).
- 148 (10) "Referral partner" means an entity that, at the  
 149 referral partner's physical location for business or through  
 150 other means, performs one or more of the services authorized in  
 151 s. 516.44(2) on behalf of a program licensee. A referral partner  
 152 is not a credit service organization as defined in s. 817.7001  
 153 or a loan broker as defined in s. 687.14.
- 154 (11) "Refinance program loan" means a program loan that  
 155 extends additional principal to a borrower and replaces and  
 156 revises an existing program loan contract with the borrower. A  
 157 refinance program loan does not include an extension, a  
 158 deferral, or a rewrite of the program loan.
- 159 Section 3. Section 516.42, Florida Statutes, is created to  
 160 read:
- 161 516.42 Requirements for program participation; program  
 162 application requirements; fees.—
- 163 (1) A person may not advertise, offer, or make a program  
 164 loan or impose any charges or fees pursuant to s. 516.43 unless  
 165 the person first obtains a pilot program license from the  
 166 office.
- 167 (2)(a) In order to participate in the program, a person  
 168 must meet the following criteria:
- 169 1. Be licensed to make consumer finance loans under s.  
 170 516.05.
- 171 2. Not be the subject of any insolvency proceeding.
- 172 3. Not be subject to the issuance of a cease and desist  
 173 order; the issuance of a removal order; the denial, suspension,  
 174 or revocation of a license; or any other action within the

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175 authority of the office or any other state, territory, or  
 176 jurisdiction.

177 4. Not have a deficiency at the time of the person's  
 178 application.

179 5. Pay a nonrefundable application fee of \$1,000 to the  
 180 office at the time of making the application, pursuant to rule  
 181 of the commission.

182 (b) A program applicant shall file with the office an  
 183 electronic application, in a form and manner prescribed by  
 184 commission rule, which contains all of the following information  
 185 with respect to the applicant:

186 1. The legal business name and any other name the applicant  
 187 operates under.

188 2. The applicant's main address.

189 3. The telephone number and e-mail address of the  
 190 applicant.

191 4. The address of any program branch office.

192 5. The name, title, address, telephone number, and e-mail  
 193 address of the contact person for the applicant.

194 6. The applicant's license number under this chapter.

195 7. A statement as to whether the applicant intends to use  
 196 the services of one or more referral partners under s. 516.44.

197 8. A statement that the applicant has been accepted as a  
 198 data furnisher by a consumer reporting agency and will report to  
 199 a consumer reporting agency the payment performance of each  
 200 borrower on all loans made under the program.

201 9. The signature and certification of a control person of  
 202 the applicant.

203 (3) Except as otherwise provided in ss. 516.40-516.46, a

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204 program licensee is subject to all of the laws and rules  
 205 governing consumer finance loans under this chapter.

206 (4) A program licensee shall pay a nonrefundable biennial  
 207 renewal fee of \$1,000 pursuant to commission rule.

208 (5) Notwithstanding s. 516.05(3), only one pilot program  
 209 license is required for a person to make program loans under ss.  
 210 516.40-516.46, regardless of whether the program licensee offers  
 211 program loans to prospective borrowers at its own physical  
 212 business locations, through referral partners, or through an  
 213 electronic access point through which a prospective borrower may  
 214 directly access the website of the program licensee.

215 (6) Each branch office of a program licensee must be  
 216 licensed under this section.

217 (7) The office shall issue a program branch office license  
 218 to a program licensee after the office determines that the  
 219 program licensee submitted a completed electronic application  
 220 for a program branch office license in a form prescribed by  
 221 commission rule and paid an initial nonrefundable program branch  
 222 office license fee of \$30 per branch office as prescribed by  
 223 rule of the commission. Application fees may not be prorated for  
 224 partial years of licensure. The program branch office license  
 225 must be issued in the name of the program licensee that  
 226 maintains the branch office. An application is considered  
 227 received for purposes of s. 120.60 upon receipt of a completed  
 228 application form and the required fees. The application for a  
 229 program branch office license must contain the following  
 230 information:

231 (a) The legal business name and any other name the  
 232 applicant operates under.

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233 (b) The applicant's main address.  
 234 (c) The applicant's telephone number and e-mail address.  
 235 (d) The address of each program branch office.  
 236 (e) The name, title, address, telephone number, and e-mail  
 237 address of the contact person for the applicant.  
 238 (f) The applicant's license number under this chapter.  
 239 (g) The signature and certification of an authorized person  
 240 of the applicant.  
 241 (8) A program branch office license must be renewed  
 242 biennially at the time of renewing the program license under  
 243 subsection (4). A nonrefundable branch renewal fee of \$30 per  
 244 program branch office, by commission rule, must be submitted at  
 245 the time of renewal.  
 246 Section 4. Section 516.43, Florida Statutes, is created to  
 247 read:  
 248 516.43 Requirements for program loans.—  
 249 (1) GENERAL REQUIREMENTS.—A program licensee shall comply  
 250 with each of the following requirements in making program loans:  
 251 (a) A program loan must be unsecured.  
 252 (b) A program loan must have a minimum term of 120 days,  
 253 but it may not impose a prepayment penalty.  
 254 (c) A program loan must be repayable by the borrower in  
 255 substantially equal weekly, biweekly, or monthly installments.  
 256 (d) A program loan must include a borrower's right to  
 257 rescind the program loan by notifying the program licensee of  
 258 the borrower's intent to rescind the program loan and return the  
 259 principal advanced by the end of the business day after the day  
 260 the program loan is consummated.  
 261 (e) Notwithstanding s. 516.031, the interest rate charged

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262 on a program loan to the borrower may not exceed 36 percent. The  
 263 interest rate must be fixed for the life of the program loan and  
 264 must accrue on a simple-interest basis through the application  
 265 of a daily periodic rate to the actual unpaid principal balance  
 266 each day.  
 267 (f) The program licensee shall reduce the rate on each  
 268 subsequent program loan to the same borrower by a minimum of  
 269 one-twelfth of 1 percent per month, if all of the following  
 270 conditions are met:  
 271 1. The subsequent program loan is originated no more than  
 272 180 days after the prior program loan is fully repaid.  
 273 2. The borrower was never more than 15 days delinquent on  
 274 the prior program loan.  
 275 3. The prior program loan was outstanding for at least one-  
 276 half of its original term before its repayment.  
 277 (g) A program licensee may not refinance a program loan  
 278 unless all of the following conditions are met at the time the  
 279 borrower submits an application to refinance:  
 280 1. The principal amount payable does not include more than  
 281 60 days of unpaid interest accrued on the previous program loan  
 282 in accordance with s. 516.031(5);  
 283 2. The borrower has repaid at least 60 percent of the  
 284 outstanding principal remaining on his or her existing program  
 285 loan;  
 286 3. The borrower is current on his or her outstanding  
 287 program loan;  
 288 4. The program licensee has underwritten the new program  
 289 loan in accordance with subsection (7); and  
 290 5. The borrower has not previously refinanced the

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291 outstanding program loan.

292 (h) In lieu of the provisions of s. 687.08, a program  
 293 licensee or, if applicable, its approved referral partner shall  
 294 make available to the borrower by either electronic or physical  
 295 means a plain and complete receipt of payment at the time that a  
 296 payment is made by the borrower. For audit purposes, a program  
 297 licensee shall maintain an electronic record for each receipt  
 298 made available to a borrower, which must include a copy of the  
 299 receipt and the date and time that the receipt was generated.  
 300 Each receipt of payment must show all of the following:

- 301 1. The name of the borrower.
- 302 2. The name of the referral partner, if applicable.
- 303 3. The total payment amount received.
- 304 4. The date of payment.
- 305 5. The program loan balance before and after application of  
 306 the payment.
- 307 6. The amount of the payment that was applied to the  
 308 principal, interest, and fees.
- 309 7. The type of payment made by the borrower.
- 310 8. The following statement, prominently displayed in a type  
 311 size equal to or greater than the type size used to display the  
 312 other items on the receipt: "If you have any questions about  
 313 your loan now or in the future, you should direct those  
 314 questions to ...(name of program licensee)... by ...(at least  
 315 two different ways in which a borrower may contact the program  
 316 licensee)..."

317 (2) WRITTEN DISCLOSURES.—

318 (a) A program licensee shall provide those disclosures  
 319 required of all licensees in s. 516.15.

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320 (b) Notwithstanding s. 516.15(1), the loan contract and all  
 321 written disclosures and statements may be provided in English or  
 322 in the language in which the loan is negotiated. A program  
 323 licensee shall pay for any translation costs incurred by the  
 324 office.

325 (3) ORIGINATION FEES.—

326 (a) Notwithstanding s. 516.031, a program licensee may  
 327 contract for and receive a nonrefundable origination fee from a  
 328 borrower on a program loan. The program licensee may either  
 329 deduct the origination fee from the principal amount of the loan  
 330 disbursed to the borrower or capitalize the origination fee into  
 331 the principal balance of the loan. The origination fee is fully  
 332 earned and nonrefundable immediately upon the making of the  
 333 program loan and may not exceed 6 percent of the principal  
 334 amount of the program loan made to the borrower, exclusive of  
 335 the lesser of the origination fee or \$75.

336 (b) A program licensee may not charge a borrower an  
 337 origination fee more than once in any 12-month period.

338 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—  
 339 Notwithstanding s. 516.031, a program licensee approved by the  
 340 office to participate in the program may:

341 (a) Require payment from a borrower of no more than \$20 for  
 342 fees incurred by the program licensee from a dishonored payment  
 343 due to insufficient funds of the borrower.

344 (b) Notwithstanding s. 516.031(3)(a)9., contract for and  
 345 receive a delinquency charge of no more than \$15 for each  
 346 payment in default for at least 10 days, if the charge is agreed  
 347 upon in writing between the parties before imposing the charge.  
 348 A delinquency fee imposed by a program licensee is subject to

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349 all of the following restrictions:

350 1. No more than one delinquency fee may be imposed per  
351 delinquent payment.

352 2. No more than two delinquency fees may be imposed during  
353 a period of 30 consecutive days.

354 The program licensee, or any wholly owned subsidiary of the  
355 program licensee, may not sell or assign an unpaid debt to an  
356 independent third party for collection purposes unless the debt  
357 has been delinquent for at least 30 days.

359 (5) CREDIT EDUCATION.—Before disbursement of program loan  
360 proceeds to the borrower, the program licensee must:

361 (a) Direct the borrower to the consumer credit counseling  
362 services offered by an independent third party; or

363 (b) Provide a credit education program or materials to the  
364 borrower. A borrower is not required to participate in any of  
365 these education programs or seminars. A credit education program  
366 or seminar offered pursuant to this subsection must be provided  
367 at no cost to the borrower.

368 (6) CREDIT REPORTING.—

369 (a) The program licensee shall report each borrower's  
370 payment performance to at least one consumer reporting agency  
371 that compiles and maintains files on consumers on a nationwide  
372 basis. As used in this section, the term "consumer reporting  
373 agency that compiles and maintains files on consumers on a  
374 nationwide basis" has the same meaning as in s. 603(p) of the  
375 Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).

376 (b) The office may not approve a person for the program  
377 before the person has been accepted as a data furnisher by a

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378 consumer reporting agency.

379 (c) The program licensee shall provide each borrower with  
380 the name or names of the consumer reporting agency or agencies  
381 to which it will report the borrower's payment history.

382 (7) PROGRAM LOAN UNDERWRITING.—

383 (a) The program licensee shall underwrite each program loan  
384 to determine a borrower's ability and willingness to repay the  
385 program loan pursuant to the program loan terms. The program  
386 licensee may not make a program loan if it determines that the  
387 borrower's total monthly debt service payments at the time of  
388 origination, including the program loan for which the borrower  
389 is being considered and all outstanding forms of credit that can  
390 be independently verified by the program licensee, exceed 35  
391 percent of the borrower's gross monthly income.

392 (b)1. The program licensee shall seek information and  
393 documentation pertaining to all of a borrower's outstanding debt  
394 obligations during the loan application and underwriting  
395 process, including loans that are self-reported by the borrower  
396 but not available through independent verification. The program  
397 licensee shall verify such information using a credit report  
398 from at least one consumer reporting agency that compiles and  
399 maintains files on consumers on a nationwide basis or through  
400 other available electronic debt verification services that  
401 provide reliable evidence of a borrower's outstanding debt  
402 obligations.

403 2. The program licensee is not required to consider loans  
404 made to a borrower by friends or family in determining the  
405 borrower's debt-to-income ratio.

406 (c) The program licensee shall also verify the borrower's

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407 income in determining the debt-to-income ratio using information  
 408 from:

409 1. Electronic means or services that provide reliable  
 410 evidence of the borrower's actual income; or

411 2. Internal Revenue Service Form W-2, tax returns, payroll  
 412 receipts, bank statements, or other third-party documents that  
 413 provide reasonably reliable evidence of the borrower's actual  
 414 income.

415 (8) PROVISIONS ON WAIVERS.-

416 (a) A program licensee may not require, as a condition of  
 417 providing the program loan, that the borrower:

418 1. Waive any right, penalty, remedy, forum, or procedure  
 419 provided for in any law applicable to the program loan,  
 420 including the right to file and pursue a civil action or file a  
 421 complaint with or otherwise communicate with the office, any  
 422 court, or other governmental entity.

423 2. Agree to the application of laws other than those of  
 424 this state.

425 3. Agree to resolve disputes in a jurisdiction outside of  
 426 this state.

427 (b) A waiver that is required as a condition of doing  
 428 business with the program licensee is presumed involuntary,  
 429 unconscionable, against public policy, and unenforceable.

430 (c) A program licensee may not refuse to do business with  
 431 or discriminate against a borrower or an applicant on the basis  
 432 of the borrower's or applicant's refusal to waive any right,  
 433 penalty, remedy, forum, or procedure, including the right to  
 434 file and pursue a civil action or complaint with, or otherwise  
 435 notify, the office, a court, or any other governmental entity.

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436 The exercise of a person's right to refuse to waive any right,  
 437 penalty, remedy, forum, or procedure, including a rejection of a  
 438 contract requiring a waiver, does not affect any otherwise legal  
 439 terms of a contract or an agreement.

440 (d) This subsection does not apply to any agreement to  
 441 waive any right, penalty, remedy, forum, or procedure, including  
 442 any agreement to arbitrate a claim or dispute, after a claim or  
 443 dispute has arisen. This subsection does not affect the  
 444 enforceability or validity of any other provision of the  
 445 contract.

446 Section 5. Section 516.44, Florida Statutes, is created to  
 447 read:

448 516.44 Referral partners.-

449 (1) REFERRAL PARTNER AGREEMENT.-All arrangements between a  
 450 program licensee and a referral partner must be specified in a  
 451 written referral partner agreement between the parties. The  
 452 agreement must contain a provision that the referral partner  
 453 agrees to comply with this section and all rules adopted under  
 454 this section regarding the activities of referral partners, and  
 455 that the office has access to the referral partner's books and  
 456 records pertaining to the referral partner's operations under  
 457 the agreement with the program licensee in accordance with s.  
 458 516.45(4).

459 (2) AUTHORIZED SERVICES.-A program licensee may use the  
 460 services of one or more referral partners as provided in this  
 461 section. A referral partner may perform one or more of the  
 462 following services for a program licensee:

463 (a) Distributing, circulating, using, or publishing printed  
 464 brochures, flyers, fact sheets, or other written materials

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465 relating to program loans that the program licensee may make or  
 466 negotiate. The written materials must be reviewed and approved  
 467 in writing by the program licensee before being distributed,  
 468 circulated, used, or published.

469 (b) Providing written factual information about program  
 470 loan terms, conditions, or qualification requirements to a  
 471 prospective borrower which has been prepared by the program  
 472 licensee or reviewed and approved in writing by the program  
 473 licensee. A referral partner may discuss the information with a  
 474 prospective borrower in general terms.

475 (c) Notifying a prospective borrower of the information  
 476 needed in order to complete a program loan application.

477 (d) Entering information provided by the prospective  
 478 borrower on a preprinted or an electronic application form or in  
 479 a preformatted computer database.

480 (e) Assembling credit applications and other materials  
 481 obtained in the course of a credit application transaction for  
 482 submission to the program licensee.

483 (f) Contacting the program licensee to determine the status  
 484 of a program loan application.

485 (g) Communicating a response that is returned by the  
 486 program licensee's automated underwriting system to a borrower  
 487 or a prospective borrower.

488 (h) Obtaining a borrower's signature on documents prepared  
 489 by the program licensee and delivering final copies of the  
 490 documents to the borrower.

491 (i) Disbursing program loan proceeds to a borrower if this  
 492 method of disbursement is acceptable to the borrower, subject to  
 493 the requirements of subsection (3). A loan disbursement made by

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494 a referral partner under this paragraph is deemed to be made by  
 495 the program licensee on the date that the funds are disbursed or  
 496 otherwise made available by the referral partner to the  
 497 borrower.

498 (j) Receiving a program loan payment from the borrower if  
 499 this method of payment is acceptable to the borrower, subject to  
 500 the requirements of subsection (3).

501 (k) Operating an electronic access point through which a  
 502 prospective borrower may directly access the website of the  
 503 program licensee to apply for a program loan.

504 (3) RECEIPT OR DISBURSEMENT OF PROGRAM LOAN PAYMENTS.—

505 (a) A loan payment made by a borrower to a referral partner  
 506 under paragraph (2)(j) must be applied to the borrower's program  
 507 loan and is deemed received by the program licensee as of the  
 508 date the payment is received by the referral partner.

509 (b) A referral partner that receives loan payments must  
 510 deliver or cause to be delivered to the borrower a plain and  
 511 complete receipt showing all of the information specified in s.  
 512 516.43(1)(h) at the time that the payment is made by the  
 513 borrower.

514 (c) A borrower who submits a loan payment to a referral  
 515 partner under this subsection is not liable for a failure or  
 516 delay by the referral partner in transmitting the payment to the  
 517 program licensee.

518 (d) A referral partner that disburses or receives loan  
 519 payments pursuant to paragraph (2)(i) or paragraph (2)(j) must  
 520 maintain records of all disbursements made and loan payments  
 521 received for a period of at least 2 years.

522 (4) PROHIBITED ACTIVITIES.—A referral partner may not

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523 engage in any of the following activities:

524 (a) Providing counseling or advice to a borrower or  
525 prospective borrower with respect to any loan term.

526 (b) Providing loan-related marketing material that has not  
527 previously been approved by the program licensee to a borrower  
528 or a prospective borrower.

529 (c) Negotiating a loan term between a program licensee and  
530 a prospective borrower.

531 (d) Offering information pertaining to a single prospective  
532 borrower to more than one program licensee. However, if a  
533 program licensee has declined to offer a program loan to a  
534 prospective borrower and has so notified the prospective  
535 borrower in writing, the referral partner may then offer  
536 information pertaining to that borrower to another program  
537 licensee with whom it has a referral partner agreement.

538 (e) Requiring a borrower to pay any fees or charges to the  
539 referral partner or to any other person in connection with a  
540 program loan other than those permitted under ss. 516.40-516.46.

541 (5) DISCLOSURE NOTICE AND COMMUNICATION.—

542 (a) At the time the referral partner receives or processes  
543 an application for a program loan, the referral partner shall  
544 provide the following statement to the applicant on behalf of  
545 the program licensee, in no smaller than 10-point type, and  
546 shall request that the applicant acknowledge receipt of the  
547 statement in writing:

548  
549 Your loan application has been referred to us by  
550 ...(name of referral partner).... We may pay a fee to  
551 ...(name of referral partner)... for the successful

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552 referral of your loan application. If you are approved  
553 for the loan, ...(name of program licensee)... will  
554 become your lender. If you have any questions about  
555 your loan, now or in the future, you should direct  
556 those questions to ...(name of program licensee)... by  
557 ...(insert at least two different ways in which a  
558 borrower may contact the program licensee).... If you  
559 wish to report a complaint about ...(name of referral  
560 partner)... or ...(name of program licensee)...  
561 regarding this loan transaction, you may contact the  
562 Division of Consumer Finance of the Office of  
563 Financial Regulation at 850-487-9687 or  
564 <http://www.flofr.com>.

565  
566 (b) If the loan applicant has questions about the program  
567 loan which the referral partner is not permitted to answer, the  
568 referral partner must make a good faith effort to assist the  
569 applicant in making direct contact with the program licensee  
570 before the program loan is consummated.

571 (6) COMPENSATION.—

572 (a) The program licensee may compensate a referral partner  
573 in accordance with a written agreement and a compensation  
574 schedule that is mutually agreed to by the program licensee and  
575 the referral partner, subject to the requirements in paragraph  
576 (b).

577 (b) The compensation of a referral partner by a program  
578 licensee is subject to all of the following requirements:

579 1. Compensation may not be paid to a referral partner in  
580 connection with a loan application unless the program loan is

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581 consummated.

582 2. Compensation may not be paid to a referral partner based

583 upon the principal amount of the program loan.

584 3. Compensation may not be directly or indirectly passed on

585 to a borrower through a fee or other compensation, or a portion

586 of a fee or other compensation, charged to a borrower.

587 4. Subject to the limitations specified in subparagraphs

588 1., 2., and 3., the total compensation paid by a program

589 licensee to a referral partner for the services specified in

590 subsection (2) may not exceed the sum of:

591 a. Sixty dollars per program loan, on average, assessed

592 annually, whether paid at the time of consummation, through

593 installments, or in a manner otherwise agreed upon by the

594 program licensee and the referral partner; and

595 b. Two dollars per payment received by the referral partner

596 on behalf of the program licensee for the duration of the

597 program loan, if the referral partner receives borrower loan

598 payments on the program licensee's behalf in accordance with

599 subsection (3).

600 5. The referral partner's location for services and other

601 information required by subsection (7) must be reported to the

602 office.

603 (c) A program licensee or a referral partner may not pass

604 on to a borrower, whether directly or indirectly, any additional

605 cost or other charge for compensation paid to a referral partner

606 under this program.

607 (7) NOTICE TO OFFICE.—A program licensee that uses the

608 service of a referral partner must notify the office, in a form

609 and manner prescribed by the commission, within 15 days after

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610 entering into a contract with a referral partner regarding all

611 of the following:

612 (a) The name, business address, and licensing details of

613 the referral partner and all locations at which the referral

614 partner will perform services under this section.

615 (b) The name and contact information for an employee of the

616 referral partner who is knowledgeable about, and has the

617 authority to execute, the referral partner agreement.

618 (c) The name and contact information of one or more

619 employees of the referral partner who are responsible for that

620 referral partner's referring activities on behalf of the program

621 licensee.

622 (d) A statement by the program licensee that it has

623 conducted due diligence with respect to the referral partner and

624 has confirmed that none of the following applies:

625 1. The filing of a petition under the United States

626 Bankruptcy Code for bankruptcy or reorganization by the referral

627 partner.

628 2. The commencement of an administrative or judicial

629 license suspension or revocation proceeding, or the denial of a

630 license request or renewal, by any state, the District of

631 Columbia, any United States territory, or any foreign country in

632 which the referral partner operates, plans to operate, or is

633 licensed to operate.

634 3. A felony indictment involving the referral partner or an

635 affiliated party.

636 4. A felony conviction, guilty plea, or plea of nolo

637 contendere, regardless of adjudication, of the referral partner

638 or an affiliated party.

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639 5. Any suspected criminal act perpetrated in this state  
 640 relating to activities regulated under this chapter by a  
 641 referral partner.

642 6. Notification by a law enforcement or prosecutorial  
 643 agency that the referral partner is under criminal investigation  
 644 which includes, but is not limited to, subpoenas to produce  
 645 records or testimony and warrants issued by a court of competent  
 646 jurisdiction which authorize the search and seizure of any  
 647 records relating to a business activity regulated under this  
 648 chapter.

649  
 650 As used in this paragraph, the term "affiliated party" means a  
 651 director, an officer, a responsible person, an employee, or a  
 652 foreign affiliate of a referral partner; or a person who has a  
 653 controlling interest in a referral partner.

654 (e) Any other information requested by the office subject  
 655 to the limitations specified in s. 516.45(4).

656 (8) NOTICE OF CHANGES.—A referral partner must provide the  
 657 program licensee with written notice, sent by registered mail,  
 658 within 30 days after any changes are made to the information  
 659 specified in paragraphs (7)(a)-(c) or within 30 days after the  
 660 occurrence or knowledge of any of the events specified in  
 661 paragraph (7)(d), whichever is later.

662 (9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A  
 663 program licensee is responsible for any act of its referral  
 664 partner if the program licensee should have known of the act or  
 665 if the program licensee had actual knowledge that the act is a  
 666 violation of this chapter and allowed it to continue. Such  
 667 responsibility is limited to conduct engaged in by the referral

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668 partner pursuant to the authority granted to it by the program  
 669 licensee under the contract between the referral partner and the  
 670 program licensee.

671 (10) REFERRAL PARTNER FEE.—The program licensee shall pay  
 672 to the office at the time it files a referral partner notice  
 673 with the office a one-time, nonrefundable fee of \$30 for each  
 674 referral partner, as prescribed by commission rule.

675 Section 6. Section 516.45, Florida Statutes, is created to  
 676 read:

677 516.45 Examinations; disciplinary actions.—

678 (1) Notwithstanding any other law, commencing on January 1,  
 679 2018, the office shall examine each program licensee that is  
 680 accepted into the program in accordance with this chapter at  
 681 least once every 24 months.

682 (2) Notwithstanding subsection (1), the office may waive  
 683 one or more branch office examinations if the office finds that  
 684 such examinations are not necessary for the protection of the  
 685 public due to the centralized operations of the program licensee  
 686 or other factors acceptable to the office.

687 (3) The examined program licensee shall pay for the cost of  
 688 an examination to the office, pursuant to commission rule, and  
 689 the office may maintain an action for the recovery of the cost  
 690 in any court of competent jurisdiction. In determining the cost  
 691 of the examination, the office may use the estimated average  
 692 hourly cost for all persons performing examinations of program  
 693 licensees or other persons subject to ss. 516.40-516.46 for the  
 694 fiscal year.

695 (4) A program licensee or referral partner shall maintain,  
 696 preserve, and keep available for examination all books,



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697 accounts, or other documents required by this chapter, any rule  
 698 or order adopted under this chapter, or any agreement entered  
 699 into with the office.

700 (5) A program licensee who violates any applicable  
 701 provision of this chapter is subject to disciplinary action  
 702 pursuant to s. 516.07(2). Any such disciplinary action is  
 703 subject to s. 120.60. A program licensee is also subject to  
 704 disciplinary action for a violation of s. 516.44 committed by  
 705 any of its referral partners.

706 (6) The office may take any of the following actions  
 707 against a referral partner who violates s. 516.44:

708 (a) Disqualify the referral partner from performing  
 709 services under this chapter;

710 (b) Bar the referral partner from performing services at  
 711 one or more specific locations of the referral partner;

712 (c) Terminate a written agreement between a referral  
 713 partner and a program licensee;

714 (d) Impose an administrative fine not to exceed \$1,000 for  
 715 each such act of the referral partner; and

716 (e) Prohibit program licensees from using the referral  
 717 partner, if the office deems it to be in the public interest.

718 Section 7. Section 516.46, Florida Statutes, is created to  
 719 read:

720 516.46 Annual reports; reports by the office.—

721 (1) Beginning in 2019, on or before March 15 of each year,  
 722 a program licensee shall file a report with the office on each  
 723 of the items specified in subsection (2), on a form and in a  
 724 manner as prescribed by commission rule, which contains  
 725 aggregated or anonymized data without reference to any

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726 borrower's nonpublic personal information or any proprietary or  
 727 trade secret information of the program licensee.

728 (2) On or before January 1, 2020, the office shall post a  
 729 report on its website summarizing the use of the program based  
 730 on the information contained in reports filed by each program  
 731 licensee under subsection (1). The report must state the  
 732 information in the aggregate so as not to identify data by  
 733 specific program licensee and must specify the period to which  
 734 the report corresponds. The report must include, but not be  
 735 limited to, the following for that period:

736 (a) The number of entities that applied to participate in  
 737 the program.

738 (b) The number of entities accepted to participate in the  
 739 program.

740 (c) The office's reasons for rejecting applications for  
 741 participation, if applicable. This information must be provided  
 742 in a manner that does not identify the entity or entities  
 743 rejected.

744 (d) The number of program loan applications received by  
 745 program licensees participating in the program, the number of  
 746 program loans made under the program, the total amount loaned,  
 747 the distribution of loan lengths upon origination, and the  
 748 distribution of interest rates and principal amounts upon  
 749 origination among those program loans.

750 (e) The number of borrowers who obtained more than one  
 751 program loan and the distribution of the number of program loans  
 752 per borrower.

753 (f) Of the borrowers who obtained more than one program  
 754 loan, the percentage of those borrowers whose credit scores

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755 increased between successive loans, based on information from at  
 756 least one major credit bureau, and the average size of the  
 757 increase.

758 (g) The income distribution of borrowers upon program loan  
 759 origination, including the number of borrowers who obtained at  
 760 least one program loan and who resided in a low-income or  
 761 moderate-income census tract at the time of their loan  
 762 applications.

763 (h) The number of borrowers who obtained program loans for  
 764 the following purposes, based on borrower responses at the time  
 765 of their loan applications indicating the primary purpose for  
 766 which the program loan was obtained:

767 1. Pay medical expenses.

768 2. Pay for vehicle repair or a vehicle purchase.

769 3. Pay bills.

770 4. Consolidate debt.

771 5. Build or repair credit history.

772 6. Pay other expenses.

773 (i) The number of borrowers who self-report that they had a  
 774 bank account at the time of their loan application and the  
 775 number of borrowers who self-report that they did not have a  
 776 bank account at the time of their loan application.

777 (j) With respect to refinance program loans, the report  
 778 must specifically include the following information:

779 1. The number and percentage of borrowers who applied for a  
 780 refinance program loan.

781 2. Of those borrowers who applied for a refinance program  
 782 loan, the number and percentage of borrowers who obtained a  
 783 refinance program loan.

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784 (k) The number and type of referral partners used by  
 785 program licensees.

786 (l) The number and percentage of borrowers who obtained one  
 787 or more program loans on which delinquency charges were  
 788 assessed, the total amount of delinquency charges assessed, and  
 789 the average delinquency charge assessed by dollar amount and as  
 790 a percentage of the principal amount loaned.

791 (m) The performance of program loans under the program as  
 792 reflected by all of the following:

793 1. The number and percentage of borrowers who experienced  
 794 at least one delinquency lasting between 7 and 29 days, and the  
 795 distribution of principal loan amounts corresponding to those  
 796 delinquencies.

797 2. The number and percentage of borrowers who experienced  
 798 at least one delinquency lasting between 30 and 59 days, and the  
 799 distribution of principal loan amounts corresponding to those  
 800 delinquencies.

801 3. The number and percentage of borrowers who experienced  
 802 at least one delinquency lasting 60 days or more, and the  
 803 distribution of principal loan amounts corresponding to those  
 804 delinquencies.

805 (n) The number and types of violations of ss. 516.40-516.46  
 806 by referral partners which were documented by the office.

807 (o) The number and types of violations of ss. 516.40-516.46  
 808 by program licensees which were documented by the office.

809 (p) The number of times that the office disqualified a  
 810 referral partner from performing services, barred a referral  
 811 partner from performing services at one or more specific  
 812 locations of the referral partner, terminated a written

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813 agreement between a referral partner and a program licensee, or  
814 imposed an administrative penalty.

815 (q) The number of complaints received by the office about a  
816 program licensee or a referral partner and the nature of those  
817 complaints.

818 Section 8. Sections 516.40-516.46, Florida Statutes, are  
819 repealed on December 31, 2022, unless reenacted or superseded by  
820 another law enacted by the Legislature before that date.

821 Section 9. This act shall take effect July 1, 2018.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17  
Meeting Date

CS/SB 872  
Bill Number (if applicable)

Topic Consumer Finance Loans

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 200 W. College Ave, Ste 304  
Street  
Jallahassee, FL 32301  
City State Zip

Phone 850-228-6387

Email dobarker@arp.org

Speaking:  For  Against  Information

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

Representing AARP Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

872

Bill Number (if applicable)

Topic Consumer Finance Loans

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

Tallahassee, FL 32303  
City State Zip

Email alicevickers@flacp.org

Speaking:  For  Against  Information

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

Representing Florida Alliance for Consumer Protection

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

9/13/17

Meeting Date

872

Bill Number (if applicable)

Topic Consumer Finance Loans

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title \_\_\_\_\_

Address 104 S. Monroe Street

Phone 850-425-1344

Street

Tallahassee FL 32301

City

State

Zip

Email TcgLobby@aol.com

Speaking:  For  Against  Information

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

Representing Florida State Conference of NAACP Branches

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Denise Grimsley, Chair  
Appropriations Subcommittee on General Government

**Subject:** Committee Agenda Request

**Date:** March 23, 2017

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I respectfully request that **Senate Bill #872**, relating to Consumer Finance Loans , be placed on the:

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

A handwritten signature in cursive script that reads "Darryl Rouson".

---

Senator Darryl Rouson  
Florida Senate, District 19

Cc: Aaron Bean, VC: Giovanni Betta, SD; Lisa Waddell, AA



The Florida Senate  
**Committee Agenda Request**

**To:** Senator Denise Grimsley, Chair  
Appropriations Subcommittee on General Government

**Subject:** Committee Agenda Request

**Date:** March 23, 2017

---

I respectfully request that **Senate Bill #872**, relating to Consumer Finance Loans , be placed on the:

- committee agenda at your earliest possible convenience.  
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A handwritten signature in cursive script that reads "Darryl Rouson".

---

Senator Darryl Rouson  
Florida Senate, District 19

Cc: Aaron Bean, VC; Giovanni Betta, SD; Lisa Waddell, AA



**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 Subcommittee on General Government

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BILL: CS/SB 1310

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Artiles

SUBJECT: State Employment

DATE: April 12, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ferrin</u>	<u>Ferrin</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Betta</u>	<u>AGG</u>	<u>Recommend: Favorable</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</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 1310 eliminates the Florida State Employees Charitable Contribution Campaign (FSECC), and provides that an organization, entity, or person may not intentionally solicit a state employee through any means for fundraising or business purposes within work areas during work hours. However, it does not prohibit:

- State-approved communications by entities with whom the state has contracted to provide employee benefits or services;
- Noncoercive voluntary communications between state employees in workplace areas; and
- Activities at authorized public events occurring in non-work areas of state owned or leased facilities.

The bill may have a positive fiscal impact on state expenditures. The Department of Management Services (DMS) will no longer be required to procure the services of a fiscal agent or agents to receive, account for, and distribute charitable contribution among participating charitable organizations for the FSECC.

The bill has an effective date of July 1, 2017.

## II. Present Situation:

The FSECC is an annual charitable fundraising drive funded by state employees and maintained by the DMS in coordination with the Department of Financial Services.<sup>1</sup> It is the only authorized charitable fundraising drive directed toward state employees within work areas during work hours for which the state provides a payroll deduction.<sup>2</sup> Universities are permitted to participate in the campaign, but are also authorized to conduct their own charitable fundraising drives for employees.<sup>3</sup>

Employees' participation in the campaign is entirely voluntary, and officers and employees are required to designate a charitable organization to receive their contributions, unless the contributions are collected as part of a campaign event.<sup>4</sup> Each agency is responsible for conducting campaign events to promote and generate awareness of the campaign. Prior to 2016, agencies were authorized to collect cash donations at campaign events, however, in 2016, only payroll deductions were collected as part of the campaign as a cost saving measure.<sup>5</sup>

Organizations' participation in the annual campaign is limited to any nonprofit charitable organization that has as its principal mission:<sup>6</sup>

- Public health and welfare;
- Education;
- Environmental restoration and conservation;
- Civil and human rights; or
- The relief of human suffering and poverty.

Additionally, organizations ineligible to participate in the campaign include those:<sup>7</sup>

- Whose fundraising and administrative expenses exceed 25 percent;
- Whose activities contain an element that is more than incidentally political in nature or are primarily political, religious, professional, or fraternal in nature;
- That discriminate on account of race, color, religion, sex, national origin, age, handicap, or political affiliation;
- Not properly registered as a charitable organization as required by law;<sup>8</sup> and
- That have not received tax-exempt status under s. 501(c)(3) of the Internal Revenue Code.

Over 1,000 charities have been approved to participate in the FSECC through the application process established by the DMS's Division of Human Resources.<sup>9</sup> Charitable organizations

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<sup>1</sup> Section 110.181(1)(a), F.S.

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

<sup>3</sup> Section 110.181(5), F.S. See also 1001.706, F.S.

<sup>4</sup> Section 110.181(1)(b), F.S.

<sup>5</sup> Email from Samantha Ferrin, Department of Management Services, Deputy Director of Legislative and External Affairs (March 30, 2017) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>6</sup> Section 110.181(1)(c), F.S.

<sup>7</sup> Section 110.181(1)(e), F.S.

<sup>8</sup> See the Solicitation of Contributions Act, ss. 496.401-496.424, F.S.

<sup>9</sup> Department of Management Services, *HB 1141 Legislative Bill Analysis* (March 14, 2017) (on file with the Senate Committee on Governmental Oversight and Accountability).

participating in the campaign must be audited annually by an independent public accountant whose examination conforms to generally accepted accounting principles.<sup>10</sup>

Current law requires the DMS to competitively procure a fiscal agent or agents to receive, account for, and distribute charitable contributions among participating charitable organizations,<sup>11</sup> and provides for the establishment of a Florida State Employees Charitable Campaign Steering Committee to make recommendations relating to the administration of the campaign.<sup>12</sup> The committee is made up of seven members appointed by the Administration Commission<sup>13</sup> and two members appointed by the Secretary of the DMS.<sup>14</sup> The Steering Committee meets periodically, usually once or twice each year.<sup>15</sup>

The DMS historically awarded the fiscal agent contract to a nonprofit charitable organization that participated in the FSECC, but in 2010, the fiscal agent selection process was opened and services were competitively procured through Solix Grant Management Solutions (Solix) for the period January 1, 2013, through December 31, 2015.<sup>16</sup> The initial contract with Solix provided for tiered compensation, with a minimum of \$546,415 for year one of the contract and actual documented costs for years two and three.<sup>17</sup>

In 2015, the DMS entered into a new three-year contract with Solix for the period January 1, 2016, through December 31, 2018.<sup>18</sup> For this contract period, fixed fees were initially agreed to for \$389,297 in year one, \$399,769 in year two, and \$411,631 in year three.<sup>19</sup> However, on April 15, 2016, the DMS and Solix agreed to amended contract terms that provided for a fixed \$180,000 fee for each year of the contract.<sup>20</sup>

In May of 2016, the State of Florida Auditor General published an operational audit of the FSECC, finding that during the time period covered by the initial contract with Solix the DMS did not ensure FSECC fiscal agent fees were supported by adequate documentation and did not adequately verify that employee contributions were appropriately distributed to participating charitable organizations.<sup>21</sup> Prior to publication of the audit, the renewed contract with the fiscal

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<sup>10</sup> Section 110.181(1)(d), F.S.

<sup>11</sup> Section 110.181(2)(a), F.S.

<sup>12</sup> Sections 110.181(3) and (4), F.S.

<sup>13</sup> See s. 14.02, F.S. The Administration Commission is composed of the Governor and Cabinet.

<sup>14</sup> Section 110.181(4), F.S.

<sup>15</sup> See *supra* note 5.

<sup>16</sup> State of Florida Auditor General's Operational Audit of the Department of Management Services Florida State Employees' Charitable Campaign Report No. 2016-194. Available at [http://www.myflorida.com/audgen/pages/pdf\\_files/2016-194.pdf](http://www.myflorida.com/audgen/pages/pdf_files/2016-194.pdf). (last visited March 30, 2017).

<sup>17</sup> Contract for FSECC Fiscal Agent Services Between the State of Florida Department of Management Services and Solix, Inc. Contract No.: DMS 11/12-018. (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>18</sup> Contract for FSECC Fiscal Agent Services Between the State of Florida Department of Management Services and Solix, Inc. Contract No.: DMS 14/14-030. Available at:

<https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=720000&ContractId=HRM01>. (last visited March 30, 2017).

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

<sup>20</sup> Amendment NO.:1 to Contract No.: DMS 14/15-030. Available at

<https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=720000&ContractId=HRM01>. (last visited March 30, 2017).

<sup>21</sup> See *supra* note 16.

agent had been modified to provide for a fixed fee and the DMS had implemented a procedure for verifying the distributions—therefore the need for corrective action was eliminated.<sup>22</sup>

On December 5, 2016, the secretary of DMS notified state agencies that the campaign was being suspended because it had only raised approximately \$282,000, which was its lowest amount in the campaign’s history.<sup>23</sup>

During its 36-year history, the FSECC raised over \$94 million.<sup>24</sup> However, over the last ten years contributions have declined sharply, as illustrated by the following table.<sup>25</sup>

Campaign Year	Fiscal Agent	Charitable Contributions	Amount withheld by Fiscal Agent	Net Amount to Participating Charities	Fiscal Agent Costs as % of Contributions
2005-2006	United Way	\$ 4,963,346	\$ 691,065	\$ 4,272,281	13.9%
2006-2007	United Way	\$ 4,959,059	\$ 703,479	\$ 4,255,580	14.2%
2007-2008	United Way	\$ 4,869,270	\$ 706,683	\$ 4,162,587	14.5%
2008-2009	United Way	\$ 4,362,662	\$ 923,931	\$ 3,438,731	21.2%
2009-2010	United Way	\$ 4,171,177	\$ 850,877	\$ 3,320,300	20.4%
2010-2011	United Way	\$ 3,739,355	\$ 801,032	\$ 2,938,323	21.4%
2011-2012	United Way	\$ 2,688,902	\$ 796,616	\$ 1,892,286	29.6%
2012-2013	Solix, Inc.	\$ 1,762,030	\$ 546,415	\$ 1,215,615	31.0%
2013-2014	Solix, Inc.	\$ 982,387	\$ 470,470	\$ 511,917	47.9%
2014-2015	Solix, Inc.	\$ 869,004	\$ 453,599	\$ 415,405	52.2%
2015-2016	Solix, Inc.	\$ 546,186	\$ 180,000	\$ 366,186	33.0%
2016-2017	Solix, Inc.	\$ 282,000	\$ 180,000	\$ 102,000	63.8%

### III. Effect of Proposed Changes:

**Section 1** repeals s. 110.181, F.S., eliminating the FSECC.

**Section 2** creates s. 110.182, F.S., providing that an organization, entity, or person may not intentionally solicit a state employee through any means for fundraising or business purposes within work areas during work hours. However, it does not prohibit:

- State-approved communications by entities with whom the state has contracted to provide employee benefits or services;
- Noncoercive voluntary communications between state employees in workplace areas; and
- Activities at authorized public events occurring in non-work areas of state owned or leased facilities.

<sup>22</sup> *Id.*

<sup>23</sup> *State scraps Solix contract, suspends charity campaign*, Tallahassee Democrat, December 8, 2016, available at <http://www.tallahassee.com/story/news/2016/12/08/state-suspends-beleagured-fsecc/95139288/> (last visited March 30, 2017).

<sup>24</sup> Department of Management Services, *Donor Frequently Asked Questions*, question 1, page 2, available at <http://www.dms.myflorida.com/content/download/128373/798921/FAQ-Donor-2016.pdf> (last visited March 30, 2017).

<sup>25</sup> Figures provided in an email from Taylor Hatch, Department of Management Services, Senior Director of Policy and Legislative Affairs November 17, 2016 (on file with the Senate Committee on Governmental Oversight and Accountability).

**Section 3** provides an effective date of July 1, 2017.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Charitable organizations may see a decrease in contributions as a result of the bill. However, charitable giving appears to be at an all-time high.<sup>26</sup>

C. Government Sector Impact:

According to the DMS, the bill has no fiscal impact.<sup>27</sup> However, the bill may have a positive fiscal impact on the DMS, because it will no longer be required to procure the services of a fiscal agent or agents to receive, account for, and distribute charitable contribution among participating charitable organizations for the FSECC.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill repeals section 110.181 of the Florida Statutes.

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<sup>26</sup> National Philanthropic Trust, *Charitable Giving Statistics*. Available at: <https://www.nptrust.org/index.php?/philanthropic-resources/charitable-giving-statistics>. (last visited March 30, 2017). March 30, 2017).

<sup>27</sup> Department of Management Services, *HB 1141 Legislative Bill Analysis* (March 14, 2017) (on file with the Senate Committee on Governmental Oversight and Accountability).

This bill creates section 110.182 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 Governmental Oversight and Accountability on April 3, 2017:**

Adds exceptions to the prohibition on solicitation of state employees within work areas during work hours for:

- Noncoercive voluntary communications between state employees in workplace areas; and
- Activities at authorized public events occurring in non-work areas of state owned or leased facilities.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;  
and Senator Mayfield

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A bill to be entitled

An act relating to state employment; repealing s. 110.181, F.S., relating to Florida State Employees' Charitable Campaign; creating s. 110.182, F.S.; prohibiting an organization, entity, or person from intentionally soliciting state employees for fundraising or business purposes within specified areas during specified times; providing exemptions; providing an effective date.

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

Section 1. Section 110.181, Florida Statutes, is repealed.

Section 2. Section 110.182, Florida Statutes, is created to read:

110.182 Solicitation of state employees prohibited.—An organization, entity, or person may not intentionally solicit a state employee through any means for fundraising or business purposes within work areas during work hours. This section does not prohibit the following:

(1) State-approved communications by entities with whom the state has contracted to provide employee benefits or services.

(2) Noncoercive voluntary communications between state employees in workplace areas.

(3) Activities at authorized public events occurring in non-work areas of state owned or leased facilities.

Section 3. This act shall take effect July 1, 2017.

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

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

4/13/17

*Meeting Date*

1310

*Bill Number (if applicable)*

Topic Relating to State Employment

*Amendment Barcode (if applicable)*

Name Taylor Hatch

Job Title Senior Director of Policy and Legislative Affairs

Address 4050 Esplanade Way

Phone 850-487-7001

*Street*

Tallahassee

Florida

32399

Email taylor.hatch@dms.myflorida.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Department of Management Services

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)





The Florida Senate

## Committee Agenda Request

**To:** Senator Denise Grimsley, Chair  
Appropriations Subcommittee on  
General Government


**Subject:** Committee Agenda Request

**Date:** April 5, 2017

---

I respectfully request that **Senate Bill #1310**, relating to State Employment, be placed on the:

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

  
\_\_\_\_\_  
Senator Frank Artiles  
Florida Senate, District 40

# CourtSmart Tag Report

**Room:** EL 110  
**Case No.:**  
**Caption:** Senate Appropriations Subcommittee on General Government

**Type:**  
**Judge:**

**Started:** 4/13/2017 2:32:01 PM  
**Ends:** 4/13/2017 3:25:19 PM  
**Length:** 00:53:19

2:32:00 PM Sen. Grimsley (Chair)  
2:32:30 PM S 166  
2:32:32 PM Sen. Steube  
2:32:38 PM Am. 761514  
2:32:55 PM Sen. Grimsley  
2:33:09 PM Sen. Rouson  
2:33:37 PM Sen. Steube  
2:33:51 PM Sen. Grimsley  
2:34:10 PM S 166 (cont.)  
2:34:31 PM Roger Morenc, CEO/Founder, Marlin Barrel Distillery  
2:39:43 PM Sen. Grimsley  
2:39:50 PM Scott Ashley, President and General Counsel, Wine and Spirits Distributors of Florida (waives in support)  
2:39:59 PM Jason Unger, Florida Distillers Guild (waives in support)  
2:40:05 PM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)  
2:40:12 PM Sen. Rouson  
2:41:52 PM Sen. Grimsley  
2:41:55 PM Sen. Mayfield  
2:43:26 PM Sen. Grimsley  
2:44:01 PM S 400  
2:44:12 PM Sen. Perry  
2:44:33 PM Sen. Grimsley  
2:44:37 PM Am. 404846  
2:44:40 PM Sen. Perry  
2:44:57 PM Sen. Grimsley  
2:45:03 PM Warren Husband, Florida Restaurant and Lodging Association (waives in support)  
2:45:11 PM S 400 (cont.)  
2:45:20 PM Jo Morris, Legislative Affairs Director, Department of Business and Professional Regulation (waives in support)  
2:45:55 PM S 168  
2:46:04 PM Sen. Latvala  
2:46:42 PM Sen. Grimsley  
2:46:52 PM Matt Rickett, Lobbyist, Florida Police Benevolent Association (waives in support)  
2:46:57 PM Rocco Salvatori, Firefighter, Florida Professional Firefighters (waives in support)  
2:47:07 PM Sen. Torres  
2:47:53 PM Sen. Grimsley  
2:48:27 PM S 594  
2:48:33 PM Sen. Garcia  
2:50:39 PM Sen. Grimsley  
2:50:44 PM Sen. Rouson  
2:50:55 PM Sen. Garcia  
2:51:00 PM Sen. Rouson  
2:51:07 PM Sen. Garcia  
2:51:34 PM Sen. Grimsley  
2:51:47 PM Alice Vickers, Attorney, Florida Alliance for Consumer Protection  
2:53:11 PM Sen. Grimsley  
2:53:19 PM Dorene Barker, Associate State Director, AARP Florida (waives in opposition)  
2:53:27 PM Pamela Burch Fort, Florida State Conference of NAACP Branches (waives in opposition)  
2:53:38 PM Sen. Rodriguez  
2:54:21 PM Sen. Broxson  
2:54:51 PM Sen. Mayfield  
2:55:53 PM Sen. Torres  
2:56:36 PM Sen. Garcia

2:57:41 PM Sen. Grimsley  
2:58:09 PM S 554  
2:58:17 PM S 590  
2:58:25 PM Sen. Brandes  
2:58:55 PM Sen. Grimsley  
2:58:58 PM Am. 377888  
2:59:01 PM Sen. Brandes  
3:00:09 PM Am. 199492  
3:00:20 PM Sen. Grimsley  
3:00:27 PM S 1310  
3:00:35 PM Sen. Artilles  
3:01:59 PM Sen. Grimsley  
3:02:07 PM Sen. Torres  
3:02:20 PM Sen. Artilles  
3:03:02 PM Sen. Grimsley  
3:03:08 PM Taylor Hatch, Senior Director of Policy and Legislative Affairs, Florida Department of Management Services (waives in support)  
3:03:19 PM Sen. Broxson  
3:03:41 PM Sen. Grimsley  
3:04:14 PM S 814  
3:04:18 PM Sen. Broxson  
3:05:07 PM Sen. Grimsley  
3:05:13 PM Jane Hennessy, Lobbyist, Florida Life and Health Guaranty Association, Florida Insurance Council (waives in support)  
3:05:29 PM Sen. Broxson  
3:05:47 PM Sen. Grimsley  
3:06:16 PM S 872  
3:06:21 PM Sen. Rouson  
3:07:29 PM Sen. Grimsley  
3:07:30 PM Am. 723518  
3:07:35 PM Sen. Rouson  
3:07:42 PM Sen. Grimsley  
3:07:50 PM S 872 (cont.)  
3:08:03 PM Dorene Barker, Associate State Director, AARP Florida (waives in opposition)  
3:08:07 PM Sen. Torres  
3:08:31 PM Sen. Rouson  
3:09:09 PM Sen. Torres  
3:09:27 PM Sen. Rouson  
3:09:46 PM Sen. Torres  
3:10:00 PM Sen. Rouson  
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3:11:25 PM Sen. Grimsley  
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3:12:08 PM Sen. Grimsley  
3:12:10 PM Sen. Rodriguez  
3:12:48 PM Sen. Grimsley  
3:12:52 PM Sen. Rouson  
3:13:59 PM Sen. Grimsley  
3:14:32 PM Am. 199492 (cont.)  
3:14:46 PM Sen. Brandes  
3:14:55 PM Sen. Grimsley  
3:15:02 PM Am. 377888 (cont.)  
3:15:11 PM S 590 (cont.)  
3:15:16 PM Sen. Rodriguez  
3:16:02 PM Sen. Brandes  
3:17:50 PM Sen. Grimsley  
3:17:55 PM Sen. Rouson  
3:18:07 PM Sen. Brandes  
3:19:07 PM Sen. Grimsley  
3:19:14 PM Sen. Broxson

**3:19:31 PM** Sen. Brandes  
**3:20:28 PM** Sen. Broxson  
**3:20:42 PM** Sen. Brandes  
**3:20:45 PM** Sen. Grimsley  
**3:20:53 PM** Andrea Reid, Attorney, The Florida Bar Family Law Section  
**3:21:35 PM** Sen. Rouson  
**3:21:44 PM** A. Reid  
**3:22:31 PM** Sen. Rouson  
**3:22:52 PM** A. Reid  
**3:22:57 PM** Sen. Grimsley  
**3:23:01 PM** Mark Anderson, Non-Custodial Parent Employment Program (waives in support)  
**3:23:13 PM** Sen. Bean  
**3:23:40 PM** Sen. Grimsley  
**3:23:43 PM** Sen. Brandes  
**3:24:18 PM** Sen. Grimsley  
**3:24:45 PM** Sen. Bean  
**3:24:51 PM** Sen. Grimsley  
**3:24:52 PM** Sen. Campbell  
**3:25:08 PM** Sen. Grimsley