

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

**COMMUNITY AFFAIRS**  
**Senator Simpson, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Tuesday, April 7, 2015  
**TIME:** 1:30 —3:30 p.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Simpson, Chair; Senator Brandes, Vice Chair; Senators Abruzzo, Bradley, Dean, Diaz de la Portilla, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 510</b> Environmental Preservation and Conservation / Garcia (Similar CS/H 359)	Miami-Dade County Lake Belt Area; Requiring amendments to local zoning and subdivision regulations concerning properties located within a certain area to be compatible with limestone mining activities; including water quality monitoring as an environmental purpose for which the per-ton mitigation fee may be applied; decreasing the amount of the per-ton mitigation fee for limerock and sand sold after certain dates; imposing an environmentally endangered lands fee; rescinding the water treatment plant upgrade fee, etc.  EP     03/24/2015 Fav/CS CA     04/07/2015 Favorable AP	Favorable Yeas 5 Nays 2
2	<b>SB 54</b> Montford (Identical H 3523)	Relief of Mark T. Sawicki and Sharon L. Sawicki by the City of Tallahassee; Providing for an appropriation to compensate them for injuries sustained by Mr. Sawicki as a result of the negligence of an employee of the City of Tallahassee; providing a limitation on the payment of fees and costs; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act, etc.  SM     01/26/2015 Recommendation: Favorable JU     02/03/2015 Favorable CA     04/07/2015 Favorable FP	Favorable Yeas 7 Nays 0
3	<b>SB 788</b> Sobel (Identical CS/H 471)	Disabled Parking; Revising provisions that allow counties and municipalities to charge fees for vehicles displaying a disabled parking permit at certain timed parking facilities; excluding vehicles displaying a DV license plate from payment of such fees, etc.  TR     03/26/2015 Favorable CA     04/07/2015 Favorable FP	Favorable Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, April 7, 2015, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1520</b> Soto	Housing for Low-income Persons; Prohibiting a housing authority from applying to the Federal Government to seize projects, units, or vouchers of another established housing authority; requiring that revenue received by a housing authority from certain commercial projects be used for affordable housing; authorizing state public bodies to provide or cause to be provided commercial projects that allow access to certain essential commercial goods and services; exempting real property of a housing authority which is used to provide access to essential commercial goods and services from ad valorem taxes and special assessments, etc.  CA 04/07/2015 Fav/CS FT FP	Fav/CS Yeas 7 Nays 0
5	<b>CS/SB 414</b> Commerce and Tourism / Altman (Similar CS/H 71)	Service Animals; Requiring a public accommodation to permit use of a service animal by an individual with a disability under certain circumstances; prohibiting a public accommodation from inquiring about the nature or extent of an individual's disability; providing conditions for a public accommodation to exclude or remove a service animal; revising penalties for certain persons or entities who interfere with use of a service animal in specified circumstances; providing a penalty for knowing and willful misrepresentation with respect to use or training of a service animal, etc.  CM 03/30/2015 Fav/CS CA 04/07/2015 Favorable FP	Favorable Yeas 7 Nays 0
6	<b>SB 1010</b> Braynon (Identical H 117)	False Personation; Revising the list of officials who are prohibited from being falsely personated; prohibiting the sale or transfer of specified badges bearing in any manner or combination the words "fire department" and the ownership or operation of vehicles marked or identified by the words "fire department", etc.  CJ 03/23/2015 Not Considered CJ 03/30/2015 Favorable CA 04/07/2015 Favorable FP	Favorable Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, April 7, 2015, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>CS/SB 244</b> Banking and Insurance / Dean (Compare H 495)	Volunteer Rural Firefighting; Authorizing the Division of State Fire Marshal within the Department of Financial Services to award a Volunteer Rural Firefighter Certificate of Completion; authorizing the division to establish by rule courses and course examinations to provide training required to obtain the certificate; exempting applicants for certification as a volunteer rural firefighter from certain qualifications for firefighter certification; specifying requirements for the retention of the certificate, etc.  BI 03/23/2015 Fav/CS CA 04/07/2015 Fav/CS FP	Fav/CS Yeas 7 Nays 0
8	<b>SB 1486</b> Brandes (Similar CS/H 1151)	Residential Master Building Permit Programs; Requiring local governments to create master building permit programs to assist builders who construct certain dwellings and townhomes on a repetitive basis; authorizing a builder to use a master building permit for individual dwellings or townhomes under certain conditions; limiting the amount a local government may charge for master building permit or site-specific building permit applications, etc.  CA 04/07/2015 Fav/CS RI FP	Fav/CS Yeas 7 Nays 0
9	<b>CS/SB 36</b> Judiciary / Diaz de la Portilla (Similar H 3513)	Relief of the Estate of Victor Guerrero by Pasco County; Providing for an appropriation to compensate the Guerrero family for Officer Guerrero's death, which was the result of negligence by an employee of Pasco County; providing that the appropriation settles all present and future claims relating to the death of Officer Guerrero; providing a limitation on fees and costs, etc.  SM 03/05/2015 Recommendation: Fav/1 Amendment JU 03/10/2015 Fav/CS CA 04/07/2015 Favorable FP	Favorable Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, April 7, 2015, 1:30 —3:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>CS/SB 1232</b> Health Policy / Simpson (Similar CS/H 915, Compare CS/S 926)	Building Codes; Revising the certification examination requirements for building code inspectors, plans examiners, and building code administrators; revising legislative intent with respect to the purpose of the Florida Homeowners' Construction Recovery Fund; exempting certain low-voltage landscape lighting from licensed electrical contractor installation requirements; creating the Calder Sloan Swimming Pool Electrical-Safety Task Force within the Florida Building Commission, etc.  HP 03/23/2015 Fav/CS CA 04/07/2015 Fav/CS FP	Fav/CS Yeas 7 Nays 0

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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 Committee on Community Affairs

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**BILL:** CS/SB 510

**INTRODUCER:** Environmental Preservation and Conservation Committee and Senator Garcia

**SUBJECT:** Miami-Dade County Lake Belt Area

**DATE:** April 6, 2015                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	<b>Fav/CS</b>
2.	Stearns	Yeatman	CA	<b>Favorable</b>
3.			AP	

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**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 510 specifies that amendments to local zoning and subdivision regulations must be compatible with limestone mining activities. It prohibits amending zoning and subdivision regulations that increase residential density in the vicinity of mining activities. The bill allows the proceeds from mitigation funds to be used for water quality monitoring, incrementally reduces the mitigation fee, and directs proceeds from the mitigation fee to be used for additional mitigation projects instead of solely for seepage mitigation projects. The bill also replaces the water treatment plant upgrade fee with a 5 cent per ton fee to be used for Miami-Dade County environmental programs. The proceeds from this fee are to be used to upgrade the water treatment plant if contamination is detected in the water supply as a result of mining activities. The bill repeals obsolete language, makes conforming changes, and reenacts provisions related to the Lake Belt Mitigation Trust Fund.

**II. Present Situation:**

**The Miami-Dade Lake Belt Area**

The Miami-Dade Lake Belt Area (Lake Belt) in northern Miami-Dade County is an 89-square-mile area that has been actively mined since 1955. The region provides the largest source of high

quality limestone in Florida, supplying 35 to 40 million tons of rock annually.<sup>1</sup> The limestone mined from the Lake Belt area provides the base material needed for concrete, asphalt, and road construction.<sup>2</sup> The term “Lake Belt” originates from the lakes that are formed in the limestone excavation pits as groundwater fills the void. The mining activities in the Lake Belt area have created approximately 40 quarry lakes encompassing 9,100 acres.<sup>3</sup>

The Lake Belt area is an environmentally sensitive region as the majority of the area consists of wetlands that were once part of the historical Everglades watershed. The area also overlays the Biscayne aquifer, which is designated as a sole source aquifer by the Environmental Protection Agency (EPA).<sup>4</sup> The EPA defines a “sole source aquifer” as, “an aquifer which is needed to supply 50 percent or more of the drinking water for a given aquifer service area for which there are no reasonably available alternative sources should the aquifer become contaminated.”<sup>5</sup>

### **The Northwest Wellfield**

The Miami-Dade Northwest Wellfield (NWWF) is located along the eastern edge of the Lake Belt area and has been in operation since 1984. The NWWF is comprised of 15 water supply wells that withdraw water from the Biscayne Aquifer and is classified as a public water supply in which the groundwater is not under the influence of surface water.<sup>6</sup> The NWWF is the major source of drinking water for Miami-Dade County, supplying approximately 40 percent of the county’s requirements. The NWWF Protection Area, established by the Miami-Dade County Department of Environmental Resource Management (DERM), is the delineated zone of protection around the NWWF and minimizes the potential for contamination of the drinking water supply.<sup>7</sup>

### **Regulation of Mining Activities Within the Lake Belt Area**

In 1978, the U.S. Army Corps of Engineers (Corps) assumed jurisdiction over the limestone mining activities under the Clean Water Act of 1972. In 1979, the Corps issued the first rock mining permits for the region and Miami-Dade County issued zoning approvals for the mining activities.<sup>8</sup>

In 1984, the Legislature passed the Warren S. Henderson Wetlands Act, which was the first law to specifically protect and preserve the ecological functions of wetlands. The law required state

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<sup>1</sup> Northwest Dade County Freshwater Lake Plan Implementation Committee, *Northwest Dade County Freshwater Lake Belt Plan, Making a Whole, Not Just Holes*, 1, 5 (1997), available at

[http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/phs1plan.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/phs1plan.pdf) (last visited April 2, 2015).

<sup>2</sup> Miami-Dade County Lake Belt Plan Implementation Committee, *Phase II Plan*, 7 (2001), available at

[http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/phs2plan.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/phs2plan.pdf) (last visited April 2, 2015).

<sup>3</sup> U.S. Army Corps of Engineers, *Draft Supplemental Environmental Impact Statement on Rock Mining in the Lake Belt Region of Miami-Dade County, FL*, 3–41 (2007) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>4</sup> *Id.* at 3–39.

<sup>5</sup> EPA, *Appendix A, Sole Source Aquifer Definitions*, available at <http://www.epa.gov/region02/water/aquifer/petition/app-a.htm> (last visited April 2, 2015).

<sup>6</sup> *Supra* note 2, at 5–7.

<sup>7</sup> *Supra* note 3, at 47.

<sup>8</sup> Wallace Roberts and Todd, LLC, *Lake Belt Phase II Plan Companion Documents*, 7 (2001), available at [http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/comprops.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/comprops.pdf) (last visited April 2, 2015).

authorization for dredge and fill activities beyond what was required by the federal government under the Clean Water Act.<sup>9</sup> Although the Legislature recognized the importance of protecting wetlands with the passage of the act, it also recognized the economic significance of the limestone mines and provided an exemption from state permitting for mining activities in the Lake Belt for 10 years.<sup>10</sup> The exemption was subsequently extended to October 1, 1997,<sup>11</sup> then to October 1, 2000.<sup>12</sup>

In 1992, the Legislature created the Northwest Dade County Freshwater Lake Plan Implementation Committee. The committee was responsible for developing a plan to:

- Enhance the water supply for Miami-Dade County and the Everglades;
- Provide appropriate groundwater protection measures;
- Maximize the efficient recovery of limestone while promoting the social and economic welfare of the community and protecting the environment; and
- Educate the public on the benefits of the committee's plan.<sup>13</sup>

In 1997, the Legislature renamed the committee to the Miami-Dade County Lake Belt Plan Implementation Committee and adopted the "Dade County Lake Plan." The committee was tasked with developing a Phase II Plan to further address the compatible land uses, opportunities, and potential conflicts of the Lake Belt area, provide additional NWWF protection, provide protective measures to prevent the reclassification of the NWWF as groundwater under the direct influence of surface water (GWUDI),<sup>14</sup> secure additional funding sources, and consider the need to establish a land use authority.<sup>15</sup>

Section 373.41492, F.S., was created in 1999 to implement a comprehensive mitigation plan to offset the impact of mining activity in the region. The law required a mitigation fee of 5 cents per ton, increasing 2.1 percentage points, plus a cost growth index, each year after January 2001, for limestone and sand extracted and sold from the Lake Belt area. The proceeds from the mitigation fee were used to purchase, enhance, restore, and manage wetlands, as well as purchase mitigation credits from a permitted mitigation bank or to fund structural modifications to the existing drainage systems of the Lake Belt area. Mitigation funds were also authorized to reimburse funds provided from other sources used to purchase lands for mitigation.

In 2006, s. 373.41492, F.S., was amended to incrementally increase the mitigation fee to 12 cents per ton in January 2007, 18 cents per ton in January 2008, and 24 cents per ton in January 2009. A water treatment plant facility upgrade fee of 15 cents per ton, beginning January 2007, was

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<sup>9</sup> Chapter 84-79, Laws of Fla.

<sup>10</sup> South Florida Water Management District, *The 1980s-Water Quality and Natural Systems*, available at <https://www.swfwmd.state.fl.us/documents/publications/watermatters/oct-2011/4.html> (last visited April 2, 2015).

<sup>11</sup> Chapter 93-213, s. 30, Laws of Fla.

<sup>12</sup> Chapter 97-222, s. 5, Laws of Fla.

<sup>13</sup> Chapter 92-132, s. 21, Laws of Fla.

<sup>14</sup> "GWUDI" is defined in 40 CFR 141.2 as, "any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperatures, conductivity, or pH, which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation."

<sup>15</sup> Chapter 97-222, s. 10, Laws of Fla.

also established. The proceeds of the water treatment plant upgrade fee were to be used solely for the purpose of upgrading the water treatment plant that treats water from the NWWF. The law required the water treatment plant upgrade fee to be collected until the total amount necessary to design and construct the upgrade was achieved. Section 373.41492, F.S., was amended again in 2010 to increase the mitigation fee to 45 cents per ton starting in January 2011.

In 2012, s. 373.41492, F.S., was amended to allow proceeds from the water treatment plant upgrade fee to be used for seepage mitigation projects designed to improve wetland habitat. The law required that, beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee be deposited into the Lake Belt Mitigation Trust Fund until it reached \$20 million, or pathogen sampling demonstrated that the water in any quarry lake in the vicinity of the NWWF is in need of additional treatment as required by the EPA Long Term 2 Enhanced Surface Water Treatment Rule.<sup>16</sup> Once either of these qualifications is triggered, the proceeds are to be diverted back to Miami-Dade County to be used solely for the purpose of upgrading the water treatment plant that treats water from the NWWF. The law also allows the mitigation fees to be used for modifications to the hydrology of the Everglades watershed.

### **Northwest Wellfield Water Quality Monitoring**

The permits issued by the Corps required a three-year water quality monitoring program from 2002 to 2005 to ensure the water quality in the NWWF was not degraded as a result of the mining activities. The water quality monitoring program required by the Corps and the continuous monitoring conducted by DERM have revealed no incidences of contamination as a result of mining activities. Additionally, surface water quality data for the Lake Belt area collected by the EPA and DERM reveal that the water quality in the lakes is not expected to adversely impact water quality in the aquifer and provides suitable conditions for wildlife.<sup>17</sup>

### **Lake Belt Mitigation Projects**

#### ***The Pennsuco Mitigation Area***

The Pennsuco wetland is a 13,000 acre wetland located immediately west of the Lake Belt area. The South Florida Water Management District (SFWMD) began purchasing parcels in the wetland in 1995 for mitigation purposes. The land was offered by the SFWMD to permit applicants to make mitigation contributions for the acquisition, enhancement, and long-term management of the wetland.<sup>18</sup> The Lake Belt area Phase I and Phase II plans identified the Pennsuco wetland as the primary location for off-site mitigation.<sup>19</sup> Land acquisition costs have varied from \$8,000 to \$13,000 per acre. The cost per mitigation credit is \$48,828, which is based on an average land price of \$10,000 per acre. The mitigation fee has funded the restoration of

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<sup>16</sup> 40 CFR 141-142.

<sup>17</sup> *Supra* note 3, at 68.

<sup>18</sup> SFWMD, *Mitigation Program, Regional Areas, Pennsuco Regional Mitigation Area, 1*, available at [http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/pennsuco\\_overview.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/pennsuco_overview.pdf) (last visited April 2, 2015).

<sup>19</sup> *Supra* note 2, at 20.



almost 8,000 acres in the Pennsuco wetland and the remaining available acreage only satisfies a portion of the Lake Belt mitigation requirements.<sup>20</sup>

### ***Everglades National Park Seepage Management***

The Everglades National Park (ENP) Seepage Management project is part of the Comprehensive Everglades Restoration Plan. The goal of the project is to restore wetland function in the ENP by reducing levee and groundwater seepage and increasing sheetflow.<sup>21</sup> The construction of phase I of the L-31 Seepage Management Project, which includes a two-mile seepage barrier to reduce groundwater flow out of the ENP, was completed in 2012 and cost \$52,000 per mitigation credit. The remaining three miles, scheduled for completion in 2016, will enhance the wetland over a much larger area in the ENP, therefore the mitigation cost per credit was reduced to \$22,400.<sup>22</sup>

### ***C-139 Annex Project***

The C-139 Annex project is a 15,000-acre project located in Hendry County, in the northern Everglades watershed. The project will restore a citrus grove to a transitional wet prairie, which is the native habitat for the area. The location provides greater ecological enhancement, according to Corps mitigation calculations, than what is required to offset the mining impacts in the Lake Belt area. The scale of the project, the degree of enhancement per acre, and the location of the restoration opportunity reduces the mitigation cost to \$15,248 per credit.<sup>23</sup>

### **Environmentally Endangered Lands Program**

Miami-Dade County's Environmentally Endangered Lands (EEL) Program was created in 1990 to protect and conserve endangered lands in Miami-Dade County. The program has purchased more than 20,700 acres of land and manages 2,800 acres of natural areas.<sup>24</sup>

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

**Section 1** amends s. 373.4149, F.S., to require amendments to local zoning and subdivision regulations located within one mile of the Lake Belt area be compatible with limestone mining activities. The bill prohibits amendments to local zoning and subdivision regulations that increase residential density within two miles of active mining. The bill enforces existing provisions that provide Miami-Dade County with the ability to manage growth while considering the impacts of mining activities to surrounding communities.

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<sup>20</sup> MacVicar Consulting Inc., *Lake Belt Wetland Mitigation Projects* (Mar. 3, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>21</sup> United States Army Corps of Engineers, *CERP L-31 North (L-30) Seepage Management Pilot Project: Integrated Pilot Project Design Report and Environmental Assessment – USACE Response to Independent External Peer Review* (July 15, 2009) (on file with the Senate Committee on Community Affairs).

<sup>22</sup> MacVicar Consulting Inc., *Lake Belt Wetland Mitigation Projects* (Mar. 3, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

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

<sup>24</sup> Miami-Dade County, *Regulatory and Economic Resources, Environmentally Endangered Lands Program* <http://www.miamidade.gov/environment/endangered-lands.asp> (last visited April 2, 2015).

**Section 2** amends s. 373.41492, F.S., to allow the use of proceeds from the mitigation fees to be used for water quality monitoring, which is necessary to ensure water from the NWWF complies with groundwater quality criteria.

The bill incrementally reduces the mitigation fee from 45 cents per ton to 25 cents per ton beginning January 1, 2016; 15 cents per ton beginning January 1, 2017; and 5 cents per ton beginning January 1, 2018, and thereafter. The fee will be transferred from the seepage mitigation projects, which are nearing completion, to Miami-Dade County and used to reimburse the SFWMD for the C-139 Annex land purchase.<sup>25</sup> Funding at the current level is more than what is needed for the remaining mitigation expenses.<sup>26</sup>

The bill replaces the 15 cents per ton water treatment plant upgrade fee with a 5 cent per ton fee to be used for Miami-Dade County EEL programs. The bill makes conforming changes to replace the water treatment plant upgrade fee with the EEL fee. The bill specifies the EEL fee may only be used for the acquisition, preservation, enhancement, restoration, conservation, and maintenance of wetland and threatened forest communities in Miami-Dade County. The proceeds from this fee must be used for the water treatment plant upgrade if water quality sampling results reveal water from the NWWF needs additional treatment as required by the EPA Long Term 2 Enhanced Surface Water Treatment Rule.

The bill deletes s. 373.41492(8), F.S., which is an outdated provision specifying the mitigation fee must be suspended until revived by the Legislature if the Corps does not issue a permit for mining in the Lake Belt area by September 30, 2000.

**Section 3** reenacts s. 373.41495(1), (2), and (3), F.S., relating to the Lake Belt Mitigation Trust Fund, to incorporate the amendments to s. 373.41492, F.S.

**Section 4** provides an effective date of July 1, 2015.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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<sup>25</sup> Lake Belt Mitigation Committee, Meeting Summary, 5 (Nov. 20, 2013), available at [http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/lbmc\\_meeting\\_summary\\_11\\_20\\_13.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/lbmc_meeting_summary_11_20_13.pdf) (last visited April 2, 2015).

<sup>26</sup> DEP, *Senate Bill 510 Agency Analysis*, 5 (Feb. 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

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

None.

**B. Private Sector Impact:**

The reduction of the mitigation fee will have a positive fiscal impact on the private sector, including the construction industry and the mining industry.

**C. Government Sector Impact:**

The reduction of the mitigation fee over the next three years from 45 cents per ton to 5 cents per ton will reduce annual revenues paid to the state from \$13.5 million to \$1.5 million. The DEP estimates that by 2040, the revenue generated from the mitigation fee will be approximately \$64.5 million.<sup>27</sup>

The bill removes the water treatment facility upgrade fee, which eliminates approximately \$4.5 million per year of proceeds that were paid to Miami-Dade County for the facility upgrade.<sup>28</sup> In the event contamination is detected in the NWWF, these proceeds must first be used for the water treatment plant upgrade.

The creation of the 5 cent per ton EEL fee will have a positive fiscal impact on the EEL program. The Department of Revenue estimates that \$1.5 million per year will be transferred to the EEL program.

State and local expenditures on all state roads and construction requiring limestone products from the Lake Belt area will be reduced. Construction costs in South Florida may be reduced by \$15 million per year.<sup>29</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill states that the proceeds of the EEL fee may be used for “threatened forest communities.” The DEP states that this is an unclear term when describing the proper uses for Miami-Dade County’s EEL fee.<sup>30</sup>

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

<sup>28</sup> *Id.* at 4.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 6.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 373.4149 and 373.41492.

This bill reenacts subsections 373.41495(1), (2), and (3) 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 Environmental Preservation and Conservation on March 24, 2015:**

Fixes a technical error regarding “water quality monitoring” to ensure the proceeds from the mitigation fee may be used for water quality monitoring. The bill also directs the EEL program fee to be used for the water treatment plant upgrade if quarterly water quality sampling results from the NWWF indicate mining activities directly or indirectly impact water quality. Additional treatment is needed as required by the EPA Long Term 2 Enhanced Surface Water Treatment Rule if the water supply gets contaminated.

- B. **Amendments:**

None.

By the Committee on Environmental Preservation and Conservation;  
and Senator Garcia

592-02827-15

2015510c1

1                   A bill to be entitled  
2           An act relating to the Miami-Dade County Lake Belt  
3           Area; amending s. 373.4149, F.S.; requiring amendments  
4           to local zoning and subdivision regulations concerning  
5           properties located within a certain area to be  
6           compatible with limestone mining activities;  
7           prohibiting amendments to local zoning and subdivision  
8           regulations which would result in an increase in  
9           residential density for certain property until there  
10          is no mining activity within a certain distance;  
11          amending s. 373.41492, F.S.; conforming a cross-  
12          reference; including water quality monitoring as an  
13          environmental purpose for which the per-ton mitigation  
14          fee may be applied; decreasing the amount of the per-  
15          ton mitigation fee for limerock and sand sold after  
16          certain dates; imposing an environmentally endangered  
17          lands fee; rescinding the water treatment plant  
18          upgrade fee; requiring the Department of Revenue to  
19          administer, enforce, and collect the environmentally  
20          endangered lands fee; adding water quality monitoring  
21          to the required uses for mitigation fee proceeds;  
22          removing a requirement that such uses be approved by  
23          the Miami-Dade County Lake Belt Mitigation Committee;  
24          requiring the environmentally endangered lands fee to  
25          be used solely for purposes related to wetland and  
26          threatened forest communities located in Miami-Dade  
27          County after proceeds are used for water treatment  
28          plant upgrades under certain conditions; reenacting s.  
29          373.41495 (1), (2), and (3), F.S., relating to the

592-02827-15

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30 Lake Belt Mitigation Trust Fund to incorporate the  
31 amendment made to s. 373.41492, F.S., in reference  
32 thereto; providing an effective date.  
33

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

36 Section 1. Subsection (4) of section 373.4149, Florida  
37 Statutes, is amended to read:

38 373.4149 Miami-Dade County Lake Belt Plan.—

39 (4) The identification of the Miami-Dade County Lake Belt  
40 Area shall not preempt local land use jurisdiction, planning, or  
41 regulatory authority in regard to the use of land by private  
42 land owners. When amending local comprehensive plans, or  
43 implementing zoning regulations, development regulations, or  
44 other local regulations, Miami-Dade County shall strongly  
45 consider limestone mining activities and ancillary operations,  
46 such as lake excavation, including use of explosives, rock  
47 processing, cement, concrete and asphalt products manufacturing,  
48 and ancillary activities, within the rock mining supported and  
49 allowable areas of the Miami-Dade County Lake Plan adopted by  
50 subsection (1); provided, however, that limerock mining  
51 activities are consistent with wellfield protection. Rezoning~~s~~s,  
52 ~~or~~ amendments to local zoning and subdivision regulations, and  
53 amendments to local comprehensive plans concerning properties  
54 that are located within 1 mile of the Miami-Dade Lake Belt Area  
55 shall be compatible with limestone mining activities. No  
56 rezonings, variances, amendments to local zoning and subdivision  
57 regulations which would result in an increase in residential  
58 density, or amendments to local comprehensive plans for any

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59 residential purpose may be approved for any property located in  
60 sections 35 and 36 and the east one-half of sections 24 and 25,  
61 Township 53 South, Range 39 East until such time as there is no  
62 active mining within 2 miles of the property. This section does  
63 not preclude residential development that complies with current  
64 regulations.

65 Section 2. Section 373.41492, Florida Statutes, is amended  
66 to read:

67 373.41492 Miami-Dade County Lake Belt Mitigation Plan;  
68 mitigation for mining activities within the Miami-Dade County  
69 Lake Belt.—

70 (1) The Legislature finds that the impact of mining within  
71 the rock mining supported and allowable areas of the Miami-Dade  
72 County Lake Belt Plan adopted by s. 373.4149(1) can best be  
73 offset by the implementation of a comprehensive mitigation plan.  
74 The Lake Belt Mitigation Plan consists of those provisions  
75 contained in subsections (2)-(8) ~~(2)-(9)~~. The per-ton mitigation  
76 fee assessed on limestone sold from the Miami-Dade County Lake  
77 Belt Area and sections 10, 11, 13, 14, Township 52 South, Range  
78 39 East, and sections 24, 25, 35, and 36, Township 53 South,  
79 Range 39 East, shall be used for acquiring environmentally  
80 sensitive lands and for restoration, water quality monitoring,  
81 maintenance, and other environmental purposes. It is the intent  
82 of the Legislature that the per-ton mitigation fee not be a  
83 revenue source for purposes other than enumerated in this  
84 section. Further, the Legislature finds that the public benefit  
85 of a sustainable supply of limestone construction materials for  
86 public and private projects requires a coordinated approach to  
87 permitting activities on wetlands within Miami-Dade County in

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88 order to provide the certainty necessary to encourage  
89 substantial and continued investment in the limestone processing  
90 plant and equipment required to efficiently extract the  
91 limestone resource. It is the intent of the Legislature that the  
92 Lake Belt Mitigation Plan satisfy all local, state, and federal  
93 requirements for mining activity within the rock mining  
94 supported and allowable areas.

95 (2) To provide for the mitigation of wetland resources lost  
96 to mining activities within the Miami-Dade County Lake Belt  
97 Plan, effective October 1, 1999, a mitigation fee is imposed on  
98 each ton of limerock and sand extracted by any person who  
99 engages in the business of extracting limerock or sand from  
100 within the Miami-Dade County Lake Belt Area and the east one-  
101 half of sections 24 and 25 and all of sections 35 and 36,  
102 Township 53 South, Range 39 East. The mitigation fee is imposed  
103 for each ton of limerock and sand sold from within the  
104 properties where the fee applies in raw, processed, or  
105 manufactured form, including, but not limited to, sized  
106 aggregate, asphalt, cement, concrete, and other limerock and  
107 concrete products. The mitigation fee imposed by this subsection  
108 for each ton of limerock and sand sold shall be 25 ~~45~~ cents per  
109 ton, beginning on January 1, 2016; 15 cents per ton beginning on  
110 January 1, 2017; and 5 cents per ton beginning on January 1,  
111 2018, and thereafter. To pay for Miami-Dade County ~~seepage~~  
112 ~~mitigation~~ projects, an environmentally endangered lands  
113 ~~including groundwater and surface water management structures~~  
114 ~~designed to improve wetland habitat and approved by the Lake~~  
115 ~~Belt Mitigation Committee, and to upgrade a water treatment~~  
116 ~~plant that treats water coming from the Northwest Wellfield in~~



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117 ~~Miami Dade County, a water treatment plant upgrade fee is~~  
118 imposed within the same Lake Belt Area subject to the mitigation  
119 fee and upon the same kind of mined limerock and sand subject to  
120 the mitigation fee. The environmentally endangered lands ~~water~~  
121 ~~treatment plant upgrade~~ fee imposed by this section ~~subsection~~  
122 for each ton of limerock and sand sold shall be 5 ~~15~~ cents per  
123 ton, ~~and the collection of this fee shall cease once the total~~  
124 ~~amount of proceeds collected for this fee reaches the amount of~~  
125 ~~the actual moneys necessary to design and construct the water~~  
126 ~~treatment plant upgrade, as determined in an open, public~~  
127 ~~solicitation process.~~ Any limerock or sand that is used within  
128 the mine from which the limerock or sand is extracted is exempt  
129 from the fees. The amount of the mitigation fee and the  
130 environmentally endangered lands ~~water treatment plant upgrade~~  
131 fee imposed under this section must be stated separately on the  
132 invoice provided to the purchaser of the limerock or sand  
133 product from the limerock or sand miner, or its subsidiary or  
134 affiliate, for which the fee or fees apply. The limerock or sand  
135 miner, or its subsidiary or affiliate, who sells the limerock or  
136 sand product shall collect the mitigation fee and the  
137 environmentally endangered lands ~~water treatment plant upgrade~~  
138 fee and forward the proceeds of the fees to the Department of  
139 Revenue on or before the 20th day of the month following the  
140 calendar month in which the sale occurs. The proceeds of a fee  
141 imposed by this section include all funds collected and received  
142 by the Department of Revenue relating to the fee, including  
143 interest and penalties on a delinquent fee. The amount deducted  
144 for administrative costs may not exceed 3 percent of the total  
145 revenues collected under this section and may equal only those

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146 administrative costs reasonably attributable to the fee.

147 (3) The mitigation fee and the environmentally endangered  
148 lands water treatment plant upgrade fee imposed by this section  
149 must be reported to the Department of Revenue. Payment of the  
150 mitigation and the environmentally endangered lands water  
151 treatment plant upgrade fees must be accompanied by a form  
152 prescribed by the Department of Revenue.

153 (a) The proceeds of the mitigation fee, less administrative  
154 costs, must be transferred by the Department of Revenue to the  
155 South Florida Water Management District and deposited into the  
156 Lake Belt Mitigation Trust Fund.

157 (b) Beginning July 1, 2015 ~~2012~~, ~~the proceeds of the water~~  
158 ~~treatment plant upgrade fee~~ previously imposed by this section  
159 is rescinded and is no longer imposed on the sale of mined  
160 limerock and sand, ~~less administrative costs, must be~~  
161 ~~transferred by the Department of Revenue to the South Florida~~  
162 ~~Water Management District and deposited into the Lake Belt~~  
163 ~~Mitigation Trust Fund until:~~

164 1. ~~A total of \$20 million from the proceeds of the water~~  
165 ~~treatment plant upgrade fee, less administrative costs, is~~  
166 ~~deposited into the Lake Belt Mitigation Trust Fund; or~~

167 2. ~~The quarterly pathogen sampling conducted as a condition~~  
168 ~~of the permits issued by the department for rock mining~~  
169 ~~activities in the Miami Dade County Lake Belt Area demonstrates~~  
170 ~~that the water in any quarry lake in the vicinity of the~~  
171 ~~Northwest Wellfield would be classified as being in Bin 2 or~~  
172 ~~higher as defined in the Environmental Protection Agency's Long~~  
173 ~~Term 2 Enhanced Surface Water Treatment Rule.~~

174 (c) The proceeds of the environmentally endangered lands

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175 ~~fee~~ Upon the earliest occurrence of the criterion under  
176 ~~subparagraph (b)1. or subparagraph (b)2., the proceeds of the~~  
177 ~~water treatment plant upgrade fee,~~ less administrative costs,  
178 must be transferred by the Department of Revenue to a trust fund  
179 established by Miami-Dade County, for the sole purpose  
180 authorized by paragraph (6) (a).

181 (4) (a) The Department of Revenue shall administer, collect,  
182 and enforce the mitigation and environmentally endangered lands  
183 ~~treatment plant upgrade~~ fees authorized under this section in  
184 accordance with the procedures used to administer, collect, and  
185 enforce the general sales tax imposed under chapter 212. The  
186 provisions of chapter 212 with respect to the authority of the  
187 Department of Revenue to audit and make assessments, the keeping  
188 of books and records, and the interest and penalties imposed on  
189 delinquent fees apply to this section. The fees may not be  
190 included in computing estimated taxes under s. 212.11, and the  
191 dealer's credit for collecting taxes or fees provided for in s.  
192 212.12 does not apply to the fees imposed by this section.

193 (b) In administering this section, the Department of  
194 Revenue may employ persons and incur expenses for which funds  
195 are appropriated by the Legislature. The Department of Revenue  
196 shall adopt rules and prescribe and publish forms necessary to  
197 administer this section. The Department of Revenue shall  
198 establish audit procedures and may assess delinquent fees.

199 (5) Each January 1, beginning January 1, 2010, through  
200 December 31, 2011, the per-ton mitigation fee shall be increased  
201 by 2.1 percentage points, plus a cost growth index. The cost  
202 growth index shall be the percentage change in the weighted  
203 average of the Employment Cost Index for All Civilian Workers

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204 (ecu 10001I), issued by the United States Department of Labor  
205 for the most recent 12-month period ending on September 30, and  
206 the percentage change in the Producer Price Index for All  
207 Commodities (WPU 00000000), issued by the United States  
208 Department of Labor for the most recent 12-month period ending  
209 on September 30, compared to the weighted average of these  
210 indices for the previous year. The weighted average shall be  
211 calculated as 0.6 times the percentage change in the Employment  
212 Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times  
213 the percentage change in the Producer Price Index for All  
214 Commodities (WPU 00000000). If either index is discontinued, it  
215 shall be replaced by its successor index, as identified by the  
216 United States Department of Labor.

217 (6) (a) The proceeds of the mitigation fee must be used to  
218 conduct mitigation activities that are appropriate to offset the  
219 loss of the value and functions of wetlands as a result of  
220 mining activities and to conduct water quality monitoring to  
221 ensure the protection of water resources within the Lake Belt  
222 Area ~~and be approved by the Miami-Dade County Lake Belt~~  
223 ~~Mitigation Committee~~. Such mitigation may include the purchase,  
224 enhancement, restoration, and management of wetlands and uplands  
225 in the Everglades watershed, the purchase of mitigation credit  
226 from a permitted mitigation bank, and any structural  
227 modifications to the existing drainage system to enhance the  
228 hydrology of the Miami-Dade County Lake Belt Area or the  
229 Everglades watershed. Funds may also be used to reimburse other  
230 funding sources, including the Save Our Rivers Land Acquisition  
231 Program, the Internal Improvement Trust Fund, the South Florida  
232 Water Management District, and Miami-Dade County, for the

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233 purchase of lands that were acquired in areas appropriate for  
234 mitigation due to rock mining and to reimburse governmental  
235 agencies that exchanged land under s. 373.4149 for mitigation  
236 due to rock mining. ~~The proceeds of the water treatment plant  
237 upgrade fee deposited into the Lake Belt Mitigation Trust Fund  
238 shall be used solely to pay for seepage mitigation projects,  
239 including groundwater or surface water management structures  
240 designed to improve wetland habitat and approved by the Lake  
241 Belt Mitigation Committee.~~ The proceeds of the environmentally  
242 endangered lands water treatment plant upgrade fee which are  
243 transmitted to a trust fund established by Miami-Dade County  
244 shall be used solely for the acquisition, preservation,  
245 enhancement, restoration, conservation, and maintenance of  
246 wetland and threatened forest communities located to upgrade a  
247 water treatment plant that treats water coming from the  
248 Northwest Wellfield in Miami-Dade County. However, the proceeds  
249 of the environmentally endangered lands fee must first be used  
250 to upgrade a water treatment plant that treats water coming from  
251 the Northwest Wellfield in Miami-Dade County if, following a  
252 formal determination by the department that, due to the direct  
253 or indirect result of rock mining activities within the Lake  
254 Belt Area, the quarterly pathogen sampling conducted as a  
255 condition of the permits issued by the department for rock  
256 mining activities in the Miami-Dade County Lake Belt Area  
257 demonstrates that the water in any quarry lake monitored  
258 pursuant to the monitoring plan would be classified as being in  
259 Bin 2 or higher as defined in the United States Environmental  
260 Protection Agency's Long Term 2 Enhanced Surface Water Treatment  
261 Rule. ~~As used in this section, the terms "upgrade a water~~

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262 ~~treatment plant" or "treatment plant upgrade" mean those works~~  
263 ~~necessary to treat or filter a surface water source or supply or~~  
264 ~~both.~~

265 (b) Expenditures of the mitigation fee must be approved by  
266 an interagency committee consisting of representatives from each  
267 of the following: the Miami-Dade County Department of  
268 Environmental Resource Management, the Department of  
269 Environmental Protection, the South Florida Water Management  
270 District, and the Fish and Wildlife Conservation Commission. In  
271 addition, the limerock mining industry shall select a  
272 representative to serve as a nonvoting member of the interagency  
273 committee. At the discretion of the committee, additional  
274 members may be added to represent federal regulatory,  
275 environmental, and fish and wildlife agencies.

276 (7) Payment of the mitigation fee imposed by this section  
277 satisfies the mitigation requirements imposed under ss. 373.403-  
278 373.439 and any applicable county ordinance for loss of the  
279 value and functions from mining of the wetlands identified as  
280 rock mining supported and allowable areas of the Miami-Dade  
281 County Lake Plan adopted by s. 373.4149(1). In addition, it is  
282 the intent of the Legislature that the payment of the mitigation  
283 fee imposed by this section satisfy all federal mitigation  
284 requirements for the wetlands mined.

285 ~~(8) If a general permit by the United States Army Corps of~~  
286 ~~Engineers, or an appropriate long-term permit for mining,~~  
287 ~~consistent with the Miami-Dade County Lake Belt Plan, this~~  
288 ~~section, and ss. 373.4149, 373.4415, and 378.4115 is not issued~~  
289 ~~on or before September 30, 2000, the fee imposed by this section~~  
290 ~~is suspended until revived by the Legislature.~~

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291        (8)~~(9)~~(a) The interagency committee established in this  
292 section shall annually prepare and submit to the governing board  
293 of the South Florida Water Management District a report  
294 evaluating the mitigation costs and revenues generated by the  
295 mitigation fee.

296        (b) No sooner than January 31, 2010, and no more frequently  
297 than every 2 years thereafter, the interagency committee shall  
298 submit to the Legislature a report recommending any needed  
299 adjustments to the mitigation fee, including the annual  
300 escalator provided for in subsection (5), to ensure that the  
301 revenue generated reflects the actual costs of the mitigation.

302        Section 3. For the purpose of incorporating the amendment  
303 made by this act to section 373.41492, Florida Statutes, in a  
304 reference thereto, subsections (1), (2), and (3) of section  
305 373.41495, Florida Statutes, are reenacted to read:

306        373.41495 Lake Belt Mitigation Trust Fund; bonds.—

307        (1) The Lake Belt Mitigation Trust Fund is hereby created,  
308 to be administered by the South Florida Water Management  
309 District. Funds shall be credited to the trust fund as provided  
310 in s. 373.41492, to be used for the purposes set forth therein.

311        (2) The South Florida Water Management District may issue  
312 revenue bonds pursuant to s. 373.584, payable from revenues from  
313 the Lake Belt Mitigation fee imposed under s. 373.41492.

314        (3) Net proceeds from the Lake Belt Mitigation fee and any  
315 revenue bonds issued under subsection (2) shall be deposited  
316 into the trust fund and, together with any interest earned on  
317 such moneys, shall be applied to Lake Belt mitigation projects  
318 as provided in s. 373.41492.

319        Section 4. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

8/7/15  
Meeting Date

SB 510  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name DOUGLAS YODER

Job Title Deputy DIRECTOR, Miami-Dade Water & Sewer

Address 3071 SW 38 Ave

Phone 786 552 8979

Street

Miami  
City

FL  
State

33146  
Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Miami Dade Water & Sewer

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)

4/7/19

Meeting Date

S10

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Lester Sola

Job Title Department Director Miami Dade Water + Sewer

Address 111 NW 157

Phone \_\_\_\_\_

Street

Miami FL 33128

Email SOLAL@MIAMI DADE.GOV

City

State

Zip

Speaking:  For  Against  Information

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

Representing Miami Dade Water + Sewer

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)

510  
Bill Number (if applicable)

Meeting Date

Topic Miami Dade Lake Belt

Amendment Barcode (if applicable)

Name Ernie Barnett

Job Title

Address 4524 Gun Club Rd #201

Phone 8502846178

Street

West Palm Beach FL 33415

Email barnett@floridawaterandland.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Miami Dade Limerock Products Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**The Florida Senate**  
State Senator René García  
38<sup>th</sup> District

**Please reply to:**

**District Office:**

1490 West 68 Street  
Suite # 201  
Hialeah, FL. 33014  
Phone# (305) 364-3100

March 24, 2015

The Honorable Senator Wilton Simpson  
Chair, Community Affairs  
315 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

This letter should serve as a request to have my bill *SB 510: Miami-Dade County Lake Belt Area* heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,



State Senator René García  
District 38  
RG:JT

CC: Tom Yeatman, Staff Director

**Chair: Appropriations Subcommittee on Health & Human Services**  
**Committees:** Appropriations, Children, Families, and Elderly Affairs, Health Policy, Agriculture, Education Pre-K – 12, Joint Legislative Budget Committee and Communications, Energy and Public Utilities.



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**  
402 Senate Office Building

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

DATE	COMM	ACTION
12/31/14	SM	Favorable
2/3/15	JU	Favorable
4/7/15	CA	Favorable

December 31, 2014

The Honorable Andrew Gardiner  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **SB 54** – Senator Montford  
Relief of Mark. T. Sawicki and Sharon L. Sawicki

### SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR \$700,000, TO BE PAYABLE IN A LUMP SUM, BASED ON A STIPULATED FINAL JUDGMENT BETWEEN MARK T. SAWICKI AND SHARON L. SAWICKI AND THE CITY OF TALLAHASSEE. THE FINAL JUDGMENT RESOLVED A CIVIL ACTION ARISING FROM THE NEGLIGENT OPERATION OF A CITY OF TALLAHASSEE TRUCK WHICH INJURED MARK T. SAWICKI.

#### FINDINGS OF FACT:

This claim arises out of an accident involving a truck owned by the City of Tallahassee and a bicyclist, Mark Sawicki, which occurred on October 2, 2009, in Tallahassee, Florida. The city truck struck and ran over Mr. Sawicki as the truck driver turned north onto Monroe Street from Call Street. The intersection is controlled by a traffic signal, and has cross walks and stop bars on each road. Call Street does not have a dedicated bicycle lane. Call Street does, however, have painted symbols of a bicycle with two chevrons on top, informing drivers that the roadway is shared with bicycles.

On the morning of the accident, Mr. Paul Hudson was working as a commercial truck driver for the City of Tallahassee. The truck he was driving had a hydraulic arm attached to its right side which would allow Mr. Hudson to

load and unload containers on and off the truck. Also on that morning, Mr. Sawicki, an engineer for Florida State University, left his home by bicycle and headed to work. Mr. Sawicki and his bicycle were equipped with various forms of safety gear, including front and rear bicycle lights, a backpack with reflective stripes, and a helmet.

At about 7 a.m. that morning, Mr. Sawicki, on a bicycle, and Paul Hudson, driving the city truck, each headed West on Call Street approaching Monroe Street. It was still relatively dark, as sunrise did not occur until 7:31 a.m. on that day. Mr. Hudson in his truck reached the intersection first. Mr. Sawicki pulled up to the intersection within the crosswalk, to the right of the truck, believing Mr. Hudson to have turned on his left turn signal. As stated by Mr. Hudson in deposition, Mr. Hudson did not look before attempting to turn right on a red light from Call Street to North Monroe Street. Additionally, Officer B. Davis of the Tallahassee Police Department noted in the Florida Traffic Crash Report that Mr. Hudson turned right on red when it was not clear to do so.

As the truck made a right turn, its hydraulic arm struck Mr. Sawicki in the back of his head, causing him to fall and be pulled under the truck as the truck continued moving. As Mr. Hudson continued to drive forward, the rear tire of the truck ran over Mr. Sawicki's body.

Mr. Sawicki suffered a crushed pelvis, broken right leg, and twisted ankle. Upon transport to the hospital by ambulance, Mr. Sawicki remained there for 32 days. Since the accident, Mr. Sawicki endured three surgeries, including major pelvis reconstructive surgery. He also experienced complications from surgery, consisting of repeated Methicillin-resistant staphylococcus aureus (MRSA) infections.

Mr. Sawicki's medical bills to date total \$250,000, of which Mr. Sawicki owes \$23,566.66 through a subrogation lien. The subrogation lien is a contingent liability which is due and payable only if the Legislature approves the settlement.

FUTURE SERVICES REPORT: Dr. John McKay, a rehabilitation consultant, prepared a Future Services Report at the request of the claimant. The report describes how the injuries from the accident have affected Mr. Sawicki's lifestyle and limited his abilities. The

report also specifies and calculates the cost of future medical needs resulting from the accident.

Before the accident, Mr. Sawicki was a competitive triathlete, marathoner, and cyclist. Since the accident and recovery to date, Mr. Sawicki struggles to stand for lengthy periods of time. He is no longer able to run more than a very short distance, much less compete in triathlons or other races.

Mr. Sawicki did not return to work from the date of the accident, October 2, 2009, until January 1, 2010. For this and other medical reasons, Mr. Sawicki depleted his sick leave and annual leave. The report, however, does not place a specific monetary value on the loss of leave time.

Mr. Sawicki continues to suffer from chronic pain, a dropped foot, sexual dysfunction, and intermittent bladder incontinence. Due to these continuing conditions, he will incur ongoing costs for physician services, medication, diagnostic tests, and physical therapy.

Mr. Sawicki previously performed numerous personal services around his house, including home repairs, yard work, and mechanical repairs. Due to physical limitations from his injuries, such as restricted climbing, standing, and walking, height restrictions, and light lifting only, he is unable to resume this work, and must rely on hiring outside help.

The report assumes that Mr. Sawicki will have a normal life expectancy but does not specify what that is. Although approximate costs are included in the report, as detailed in the table below, the report did not calculate the present value of the future medical costs. Additionally, Mr. Sawicki remains at risk for medical complications.

Still, future medical and personal services costs are estimated at several thousand dollars per year:

<b>Cost</b>	<b>First Year</b>	<b>2nd thru 10<sup>th</sup> Year</b>	<b>11<sup>th</sup> Year +</b>
<b>Analgesics</b>	\$30	\$30	\$30
<b>Orthopedist</b>	\$58	\$58	\$58
<b>Urologist</b>	\$98	\$98	\$98
<b>Medical Care for Pain</b>	\$90	\$90	\$90
<b>Pills for Functioning</b>	\$1,920	\$1,920	\$1,920
<b>X-rays</b>	\$42	\$42	\$21
<b>Urology Tests</b>	\$67	\$67	\$67
<b>Physical Therapy</b>	\$2,080	\$130	\$130
<b>Exercise Mat</b>	\$90	\$90	\$90
<b>Exercise Equipment</b>	\$100	\$100	\$100
<b>Mileage Reimbursement</b>	\$120	\$120	\$120
<b>Personal Services</b>	\$1,560	\$1,560	\$1,560
<b>Total</b>	<b>\$6,255</b>	<b>\$4,305</b>	<b>\$4,284</b>

The orthopedic surgeon who performed the reconstructive surgery on Mr. Sawicki's pelvis expects that Mr. Sawicki will have to have hip surgery sometime in the future. The cost of the hip surgery is not included in the table, but is estimated at \$62,000.

Florida State University has employed Mr. Sawicki as a mechanical engineer continuously since 1987. The claimant intends to retire three years early due to the accident. The report estimates this loss at about \$200,000 in present value.

#### LITIGATION HISTORY:

On June 3, 2010, Mr. and Mrs. Sawicki filed a Complaint for Damages against the City of Tallahassee in the Leon County Circuit Court. The complaint alleged that Mr. Hudson negligently operated his truck which caused Mr. Sawicki to have permanent injuries, suffer mental anguish, and incur considerable medical costs. The complaint also asserted that the accident caused Mrs. Sawicki to suffer from loss of companionship, society, and consortium.

After the plaintiffs filed complaint, the parties engaged in discovery, exchanged interrogatories and took depositions. Eventually, the Sawicki's and the City of Tallahassee entered into a Mediation Contingent Settlement Agreement. The city agreed to pay the Sawicki's \$900,000, of which the city would pay \$200,000 upfront. The agreement provided for the

remainder to be paid upon the approval of a claim bill by the Legislature. The agreement also provides that the Sawicki's are responsible for their own attorneys' fees and costs, and states that the city agrees to support the claim bill.

The court issued an order approving the settlement and final judgment on February 12, 2012.

The city paid the \$200,000 on or about March 1, 2012. The remaining \$700,000 is sought through the underlying claim bill.

CLAIMANT'S POSITION:

To prove a claim of negligence, a plaintiff must show that a defendant had a duty to the plaintiff, the defendant breached that duty, the defendant's action or inaction caused the plaintiff's injury, and the plaintiff incurred damages. The claimant argues each of these elements as follows. Mr. Hudson had a duty to Mr. Sawicki to safely operate his motor vehicle. Mr. Hudson breached that duty by turning right on a red light without looking to the right. Had Mr. Hudson looked to the right before making a right turn on a red light, he would have seen Mr. Sawicki and known to avoid running over him, as it was foreseeable that he could have hit someone. Therefore, Mr. Hudson caused the accident and the resulting damages to the Sawickis'.

Mr. Sawicki suffered considerable physical damage from the accident. In addition to being required to have had three major surgeries and a liposuction, substantial rehabilitation, and long-term antibiotics for repeated MRSA infections, Mr. Sawicki is permanently injured. He continues to suffer from intermittent bladder incontinence. He will also most likely need a hip replacement surgery. He intends to shorten his career by retiring 3 years early, down from 66, to 63 years of age at retirement. His injuries now prevent him from participating altogether in activities he previously enjoyed, including triathlons, running events, and competitions. Walking, bicycling, and contributing to physical household tasks are now severely limited.

Mrs. Sawicki has suffered, and continues to suffer from loss of consortium as Mr. Sawicki has permanent sexual dysfunction.



RESPONDENT'S POSITION: The City of Tallahassee admits liability and fully supports this claim.

CONCLUSIONS OF LAW: Section 768.28 (2009), F.S., governs this matter. That statute generally allows injured parties to sue the state or local governments for damages caused by their negligence or the negligence of their employees. However, the statute limits the amount of damages that a plaintiff can collect from a judgment against or settlement with a government entity to \$100,000 per person and \$200,000 for all claims or judgments arising out of the same incident. Funds can be paid in excess of these limits only upon the approval of a claim bill by the Legislature. Thus, the Sawickis will not receive the full benefit of their settlement agreement with the City of Tallahassee unless the Legislature approves a claim bill authorizing the additional payment.

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

The driver of a motor vehicle has a duty to use reasonable care, in light of the attendant circumstances, to prevent injuring persons within the vehicle's path. *Gowdy v. Bell*, 993 So. 2d 585,586 (Fla.1st DCA 2008). Reasonable care is the degree of care a reasonably careful person would have used under like circumstances. *Foster v. State*, 603 So. 2d 1312, 1316 (Fla. 1st DCA 1992). Mr. Hudson failed to use reasonable care by not looking to the right before turning his vehicle onto Monroe Street at a red light. Had Mr. Hudson looked properly, he would have seen Mr. Sawicki to the right of him, and avoided striking him with his vehicle.

Due to Mr. Hudson's breach of his duty of care, he caused the accident and the Sawicki's damages.

Florida's dangerous instrumentality doctrine imposes strict vicarious liability on an owner of a dangerous instrumentality who entrusts the instrument to a person who operates it negligently. *Aurbach v. Gallina*, 753 So. 2d 60, 62 (Fla. 2000). Trucks in operation are considered to be dangerous instrumentalities. *Meister v. Fisher*, 462 So. 2d 1071, 1072 (Fla. 1985).

Municipalities are subject to the dangerous instrumentality doctrine. “When a municipality owns a motor truck, a dangerous instrumentality when in operation, that is being operated with the knowledge and consent of the municipality through its officers or employees and used on the other streets for lawful street, sewer or other corporate purposes, the municipality may be liable for injuries ... caused by negligence of the truck driver in operating the truck ... .” *Barth v. City of Miami*, 1 So. 2d 574, 577 (Fla. 1941).

The long-standing doctrine of respondeat superior provides that an employer is liable for an employee's acts committed within the course and scope of employment. *City of Boynton Beach v. Weiss*, 120 So. 3d 606, 611 (Fla. 4th DCA 2013).

The City of Tallahassee employed Mr. Hudson at the time of the accident. On that day, Mr. Hudson drove a truck owned by the City of Tallahassee during the course of his normal workday. Therefore, the City of Tallahassee is liable for the negligence of Mr. Hudson and the damages caused to Mr. and Mrs. Sawicki.

The claimant has demonstrated significant economic damages. Mr. Sawicki owes \$23,566.66 in medical bills through a subrogation lien for past medical costs. As stated above, Mr. Sawicki has lost considerable leave time due to the accident. Expected costs for medical and personal services total, on average, a minimum of \$4,300 a year for the rest of his life. Mr. Sawicki is expected to undergo hip replacement, estimated at \$62,000. Mr. Sawicki's career is expected to be shortened by 3 years, which will cause him to lose about \$200,000 in income.

Noneconomic damages have not been calculated but clearly exist for both Mr. Sawicki and Mrs. Sawicki.

Additionally, should this case have proceeded to trial, Mr. Sawicki appears by all accounts to have presented as a sympathetic plaintiff and one who, if anything, achieved the positive physical recovery he had largely due to his own efforts and fit state preceding the accident.

For these reasons, the undersigned concludes that the settlement is both fair and reasonable.

LEGISLATIVE HISTORY:

Senator Montford, sponsor for the claim bill, also sponsored this bill in 2013 and 2014. The Senate did not hear the bill or any other claim bill in any committee of reference in either year.

ATTORNEYS FEES:

The Sawickis' attorney has agreed to limit his fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), F.S. The bill provides that the total amount paid for lobbying fees, costs, and other similar expenses relating to the claim are included in the 25 percent limit.

FISCAL IMPACT:

The City of Tallahassee is self-insured. If approved by the Legislature, the \$700,000 will be paid from the city's self-insurance fund. The city represents that they have reserved this amount for the claim.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 54 (2015) be reported FAVORABLY.

Respectfully submitted,

Cindy M. Brown  
Senate Special Master

cc: Senator Montford  
Debbie Brown, Secretary of the Senate  
Counsel of Record

By Senator Montford

3-00034A-15

201554\_\_

1                   A bill to be entitled  
2       An act for the relief of Mark T. Sawicki and his wife,  
3       Sharon L. Sawicki, by the City of Tallahassee;  
4       providing for an appropriation to compensate them for  
5       injuries sustained by Mr. Sawicki as a result of the  
6       negligence of an employee of the City of Tallahassee;  
7       providing a limitation on the payment of fees and  
8       costs; providing that certain payments and the  
9       appropriation satisfy all present and future claims  
10      related to the negligent act; providing an effective  
11      date.

12  
13       WHEREAS, on the morning of October 2, 2009, Mark T. Sawicki  
14      was riding his bicycle on his way to Florida State University in  
15      Tallahassee, where he works as an engineer, and

16       WHEREAS, Mark T. Sawicki was stopped at the intersection of  
17      Call Street and North Monroe Street while waiting to cross the  
18      street, and

19       WHEREAS, a solid waste collection vehicle, owned by the  
20      City of Tallahassee and operated by a city employee, was making  
21      a right-hand turn and ran over Mark T. Sawicki, and

22       WHEREAS, as a result of the foregoing incident, Mark T.  
23      Sawicki sustained multiple fractures, including, but not limited  
24      to, fractures to his right and left pelvic region, right femur,  
25      right acetabulum pubic ramus, and sacrum; a torn urethra;  
26      multiple abrasions and lacerations to his right thigh and upper  
27      and lower extremities; and neurological damage to his right  
28      lower extremities, resulting in a dropped foot, and

29       WHEREAS, on June 7, 2010, a complaint was filed on behalf

3-00034A-15

201554\_\_

30 of Mark T. Sawicki and his wife, Sharon L. Sawicki, against the  
31 City of Tallahassee in the Circuit Court for Leon County, Case  
32 No. 2010-CA-1984, to recover damages for the injuries sustained  
33 by Mark T. Sawicki as a result of the negligence of the City of  
34 Tallahassee employee, and

35 WHEREAS, the City of Tallahassee, Mark T. Sawicki, and his  
36 wife, Sharon L. Sawicki, reached a settlement of the case that  
37 includes a lump-sum payment in the amount of \$900,000, and

38 WHEREAS, the City of Tallahassee paid \$200,000 of the  
39 settlement pursuant to the statutory limits of liability set  
40 forth in s. 768.28, Florida Statutes, and

41 WHEREAS, the City of Tallahassee fully supports the passage  
42 of this claim bill, NOW, THEREFORE,

43

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

45

46 Section 1. The facts stated in the preamble to this act are  
47 found and declared to be true.

48 Section 2. The City of Tallahassee is authorized and  
49 directed to appropriate from funds of the city not otherwise  
50 appropriated and to draw a warrant, payable to Mark T. Sawicki  
51 and his wife, Sharon L. Sawicki, for the total amount of  
52 \$700,000 as compensation for injuries and damages sustained as a  
53 result of the negligence of an employee of the City of  
54 Tallahassee.

55 Section 3. The total amount paid for attorney fees,  
56 lobbying fees, costs, and other similar expenses relating to  
57 this claim may not exceed 25 percent of the amount awarded under  
58 this act.

3-00034A-15

201554\_\_

59           Section 4. The amount paid by the City of Tallahassee  
60 pursuant to s. 768.28, Florida Statutes, and the amount awarded  
61 under this act is intended to provide the sole compensation for  
62 all present and future claims arising out of the factual  
63 situation described in this act which resulted in the injuries  
64 to Mark T. Sawicki.

65           Section 5. This act shall take effect upon becoming a law.

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

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

---

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

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BILL: SB 788

INTRODUCER: Senator Sobel

SUBJECT: Disabled Parking

DATE: April 6, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Favorable</b>
2.	Wagoner	Yeatman	CA	<b>Favorable</b>
3.			FP	

---

**I. Summary:**

SB 788 prohibits a city or county from charging the operator of any vehicle displaying a certain disabled veteran license plate for parking in a facility that provides timed parking spaces.

**II. Present Situation:**

Section 316.1964, F.S., prohibits any state agency, county, or municipality from charging any fee for parking on public streets or highways or in any *metered*<sup>1</sup> parking space any vehicle that displays a disabled parking permit or certain license plates, if the vehicle is transporting the person who has a disability and to whom the permit or plate was issued. Generally, the prohibition applies if a vehicle displays one of the following:

- Out of state vehicles displaying a special license plate or parking permit issued by any other state or district subject to United States law, or by a foreign country that issues permits displaying the international symbol of accessibility, under certain conditions;<sup>2</sup>
- A permanent or temporary disabled parking permit;<sup>3</sup>
- A disabled veteran license plate;<sup>4</sup>
- A wheelchair-bound disabled veteran license plate;<sup>5</sup>
- A long-term mobility-impaired license plate;<sup>6</sup> or
- A Paralyzed Veterans of America license plate.<sup>7</sup>

---

<sup>1</sup> Emphasis added.

<sup>2</sup> Section 316.1958, F.S.

<sup>3</sup> Section 320.0848, F.S.

<sup>4</sup> Section 320.084, F.S.

<sup>5</sup> Section 320.0842, F.S.

<sup>6</sup> Section 320.0843, F.S.

<sup>7</sup> Section 320.0845, F.S.

Notwithstanding the prohibition, a county or city may charge for parking in a facility that provides *timed*<sup>8</sup> parking spaces any vehicle that displays a disabled parking permit. However, no charge may be assessed for any vehicle displaying such a permit and having specialized equipment, such as ramps, lifts, or foot or hand controls, for use by a person who has a disability; or for any vehicle displaying the Florida Toll Exemption permit.<sup>9</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 316.1945(8), F.S., to include a vehicle displaying a disabled veteran license plate issued under s. 320.084, F.S., in the prohibition against a county or city charging for parking in a facility that provides timed parking spaces.

**Section 2** provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

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

This bill reduces the authority of counties and municipalities to raise revenues because it would eliminate their ability to charge the operator of any vehicle displaying a certain disabled veteran license plate for parking in a facility that provides timed parking spaces. Article VII, section 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. The fiscal impact of this bill is indeterminate.

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

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

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<sup>8</sup> But, presumably, not *metered*. A distinction appears to exist between a *metered* parking space, which is obviously timed, and a *timed* parking space, which is also timed but not necessarily metered. See s. 316.1964(8), F.S.

<sup>9</sup> See s. 338.155(3), F.S., authorizing exemption from toll payment for any handicapped person with a valid driver license operating a vehicle specially equipped for use by a handicapped person who is certified as being severely physically disabled and having permanent upper limb mobility or dexterity impairments which substantially impair the persons' ability to deposit coins in toll baskets.



**B. Private Sector Impact:**

Individuals qualifying for the exemption from parking fees will experience an indeterminate positive fiscal impact.

**C. Government Sector Impact:**

Cities and counties prohibited from charging the parking fees will experience an indeterminate negative fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 316.1964 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Sobel

33-00768A-15

2015788\_\_

1                   A bill to be entitled  
2       An act relating to disabled parking; amending s.  
3       316.1964, F.S.; revising provisions that allow  
4       counties and municipalities to charge fees for  
5       vehicles displaying a disabled parking permit at  
6       certain timed parking facilities; excluding vehicles  
7       displaying a DV license plate from payment of such  
8       fees; providing an effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12       Section 1. Subsection (1) of section 316.1964, Florida  
13       Statutes, is republished, and subsection (8) of that section is  
14       amended, to read:

15       316.1964 Exemption of vehicles transporting certain persons  
16       who have disabilities from payment of parking fees and  
17       penalties.—

18       (1) A state agency, county, municipality, or any agency  
19       thereof, may not exact any fee for parking on the public streets  
20       or highways or in any metered parking space from the driver of a  
21       vehicle that displays a disabled parking permit or a license  
22       plate issued under s. 316.1958 or s. 320.0848 or a license plate  
23       issued under s. 320.084, s. 320.0842, s. 320.0843, or s.  
24       320.0845 if the vehicle is transporting the person who has a  
25       disability and to whom the disabled parking permit or license  
26       plate was issued.

27       (8) Notwithstanding subsection (1), a county, municipality,  
28       or any agency thereof may charge for parking in a facility or  
29       lot that provides timed parking spaces any vehicle that displays

33-00768A-15

2015788\_\_

30 a disabled parking permit, except that any vehicle with  
31 specialized equipment, such as ramps, lifts, or foot or hand  
32 controls, for use by a person who has a disability, or any  
33 vehicle that is displaying the "DV" license plate issued under  
34 s. 320.084 or the Florida Toll Exemption permit, is exempt from  
35 any parking fees.

36 Section 2. This act shall take effect July 1, 2015.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### SENATOR ELEANOR SOBEL

33rd District

April 6, 2015

Senator Wilton Simpson  
Chair of Community Affairs Committee  
322 Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399

Dear Chair Simpson:

This letter is to request that I be excused from presenting SB788 Disabled Parking in Community Affairs on Tuesday 4/7/15. I have two other bills that I will be presenting in Health Policy at the same time. My intern Alexa Rollins will present in my place.

Thank you for your consideration of this request.

Respectfully,

A handwritten signature in cursive script that reads "Eleanor Sobel".

Eleanor Sobel  
State Senator, 33rd District

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

#### COMMITTEES:

Children, Families, and Elder Affairs, *Chair*  
Ethics and Elections, *Vice Chair*  
Health Policy, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Regulated Industries  
Rules

#### SELECT COMMITTEE:

Select Committee on Patient Protection  
and Affordable Care Act, *Vice Chair*

#### REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

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

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
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 Committee on Community Affairs

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BILL: CS/SB 1520

INTRODUCER: Community Affairs Committee and Senator Soto

SUBJECT: Housing for Low-income Persons

DATE: April 7, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	<b>Fav/CS</b>
2.			FT	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1520 provides a finding that essential commercial goods and services required for daily living are necessary to residents of housing authorities but are difficult to access. The bill grants a housing authority the ability to develop and construct commercial projects, which would provide these types of goods and services, including renewable energy. Revenue received by a housing authority from a commercial project must be used to upgrade and improve the housing project or to preserve and rehabilitate other housing authority properties. A commercial project so established would be exempt from property taxation and all taxes and special assessments of the state or any city, town, county, or political subdivision of the state.

Additionally, the bill provides that:

- Local housing assistance plans may allocate funds from the State Housing Initiatives Partnership Program for providing rental assistance;
- Commissioners of public housing authorities:
  - Are banned from acquiring interests in any commercial project related to the housing authority; and
  - Are subject to certain prohibitions on extra compensation;
- Consolidated housing authority or authorities:
  - May be created by a merger of existing authorities under specified conditions;
  - May appoint up to seven commissioners, in accordance with the consolidation plan of the consolidated housing authority;
  - May appoint an extra commissioner if their area of operation increases;

- May remove commissioners; and
- Have the same powers and duties as other housing authorities; and
- Housing authorities are exempt from providing the Department of Financial Services with a biennial audit.

## II. Present Situation:

### Public Housing Authorities

The state role in housing and urban development is outlined in part I of ch. 421, F.S., (Housing Authorities Law), ch. 422, F.S., (Housing Cooperation Law), and ch. 423, F.S., (Tax Exemption of Housing Authorities).<sup>1</sup> Section 421.02, F.S., finds that there is a shortage of safe or sanitary dwelling accommodations available at rents that persons of low income can afford. To provide such accommodations housing authorities may acquire property to be used for or in connection with housing projects. Public money may only be spent to acquire private property for exclusively public uses and purposes, and the purposes must be determined to be governmental functions of public concern.

### City, County, and Regional Housing Authorities

Florida Statutes provide for the creation of special district, city, county and regional housing authorities. Of the 110 public housing authorities in Florida,<sup>2</sup> 90 are special districts.<sup>3</sup>

The determination of the need for a city housing authority may be made by the governing body of a city or upon the filing of a petition signed by 25 city residents. The mayor, with the approval of the governing body, appoints no fewer than five and no more than seven persons as commissioners of the authority.<sup>4</sup> The powers of each authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners. No commissioner or employee of an authority may acquire any interest in any housing project or in any property included or planned to be included in any project, nor in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.<sup>5</sup>

Section 421.08, F.S., establishes the powers of a housing authority, including:

- The power to acquire, lease, and operate housing projects,
- The power to provide for the construction, reconstruction, improvement, alteration, or repair of any housing project,
- The power to lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project, and
- The power to invest any funds held in reserves or sinking funds.

---

<sup>1</sup> The Department of Economic Opportunity (DEO) is the state agency charged with the responsibility of this state role.

<sup>2</sup> Florida Housing Data Clearing House, *Public Housing Agency Results*, available at [http://flhousingdata.shimberg.ufl.edu/a/public\\_housing\\_agency?next=results&submit\\_submit.x=15&submit\\_submit.y=13&nid=1](http://flhousingdata.shimberg.ufl.edu/a/public_housing_agency?next=results&submit_submit.x=15&submit_submit.y=13&nid=1) (last visited Apr. 3, 2015).

<sup>3</sup> Florida Department of Economic Opportunity, *Official List of Special Districts Online*, (available online at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm>) (last visited Apr. 3, 2015).

<sup>4</sup> At least one commissioner must be a resident of a housing project or a person of low income who resides within the housing authority's jurisdiction and is receiving a rent subsidy. See s. 4231.05(1), F.S.

<sup>5</sup> See s. 421.06, F.S.

Section 421.08(8)(a), F.S., grants the power to:

organize for the purpose of creating a for-profit or not-for-profit corporation, limited liability company, or other similar business entity . . . to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects. These projects may include nonresidential uses and may use public and private funds to serve individuals or families who meet the applicable income requirements of the state or federal program involved; . . .

Section 421.27, F.S., governs the creation and powers of county housing authorities, which is similar to the creation of city housing authorities.<sup>6</sup> A county housing authority's area of operation includes all of the county except that portion which lies within the territorial boundaries of any city as defined in the Housing Authorities Law. A regional housing authority may be created by two or more contiguous counties if a regional entity would be a more economically or administratively efficient unit.<sup>7</sup> The powers of a regional housing authority are analogous to those of a city or county housing authority.

### **Housing Authorities and Eminent Domain**

An authority has the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes.<sup>8</sup> Property already devoted to a public use may be acquired in like manner, so long as no real property belonging to the city, the county, the state or any political subdivision is acquired without its consent.

### **Federal Aid for Housing Authorities**

Section 421.21, F.S., empowers a housing authority to borrow money or accept grants or other financial assistance from the federal government for housing projects. This section also allows a housing authority to take over or lease or manage any housing project or undertaking constructed or owned by the federal government. In addition, an authority is authorized "to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by such authority."<sup>9</sup>

### **Housing Cooperation Law**

Chapter 422, F.S., provides that any state public body, for the purpose of aiding and cooperating in the construction or operation of housing projects may:

- Sell or lease any of its property to a housing authority or the federal government;
- Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

<sup>6</sup> In counties, petitions must be signed by 25 county residents and the Governor appoints the commissioners.

<sup>7</sup> See s. 421.28, F.S. The Governor appoints commissioners pursuant to s. 421.30, F.S.

<sup>8</sup> Section 421.12, F.S. An authority may exercise the power of eminent domain pursuant to ch. 73 and ch. 74, F.S.

<sup>9</sup> Section 421.21, F.S.

- Furnish, close, pave, install, grade, or plan streets, roads, alleys, or sidewalks;
- Do any and all things, necessary or convenient, to aid and cooperate in the planning, undertaking, construction or operation of housing projects; and
- Purchase or legally invest in any of the debentures of a housing authority.<sup>10</sup>

### **Tax Exemption of Housing Authorities**

Chapter 423, F.S., provides property tax exemptions as well as state and local government tax and assessment exemptions for housing authorities. Specifically, s. 423.01(4), F.S., states:

Such housing projects, including all property of a housing authority used for or in connection therewith or appurtenant thereto, are exclusively for public uses and municipal purposes and not for profit, and are governmental functions of state concern. As a matter of legislative determination, it is found and declared that the property and debentures of a housing authority are of such character as may be exempt from taxation.

Section 423.02, F.S., states that

. . . housing projects, including all property of housing authorities used for or in connection therewith or appurtenant thereto, of housing authorities shall be exempt from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state . . .<sup>11</sup>

### **Renewable Energy Source Devices**

Section 193.624, F.S., prohibits a property appraiser who is determining the assessed value of real property used for residential purposes from considering an increase in the just value of the property attributable to the installation of a renewable energy source device. The statute applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property. The statute defines the term “renewable energy source device” to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;

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<sup>10</sup> See s. 422.04(1), F.S.

<sup>11</sup> In lieu of such taxes or special assessments a housing authority may agree to make payments to a local government for services, improvements or facilities furnished by the entity for the benefit of a housing project owned by the housing authority.



- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; or
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

### **Non-utility Production of Electricity**

#### ***Non-utility Sales to the Public***

The Florida Supreme Court has held that the Florida Statutes mandate that any person who sells electricity to even a single person is a public utility subject to regulation by the Florida Public Service Commission (PSC).<sup>12</sup> The facts of that case are as follows. PW Ventures signed a letter of intent with Pratt and Whitney to provide electric and thermal power at Pratt's industrial complex in Palm Beach County. PW Ventures proposed to construct, own, and operate a cogeneration electric power plant on land leased from Pratt and to sell its output to Pratt under a long-term contract. Before proceeding with construction of the plant, PW Ventures sought a declaratory statement from the PSC that it would not be a public utility subject to PSC regulation. After a hearing, the PSC ruled that PW Ventures' proposed transaction with Pratt fell within its regulatory jurisdiction.

The Court reviewed similar Florida regulatory statutes where the Legislature had expressly provided for exclusions from regulation based on a stated limited number of customers and found that the failure of the Legislature to create such an exclusion for electric services indicated its intent that the term "to the public" include a sale to even one person.

The Court also reviewed the statutory system of electric utility regulation<sup>13</sup> and found that the regulation of the production and sale of electricity necessarily contemplates the granting of monopolies in the public interest. The Court noted that if the proposed sale of electricity by PW Ventures was outside of PSC jurisdiction, duplication of facilities could occur in contradiction of statutory direction that the PSC exercise its powers to avoid uneconomic duplication of generation, transmission, and distribution facilities.<sup>14</sup> The Court stated that PW Ventures essentially proposed to go into an area served by a utility and take away a major customer. Such an interpretation could allow other ventures to enter into similar contracts with other high use industrial complexes on a one-to-one basis and drastically change the regulatory scheme in this state. "The effect of this practice would be that revenue that otherwise would have gone to the regulated utilities which serve the affected areas would be diverted to unregulated producers. This revenue would have to be made up by the remaining customers of the regulated utilities since the fixed costs of the regulated systems would not have been reduced."<sup>15</sup> Finally the Court

---

<sup>12</sup> *PW Ventures, Inc. v. Nichols*, 533 So.2d 281 (1988).

<sup>13</sup> Chapter 366, F.S.

<sup>14</sup> Section 366.04(3), Florida Statutes (1985).

<sup>15</sup> *PW Ventures*, at 283.

found that the Legislature had determined that the protection of the public interest required limiting competition in the sale of electric service.

Based upon these findings, the Court upheld the PSC order that under the proposed arrangement PW Ventures would be a public utility subject to PSC regulation.

### ***Self-generation: PW Ventures***

The prohibition on non-utility sales of electricity does not prohibit a person or business from producing electricity solely to furnish its own power. In its finding that the Legislature determined that the protection of the public interest required limiting competition in the sale of electric service, the Florida Supreme Court expressly noted that this determination of public interest did not require a prohibition against self-generation.<sup>16</sup>

### ***Self-generation: Cogeneration and Small Power Producers***

The statutes expressly provide for self-generation, and for the sale of any excess electricity to a public utility. A public utility is required to purchase electricity from a cogenerator<sup>17</sup> or small power producer<sup>18</sup> located in that public utility's service territory.<sup>19</sup> The PSC is required to establish guidelines relating to the purchase of power or energy and may set rates at which a public utility must purchase the power or energy.<sup>20</sup> In fixing rates, the PSC must authorize a rate equal to the purchasing utility's full avoided costs. Full avoided costs are defined as the incremental costs to the utility of the electric energy or capacity, or both, which the utility would generate itself or purchase from another source, if not for the purchase from cogenerators or small power producers.<sup>21</sup>

### **State Housing Initiatives Partnership Program**

The State Housing Initiatives Partnership (SHIP) program was created in 1992<sup>22</sup> to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low and moderate income families and is administered by the Florida Housing Finance Corporation (FHFC). Funding for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. Funds are allocated to local governments each month on a population-based formula. These funds are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Funds are

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<sup>16</sup> *Id.*, at 284.

<sup>17</sup> Cogeneration is the sequential production of thermal energy and electrical or mechanical energy from the same fuel source. *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 30.

<sup>18</sup> A small-power producer generates electricity from facilities using biomass, solid waste, geothermal energy or renewable resources (including wind, solar, and small hydroelectric) as their primary energy sources. *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 188.

<sup>19</sup> Section 366.051, F.S. This was mandated by the federal Public Utility Regulatory Policies Act of 1978, which required that electric utilities purchase the energy produced from qualifying facilities (cogenerators and small power producers) at the utility's avoided cost of generation.

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

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

<sup>22</sup> Chapter 92-317, Laws of Fla.

distributed quarterly to local governments participating in the program under an established formula.<sup>23</sup>

Pursuant to s. 420.9075, F.S., each county or municipality participating in the SHIP program creates a local housing assistance plan, which includes strategies to assist persons and households having annual incomes not more than 140 percent of the area median income. The purpose of a plan is to increase the availability of affordable residential units by “combining local resources and cost-saving measures into a local housing partnership and using private and public funds to reduce the cost of housing.”<sup>24</sup> The local housing assistance plans designate where funds are allocated to, which may include:<sup>25</sup>

- Implementing local housing assistance strategies for the provision of affordable housing;
- Supplementing funds available to the Florida Housing Finance Corporation to provide enhanced funding of state housing programs within the county or the eligible municipality;
- Providing the local matching share of federal affordable housing grants or programs;
- Funding emergency repairs, including, but not limited to, repairs performed by existing service providers under weatherization assistance programs; and
- Furthering the housing element of the local government comprehensive plan.

A county or eligible municipality can expend its portion of the local housing distribution to implement its local housing assistance plan, but specifically cannot provide rent subsidies.<sup>26</sup> Rent subsidies are defined as “ongoing monthly rental assistance.”<sup>27</sup> However, rent subsidies do not include “initial assistance” to tenants, such as grants or loans for security and utility deposit assistance, for which funds may be used.<sup>28</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 420.9075, F.S., to permit local housing assistance plans to allocate funds from the SHIP program for providing rental assistance. The rental assistance may include the first and last month’s rent for eligible persons, so long as the first and last month’s rent are not greater than the monthly amount of the rental agreement.

**Section 2** amends s. 421.02, F.S., to declare an important public purpose is served by providing access to essential commercial goods and services necessary for daily living for persons served by public housing authorities. Limited transportation capacity and significant family demands are cited as complications for these persons in their access efforts. The bill also provides that access to essential commercial goods and services for low-income persons who receive services from housing authorities is a public use.

**Section 3** amends s. 421.03, F.S., related to definitions. The newly defined term, “essential commercial goods and services” is indicated as referring to goods, such as groceries and clothing, and services, such as child care, K-12 education, financial services, job training and

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<sup>23</sup> Section 420.9073, F.S.

<sup>24</sup> Section 420.9075(1)(a), F.S.

<sup>25</sup> Section 420.9075(1)(b), F.S.

<sup>26</sup> Section 420.9072(7), F.S.

<sup>27</sup> Section 420.9071(26), F.S.

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

placement, laundry facilities, and “other governmental services” that are necessary for daily living and that may be difficult for persons of low income to access unless located in close proximity with the housing development where they live.

**Section 4** amends s. 421.04, F.S., to prohibit housing authorities, regardless of when they were created, from applying to the federal government to seize any projects, units, or vouchers of another established housing authority.

**Section 5** amends s. 421.05, F.S., to provide that commissioners of housing authorities may not receive extra compensation, because they are subject to the prohibitions on extra compensation, bonuses, and severance pay found in s. 215.425, F.S.

**Section 6** amends s. 421.06, F.S., to clarify that the ban on commissioners acquiring interests in housing projects extends to “any commercial project” authorized under ch. 421, F.S.

**Section 7** amends s. 421.08, F.S., to expand housing authorities’ current power to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects to also include commercial projects that allow access to essential goods and services for persons of low income residing in such residential projects. The bill provides that housing authorities may construct or acquire renewable energy devices or systems that are installed or located on housing authority property for the sole purpose of reducing utility costs to tenants or occupants.

This section of the bill also provides that any revenue received by a housing authority from the specified commercial projects must be used exclusively to upgrade and improve living conditions in the housing project or to preserve and rehabilitate public or affordable housing managed by the housing authority.

**Section 8** amends s. 421.09, F.S., to conform a cross-reference.

**Section 9** amends s. 421.091, F.S., to exempt housing authorities from reporting requirements of s. 218.32, F.S. Housing authorities would still be responsible for a biennial financial accounting and audit, made by a certified public accountant, and submitted to the federal government, but would not report to the Department of Financial Services.

**Section 10** amends s. 421.21, F.S., providing that any affordable housing efforts undertaken by any housing authority created under s. 421, F.S., or its instrumentalities, are exempt from taxation. By referencing ch. 423, F.S., in extending this exemption, the commercial projects described throughout the bill would likely be exempt from paying all taxes, special assessments, and any tax on interest, income, or profits on debt obligations owned by corporations.

**Section 11** creates s. 421.281, F.S., providing for the creation of consolidated housing authorities, and establishing the procedures for a merger of authorities that would create such a consolidated housing authority. The bill would allow authorities that are not under federal receivership to merge into a consolidated housing authority if they are in neighboring areas of operation. The bill requires identical resolutions declaring a need for merger to serve the best interests of tenants and communities, agreement to the substitution by all obliges of the original

housing authorities, and adoption of a resolution by commissioners consenting to transfer all rights, contracts, obligations, and property to the consolidated housing authority. When any real property vests in a consolidated housing authority, the consolidated housing authority is required to execute a deed and file with the recorder of deeds. No more than three housing authorities may be combined in a 10-year period, unless supported by a resolution by the local government in the area of operation.

The bill defines the area of operation of a consolidated housing authority and provides for the same powers and duties as provided for housing authorities created for cities and counties, which includes increasing or decreasing area of operation.

Consolidated housing authorities would have the power to appoint and remove commissioners of consolidated housing authorities, according to the consolidation plan. Seven commissioners may be appointed, with an extra appointment possible when the area of operation increases. Commissioners serve staggered 4-year terms.

**Section 12** amends s. 421.32, F.S., to update language and make conforming cross references related to rural housing projects.

**Section 13** amends s. 421.321, F.S., to update language related to execution of mortgages.

**Section 14** amends s. 421.33, F.S., to provide that farm owners may apply to consolidated housing authorities to provide dwellings for low-income farmers.

**Section 15** amends s. 422.02, F.S., to update the finding of necessity with regard to housing authorities to include access of essential commercial goods and services necessary for daily living.

**Section 16** amends s. 422.04, F.S., to expand state public bodies' authority to aid in the planning, undertaking, construction, or operation of certain projects furnished adjacent to or in connection with housing projects. The bill includes commercial projects that allow access to essential goods and services for persons of low income residing in housing projects among the allowable projects. Language is also updated and clarified.

**Section 17** amends s. 423.01, F.S., to declare that facilities made available by housing authorities to provide access to essential goods and services necessary for daily living for persons residing in housing projects are a critical component of those housing projects and constitute a public use and a governmental function.

The bill also enlarges the current exemption from taxes on the property and debentures of housing authorities by declaring that related property and debentures are exempt from taxation if the property is used "to provide access to essential commercial goods and services necessary for daily living" for housing project residents.

**Section 18** amends s. 423.02, F.S., to clarify that the tax exemption provided to housing authorities does not apply to activities or property of a person who provides essential commercial

goods and services, but that the housing authority retains its exemptions from ad valorem tax and special assessments for its property.

**Section 19** amends s. 893.13, F.S., to conform a cross-reference to s. 421.03, F.S.

**Section 20** provides an effective date of July 1, 2015.

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

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

Section 18, Art. VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. The tax exemption provisions of this bill would reduce the revenue-raising authority of municipalities and counties and may require a two-thirds vote of the membership of each house of the Legislature.

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

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. Other Constitutional Issues:**

The Department of Revenue notes that the provisions of the bill expanding on public purpose and governmental use are similar to other legislative attempts that have been overturned due to conflict with constitutional provisions concerning property tax exemptions.<sup>29</sup>

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

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

Due to tax exemptions for housing authorities and their “instrumentalities” provided for in this bill, local government bodies would incur an indeterminate loss in potential tax revenues. The Revenue Estimating Conference has not conducted an impact conference to estimate the fiscal impact of this bill.

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<sup>29</sup> Dep’t of Revenue, *Legislative Bill Analysis for SB 1520*, at 7 (Mar. 24, 2015) (citing *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001))

**B. Private Sector Impact:**

Residents of public housing projects would experience indeterminate transportation savings if the commercial projects proposed by the bill are created on housing authority property.

Businesses that qualify to receive an exemption from property taxes due to their collocation with a housing project could receive a competitive advantage over similar businesses in the area.

Eligible persons may have their first and last month's rent paid under the SHIP program, if a participating county or city implements rental assistance as part of its local housing assistance plan.

**C. Government Sector Impact:**

To the extent that housing authorities experience additional revenues from providing essential commercial services, they will have an indeterminate reduction in maintenance costs because the bill directs them to use any new revenue streams to preserve and rehabilitate public housing projects. Local government bodies would incur an indeterminate loss in potential tax revenues due to the exemption provisions of the bill.

Local governments that participate in the SHIP program will be given specific authority to provide rental assistance to eligible persons.

Although local governments currently can spend SHIP local housing distributions to offer "initial assistance" to eligible persons without violating the prohibition on providing ongoing "rent subsidies," it is unclear whether they have authority to provide first and last month's rent. The bill clarifies that rental assistance for first and last month's rent are valid allocations to include in a local housing assistance plan. As such, if a local government submitted a local housing assistance plan to the FHFC that included allocations for first and last month's rental assistance, the FHFC review committee may consider the plan for approval, without the rental assistance itself considered a rent subsidy that is inconsistent with the requirements of the program.

**VI. Technical Deficiencies:**

Section 9 of the bill provides for tax exemption of housing authorities and "any affordable housing efforts they undertake, either directly or through instrumentalities," and section 20 of the bill further states that all property and debentures are exempt from taxation if the property is used "to provide access to essential commercial goods and services necessary for daily living" for housing project residents. However, the bill leaves "instrumentalities" undefined and "affordable housing efforts" vague, as noted by the Department of Revenue.<sup>30</sup> As such, it is unclear to what extent efforts undertaken by instrumentalities to provide commercial access to residents will be tax exempt, especially in light of section 21 of the bill which specifically states that the tax

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

exemption does not apply to activities or property of persons providing essential commercial goods and services.

The bill clarifies that rental assistance for first and last month's rent are valid allocations to include in a local housing assistance plan, however, s. 420.9072(7), F.S., could be amended to further specify that first and last month's rent are not prohibited, ongoing "rent subsidies."

## VII. Related Issues:

In accordance with the decision in the PW Ventures case,<sup>31</sup> a housing authority or a provider of "essential commercial goods and services" that sells electricity to even a single person is a public utility subject to regulation by the PSC. However, the prohibition on non-utility sales of electricity would not prohibit a housing authority from producing electricity solely to furnish its own power.<sup>32</sup>

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 421.02, 421.03, 421.04, 421.05, 421.06, 421.08, 421.09, 421.091, 421.21, 421.28, 421.29, 421.30, 421.31, 421.32, 421.321, 421.50, 421.51, 422.02, 422.04, 423.01, 423.02, and 893.13.

## IX. Additional Information:

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

#### **CS by Community Affairs on April 7, 2015:**

- Clarifies that commissioners of housing authorities are subject to existing prohibitions on extra compensation;
- Places the provisions concerning "consolidated housing authorities" in newly-created s. 421.281, F.S., instead of replacing the language of several sections pertaining to "regional housing authorities," thus allowing regional housing authorities to continue operations unperturbed;
- Provides that farm owners may apply to consolidated housing authorities to provide dwellings for low-income farmers; and
- Allows local housing assistance plans to allocate funds to provide rental assistance in the form of first and last month's rent.

### B. Amendments:

None.

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

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<sup>31</sup> *Supra*, note 12.

<sup>32</sup> *Id.* at 284.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
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The Committee on Community Affairs (Thompson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 421.02, Florida Statutes, is amended to  
read:

421.02 Finding and declaration of necessity.—It is hereby  
declared that:

(1) There exist in the state insanitary or unsafe dwelling  
accommodations and that persons of low income are forced to



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11 reside in such insanitary or unsafe accommodations; that within  
12 the state there is a shortage of safe or sanitary dwelling  
13 accommodations available at rents which persons of low income  
14 can afford and that such persons are forced to occupy  
15 overcrowded and congested dwelling accommodations; that such the  
16 ~~aforsaid~~ conditions cause an increase in and spread of disease  
17 and crime and constitute a menace to the health, safety, morals,  
18 and welfare of the residents of the state and impair economic  
19 values; and that these conditions necessitate excessive and  
20 disproportionate expenditures of public funds for crime  
21 prevention and punishment, public health, welfare and safety,  
22 fire and accident protection, and other public services and  
23 facilities.

24 (2) Blighted areas in the state cannot be revitalized, nor  
25 can the shortage of safe and sanitary dwellings for persons of  
26 low income be relieved, solely through the operation of private  
27 enterprise. However, the state encourages the use of housing  
28 authority property in combination with private enterprise to  
29 construct, rehabilitate, and otherwise provide safe and sanitary  
30 dwelling conditions for persons of low income.

31 (3) The clearance, replanning, and reconstruction of the  
32 areas in which insanitary or unsafe housing conditions exist,  
33 ~~and~~ the providing of safe and sanitary dwelling accommodations,  
34 and the access to essential commercial goods and services  
35 necessary for daily living for persons of low income, including  
36 the acquisition by a housing authority of property to be used  
37 for or in connection with housing projects or appurtenant  
38 thereto, are exclusively public uses and purposes for which  
39 public money may be spent and private property acquired and are



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40 governmental functions of public concern.

41 (4) An important public purpose is served by providing  
42 access to essential commercial goods and services necessary for  
43 daily living for persons served by public housing authorities as  
44 those persons often have limited transportation capacity and  
45 significant family demands. Issues such as limited  
46 transportation capacity and significant family demands  
47 complicate daily living and make access to essential commercial  
48 goods and services difficult.

49 (5)-(4) The necessity in the public interest for the  
50 provisions hereinafter enacted, is hereby declared as a matter  
51 of legislative determination.

52 Section 2. Section 421.03, Florida Statutes, is amended to  
53 read:

54 421.03 Definitions.—As used ~~The following terms, wherever~~  
55 ~~used or referred to~~ in this part, except where the context  
56 clearly indicates otherwise, the term shall have the following  
57 respective meanings for the purposes of this part, unless a  
58 different meaning clearly appears from the context:

59 (2)-(1) "Authority" or "housing authority" means a shall  
60 mean any of the public corporation corporations created pursuant  
61 to by s. 421.04.

62 (4)-(2) "City" means shall mean any city or town of the  
63 state having a population of more than 2,500, according to the  
64 last preceding federal or state census. The term also means ~~"The~~  
65 ~~city" shall mean~~ the particular city for which a particular  
66 housing authority is created.

67 (9)-(3) "Governing body" means shall mean the city council,  
68 the commission, or other legislative body charged with governing



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69 the city, as the case may be.

70 (11)~~(4)~~ "Mayor" means ~~shall mean~~ the mayor of the city or  
71 the officer thereof charged with the duties customarily imposed  
72 on the mayor or executive head of the city.

73 (5) "Clerk" means ~~shall mean~~ the clerk of the city or the  
74 officer of the city charged with the duties customarily imposed  
75 on the clerk ~~thereof~~.

76 (1)~~(6)~~ "Area of Operation":

77 (a) In the case of a housing authority of a city having a  
78 population of less than 25,000, includes ~~shall include~~ such city  
79 and the area within 5 miles of its ~~the~~ territorial boundaries.  
80 ~~thereof; and~~

81 (b) In the case of a housing authority of a city having a  
82 population of 25,000 or more, includes ~~shall include~~ such city  
83 and the area within 10 miles of its ~~from the~~ territorial  
84 boundaries. ~~thereof; provided~~ However, ~~that~~ the area of  
85 operation of a housing authority of a any city may ~~shall~~ not  
86 include any area that ~~which~~ lies within the territorial  
87 boundaries of another ~~some other~~ city ~~as herein defined; and may~~  
88 ~~further provided that the area of operation shall~~ not extend  
89 outside ~~of~~ the boundaries of the county in which the city is  
90 located. A and no housing authority has no ~~shall have~~ any power  
91 or jurisdiction outside ~~of~~ the county in which the city is  
92 located.

93 (7) "Essential commercial goods and services" means goods,  
94 such as groceries and clothing, and services, such as child  
95 care, K-12 education, financial services, job training and  
96 placement, laundry facilities, and other local governmental  
97 services, which are in close proximity to dwelling



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98 accommodations of a housing authority, are necessary for daily  
99 living, and may be difficult for persons of low income to access  
100 unless located in close proximity to the housing development  
101 where the persons of low income reside.

102 (8)(7) "Federal Government" means shall include the United  
103 States Government, the Federal Emergency Administration of  
104 Public Works or any department, commission, other agency, or  
105 other instrumentality thereof, corporate or otherwise, of the  
106 United States.

107 (3)(8) "Blighted" means "Slum" shall mean any area where  
108 dwellings predominate which, by reason of dilapidation,  
109 overcrowding, faulty arrangement or design, lack of ventilation,  
110 light or sanitary facilities, or any combination of these  
111 factors, are detrimental to safety, health, and morals.

112 (10)(9) "Housing project" means shall mean any work or  
113 undertaking:

114 (a) To demolish, clear, or remove buildings from any  
115 blighted slum area, which; such work or undertaking may embrace  
116 the adaption of such area to public purposes, including parks or  
117 other recreational or community purposes; ~~or~~

118 (b) To provide decent, safe, and sanitary urban or rural  
119 dwellings, apartments, or other living accommodations for  
120 persons of low income, which; such work or undertaking may  
121 include buildings, land, equipment, facilities, and other real  
122 or personal property for necessary, convenient, or desirable  
123 appurtenances, streets, sewers, water service, parks, site  
124 preparation, gardening, administrative, community, health,  
125 recreational, educational, welfare, or other purposes; ~~or~~

126 (c) To provide access to essential commercial goods and



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127 services; or

128 (d)~~(e)~~ To accomplish a combination of the foregoing.

129

130 The term ~~"housing project"~~ also applies ~~may be applied~~ to the  
131 planning of the buildings and improvements;~~;~~ the acquisition of  
132 property;~~;~~ the demolition of existing structures;~~;~~ the  
133 construction, reconstruction, alteration, and repair of the  
134 improvements; and all other work in connection therewith.

135 (13)~~(10)~~ "Persons of low income" means ~~shall mean~~ persons  
136 or families who lack the amount of income which is necessary, as  
137 determined by the authority undertaking the housing project, to  
138 enable them, without financial assistance, to live in decent,  
139 safe, and sanitary dwellings, without overcrowding.

140 (6)~~(11)~~ "Debentures" means ~~shall mean~~ any notes, interim  
141 certificates, debentures, revenue certificates, or other  
142 obligations issued by an authority pursuant to this chapter.

143 (14)~~(12)~~ "Real property" includes ~~shall include~~ all lands,  
144 including improvements and fixtures thereon, and property of any  
145 nature appurtenant thereto, or used in connection therewith, and  
146 every estate, interest, and right, legal or equitable, therein,  
147 including terms for years and liens by way of judgment,  
148 mortgage, or otherwise and the indebtedness secured by such  
149 liens.

150 (12)~~(13)~~ "Obligee of the authority" or "obligee" includes  
151 ~~shall include~~ any holder of debentures, trustee or trustees for  
152 any such holders, or lessor demising to the authority property  
153 used in connection with a housing project, or any assignee or  
154 assignees of such lessor's interest or any part thereof, and the  
155 Federal Government when it is a party to any contract with the



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156 authority.

157 Section 3. Subsection (4) is added to section 421.04,  
158 Florida Statutes, to read:

159 421.04 Creation of housing authorities.—

160 (4) A housing authority, regardless of the date of its  
161 creation, may not apply to the Federal Government to seize any  
162 projects, units, or vouchers of another established housing  
163 authority, irrespective of each housing authority's areas of  
164 operation.

165 Section 4. Subsection (2) of section 421.05, Florida  
166 Statutes, is amended to read:

167 421.05 Appointment, qualifications, and tenure of  
168 commissioners; hiring of employees.—

169 (2) The powers of each authority shall be vested in the  
170 commissioners thereof in office from time to time. A majority of  
171 the commissioners shall constitute a quorum of the authority for  
172 the purpose of conducting its business and exercising its powers  
173 and for all other purposes. Action may be taken by the authority  
174 upon a vote of a majority of the commissioners present, unless  
175 in any case the bylaws of the authority require a larger number.  
176 The mayor with the concurrence of the governing body shall  
177 designate which of the commissioners appointed shall be the  
178 first chair, but when the office of the chair of the authority  
179 thereafter becomes vacant, the authority shall select a chair  
180 from among its commissioners. An authority shall select from  
181 among its commissioners a vice chair, ~~and~~ and it may employ a  
182 secretary, who shall be the executive director, technical  
183 experts, and such other officers, agents, and employees,  
184 permanent and temporary, as it may require and shall determine



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185 their qualifications, duties, and compensation. As provided in  
186 s. 215.425, a commissioner may not receive extra compensation.  
187 For such legal services as it may require, an authority may call  
188 upon the chief law officer of the city or may employ its own  
189 counsel and legal staff. An authority may delegate to one or  
190 more of its agents or employees such powers or duties as it may  
191 deem proper.

192 Section 5. Section 421.06, Florida Statutes, is amended to  
193 read:

194 421.06 Commissioners or employees prohibited from acquiring  
195 interests in housing projects and required to disclose interests  
196 in specified properties; exception.—Except for the leasehold  
197 interest held by a tenant-commissioner in the housing project in  
198 which he or she is a tenant, a ~~ne~~ commissioner or employee of an  
199 authority may not ~~shall~~ acquire any interest, direct or  
200 indirect, in any housing project or in any property included or  
201 planned to be included in any project, or ~~nor shall he or she~~  
202 have any interest, direct or indirect, in any contract or  
203 proposed contract for materials or services to be furnished or  
204 used in connection with any housing project. If a commissioner  
205 or employee of an authority owns or controls an interest, direct  
206 or indirect, in any property included or planned to be included  
207 in any housing project, he or she shall immediately disclose the  
208 same in writing to the authority. Such disclosure shall be  
209 entered upon the minutes of the authority. Failure ~~se~~ to  
210 disclose such interest constitutes misconduct in office. This  
211 section applies to any commercial project authorized by this  
212 chapter.

213 Section 6. Section 421.08, Florida Statutes, is amended to





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214 read:

215 421.08 Powers of authority.—

216 (1) An authority constitutes ~~shall constitute~~ a public body  
217 corporate and politic, exercising the public and essential  
218 governmental functions set forth in this chapter, and having all  
219 the powers necessary or convenient to carry out and effectuate  
220 the purpose and provisions of this chapter, including the  
221 following additional powers ~~in addition to others herein~~  
222 ~~granted~~:

223 (a) ~~(1)~~ To sue and be sued; to have a seal and to alter it  
224 ~~the same~~ at pleasure; to have perpetual succession; to make and  
225 execute contracts and other instruments necessary or convenient  
226 to the exercise of the powers of the authority; to appear in  
227 court through any of its officers, agents, or employees, for the  
228 exclusive purpose of filing eviction papers; and to make and  
229 from time to time amend and repeal bylaws, rules, and  
230 regulations, not inconsistent with this chapter, to carry into  
231 effect the powers and purposes of the authority.

232 (b) ~~(2)~~ Within its area of operation, to prepare, carry out,  
233 acquire, lease, and operate housing projects and; to provide for  
234 the construction, reconstruction, improvement, alteration, or  
235 repair of any housing project or any part thereof.

236 (c) ~~(3)~~ To arrange or contract for the furnishing by any  
237 person or agency, public or private, of services, privileges,  
238 works, or facilities for, or in connection with, a housing  
239 project or the occupants thereof. ~~; provided, however, that~~

240 1. Notwithstanding any other power or provision in this  
241 chapter, the authority may ~~shall~~ not construct, lease, control,  
242 purchase, or otherwise establish, in connection with or as a



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243 part of any housing project or any other real or any other  
244 property under its control, any system, work, facilities,  
245 plants, or other equipment for the purpose of furnishing utility  
246 service of any kind to such projects or to any tenant or  
247 occupant thereof ~~if in the event that~~ a system, work, facility,  
248 plant, or other equipment for the furnishing of the same utility  
249 service is being ~~actually~~ operated by a municipality or private  
250 concern in the area of operation or the city or the territory  
251 immediately adjacent thereto. However, this subparagraph does  
252 not  ~~; provided, further, that nothing herein shall be construed~~  
253 ~~to~~ prohibit the construction or acquisition by the authority of:

254       a. Any system, work, facilities, or other equipment for the  
255 sole and only purpose of receiving utility services from any  
256 such municipality or such private concern and then distributing  
257 such utility services to the project and to the tenants and  
258 occupants thereof; or and,

259       b. Any renewable energy devices or systems to be installed  
260 and located upon housing authority property for the sole purpose  
261 of reducing utility costs to the tenants or occupants thereof.

262       2. Notwithstanding ~~anything to the contrary contained in~~  
263 ~~this chapter or in~~ any other provision of law, the authority may  
264 ~~to~~ include, in any contract let in connection with a project,  
265 stipulations requiring that the contractor and any  
266 subcontractors comply with requirements as to minimum wages and  
267 maximum hours of labor, ~~and comply~~ with any conditions which the  
268 Federal Government may have attached to its financial aid of the  
269 project.

270       (d)(4) To lease or rent any dwellings, houses,  
271 accommodations, lands, buildings, structures, or facilities



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272 embraced in any housing project and, subject to the limitations  
273 contained in this chapter, to establish and revise the rents or  
274 charges therefor; to own, hold, and improve real or personal  
275 property; to purchase, lease, obtain options upon, acquire by  
276 gift, grant, bequest, devise, or otherwise any real or personal  
277 property or any interest therein; to acquire by the exercise of  
278 the power of eminent domain any real property, except real  
279 property to be used to provide access to essential commercial  
280 goods and services; to sell, lease, exchange, transfer, assign,  
281 pledge, or dispose of any real or personal property or any  
282 interest therein; to insure or provide for the insurance of any  
283 real or personal property or operations of the authority against  
284 any risks or hazards; and to procure or agree to the procurement  
285 of insurance or guarantees from the Federal Government of the  
286 payment of any such debts or parts thereof, whether or not  
287 incurred by the ~~said~~ authority, including the power to pay  
288 premiums on any such insurance.

289 (e) ~~(5)~~ To invest any funds held in reserves or sinking  
290 funds, or any funds not required for immediate disbursement, in  
291 property or securities in which savings banks may legally invest  
292 funds subject to their control and; to purchase its debentures  
293 at a price not exceeding ~~more than~~ the principal amount thereof  
294 and accrued interest, with all debentures so purchased to be  
295 canceled.

296 (f) ~~(6)~~ Within its area of operation: to investigate into  
297 living, dwelling, and housing conditions and into the means and  
298 methods of improving such conditions; to determine where  
299 blighted ~~slum~~ areas exist or where there is a shortage of  
300 decent, safe, and sanitary dwelling accommodations for persons



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301 of low income; to make studies and recommendations relating to  
302 the problem of clearing, replanning, and reconstruction of  
303 blighted ~~slum~~ areas and the problem of providing dwelling  
304 accommodations for persons of low income; to administer fair  
305 housing ordinances and other ordinances as adopted by cities,  
306 counties, or other authorities who wish to contract for  
307 administrative services and to cooperate with the city, the  
308 county, or the state or any political subdivision thereof in  
309 action taken in connection with such problems; and to engage in  
310 research, studies, and experimentation on the subject of  
311 housing.

312 (g) ~~(7)~~ Acting through one or more commissioners or other  
313 person or persons designated by the authority: ~~+~~ to conduct  
314 examinations and investigations and to hear testimony and take  
315 proof under oath at public or private hearings on any matter  
316 material for its information; to administer oaths, issue  
317 subpoenas requiring the attendance of witnesses or the  
318 production of books and papers, and ~~to~~ issue commissions for the  
319 examination of witnesses who are outside ~~of~~ the state, or ~~or~~ unable  
320 to attend before the authority, or excused from attendance; and  
321 to make available to appropriate agencies, including those  
322 charged with the duty of abating or requiring the correction of  
323 nuisances or like conditions, or of demolishing unsafe or  
324 insanitary structures within its area of operation, its findings  
325 and recommendations with regard to any building or property  
326 where conditions exist which are dangerous to the public health,  
327 morals, safety, or welfare.

328 (h) ~~(8)~~ ~~(a)~~ To organize for the purpose of creating a for-  
329 profit or not-for-profit corporation, limited liability company,



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330 or other similar business entity pursuant to all applicable laws  
331 of this state in which the housing authority may hold an  
332 ownership interest or participate in its governance in order to  
333 develop, acquire, lease, construct, rehabilitate, manage, or  
334 operate multifamily or single-family residential projects and  
335 commercial projects that allow access to essential commercial  
336 goods and services for persons of low income residing in such  
337 residential projects.

338 1. These projects may include nonresidential uses and may  
339 use public and private funds to serve individuals or families  
340 who meet the applicable income requirements of the state or  
341 federal program involved; whose income does not exceed 150  
342 percent of the applicable median income for the area, as  
343 established by the United States Department of Housing and Urban  
344 Development; and who, in the determination of the housing  
345 authority, lack sufficient income or assets to enable them to  
346 purchase or rent a decent, safe, and sanitary dwelling. These  
347 corporations, limited liability companies, or other business  
348 entities may join partnerships, joint ventures, or limited  
349 liability companies pursuant to applicable laws or may otherwise  
350 engage with business entities in developing, acquiring, leasing,  
351 constructing, rehabilitating, managing, or operating such  
352 projects.

353 2. ~~(b)~~ The creation by a housing authority of such a  
354 corporation, limited liability company, or other business entity  
355 that is properly registered pursuant to all applicable laws  
356 before the effective date of this act is ratified and validated  
357 if the creation of such corporation, limited liability company,  
358 or other business entity would have been valid had this act been



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359 in effect at the time such corporation, limited liability  
360 company, or other business entity was created and registered.

361 3.(e) Proceedings or acts performed by a housing authority  
362 or a corporation, limited liability company, or other business  
363 entity authorized pursuant to subparagraph 2. ~~paragraph (b)~~ are  
364 ratified and validated if such proceedings or acts were in  
365 furtherance of the purposes set forth in this chapter and would  
366 have been valid had this act been in effect at the time such  
367 proceedings or acts were performed.

368 (i)(9) Notwithstanding s. 112.061, to ~~the governing board~~  
369 ~~of an authority may~~ approve and implement policies for per diem,  
370 travel, and other expenses of its officials, officers, board  
371 members, employees, and authorized persons in a manner  
372 consistent with federal guidelines.

373 (j)(10) To exercise all or any part or combination of  
374 powers ~~herein~~ granted in this section. ~~No~~ Provisions of law  
375 relating with respect to acquisition, operation, or disposition  
376 of property by other public bodies do not apply ~~shall be~~  
377 ~~applicable~~ to an authority unless the Legislature ~~shall~~  
378 specifically so states ~~state~~.

379 (2) Any revenue received by a housing authority from  
380 commercial projects that provide access to essential commercial  
381 goods and services necessary for daily living of persons  
382 residing in housing developments must be used exclusively for  
383 affordable housing.

384 Section 7. Subsection (2) of section 421.09, Florida  
385 Statutes, is amended to read:

386 421.09 Operation not for profit.-

387 (2) This section does not prohibit or restrict the



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388 activities or operations of a business entity created under s.  
389 421.08(1)(h) ~~421.08(8)~~.

390 Section 8. Subsection (1) of section 421.091, Florida  
391 Statutes, is amended to read:

392 421.091 Financial accounting and investments; fiscal year.—

393 (1) A complete and full financial accounting and audit in  
394 accordance with federal audit standards of public housing  
395 agencies shall be made biennially by a certified public  
396 accountant and submitted to the Federal Government in accordance  
397 with its policies. Housing authorities are otherwise exempt from  
398 the reporting requirements of s. 218.32. A copy of such audit  
399 shall be filed with the governing body and with the Auditor  
400 General.

401 Section 9. Paragraph (b) of subsection (2) and subsection  
402 (3) of section 421.21, Florida Statutes, are amended to read:

403 421.21 Aid from Federal Government; tax exemptions.—

404 (2) In addition to the powers conferred upon an authority  
405 by subsection (1) and other provisions of this chapter, an  
406 authority is empowered to borrow money or accept grants or other  
407 financial assistance from the Federal Government under s. 202 of  
408 the Housing Act of 1959 (Pub. L. No. 86-372) or any law or  
409 program of the United States Department of Housing and Urban  
410 Development, which provides for direct federal loans in the  
411 maximum amount, as defined therein, for the purpose of assisting  
412 certain nonprofit corporations to provide housing and related  
413 facilities for elderly families and elderly persons.

414 (b) This provision relating to housing facilities for the  
415 elderly is cumulative and in addition to the powers given to  
416 housing authorities under this chapter. All powers granted



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417 generally by law to housing authorities in Florida relating to  
418 issuance of trust indentures, debentures, and other methods of  
419 raising capital also shall apply ~~also~~ to housing authorities in  
420 connection with their participation in programs of the United  
421 States Department of Housing and Urban Development.

422 (3) It is the legislative intent that the tax exemption of  
423 housing authorities provided by chapter 423, ~~shall~~ specifically  
424 applies apply to any housing authority created under this  
425 section and any affordable housing efforts it undertakes, either  
426 directly or through instrumentalities.

427 Section 10. Section 421.281, Florida Statutes, is created  
428 to read:

429 421.281 Consolidated Housing Authorities.-

430 (1) CREATION.-

431 (a) If, after a public hearing and two consecutive meetings  
432 at which such resolution is heard, the commissioners of at least  
433 two municipal or municipal and county housing authorities of  
434 neighboring areas of operation that are not under federal  
435 receivership declare by identical resolution that there is a  
436 need for merging their authorities which serves the best  
437 interest of their respective tenants and communities, one  
438 housing authority shall be created for all of such authorities  
439 to exercise powers and other functions herein prescribed in such  
440 areas of operation through a public body corporate and politic  
441 to be known as a consolidated housing authority.

442 (b) After the consolidation, each housing authority created  
443 by s. 421.04 or s. 421.27 for each of the areas shall cease to  
444 exist except for the purpose of winding up its affairs and  
445 executing a deed to the consolidated housing authority as





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446 hereafter provided, if:

447 1. All obligees of such housing authorities and parties to  
448 the contracts, bonds, notes, and other obligations of such  
449 housing authorities agree to the substitution of the  
450 consolidated housing authority; and

451 2. The commissioners of such housing authorities adopt a  
452 resolution consenting to the transfer of all of the rights,  
453 contracts, obligations, and property, real and personal, to the  
454 consolidated housing authority.

455 (c) When any real property of a housing authority vests in  
456 a consolidated housing authority as provided in subsection (2),  
457 the housing authority shall execute a deed of such property to  
458 the consolidated housing authority which shall file such deed  
459 with the recorder of deeds of the county where such real  
460 property is located.

461 (d) In any suit, action, or proceeding involving the  
462 validity or enforcement of, or relating to, any contract of the  
463 consolidated housing authority, the consolidated housing  
464 authority shall be conclusively deemed to have been created,  
465 established, and authorized to transact business and exercise  
466 its powers hereunder upon proof of the adoption of a resolution  
467 by the commissioners of each of the authorities creating the  
468 consolidated housing authority.

469 (e) No more than three housing authorities may be  
470 consolidated within a 10-year period, unless there is a  
471 resolution of each housing authority and local government within  
472 the area of operation in support of such additional  
473 consolidation.

474 (2) AREA OF OPERATION.-



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475       (a) The area of operation of a consolidated housing  
476 authority shall include the combined areas of operation of the  
477 housing authorities that merged to form the consolidated housing  
478 authority.

479       (b) In connection with the issuance of bonds or the  
480 incurring of other obligations, a consolidated housing authority  
481 may covenant as to limitations on its right to adopt resolutions  
482 relating to the increase of its area of operation.

483       (3) COMMISSIONERS.—

484       (a) When a consolidated housing authority has been created,  
485 the consolidation plan must include provision for the  
486 distribution of appointments among the existing appointing  
487 authorities. The appointing authorities shall thereupon appoint  
488 seven persons, with at least one qualified elector from each  
489 area of operation included therein, provided that there are  
490 suitable candidates who are willing to serve from each area of  
491 operation.

492       (b) When the area of operation of a consolidated housing  
493 authority is increased to include an additional area of  
494 operation as herein provided, the consolidation plan must  
495 provide for the appointment of one qualified elector from each  
496 such additional area of operation as a commissioner. The number  
497 of commissioners of a consolidated housing authority may be  
498 increased above seven only for the implementation of this  
499 subsection.

500       (c) If any county is later excluded from the area of  
501 operation of a consolidated housing authority, the office of the  
502 commissioner of such housing authority appointed as provided in  
503 subsection (2) is abolished.



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504       (d) If the area of operation of a consolidated housing  
505 authority consists at any time of an even number of counties,  
506 the Governor shall appoint one additional commissioner, who must  
507 be a qualified elector from one of the counties in such area of  
508 operation.

509       (e) A certificate of the appointment of any commissioner of  
510 a consolidated housing authority shall be filed with the county  
511 clerk of the county from which the commissioner is appointed,  
512 and such certificate shall be conclusive evidence of the due and  
513 proper appointment of such commissioner.

514       (f) The commissioners of a consolidated housing authority  
515 shall be appointed for staggered terms of 4 years, except that  
516 the terms of the initial appointees may be truncated to provide  
517 for staggered terms, and vacancies shall be filled for the  
518 unexpired terms. Each commissioner shall hold office until a  
519 successor has been appointed and has qualified, except as  
520 otherwise provided herein. The appointing authority shall  
521 thereafter appoint the successor of each commissioner.

522       (g) The commissioners of a consolidated housing authority  
523 shall elect a chair from among the commissioners and may select  
524 or employ such other officers and employees as the housing  
525 authority may require. A majority of the commissioners of a  
526 consolidated housing authority constitutes a quorum for the  
527 purpose of conducting its business and exercising its powers and  
528 for all other purposes.

529       (4) POWERS AND DUTIES.—Except as otherwise provided herein,  
530 a consolidated housing authority and the commissioners thereof  
531 shall, within the area of operation of such consolidated housing  
532 authority, have the same functions, rights, powers, duties,



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533 privileges, and immunities provided for housing authorities  
534 created for cities or counties. A consolidated housing authority  
535 may select an appropriate corporate name.

536 Section 11. Section 421.32, Florida Statutes, is amended to  
537 read:

538 421.32 Rural housing projects.—County housing authorities,  
539 consolidated housing authorities, and regional housing  
540 authorities are specifically empowered and authorized to borrow  
541 money, accept grants, and exercise their other powers to provide  
542 housing for farmers of low income and domestic farm labor as  
543 defined in s. 514 of the Federal Housing Act of 1949. In  
544 connection with such projects, any such housing authority may  
545 enter into such leases or purchase agreements, accept such  
546 conveyances, and rent or sell dwellings forming part of such  
547 projects to or for farmers of low income~~,~~ as such housing  
548 authority deems necessary in order to assure the achievement of  
549 the objectives of this law. Such leases, agreements, or  
550 conveyances may include such covenants as the housing authority  
551 deems appropriate regarding such dwellings and the tracts of  
552 land described in any such instrument, which covenants shall be  
553 deemed to run with the land when ~~where~~ the housing authority  
554 deems it necessary and the parties to such instrument so  
555 stipulate. In providing housing for farmers of low income,  
556 county housing authorities, consolidated housing authorities,  
557 and regional housing authorities are ~~shall~~ not be subject to the  
558 limitations provided in ss. 421.08(1)(c) ~~421.08(3)~~ and  
559 421.10(3). Nothing contained in This section does not limit  
560 ~~shall be construed as limiting~~ any other powers of any housing  
561 authority.



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562 Section 12. Section 421.321, Florida Statutes, is amended  
563 to read:

564 421.321 Execution of mortgages.—County, consolidated, and  
565 regional housing authorities organized under this chapter are  
566 authorized to execute mortgages encumbering real property as  
567 security for loans made for providing facilities for domestic  
568 farm labor pursuant to s. 514 of the Federal Housing Act of  
569 1949.

570 Section 13. Section 421.33, Florida Statutes, is amended to  
571 read:

572 421.33 Housing applications by farmers.—The owner of any  
573 farm operated, or worked upon, by farmers of low income in need  
574 of safe and sanitary housing may file an application with a  
575 housing authority created for a county, consolidated, or a  
576 regional housing authority requesting that it provide for a safe  
577 and sanitary dwelling or dwellings for occupancy by such farmers  
578 of low income. Such applications shall be received and examined  
579 by housing authorities in connection with the formulation of  
580 projects or programs to provide housing for farmers of low  
581 income. ~~Provided,~~ However, ~~that~~ if it becomes necessary for an  
582 applicant under this section to convey any portion of the  
583 applicant's then homestead in order to take advantages as  
584 provided herein, then in that event, ~~the parting with title to a~~  
585 portion of said homestead shall not affect the remaining portion  
586 of same, but all rights that said owner may have in and to same  
587 under and by virtue of the State Constitution ~~of the state~~ or  
588 any law passed pursuant thereto, ~~shall be deemed and held to~~  
589 apply to such remaining portion of said land, the title of which  
590 remains in said applicant. ~~it being the intention of The~~



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591 Legislature intends to permit the owner of any farm operated or  
592 worked upon by farmers of low income in need of safe and  
593 sanitary housing to take advantage of the provisions of this law  
594 without jeopardizing the owner's ~~their~~ rights in the owner's  
595 ~~their~~ then homestead by reason of any requirement that may be  
596 necessary in order ~~for them~~ to receive the benefits herein  
597 provided, ~~+~~ and a ~~no~~ court may not ~~shall ever~~ construe that an  
598 applicant who has taken advantage of this law has ~~in any manner,~~  
599 ~~shape, or form~~ abandoned his or her rights in any property that  
600 is the applicant's then homestead by virtue of such action upon  
601 his or her part, but it shall be held, construed, and deemed  
602 that such action upon the part of any applicant hereunder was  
603 not any abandonment of the applicant's then homestead, and that  
604 all rights that the applicant then had therein shall be and  
605 remain as provided by the State Constitution and any law enacted  
606 pursuant thereto.

607 Section 14. Section 422.02, Florida Statutes, is amended to  
608 read:

609 422.02 Finding and declaration of necessity.—It has been  
610 found and declared in the Housing Authorities Law that there  
611 exist in the state unsafe and insanitary housing conditions, and  
612 a shortage of safe and sanitary dwelling accommodations, and a  
613 lack of access to essential commercial goods and services  
614 necessary for daily living for persons of low income; that these  
615 conditions necessitate excessive and disproportionate  
616 expenditures of public funds for crime prevention and  
617 punishment, public health, welfare and safety, fire and accident  
618 protection, and other public services and facilities; and that  
619 the public interest requires the remedying of these conditions.



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620 It is found and declared that the assistance herein provided for  
621 the remedying of the conditions set forth in the Housing  
622 Authorities Law constitutes a public use and purpose and an  
623 essential governmental function for which public moneys may be  
624 spent and other aid given; that it is a proper public purpose  
625 for any state public body to aid any housing authority operating  
626 within its boundaries or jurisdiction or any housing project  
627 located therein, as the state public body derives immediate  
628 benefits and advantages from such an authority or project; and  
629 that the provisions hereinafter enacted are necessary in the  
630 public interest.

631 Section 15. Section 422.04, Florida Statutes, is amended to  
632 read:

633 422.04 Cooperation in undertaking housing projects.—

634 (1) For the purpose of aiding and cooperating in the  
635 planning, undertaking, construction, or operation of housing  
636 projects located within the area in which it is authorized to  
637 act, any state public body may, upon such terms, with or without  
638 consideration, as it may determine:

639 (a) Dedicate, sell, convey, or lease any of its property to  
640 a housing authority or the Federal Government. ~~;~~

641 (b) Cause parks; ~~;~~ playgrounds; ~~;~~ recreational, community,  
642 educational, water, sewer, or drainage facilities; commercial  
643 projects that allow access to essential commercial goods and  
644 services for persons of low income residing in housing projects;  
645 or any other works, ~~which~~ it is otherwise empowered to  
646 undertake, ~~to~~ be furnished adjacent to or in connection with  
647 housing projects. ~~;~~

648 (c) Furnish, dedicate, close, pave, install, grade,



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649 regrade, plan, or replan streets, roads, roadways, alleys,  
650 sidewalks, or other places which it is otherwise empowered to  
651 undertake.

652 (d) Plan, ~~or~~ replan, zone, or rezone any part of such state  
653 public body; make exceptions from building regulations and  
654 ordinances; and, with respect to any city or town, also may  
655 change its map.

656 (e) Enter into agreements, which may extend over any  
657 period, notwithstanding any provision or rule of law to the  
658 contrary, with a housing authority or the Federal Government  
659 respecting action to be taken by such state public body pursuant  
660 to any of the powers granted by this chapter.

661 (f) Do any and all things necessary or convenient to aid  
662 and cooperate in the planning, undertaking, construction, or  
663 operation of such housing projects.

664 (g) Purchase or legally invest in any of the debentures of  
665 a housing authority and exercise all of the rights of any holder  
666 of such debentures.

667 (h) Not require any changes to be made in a housing project  
668 or the manner of its construction or take any other action  
669 relating to such construction with respect to any housing  
670 project which a housing authority has acquired or taken over  
671 from the Federal Government and which the housing authority by  
672 resolution has found and declared to have been constructed in a  
673 manner that will promote the public interest and afford  
674 necessary safety, sanitation, and other protection. ~~no state~~  
675 ~~public body shall require any changes to be made in the housing~~  
676 ~~project or the manner of its construction or take any other~~  
677 ~~action relating to such construction;~~





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678           (i) Incur the entire expense of ~~In connection with~~ any  
679 public improvements made by the ~~a~~ state public body in  
680 exercising the powers herein granted, ~~such state public body may~~  
681 ~~incur the entire expense thereof.~~

682           (2) Any law or statute to the contrary notwithstanding, any  
683 sale, conveyance, lease, or agreement provided for in this  
684 section may be made by a state public body without appraisal,  
685 public notice, advertisement, or public bidding.

686           Section 16. Section 423.01, Florida Statutes, is amended to  
687 read:

688           423.01 Finding and declaration of property of tax exemption  
689 for housing authorities.—It has been found and declared in the  
690 Housing Authorities Law and the Housing Cooperation Law that:

691           (1) There exist in the state housing conditions that ~~which~~  
692 constitute a menace to the health, safety, morals, and welfare  
693 of the residents of the state;

694           (2) These conditions necessitate excessive and  
695 disproportionate expenditures of public funds for crime  
696 prevention and punishment, public health, welfare and safety,  
697 fire and accident prevention, and other public services and  
698 facilities;

699           (3) The public interest requires the remedying of these  
700 conditions by the creation of housing authorities to undertake  
701 projects for the ~~slum~~ clearance of blighted areas and for  
702 providing safe and sanitary dwelling accommodations and access  
703 to essential commercial goods and services necessary for daily  
704 living for persons who lack sufficient income to enable them to  
705 live in decent, safe, and sanitary dwellings without  
706 overcrowding; ~~and~~



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707       (4) Facilities made available by housing authorities to  
708 provide access to essential commercial goods and services  
709 necessary for daily living for persons of low income residing in  
710 housing projects are a critical component of those housing  
711 projects and constitute a public use and a governmental  
712 function; and

713       (5)-(4) Such housing projects, including all property of a  
714 housing authority used for or in connection therewith or  
715 appurtenant thereto and all property used to provide access to  
716 essential commercial goods and services necessary for daily  
717 living for persons of low income residing in such housing  
718 projects, are exclusively for public uses and municipal purposes  
719 and not for profit, and are governmental functions of state  
720 concern. As a matter of legislative determination, it is found  
721 and declared that the property and debentures of a housing  
722 authority are of such character as may be exempt from taxation.

723       Section 17. Section 423.02, Florida Statutes, is amended to  
724 read:

725       423.02 Housing projects exempted from taxes and  
726 assessments; payments in lieu thereof.—The housing projects,  
727 including all property of housing authorities used for or in  
728 connection therewith or appurtenant thereto, of housing  
729 authorities are ~~shall be~~ exempt from all taxes and special  
730 assessments of the state or any city, town, county, or political  
731 subdivision of the state.  ~~provided,~~ However, ~~that~~ in lieu of  
732 such taxes or special assessments, a housing authority may agree  
733 to make payments to any city, town, county, or political  
734 subdivision of the state for services, improvements, or  
735 facilities furnished by such city, town, county, or political



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736 subdivision for the benefit of a housing project owned by the  
737 housing authority, but ~~in no event shall~~ such payments may not  
738 exceed the estimated cost ~~to such city, town, county or~~  
739 ~~political subdivision~~ of the services, improvements, or  
740 facilities to be ~~se~~ furnished by the city, town, county, or  
741 political subdivision of the state. This section does not exempt  
742 the activities or property of a person who provides essential  
743 commercial goods and services. However, the real property of a  
744 housing authority that is used to provide access to essential  
745 commercial goods and services under this chapter is exempt from  
746 ad valorem taxes and special assessments.

747 Section 18. Paragraph (f) of subsection (1) of section  
748 893.13, Florida Statutes, is amended to read:

749 893.13 Prohibited acts; penalties.—

750 (1)

751 (f) Except as authorized by this chapter, a person may not  
752 sell, manufacture, or deliver, or possess with intent to sell,  
753 manufacture, or deliver, a controlled substance in, on, or  
754 within 1,000 feet of the real property comprising a public  
755 housing facility at any time. As used in this section, the term  
756 "real property comprising a public housing facility" means real  
757 property, as defined in s. 421.03(14) ~~421.03(12)~~, of a public  
758 corporation created as a housing authority pursuant to part I of  
759 chapter 421. A person who violates this paragraph with respect  
760 to:

761 1. A controlled substance named or described in s.  
762 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.  
763 commits a felony of the first degree, punishable as provided in  
764 s. 775.082, s. 775.083, or s. 775.084.



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765           2. A controlled substance named or described in s.  
766 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
767 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
768 the second degree, punishable as provided in s. 775.082, s.  
769 775.083, or s. 775.084.

770           3. Any other controlled substance, except as lawfully sold,  
771 manufactured, or delivered, must be sentenced to pay a \$500 fine  
772 and to serve 100 hours of public service in addition to any  
773 other penalty prescribed by law.

774           Section 19. This act shall take effect July 1, 2015.

775  
776

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

778 And the title is amended as follows:

779           Delete everything before the enacting clause  
780 and insert:

781                           A bill to be entitled  
782           An act relating to housing for low-income persons;  
783           amending s. 421.02, F.S.; revising the legislative  
784           declaration of necessity; amending s. 421.03, F.S.;  
785           redefining terms; defining the terms "blighted" and  
786           "essential commercial goods and services"; amending s.  
787           421.04, F.S.; prohibiting a housing authority from  
788           applying to the Federal Government to seize projects,  
789           units, or vouchers of another established housing  
790           authority; amending s. 421.05, F.S.; prohibiting  
791           specified additional compensation for authority  
792           commissioners; amending s. 421.06, F.S.; prohibiting  
793           commissioners or employees from acquiring interests in



273622

794 certain commercial projects; requiring commissioners  
795 or employees to disclose interests in commercial  
796 projects under certain circumstances; amending s.  
797 421.08, F.S.; revising the powers of an authority;  
798 requiring that revenue received by a housing authority  
799 from certain commercial projects be used for  
800 affordable housing; conforming a cross-reference;  
801 amending s. 421.09, F.S.; conforming a cross-  
802 reference; amending s. 421.091, F.S.; requiring a full  
803 financial accounting and audit of public housing  
804 agencies to be submitted to the Federal Government  
805 pursuant to certain requirements; exempting housing  
806 authorities from specified reporting requirements;  
807 amending s. 421.21, F.S.; revising legislative intent;  
808 creating s. 421.281, F.S.; creating consolidated  
809 housing authorities subject to certain requirements  
810 and restrictions; specifying the area of operation of  
811 a consolidated housing authority; providing for the  
812 appointment of commissioners subject to certain  
813 requirements and restrictions; providing that a  
814 majority of the commissioners constitutes a quorum;  
815 specifying the powers and duties of a consolidated  
816 housing authority and the commissioners thereof;  
817 amending s. 421.32, F.S.; conforming provisions to  
818 changes made by the act; conforming a cross-reference;  
819 amending s. 421.321, F.S.; conforming provisions to  
820 changes made by the act; amending s. 421.33, F.S.;  
821 conforming provisions to changes made by the act;  
822 amending s. 422.02, F.S.; providing a finding that



273622

823 there is a lack of access to certain essential  
824 commercial goods and services; amending s. 422.04,  
825 F.S.; authorizing state public bodies to provide or  
826 cause to be provided commercial projects that allow  
827 access to certain essential commercial goods and  
828 services; amending s. 423.01, F.S.; providing a  
829 finding that certain projects for the clearance of  
830 blighted areas and access to essential commercial  
831 goods and services are required; providing a finding  
832 that facilities made available by housing authorities  
833 to provide access to essential commercial goods and  
834 services are a critical component for housing projects  
835 and constitute a public use and governmental function;  
836 providing a finding that certain property used to  
837 provide access to essential commercial goods and  
838 services is exclusively for public uses and municipal  
839 purposes; amending s. 423.02, F.S.; providing that the  
840 activities or property of a person who provides  
841 essential commercial goods and services is not exempt  
842 from certain taxes and special assessments; exempting  
843 real property of a housing authority which is used to  
844 provide access to essential commercial goods and  
845 services from ad valorem taxes and special  
846 assessments; amending s. 893.13, F.S.; conforming a  
847 cross-reference; providing an effective date.  
848



590028

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
	.	
	.	
	.	

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

1           **Senate Amendment to Amendment (273622) (with title**  
2 **amendment)**

3  
4           Between lines 4 and 5  
5 insert:

6           Section 1. Paragraph (b) of subsection (1) of section  
7 420.9075, Florida Statutes, is amended to read:

8           420.9075 Local housing assistance plans; partnerships.—

9           (1)

10          (b) Local housing assistance plans may allocate funds to:



590028

- 11           1. Implement local housing assistance strategies for the
- 12 provision of affordable housing.
- 13           2. Supplement funds available to the corporation to provide
- 14 enhanced funding of state housing programs within the county or
- 15 the eligible municipality.
- 16           3. Provide the local matching share of federal affordable
- 17 housing grants or programs.
- 18           4. Fund emergency repairs, including, but not limited to,
- 19 repairs performed by existing service providers under
- 20 weatherization assistance programs under ss. 409.509-409.5093.
- 21           5. Further the housing element of the local government
- 22 comprehensive plan adopted pursuant to s. 163.3184, specific to
- 23 affordable housing.
- 24           6. Provide rental assistance to include the first and last
- 25 month's rent for eligible persons. Neither the first nor last
- 26 month's rent may be greater than the monthly amount of the
- 27 rental agreement.

28  
29 ===== T I T L E   A M E N D M E N T =====

30 And the title is amended as follows:

31           Between lines 782 and 783

32 insert:

33           amending s. 420.9075, F.S.; authorizing local housing

34 assistance plans to allocate funds to provide rental

35 assistance to include the first and last month's rent

36 for eligible persons, subject to certain restrictions;



By Senator Soto

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1                   A bill to be entitled  
2           An act relating to housing for low-income persons;  
3           amending s. 421.02, F.S.; revising the legislative  
4           declaration of necessity; amending s. 421.03, F.S.;  
5           redefining terms; defining the terms "blighted area"  
6           and "essential commercial goods and services";  
7           amending s. 421.04, F.S.; prohibiting a housing  
8           authority from applying to the Federal Government to  
9           seize projects, units, or vouchers of another  
10          established housing authority; amending s. 421.05,  
11          F.S.; providing an exemption for authorities from s.  
12          215.425, F.S.; amending s. 421.06, F.S.; prohibiting  
13          commissioners or employees from acquiring interests in  
14          certain commercial projects; requiring commissioners  
15          or employees to disclose interests in commercial  
16          projects under certain circumstances; amending s.  
17          421.08, F.S.; revising the powers of an authority;  
18          requiring that revenue received by a housing authority  
19          from certain commercial projects be used for  
20          affordable housing; conforming a cross-reference;  
21          amending s. 421.09, F.S.; conforming a cross-  
22          reference; amending s. 421.091, F.S.; requiring a full  
23          financial accounting and audit of public housing  
24          agencies to be submitted to the Federal Government  
25          pursuant to certain requirements; exempting housing  
26          authorities from specified reporting requirements;  
27          amending s. 421.21, F.S.; revising legislative intent;  
28          amending s. 421.28, F.S.; creating a "consolidated  
29          housing authority"; revising provisions relating to

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30 the creation of a consolidated housing authority;  
31 providing that no more than three housing authorities  
32 may be combined within a specified period under  
33 certain circumstances; amending s. 421.29, F.S.;  
34 revising provisions relating to the area of operation  
35 of a consolidated housing authority; conforming  
36 provisions to changes made by the act; amending s.  
37 421.30, F.S.; requiring a consolidated plan to include  
38 a provision for the distribution of appointments among  
39 certain authorities; providing appointment  
40 requirements under certain circumstances; authorizing  
41 the number of commissioners to be increased under  
42 certain circumstances; requiring commissioners to be  
43 appointed for staggered terms; providing that the  
44 terms of the initial appointees may be truncated to  
45 stagger the terms; amending s. 421.31, F.S.; revising  
46 provisions relating to the powers of a consolidated  
47 housing authority; removing definitions; deleting  
48 provisions relating to the appointment, removal, and  
49 suspension of certain commissioners; amending s.  
50 421.32, F.S.; conforming provisions to changes made by  
51 the act; conforming a cross-reference; amending s.  
52 421.321, F.S.; conforming provisions to changes made  
53 by the act; amending s. 421.50, F.S.; revising  
54 provisions relating to decreasing the area of  
55 operation of a consolidated authority; conforming  
56 provisions to changes made by the act; amending s.  
57 421.51, F.S.; providing that the governing body of a  
58 city or county excluded from the area of operation of

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59 a consolidated housing authority may adopt a  
60 resolution declaring that there is a need for a  
61 housing authority; amending s. 422.02, F.S.; making a  
62 finding that there is a lack of access to certain  
63 essential commercial goods and services; amending s.  
64 422.04, F.S.; authorizing state public bodies to  
65 provide or cause to be provided commercial projects  
66 that allow access to certain essential commercial  
67 goods and services; amending s. 423.01, F.S.; making a  
68 finding that certain projects for the clearance of  
69 blighted areas and access to essential commercial  
70 goods and services are required; making a finding that  
71 facilities made available by housing authorities to  
72 provide access to essential commercial goods and  
73 services are a critical component for housing projects  
74 and constitute a public use and governmental function;  
75 making a finding that certain property used to provide  
76 access to essential commercial goods and services is  
77 exclusively for public uses and municipal purposes;  
78 amending s. 423.02, F.S.; providing that the  
79 activities or property of a person who provides  
80 essential commercial goods and services is not exempt  
81 from certain taxes and special assessments; exempting  
82 real property of a housing authority which is used to  
83 provide access to essential commercial goods and  
84 services from ad valorem taxes and special  
85 assessments; amending s. 893.13, F.S.; conforming a  
86 cross-reference; providing an effective date.

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

89

90 Section 1. Section 421.02, Florida Statutes, is amended to  
91 read:

92 421.02 Finding and declaration of necessity.—It is hereby  
93 declared that:

94 (1) There exist in the state insanitary or unsafe dwelling  
95 accommodations and that persons of low income are forced to  
96 reside in such insanitary or unsafe accommodations; that within  
97 the state there is a shortage of safe or sanitary dwelling  
98 accommodations available at rents which persons of low income  
99 can afford and that such persons are forced to occupy  
100 overcrowded and congested dwelling accommodations; that such ~~the~~  
101 ~~aforsaid~~ conditions cause an increase in and spread of disease  
102 and crime and constitute a menace to the health, safety, morals,  
103 and welfare of the residents of the state and impair economic  
104 values; and that these conditions necessitate excessive and  
105 disproportionate expenditures of public funds for crime  
106 prevention and punishment, public health, welfare and safety,  
107 fire and accident protection, and other public services and  
108 facilities.

109 (2) Blighted areas in the state cannot be revitalized, nor  
110 can the shortage of safe and sanitary dwellings for persons of  
111 low income be relieved, solely through the operation of private  
112 enterprise. However, the state encourages the use of housing  
113 authority property in combination with private enterprise to  
114 construct, rehabilitate, and otherwise provide safe and sanitary  
115 dwelling conditions for persons of low income.

116 (3) The clearance, replanning, and reconstruction of the

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117 areas in which insanitary or unsafe housing conditions exist,  
118 ~~and~~ the providing of safe and sanitary dwelling accommodations,  
119 and the access to essential commercial goods and services  
120 necessary for daily living for persons of low income, including  
121 the acquisition by a housing authority of property to be used  
122 for or in connection with housing projects or appurtenant  
123 thereto, are exclusively public uses and purposes for which  
124 public money may be spent and private property acquired and are  
125 governmental functions of public concern.

126 (4) An important public purpose is served by providing  
127 access to essential commercial goods and services necessary for  
128 daily living for persons served by public housing authorities as  
129 these persons often have limited transportation capacity and  
130 significant family demands. Issues such as limited  
131 transportation capacity and significant family demands  
132 complicate daily living and make access to essential commercial  
133 goods and services difficult.

134 (5)~~(4)~~ The necessity in the public interest for the  
135 provisions hereinafter enacted, is hereby declared as a matter  
136 of legislative determination.

137 Section 2. Section 421.03, Florida Statutes, is reordered  
138 and amended to read:

139 421.03 Definitions.—As used ~~The following terms, wherever~~  
140 ~~used or referred to~~ in this part, except where the context  
141 clearly indicates otherwise, the term shall have the following  
142 ~~respective meanings for the purposes of this part, unless a~~  
143 ~~different meaning clearly appears from the context:~~

144 (2)~~(1)~~ "Authority" or "housing authority" means a shall  
145 ~~mean any of the public corporation corporations~~ created pursuant

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146 to ~~by~~ s. 421.04.

147 (4)~~(2)~~ "City" means ~~shall mean~~ any city or town in this ~~of~~  
 148 ~~the~~ state having a population of more than 2,500, according to  
 149 the last preceding federal or state census. The term also means  
 150 ~~"The city" shall mean~~ the particular city for which a particular  
 151 housing authority is created.

152 (9)~~(3)~~ "Governing body" means ~~shall mean~~ the city council,  
 153 the commission, or other legislative body charged with governing  
 154 the city, ~~as the case may be.~~

155 (11)~~(4)~~ "Mayor" means ~~shall mean~~ the mayor of the city or  
 156 the officer of the city ~~thereof~~ charged with the duties  
 157 customarily imposed on the mayor or executive head of the city.

158 (5) "Clerk" means ~~shall mean~~ the clerk of the city or the  
 159 officer of the city charged with the duties customarily imposed  
 160 on the clerk ~~thereof.~~

161 (1)~~(6)~~ "Area of operation":

162 (a) In the case of a housing authority of a city having a  
 163 population of fewer ~~less~~ than 25,000, includes ~~shall include~~  
 164 such city and the area within 5 miles of its ~~the~~ territorial  
 165 boundaries. ~~thereof; and~~

166 (b) In the case of a housing authority of a city having a  
 167 population of 25,000 or more, includes ~~shall include~~ such city  
 168 and the area within 10 miles from its ~~the~~ territorial  
 169 boundaries. ~~thereof; provided~~ However, ~~that~~ the area of  
 170 operation of a housing authority of a ~~any~~ city may ~~shall~~ not  
 171 include any area that ~~which~~ lies within the territorial  
 172 boundaries of another ~~some other~~ city ~~as herein defined;~~ and may  
 173 ~~further provided that the area of operation shall~~ not extend  
 174 outside ~~of~~ the boundaries of the county in which the city is

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175 located. Such ~~and no~~ housing authority does not ~~shall~~ have any  
 176 power or jurisdiction outside ~~of~~ the county in which the city is  
 177 located.

178 (8) ~~(7)~~ "Federal Government" means ~~shall include~~ the United  
 179 States Government, ~~the Federal Emergency Administration of~~  
 180 ~~Public Works~~ or any department, commission, other agency, or  
 181 other instrumentality thereof, corporate or otherwise, of the  
 182 ~~United States.~~

183 (3) ~~(8)~~ "Blighted area" means ~~"Slum" shall mean~~ any area  
 184 where dwellings predominate which, by reason of dilapidation; ;  
 185 overcrowding; ; faulty arrangement or design; ; lack of  
 186 ventilation, light, or sanitary facilities; ; or any combination  
 187 of these factors, are detrimental to safety, health, and morals.

188 (10) ~~(9)~~ "Housing project" means ~~shall mean~~ any work or  
 189 undertaking:

190 (a) To demolish, clear, or remove buildings from any  
 191 blighted slum area, which; ~~such work or undertaking~~ may embrace  
 192 the adaption of such area to public purposes, including parks or  
 193 other recreational or community purposes; ~~or~~

194 (b) To provide decent, safe, and sanitary urban or rural  
 195 dwellings, apartments, or other living accommodations for  
 196 persons of low income, which; ~~such work or undertaking~~ may  
 197 include buildings, land, equipment, facilities and other real or  
 198 personal property for necessary, convenient or desirable  
 199 appurtenances, streets, sewers, water service, parks, site  
 200 preparation, gardening, administrative, community, health,  
 201 recreational, educational, welfare, or other purposes; ~~or~~

202 (c) To provide access to essential commercial goods and  
 203 services; or

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204        (d)~~(e)~~ To accomplish a combination of these objectives ~~the~~  
205 ~~foregoing~~. The term "housing project" also applies ~~may be~~  
206 ~~applied~~ to the planning of the buildings and improvements;; ~~the~~  
207 acquisition of property, the demolition of existing structures;; ~~the~~  
208 the construction, reconstruction, alteration, and repair of the  
209 improvements; and all other related work ~~in connection~~  
210 ~~therewith~~.

211        (13)~~(10)~~ "Persons of low income" means ~~shall mean~~ persons  
212 or families who lack the amount of income which is necessary, as  
213 determined by the authority undertaking the housing project, to  
214 enable them, without financial assistance, to live in decent,  
215 safe, and sanitary dwellings, without overcrowding.

216        (6)~~(11)~~ "Debentures" means ~~shall mean~~ any notes, interim  
217 certificates, debentures, revenue certificates, or other  
218 obligations issued by an authority pursuant to this chapter.

219        (14)~~(12)~~ "Real property" includes ~~shall include~~ all lands,  
220 including improvements and fixtures thereon, and property of any  
221 nature appurtenant thereto, or used in connection therewith, and  
222 every estate, interest, and ~~right,~~ legal or equitable right,  
223 therein, including terms for years and liens by way of judgment,  
224 mortgage, or otherwise and the indebtedness secured by such  
225 liens.

226        (12)~~(13)~~ "Obligee of the authority" or "obligee" includes  
227 ~~shall include~~ any holder of debentures, trustee or trustees for  
228 any such holders, or lessor demising to the authority property  
229 used in connection with a housing project, or any assignee or  
230 assignees of such lessor's interest or any part thereof, and the  
231 Federal Government when it is a party to any contract with the  
232 authority.



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233       (7) "Essential commercial goods and services" means goods,  
234 such as groceries and clothing, and services, such as child  
235 care, K-12 education, financial services, job training and  
236 placement, laundry facilities, and other local governmental  
237 services, which are in close proximity to dwelling  
238 accommodations of a housing authority and necessary for daily  
239 living, which substantially serve persons of low income, and  
240 which may be difficult for persons of low income to access  
241 unless located in close proximity to the housing development  
242 where the persons live.

243       Section 3. Subsection (4) is added to section 421.04,  
244 Florida Statutes, to read:

245       421.04 Creation of housing authorities.—

246       (4) Regardless of the date of its creation, a housing  
247 authority may not apply to the Federal Government to seize any  
248 projects, units, or vouchers of another established housing  
249 authority, irrespective of each housing authority's areas of  
250 operation.

251       Section 4. Subsection (2) of section 421.05, Florida  
252 Statutes, is amended to read:

253       421.05 Appointment, qualifications, and tenure of  
254 commissioners; hiring of employees.—

255       (2) The powers of each authority shall be vested in the  
256 commissioners thereof in office from time to time. A majority of  
257 the commissioners constitutes ~~shall constitute~~ a quorum of the  
258 authority ~~for the purpose of conducting its business and~~  
259 ~~exercising its powers and for all other purposes.~~ Action may be  
260 taken by the authority upon a vote of a majority of the  
261 commissioners present, unless ~~in any case~~ the bylaws of the

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262 authority require a larger number. The mayor, with the  
263 concurrence of the governing body, shall designate ~~which of the~~  
264 ~~commissioners appointed shall be the first chair~~ from among the  
265 appointed commissioners, but when the office subsequently ~~of the~~  
266 ~~chair of the authority thereafter~~ becomes vacant, the authority  
267 shall select a chair from among the ~~its~~ commissioners. An  
268 authority shall also select from among the ~~its~~ commissioners a  
269 vice chair. An authority; ~~and it~~ may employ a secretary, who  
270 shall serve as ~~be~~ the executive director, technical experts, and  
271 others ~~such other officers, agents, and employees, permanent and~~  
272 ~~temporary, as it may require~~ and shall determine their  
273 qualifications, duties, and compensation. Accordingly,  
274 authorities are exempt from s. 215.425. ~~For such legal services~~  
275 ~~as it may require~~, An authority may call upon the chief law  
276 officer of the city or may employ its own counsel and legal  
277 staff for legal services. An authority may delegate to one or  
278 more of its agents or employees such powers or duties as it may  
279 deem proper.

280 Section 5. Section 421.06, Florida Statutes, is amended to  
281 read:

282 421.06 Commissioners or employees prohibited from acquiring  
283 interests in housing projects and required to disclose interests  
284 in specified properties; exception.—Except for the leasehold  
285 interest held by a tenant-commissioner in the housing project in  
286 which he or she is a tenant, a ~~no~~ commissioner or employee of an  
287 authority may not ~~shall~~ acquire any interest, direct or  
288 indirect, in any housing project or in any property included or  
289 planned to be included in any project, or ~~nor shall he or she~~  
290 have any interest, direct or indirect, in any contract or

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291 proposed contract for materials or services to be furnished or  
292 used in connection with any housing project. If a commissioner  
293 or employee of an authority owns or controls an interest, direct  
294 or indirect, in any property included or planned to be included  
295 in any housing project, he or she shall immediately disclose the  
296 same in writing to the authority. Such disclosure shall be  
297 entered upon the minutes of the authority. Failure ~~se~~ to  
298 disclose such interest constitutes misconduct in office. This  
299 section applies to any commercial project authorized under this  
300 chapter.

301 Section 6. Section 421.08, Florida Statutes, is amended to  
302 read:

303 421.08 Powers of authority.—

304 (1) An authority created pursuant to this chapter is a  
305 public entity and is authorized ~~shall constitute a public body~~  
306 ~~corporate and politic, exercising the public and essential~~  
307 ~~governmental functions set forth in this chapter, and having all~~  
308 ~~the powers necessary or convenient to carry out and effectuate~~  
309 ~~the purpose and provisions of this chapter, including the~~  
310 ~~following powers in addition to others herein granted:~~

311 (a)(1) To sue and be sued; to have a seal and to alter it  
312 ~~the same~~ at pleasure; to have perpetual succession; to make and  
313 execute contracts and other instruments necessary or convenient  
314 to the exercise of the powers of the authority; to appear in  
315 court through any of its officers, agents, or employees, for the  
316 exclusive purpose of filing eviction papers; and to make and  
317 from time to time amend and repeal bylaws and, rules consistent  
318 ~~and regulations, not inconsistent~~ with this chapter, to carry  
319 into effect the powers and purposes of the authority.

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320        (b) ~~(2)~~ Within its area of operation, to prepare, carry out,  
321 acquire, lease, and operate housing projects and ~~to~~ provide for  
322 the construction, reconstruction, improvement, alteration, or  
323 repair of any housing project ~~or any part thereof.~~

324        (c) ~~(3)~~ To arrange or contract for the furnishing by any  
325 person or agency, public or private, of services, privileges,  
326 works, or facilities for, or in connection with, a housing  
327 project or the occupants thereof.

328        1.  ~~; provided, however, that~~ Notwithstanding ~~any other~~  
329 ~~power or provision in this chapter,~~ the authority may ~~shall~~ not  
330 construct, lease, control, purchase, or otherwise establish in  
331 connection with or as a part of any housing project or any other  
332 real or ~~any~~ other property under its control, any system, work,  
333 facilities, plants, or other equipment for the purpose of  
334 furnishing utility service of any kind to such projects or to  
335 any tenant or occupant thereof if ~~in the event that~~ a system,  
336 work, facility, plant, or other equipment for the furnishing of  
337 the same utility service is being actually operated by a  
338 municipality or private concern in the area of operation or the  
339 city or the territory immediately adjacent thereto. This  
340 subparagraph does not; ~~provided, further, that nothing herein~~  
341 ~~shall be construed to~~ prohibit the construction or acquisition  
342 by the authority of:

343        a. Any system, work, facilities, or other equipment for the  
344 sole ~~and only~~ purpose of receiving utility services from any  
345 such municipality or such private concern which are ~~and~~ then  
346 distributed ~~distributing such utility services~~ to the project  
347 and its ~~to the~~ tenants and occupants thereof; or ~~and,~~

348        b. Any renewable energy devices or systems to be installed

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349 and located upon housing authority property for the sole purpose  
350 of reducing utility costs to its tenants or occupants.

351 2. ~~Notwithstanding anything to the contrary contained in~~  
352 ~~this chapter or in any other provision of law, the authority may~~  
353 ~~to include in any contract let in connection with a project,~~  
354 ~~stipulations requiring that the contractor and any~~  
355 ~~subcontractors comply with requirements as to minimum wages and~~  
356 ~~maximum hours of labor, and comply with any conditions that~~  
357 ~~which the Federal Government may have attached to its financial~~  
358 ~~assistance aid of the project.~~

359 (d) ~~(4)~~ To lease or rent any dwellings, houses,  
360 accommodations, lands, buildings, structures, or facilities  
361 embraced in any housing project and, subject to the limitations  
362 contained in this chapter, to establish and revise the rents or  
363 charges therefor; to own, hold, and improve real or personal  
364 property; to purchase, lease, obtain options upon, acquire by  
365 gift, grant, bequest, devise, or otherwise any real or personal  
366 property or any interest therein; to acquire by the exercise of  
367 the power of eminent domain any real property, except real  
368 property to be used to provide access to essential commercial  
369 goods and services; to sell, lease, exchange, transfer, assign,  
370 pledge, or dispose of any real or personal property or any  
371 interest therein; to insure or provide for the insurance of any  
372 real or personal property or operations of the authority against  
373 any risks or hazards; and to procure or agree to the procurement  
374 of insurance or guarantees from the Federal Government of the  
375 payment of any such debts or parts thereof, regardless of  
376 whether they are ~~or not~~ incurred by the ~~said~~ authority,  
377 including the power to pay premiums on any such insurance.

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378        (e)~~(5)~~ To invest any funds held in reserves or sinking  
379 funds and,~~or~~ any funds not required for immediate disbursement,  
380 in property or securities in which savings banks may legally  
381 invest funds subject to their control and~~+~~ to purchase its  
382 debentures at a price not exceeding ~~more than~~ the principal  
383 amount thereof and accrued interest, with all debentures so  
384 purchased to be canceled.

385        (f)~~(6)~~ Within its area of operation,~~+~~ to investigate the  
386 ~~into~~ living, dwelling, and housing conditions and ~~into the means~~  
387 ~~and~~ methods of improving such conditions; to determine where  
388 blighted ~~slum~~ areas exist or where there is a shortage of  
389 decent, safe, and sanitary dwelling accommodations for persons  
390 of low income; to make studies and recommendations relating to  
391 the problem of clearing, replanning, and reconstruction of  
392 blighted ~~slum~~ areas and the problem of providing dwelling  
393 accommodations for persons of low income; to administer fair  
394 housing ordinances and other ordinances as adopted by cities,  
395 counties, or other authorities who wish to contract for  
396 administrative services and to cooperate with the city, the  
397 county, or the state or any political subdivision thereof in  
398 action taken in connection with such problems; and to engage in  
399 research, studies, and experimentation on the subject of  
400 housing.

401        (g)~~(7)~~ Acting through one or more commissioners or other  
402 person or persons designated by the authority:~~+~~ to conduct  
403 examinations and investigations and to hear testimony and take  
404 proof under oath at public or private hearings on any material  
405 matter ~~material for its information~~; to administer oaths, issue  
406 subpoenas requiring the attendance of witnesses or the

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407 production of books and papers, and ~~to~~ issue commissions for the  
408 examination of witnesses who are outside ~~of~~ the state, ~~or~~ unable  
409 to attend before the authority, or excused from attendance; and  
410 to make available to appropriate agencies, including those  
411 charged with the duty of abating or requiring the correction of  
412 nuisances or like conditions, or of demolishing unsafe or  
413 insanitary structures within its area of operation, its findings  
414 and recommendations with regard to any building or property  
415 where conditions exist which are dangerous to the public health,  
416 morals, safety, or welfare.

417 (h) ~~(g)~~ (a) To organize for the purpose of creating a for-  
418 profit or not-for-profit corporation, limited liability company,  
419 or other similar business entity pursuant to all applicable laws  
420 of this state in which the housing authority may hold an  
421 ownership interest or participate in its governance in order to  
422 develop, acquire, lease, construct, rehabilitate, manage, or  
423 operate multifamily or single-family residential projects and  
424 commercial projects that allow access to essential goods and  
425 services for persons of low income residing in such residential  
426 projects.

427 1. These projects may include nonresidential uses and may  
428 use public and private funds to serve individuals or families  
429 who meet the applicable income requirements of the state or  
430 federal program involved; whose income does not exceed 150  
431 percent of the applicable median income for the area, as  
432 established by the United States Department of Housing and Urban  
433 Development; and who, in the determination of the housing  
434 authority, lack sufficient income or assets to enable them to  
435 purchase or rent a decent, safe, and sanitary dwelling. These

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436 corporations, limited liability companies, or other business  
437 entities may join partnerships, joint ventures, or limited  
438 liability companies pursuant to applicable laws or may otherwise  
439 engage with business entities in developing, acquiring, leasing,  
440 constructing, rehabilitating, managing, or operating such  
441 projects.

442 2.~~(b)~~ The creation by a housing authority of such a  
443 corporation, limited liability company, or other business entity  
444 that is properly registered pursuant to all applicable laws  
445 before the effective date of this act is ratified and validated  
446 if the creation of such corporation, limited liability company,  
447 or other business entity would have been valid had this act been  
448 in effect at the time such corporation, limited liability  
449 company, or other business entity was created and registered.

450 3.~~(e)~~ Proceedings or acts performed by a housing authority  
451 or a corporation, limited liability company, or other business  
452 entity authorized pursuant to subparagraph 2. ~~paragraph (b)~~ are  
453 ratified and validated if such proceedings or acts were in  
454 furtherance of the purposes set forth in this chapter and would  
455 have been valid had this act been in effect at the time such  
456 proceedings or acts were performed.

457 (i)~~(9)~~ Notwithstanding s. 112.061, the governing board of  
458 an authority may approve and implement policies for per diem,  
459 travel, and other expenses of its officials, officers, board  
460 members, employees, and authorized persons in a manner  
461 consistent with federal guidelines.

462 (j)~~(10)~~ To exercise all or any part or combination of  
463 powers ~~herein~~ granted in this section. ~~No~~ Provisions of law  
464 relating with respect to acquisition, operation, or disposition



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465 of property by other public bodies do not apply ~~shall be~~  
 466 ~~applicable~~ to an authority unless specifically required by the  
 467 Legislature ~~shall specifically so state.~~

468 (2) Revenue received by a housing authority from commercial  
 469 projects that provide access to essential commercial goods and  
 470 services necessary for daily living of persons residing in  
 471 housing projects must be used to provide affordable housing.

472 Section 7. Subsection (2) of section 421.09, Florida  
 473 Statutes, is amended to read:

474 421.09 Operation not for profit.-

475 (2) This section does not prohibit or restrict the  
 476 activities or operations of a business entity created under s.  
 477 421.08(1)(h) ~~s. 421.08(8)~~.

478 Section 8. Subsection (1) of section 421.091, Florida  
 479 Statutes, is amended to read:

480 421.091 Financial accounting and investments; fiscal year.-

481 (1) A complete and full financial accounting and audit in  
 482 accordance with federal audit standards of public housing  
 483 agencies shall be made biennially by a certified public  
 484 accountant and submitted to the Federal Government in accordance  
 485 with its policies. Housing authorities are otherwise exempt from  
 486 the reporting requirements of s. 218.32. A copy of such audit  
 487 ~~shall be filed with the governing body and with the Auditor~~  
 488 ~~General.~~

489 Section 9. Section 421.21, Florida Statutes, is amended to  
 490 read:

491 421.21 Aid from Federal Government; tax exemptions.-

492 (1) In addition to the powers conferred upon an authority  
 493 by other provisions of this chapter, an authority is empowered

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494 to borrow money or accept grants or other financial assistance  
495 from the Federal Government for or in aid of any housing project  
496 within its area of operation, to take over or lease or manage  
497 any housing project or undertaking constructed or owned by the  
498 Federal Government, and to these ends, to comply with such  
499 conditions and enter into such trust indentures, leases, or  
500 agreements as may be necessary, convenient, or desirable. It is  
501 the purpose and intent of this chapter to authorize every  
502 authority to do any and all things necessary or desirable to  
503 secure the financial aid or cooperation of the Federal  
504 Government in the undertaking, construction, maintenance, or  
505 operation of any housing project by such authority.

506 (2) In addition to the powers conferred upon an authority  
507 by subsection (1) and other provisions of this chapter, an  
508 authority is empowered to borrow money or accept grants or other  
509 financial assistance from the Federal Government under s. 202 of  
510 the Housing Act of 1959 (Pub. L. No. 86-372) or any law or  
511 program of the United States Department of Housing and Urban  
512 Development, which provides for direct federal loans in the  
513 maximum amount, as defined therein, for the purpose of assisting  
514 certain nonprofit corporations to provide housing and related  
515 facilities for elderly families and elderly persons.

516 (a) Housing authorities created under this section are  
517 authorized to execute mortgages, notes, bills, or other forms of  
518 indebtedness together with any agreements, contracts, or other  
519 instruments required by the United States Department of Housing  
520 and Urban Development in connection with loans made for the  
521 purposes set forth in this subsection.

522 (b) This provision relating to housing facilities for the

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523 elderly is cumulative and in addition to the powers given to  
524 housing authorities under this chapter. All powers granted  
525 generally by law to housing authorities in Florida relating to  
526 issuance of trust indentures, debentures, and other methods of  
527 raising capital ~~shall~~ apply also to housing authorities in  
528 connection with their participation in programs of the United  
529 States Department of Housing and Urban Development.

530 (3) It is the legislative intent that the tax exemption of  
531 housing authorities provided by chapter 423, ~~shall~~ specifically  
532 apply to any housing authority created under this section and  
533 any affordable housing efforts they undertake, either directly  
534 or through instrumentalities.

535 Section 10. Section 421.28, Florida Statutes, is amended to  
536 read:

537 421.28 Creation of a consolidated ~~regional~~ housing  
538 authority.—

539 (1) If the commissioners governing body of each of two or  
540 more city or county housing authorities in neighboring areas of  
541 operation which are not under federal receivership declare  
542 contiguous counties by identical resolution after a dedicated  
543 public hearing and hearings at two consecutive meetings declares  
544 that there is a need and provide a detailed plan for merging  
545 their authorities in the best interest of their respective  
546 tenants and communities, one housing authority shall ~~to~~ be  
547 created for the merging authorities all of such counties to  
548 exercise powers and other functions herein prescribed in such  
549 areas of operation through counties, a public body corporate and  
550 politic to be known as a consolidated ~~regional~~ housing  
551 authority, which may be an existing housing authority designated

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552 by the merging authorities or a new entity with such corporate  
553 name as it selects. Thereafter, shall thereupon exist for all of  
554 such counties and exercise its powers and other functions in  
555 such counties; and thereupon each housing authority created by  
556 s. 421.04 or s. 421.27 for each of such areas counties shall  
557 cease to exist except for the purpose of winding up its affairs  
558 and executing a deed to the consolidated regional housing  
559 authority as hereafter provided; if provided that the governing  
560 body of a county shall not adopt a resolution as aforesaid if  
561 there is a housing authority created for such county which has  
562 any obligations outstanding unless first:

563 (a) All obligees of such ~~county~~ housing authority and  
564 parties to the contracts, bonds, notes, and other obligations  
565 thereof of such county housing authority agree with such county  
566 housing authority to the substitution of the consolidated such  
567 ~~regional~~ housing authority in lieu of such county housing  
568 authority on all such contracts, bonds, notes or other  
569 obligations; and

570 (b) The commissioners of such ~~county~~ housing authorities  
571 authority adopt a resolution consenting to the transfer of all  
572 ~~the~~ rights, contracts, obligations, and property, real and  
573 personal, to the consolidated of such county housing authority  
574 ~~to such regional~~ housing authority as hereinafter provided;  
575  
576 ~~and provided further that when the above two conditions are~~  
577 ~~complied with and such regional housing authority is created and~~  
578 ~~authorized to exercise its powers and other functions, all~~  
579 ~~rights, contracts, agreements, obligations and property of such~~  
580 ~~county housing authority shall be in the name of and vest in~~

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581 ~~such regional housing authority, and all obligations of such~~  
582 ~~county housing authority shall be the obligations of such~~  
583 ~~regional housing authority and all rights and remedies of any~~  
584 ~~person against such county housing authority may be asserted,~~  
585 ~~enforced and prosecuted against such regional housing authority~~  
586 ~~to the same extent as they may have been asserted, enforced and~~  
587 ~~prosecuted against such county housing authority.~~

588 (2) No more than three housing authorities may be combined  
589 within a 10-year period, unless there is a resolution of each  
590 housing authority and local government within the area of  
591 operation in support of such additional consolidation.

592 (3)~~(2)~~ When ~~any~~ real property of a ~~county~~ housing authority  
593 vests in a consolidated ~~regional~~ housing authority as provided  
594 above, the ~~county~~ housing authority shall execute a deed  
595 transferring ~~of~~ such property to the consolidated ~~regional~~  
596 housing authority, which ~~thereupon~~ shall file such deed with the  
597 recorder of deeds of the county where such real property is  
598 located, ~~provided that nothing contained in this sentence shall~~  
599 ~~affect the vesting of property in the regional housing authority~~  
600 ~~as provided above.~~

601 ~~(3) The governing body of each of two or more contiguous~~  
602 ~~counties shall by resolution declare that there is a need for~~  
603 ~~one regional housing authority to be created for all of such~~  
604 ~~counties to exercise powers and other functions herein~~  
605 ~~prescribed in such counties, if such governing body finds, and~~  
606 ~~only if it finds:~~

607 ~~(a) That insanitary or unsafe inhabited dwelling~~  
608 ~~accommodations exist in such county or there is a shortage of~~  
609 ~~safe and sanitary dwelling accommodations in such county~~

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610 ~~available to persons of low income at rentals they can afford;~~  
611 ~~and~~

612 ~~(b) That a regional housing authority would be a more~~  
613 ~~efficient or economical administrative unit than the housing~~  
614 ~~authority of such county to carry out the purposes of this~~  
615 ~~Housing Authorities Law in such county.~~

616 (4) In any suit, action, or proceeding involving the  
617 validity or enforcement of or relating to any contract of the  
618 consolidated regional housing authority, the consolidated  
619 ~~regional~~ housing authority shall be conclusively deemed to have  
620 been become created, ~~as a public body corporate and politic and~~  
621 ~~to have become~~ established, and authorized to transact business  
622 and exercise its authority under this section ~~powers hereunder~~  
623 upon proof of the adoption of a resolution by the commissioners  
624 ~~governing body~~ of each of the merging authorities ~~counties~~  
625 creating the consolidated regional housing authority ~~declaring~~  
626 ~~the need for the regional housing authority. Each such~~  
627 ~~resolution shall be deemed sufficient if it declares that there~~  
628 ~~is need for a regional housing authority and finds in~~  
629 ~~substantially the foregoing terms, no further detail being~~  
630 ~~necessary, that the conditions enumerated in subsection (3)~~  
631 ~~exist. A copy of such resolution of the governing body of a~~  
632 ~~county, duly certified by the county clerk of such county, shall~~  
633 ~~be admissible in evidence in any suit, action or proceeding.~~

634 Section 11. Section 421.29, Florida Statutes, is amended to  
635 read:

636 421.29 Area of operation of a consolidated regional housing  
637 authority.—

638 (1) The area of operation of a consolidated regional

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639 housing authority includes ~~shall include~~ all of the areas of  
640 operation ~~counties~~ for which such consolidated ~~regional~~ housing  
641 authority is created and established, except such portions that  
642 ~~of the counties which~~ lie within the territorial boundaries of  
643 existing housing authorities not a part of the consolidated  
644 housing authority ~~cities, as defined in the Housing Authorities~~  
645 ~~Law, as amended.~~

646 (2) The area of operation of a consolidated ~~regional~~  
647 housing authority may ~~shall~~ be increased from time to time to  
648 include one or more additional authorities ~~counties~~ not already  
649 within a consolidated ~~regional~~ housing authority, ~~except such~~  
650 ~~portion or portions of such additional county or counties which~~  
651 ~~lie within the territorial boundaries of any city, as defined,~~  
652 if the commissioners ~~governing body~~ of each of the authorities  
653 to be ~~counties then~~ included in its ~~the~~ area of operation and ~~of~~  
654 ~~such regional housing authority,~~ the commissioners of the  
655 consolidated ~~regional~~ housing authority and ~~the governing body~~  
656 ~~of each such additional county or counties~~ each adopt a  
657 resolution declaring that there is a need for the inclusion of  
658 such additional authorities ~~county or counties~~ in the area of  
659 operation of the consolidated ~~such regional~~ housing authority.  
660 Upon the adoption of such resolutions, the ~~county~~ housing  
661 authority created under ~~by~~ s. 421.27 for each such additional  
662 area ~~county~~ shall cease to exist except for the purpose of  
663 winding up its affairs and executing a deed to the consolidated  
664 ~~regional~~ housing authority as ~~hereinafter~~ provided in s.  
665 421.28. ~~provided, however, that such resolutions shall not be~~  
666 ~~adopted if there is a county housing authority created for any~~  
667 ~~such additional county which has any obligations outstanding~~

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668 ~~unless first:~~

669 ~~(a) All obligees of any such county housing authority and~~  
670 ~~parties to the contracts, bonds, notes and other obligations of~~  
671 ~~any such county housing authority agree with such county housing~~  
672 ~~authority and the regional housing authority to the substitution~~  
673 ~~of such regional housing authority in lieu of such county~~  
674 ~~housing authority on all such contracts, bonds, notes or other~~  
675 ~~obligations, and second:~~

676 ~~(b) The commissioners of such county housing authority and~~  
677 ~~the commissioners of such regional housing authority adopt~~  
678 ~~resolutions consenting to the transfer of all the rights,~~  
679 ~~contracts, obligations and property, real and personal, of such~~  
680 ~~county housing authority to such regional housing authority as~~  
681 ~~hereinafter provided, and provided further, that when the above~~  
682 ~~two conditions are complied with and the area of operation of~~  
683 ~~such regional housing authority is increased to include such~~  
684 ~~additional county, as hereinabove provided, all rights,~~  
685 ~~contracts, agreements, obligations and property of such county~~  
686 ~~housing authority shall be in the name of and vest in such~~  
687 ~~regional housing authority, all obligations of such county~~  
688 ~~housing authority shall be the obligations of such regional~~  
689 ~~housing authority and all rights and remedies of any person~~  
690 ~~against such county housing authority may be asserted, enforced~~  
691 ~~and prosecuted against such regional housing authority to the~~  
692 ~~same extent as they may have been asserted, enforced and~~  
693 ~~prosecuted against such county housing authority.~~

694 ~~(3) When any real property of a county housing authority~~  
695 ~~vests in a regional housing authority as provided above, the~~  
696 ~~county housing authority shall execute a deed of such property~~



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697 ~~to the regional housing authority which thereupon shall file~~  
698 ~~such deed with the recorder of deeds of the county where such~~  
699 ~~real property is, provided that nothing contained in this~~  
700 ~~sentence shall affect the vesting of property in the regional~~  
701 ~~housing authority as provided above.~~

702 ~~(4) The governing body of each of the counties in the~~  
703 ~~regional housing authority, the commissioners of the regional~~  
704 ~~housing authority and the governing body of each such additional~~  
705 ~~county or counties shall by resolution declare that there is a~~  
706 ~~need for the addition of such county or counties to the regional~~  
707 ~~housing authority, if:~~

708 ~~(a) The governing body of each of such additional county or~~  
709 ~~counties finds that insanitary or unsafe inhabited dwelling~~  
710 ~~accommodations exist in such county or there is a shortage of~~  
711 ~~safe or sanitary dwelling accommodations in such county~~  
712 ~~available to persons of low income at rentals they can afford;~~  
713 ~~and~~

714 ~~(b) The governing body of each of the counties then~~  
715 ~~included in the area of operation of the regional housing~~  
716 ~~authority, the commissioners of the regional housing authority~~  
717 ~~and the governing body of each such additional county or~~  
718 ~~counties find that the regional housing authority would be a~~  
719 ~~more efficient or economical administrative unit to carry out~~  
720 ~~the purposes of this Housing Authorities Law if the area of~~  
721 ~~operation of the regional housing authority shall be increased~~  
722 ~~to include such additional county or counties.~~

723 ~~(5) In determining whether dwelling accommodations are~~  
724 ~~unsafe or insanitary under this or s. 421.28, the governing body~~  
725 ~~of a county shall take into consideration the safety and~~

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726 ~~sanitation of the dwellings, the light and airspace available to~~  
 727 ~~the inhabitants of such dwellings, the degree of overcrowding,~~  
 728 ~~the size and arrangement of the rooms and the extent to which~~  
 729 ~~conditions exist in such buildings which endanger life or~~  
 730 ~~property by fire or other causes.~~

731 (3)~~(6)~~ In connection with the issuance of bonds or the  
 732 incurring of other obligations, a consolidated ~~regional~~ housing  
 733 authority may covenant as to limitations on its right to adopt  
 734 resolutions relating to the increase of its area of operation.

735 ~~(7) No governing body of a county shall adopt any~~  
 736 ~~resolution authorized by this or s. 421.28 unless a public~~  
 737 ~~hearing has first been held. The clerk of such county shall give~~  
 738 ~~notice of the time, place and purpose of the public hearing at~~  
 739 ~~least 10 days prior to the day on which the hearing is to be~~  
 740 ~~held, in a newspaper published in such county, or if there is no~~  
 741 ~~newspaper published in such county, then in a newspaper~~  
 742 ~~published in the state and having a general circulation in such~~  
 743 ~~county. Upon the date fixed for such public hearing an~~  
 744 ~~opportunity to be heard shall be granted to all residents of~~  
 745 ~~such county and to all other interested persons.~~

746 Section 12. Section 421.30, Florida Statutes, is amended to  
 747 read:

748 421.30 Commissioners of consolidated ~~regional~~ authorities.—

749 (1) When a consolidated ~~regional~~ housing authority has been  
 750 created as provided above, the consolidation plan must include a  
 751 provision for the distribution of appointments among the  
 752 appointing authorities of the existing agencies. The appointing  
 753 authorities ~~Governor~~ shall ~~thereupon~~ appoint seven  
 754 commissioners, with at least one qualified elector from each

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755 included area of operation, provided that there are suitable  
756 candidates who are willing to serve from each area of operation  
757 county included in such regional housing authority as a  
758 commissioner of the regional housing authority.

759 (2) When the area of operation of a consolidated regional  
760 housing authority is increased to include an additional area of  
761 operation county or counties as herein provided, the  
762 consolidation plan must provide for the appointment of Governor  
763 shall thereupon appoint one qualified elector from each such  
764 additional area of operation county as a commissioner of the  
765 regional housing authority. The number of commissioners of a  
766 consolidated housing authority may be increased above seven,  
767 provided that it is only to allow for the implementation of this  
768 provision.

769 (3) If any county is later excluded from the area of  
770 operation of a consolidated regional housing authority, the  
771 office of the commissioner of such regional housing authority  
772 appointed as provided above for such county, is shall be  
773 thereupon abolished.

774 (4)(2) If the area of operation of a consolidated regional  
775 housing authority consists at any time of an even number of  
776 counties, the Governor shall appoint one additional  
777 commissioner, who shall be a qualified elector from one of the  
778 counties in such area of operation, whose term of office shall  
779 be as herein provided for a commissioner of a regional housing  
780 authority, except that such term shall end at any earlier time  
781 that the area of operation of the regional housing authority  
782 shall be changed to consist of an odd number of counties.

783 (5)(3) A certificate of the appointment of any commissioner

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784 of a consolidated ~~regional~~ housing authority must ~~shall~~ be filed  
785 with the county clerk of the county from which the commissioner  
786 is appointed, and such certificate shall be conclusive evidence  
787 of the due and proper appointment of such commissioner.

788 (6) The commissioners of a consolidated ~~regional~~ housing  
789 authority shall be appointed for staggered terms of 4 years,  
790 except that the terms of the initial appointees may be truncated  
791 to stagger the terms, and all vacancies shall be filled for the  
792 unexpired terms. Each commissioner shall hold office until a  
793 successor has been appointed and has qualified, except as  
794 otherwise provided herein. The Governor shall thereafter appoint  
795 the successor of each commissioner ~~of a regional housing~~  
796 ~~authority.~~

797 ~~(7)(4) The commissioners appointed as aforesaid shall~~  
798 ~~constitute the regional housing authority, and the powers of~~  
799 ~~such authority shall be vested in such commissioners in office~~  
800 ~~from time to time.~~

801 ~~(5)~~ The commissioners of a consolidated ~~regional~~ housing  
802 authority shall elect a chair from among the commissioners and  
803 shall have power to select or employ such other officers and  
804 employees as the ~~regional housing~~ authority may require. A  
805 majority of the commissioners of a consolidated ~~regional~~ housing  
806 authority constitutes ~~shall constitute~~ a quorum of such  
807 authority for the purpose of conducting its business and  
808 exercising its powers and for all other purposes.

809 Section 13. Section 421.31, Florida Statutes, is amended to  
810 read:

811 421.31 Powers of consolidated ~~regional~~ housing authority;  
812 definitions.—Except as otherwise provided herein, a consolidated

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813 ~~regional~~ housing authority and the commissioners thereof shall,  
814 within the area of operation of such regional housing authority,  
815 have the same functions, rights, powers, duties, privileges, and  
816 immunities provided for housing authorities created for cities  
817 or counties ~~and the commissioners of such housing authorities in~~  
818 ~~the same manner as though all the provisions of law applicable~~  
819 ~~to housing authorities created for cities or counties were~~  
820 ~~applicable to regional housing authorities; provided that for~~  
821 ~~such purposes the term "mayor" as used in the Housing~~  
822 ~~Authorities Law shall be construed as meaning "Governor," the~~  
823 ~~term "governing body" as used therein shall be construed as~~  
824 ~~meaning "county commissioners," the term "city" as used therein~~  
825 ~~shall be construed as meaning "county" and the term "clerk" as~~  
826 ~~used therein shall be construed as meaning "county clerk," as~~  
827 ~~herein defined, unless a different meaning clearly appears from~~  
828 ~~the context; and provided further that the Governor may appoint~~  
829 ~~any person as commissioner of a regional housing authority who~~  
830 ~~is a qualified elector in the county from which he or she is~~  
831 ~~appointed; and provided further that any commissioner of a~~  
832 ~~regional housing authority may be removed or suspended in the~~  
833 ~~same manner and for the same reason as other officers appointed~~  
834 ~~by the Governor. A consolidated ~~regional~~ housing authority shall~~  
835 have power to select any appropriate corporate name.

836 Section 14. Section 421.32, Florida Statutes, is amended to  
837 read:

838 421.32 Rural housing projects.—County housing authorities  
839 and consolidated ~~regional~~ housing authorities are specifically  
840 empowered and authorized to borrow money, accept grants, and  
841 exercise their other powers to provide housing for farmers of

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842 low income and domestic farm labor as defined in s. 514 of the  
843 Federal Housing Act of 1949. In connection with such projects,  
844 any such housing authority may enter into such leases or  
845 purchase agreements, accept such conveyances, and rent or sell  
846 dwellings forming part of such projects to or for farmers of low  
847 income, as such housing authority deems necessary in order to  
848 ensure ~~assure~~ the achievement of the objectives of this law.  
849 Such leases, agreements, or conveyances may include such  
850 covenants as the housing authority deems appropriate regarding  
851 such dwellings and the tracts of land described in any such  
852 instrument, which covenants shall be deemed to run with the land  
853 where the housing authority deems it necessary and the parties  
854 to such instrument so stipulate. In providing housing for  
855 farmers of low income, county housing authorities and  
856 consolidated ~~regional~~ housing authorities are ~~shall~~ not be  
857 subject to the limitations provided in ss. 421.08(1)(c) ~~ss.~~  
858 ~~421.08(3)~~ and 421.10(3). ~~Nothing contained in~~ This section may  
859 not ~~shall~~ be construed as limiting any other powers of any  
860 housing authority.

861 Section 15. Section 421.321, Florida Statutes, is amended  
862 to read:

863 421.321 Execution of mortgages.—County and consolidated  
864 ~~regional~~ housing authorities organized under this chapter are  
865 authorized to execute mortgages encumbering real property as  
866 security for loans made for providing facilities for domestic  
867 farm labor pursuant to s. 514 of the Federal Housing Act of  
868 1949.

869 Section 16. Section 421.50, Florida Statutes, is amended to  
870 read:

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871           421.50 Decreasing area of operation of consolidated  
872 ~~regional~~ authority.-

873           (1) The area of operation of a consolidated ~~regional~~  
874 housing authority may ~~shall~~ be decreased from time to time to  
875 exclude one or more cities or counties from such area if the  
876 ~~governing body of each of the counties in such area and the~~  
877 commissioners of the consolidated ~~regional~~ housing authority  
878 ~~each~~ adopt a resolution declaring that there is a need for  
879 excluding such city or cities or county or counties from such  
880 area. ~~;~~ provided, that

881           (2) ~~No~~ Action may not be taken pursuant to this section if  
882 the consolidated ~~regional~~ housing authority has outstanding ~~any~~  
883 bonds, debentures, or notes unless ~~first,~~ all holders first ~~of~~  
884 ~~such bonds, debentures or notes~~ consent in writing and ~~to such~~  
885 ~~action;~~ and provided, that if such action decreases the area of  
886 operation ~~of the regional housing authority~~ to only one city or  
887 county, such authority shall ~~thereupon constitute and become a~~  
888 housing authority for such city or county, in the same manner as  
889 though such authority were created by and authorized to transact  
890 business and exercise its powers pursuant to s. 421.04 or s.  
891 421.27, ~~and the commissioners of such authority shall be~~  
892 ~~thereupon appointed as provided for the appointment of~~  
893 ~~commissioners of a housing authority created for a county. The~~  
894 ~~governing body of each of the counties in the area of operation~~  
895 ~~of the regional housing authority and the commissioners of the~~  
896 ~~regional housing authority shall adopt a resolution declaring~~  
897 ~~that there is a need for excluding a county or counties from~~  
898 ~~such area only if each such governing body and the commissioners~~  
899 ~~of the regional housing authority find that, because of facts~~

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900 ~~arising or determined subsequent to the time when such area~~  
901 ~~first included the county or counties to be excluded, the~~  
902 ~~regional housing authority would be a more efficient or~~  
903 ~~economical administrative unit if such county or counties were~~  
904 ~~excluded from such area.~~

905 ~~(2) The governing body of a county shall not adopt any~~  
906 ~~resolution authorized by this section unless a public hearing~~  
907 ~~has first been held in accordance with the provisions of the~~  
908 ~~Housing Authorities Law.~~

909 ~~(3) A certificate of the appointment of any commissioner of~~  
910 ~~a regional housing authority shall be filed with the county~~  
911 ~~clerk of the county from which the commissioner is appointed,~~  
912 ~~and such certificate shall be conclusive evidence of the due and~~  
913 ~~proper appointment of such commissioner. The commissioners of a~~  
914 ~~regional housing authority shall be appointed for terms of 4~~  
915 ~~years, except that all vacancies shall be filled for the~~  
916 ~~unexpired terms. Each commissioner shall hold office until a~~  
917 ~~successor has been appointed and has qualified, except as~~  
918 ~~otherwise provided herein. The Governor shall thereafter appoint~~  
919 ~~the successor of each commissioner of a regional housing~~  
920 ~~authority.~~

921 ~~(4) The commissioners appointed as aforesaid shall~~  
922 ~~constitute the regional housing authority, and the powers of~~  
923 ~~such authority shall be vested in such commissioners in office~~  
924 ~~from time to time.~~

925 ~~(5) The commissioners of a regional housing authority shall~~  
926 ~~elect a chair from among the commissioners and shall have power~~  
927 ~~to select or employ such other officers and employees as the~~  
928 ~~regional housing authority may require. A majority of the~~



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929 ~~commissioners of a regional housing authority shall constitute a~~  
930 ~~quorum of such authority for the purpose of conducting its~~  
931 ~~business and exercising its powers and for all other purposes.~~

932 Section 17. Section 421.51, Florida Statutes, is amended to  
933 read:

934 421.51 Authority for city or county excluded from a  
935 consolidated regional authority.—At any time after a city or  
936 county ~~or counties~~ is excluded from the area of operation of a  
937 consolidated regional housing authority as provided above, the  
938 governing body of any such city or county may adopt a resolution  
939 declaring that there is a need for a housing authority, which is  
940 then created by and authorized to transact business and exercise  
941 its powers pursuant to s. 421.04 or s. 421.27 ~~in the county, if~~  
942 ~~the governing body shall declare and find such need according to~~  
943 ~~the provisions of the Housing Authorities Law. Thereupon a~~  
944 ~~public body corporate and politic, to be known as the "housing~~  
945 ~~authority of the county," shall exist for such county and may~~  
946 ~~transact business and exercise its powers in the same manner as~~  
947 ~~though created by the Housing Authorities Law. Nothing contained~~  
948 ~~herein shall be construed as preventing such county from~~  
949 ~~thereafter being included within the area of operation of a~~  
950 ~~regional housing authority as provided in s. 421.28 or s.~~  
951 ~~421.29.~~

952 Section 18. Section 422.02, Florida Statutes, is amended to  
953 read:

954 422.02 Finding and declaration of necessity.—It has been  
955 found and declared in the Housing Authorities Law that ~~there~~  
956 ~~exist in the state~~ unsafe and insanitary housing conditions  
957 exist in this state, that there is ~~and~~ a shortage of safe and

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958 sanitary dwelling accommodations, and that there is a lack of  
959 access to essential commercial goods and services necessary for  
960 daily living for persons of low income; that these conditions  
961 necessitate excessive and disproportionate expenditures of  
962 public funds for crime prevention and punishment; public  
963 health, welfare, and safety; fire and accident protection; and  
964 other public services and facilities; and that the public  
965 interest requires that the remedying of these conditions be  
966 remedied. It is found and declared that the assistance herein  
967 provided for the remedying of the adverse conditions identified  
968 ~~set forth~~ in the Housing Authorities Law constitutes a public  
969 use and purpose and an essential governmental function for which  
970 public moneys may be spent and other aid given; that it is a  
971 proper public purpose for any state public body to aid any  
972 housing authority operating within its boundaries or  
973 jurisdiction or any housing project located therein, as the  
974 state public body derives immediate benefits and advantages from  
975 such an authority or project; and that the provisions  
976 hereinafter enacted are necessary in the public interest.

977 Section 19. Section 422.04, Florida Statutes, is amended to  
978 read:

979 422.04 Cooperation in undertaking housing projects.—

980 (1) For the purpose of aiding and cooperating in the  
981 planning, undertaking, construction, or operation of housing  
982 projects located within the area in which it is authorized to  
983 act, any state public body may ~~upon such terms, with or without~~  
984 ~~consideration, as it may determine:~~

985 (a) Dedicate, sell, convey, or lease any of its property to  
986 a housing authority or the Federal Government. †

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987 (b) Provide or cause to be provided ~~Cause parks;~~  
988 playgrounds; recreational, community, educational, water,  
989 sewer, or drainage facilities; commercial projects that allow  
990 access to essential commercial goods and services for persons of  
991 low income residing in housing projects; or any other works,  
992 ~~which it is otherwise empowered to undertake, to be furnished~~  
993 adjacent to or in connection with housing projects.~~†~~

994 (c) Furnish, dedicate, close, pave, install, grade,  
995 regrade, plan, or replan streets, roads, roadways, alleys,  
996 sidewalks, or other places ~~which it is otherwise empowered to~~  
997 undertake.~~†~~

998 (d) Plan or replan, zone or rezone any part of such state  
999 public body; make exceptions from building regulations and  
1000 ordinances; and, with respect to any city or town, ~~also may~~  
1001 change its map.~~†~~

1002 (e) Enter into agreements, ~~which may extend over any~~  
1003 ~~period, notwithstanding any provision or rule of law to the~~  
1004 ~~contrary,~~ with a housing authority or the Federal Government  
1005 respecting action to be taken by such state public body pursuant  
1006 to any of the powers granted by this chapter.~~†~~

1007 (f) Do any and all things, necessary or convenient to aid  
1008 and cooperate in the planning, undertaking, construction, or  
1009 operation of such housing projects.~~†~~

1010 (g) Purchase or legally invest in any of the debentures of  
1011 a housing authority and exercise all of the rights of any holder  
1012 of such debentures.~~†~~

1013 (h) Not require any changes to be made in a housing project  
1014 or the manner of its construction or take any other action  
1015 relating to such construction with respect to any housing

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1016 project that ~~which~~ a housing authority has acquired or taken  
 1017 over from the Federal Government and which the housing authority  
 1018 by resolution has found and declared to have been constructed in  
 1019 a manner that will promote the public interest and afford  
 1020 necessary safety, sanitation, and other protection, no state  
 1021 ~~public body shall require any changes to be made in the housing~~  
 1022 ~~project or the manner of its construction or take any other~~  
 1023 ~~action relating to such construction;~~

1024 (i) Incur the entire expense of ~~In connection with~~ any  
 1025 public improvements made by the ~~a~~ state public body in  
 1026 exercising the powers herein granted, ~~such state public body may~~  
 1027 ~~incur the entire expense thereof.~~

1028 (2) Any law or statute to the contrary notwithstanding, any  
 1029 sale, conveyance, lease, or agreement provided for in this  
 1030 section may be made by a state public body without appraisal,  
 1031 public notice, advertisement, or public bidding.

1032 Section 20. Section 423.01, Florida Statutes, is amended to  
 1033 read:

1034 423.01 Finding and declaration of property of tax exemption  
 1035 for housing authorities.—It has been found and declared in the  
 1036 Housing Authorities Law and the Housing Cooperation Law that:

1037 (1) There exist in the state housing conditions that ~~which~~  
 1038 constitute a menace to the health, safety, morals, and welfare  
 1039 of the residents of the state;

1040 (2) These conditions necessitate excessive and  
 1041 disproportionate expenditures of public funds for crime  
 1042 prevention and punishment, public health, welfare and safety,  
 1043 fire and accident prevention, and other public services and  
 1044 facilities;

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1045 (3) The public interest requires the remedying of these  
1046 conditions by the creation of housing authorities to undertake  
1047 projects for ~~the slum~~ clearance of blighted areas and for  
1048 providing safe and sanitary dwelling accommodations and access  
1049 to essential commercial goods and services necessary for daily  
1050 living for persons who lack sufficient income to enable them to  
1051 live in decent, safe, and sanitary dwellings without  
1052 overcrowding; ~~and~~

1053 (4) Facilities made available by housing authorities to  
1054 provide access to essential commercial goods and services  
1055 necessary for daily living for persons residing in housing  
1056 projects are a critical component of these housing projects and  
1057 constitute a public use and a governmental function; and

1058 (5)~~(4)~~ Such housing projects, including all property of a  
1059 housing authority used for or in connection therewith or  
1060 appurtenant thereto and all property used to provide access to  
1061 essential commercial goods and services necessary for daily  
1062 living for persons residing in such housing projects, are  
1063 exclusively for public uses and municipal purposes and not for  
1064 profit, and are governmental functions of state concern. As a  
1065 matter of legislative determination, it is found and declared  
1066 that the property and debentures of a housing authority are ~~of~~  
1067 ~~such character as may be~~ exempt from taxation.

1068 Section 21. Section 423.02, Florida Statutes, is amended to  
1069 read:

1070 423.02 Housing projects exempted from taxes and  
1071 assessments; payments in lieu thereof.—The housing projects,  
1072 including all property of housing authorities used for or in  
1073 connection therewith or appurtenant thereto, of housing

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1074 authorities are ~~shall be~~ exempt from all taxes and special  
 1075 assessments of the state or any city, town, county, or political  
 1076 subdivision of the state. ~~, provided,~~ However, ~~that~~ in lieu of  
 1077 such taxes or special assessments, a housing authority may agree  
 1078 to make payments to any city, town, county, or political  
 1079 subdivision of the state for services, improvements, or  
 1080 facilities furnished by such city, town, county, or political  
 1081 subdivision for the benefit of a housing project owned by the  
 1082 housing authority, but ~~in no event shall~~ such payments may not  
 1083 exceed the estimated cost ~~to such city, town, county or~~  
 1084 ~~political subdivision~~ of the services, improvements, or  
 1085 facilities to be so furnished by the city, town, county, or  
 1086 other political subdivision of the state. This section does not  
 1087 exempt the activities or property of a person who provides  
 1088 essential commercial goods and services. However, the real  
 1089 property of a housing authority which is used to provide access  
 1090 to essential commercial goods and services is exempt from ad  
 1091 valorem taxes and special assessments.

1092 Section 22. Paragraph (f) of subsection (1) of section  
 1093 893.13, Florida Statutes, is amended to read:

1094 893.13 Prohibited acts; penalties.—

1095 (1)

1096 (f) Except as authorized by this chapter, a person may not  
 1097 sell, manufacture, or deliver, or possess with intent to sell,  
 1098 manufacture, or deliver, a controlled substance in, on, or  
 1099 within 1,000 feet of the real property comprising a public  
 1100 housing facility at any time. As used in this section, the term  
 1101 "real property comprising a public housing facility" means real  
 1102 property, as defined in s. 421.03 ~~s. 421.03(12)~~, of a public

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1103 corporation created as a housing authority pursuant to part I of  
1104 chapter 421. A person who violates this paragraph with respect  
1105 to:

1106 1. A controlled substance named or described in s.  
1107 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
1108 commits a felony of the first degree, punishable as provided in  
1109 s. 775.082, s. 775.083, or s. 775.084.

1110 2. A controlled substance named or described in s.  
1111 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
1112 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
1113 the second degree, punishable as provided in s. 775.082, s.  
1114 775.083, or s. 775.084.

1115 3. Any other controlled substance, except as lawfully sold,  
1116 manufactured, or delivered, must be sentenced to pay a \$500 fine  
1117 and to serve 100 hours of public service in addition to any  
1118 other penalty prescribed by law.

1119 Section 23. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4.7.15

Meeting Date

SB 1520

Bill Number (if applicable)

Topic HOUSING FOR LOW-INCOME PERSONS

273622

Amendment Barcode (if applicable)

Name MEGAN SIRJANE-SAMPLES

Job Title LEGISLATIVE ADVOCATE

Address P.O. BOX 1757

Phone 850-701-3455

Street

TALLAHASSEE

FL

32301

City

State

Zip

Email MSIRJANESAMPLES@FLCITIES.ORG

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against

(The Chair will read this information into the record.)

Representing FLORIDA LEAGUE OF CITIES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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)

4/7/15  
Meeting Date

1570  
Bill Number (if applicable)

Topic HOUSING FOR LOW-INCOME PERSONS

~~XXXXXXXXXX~~  
Amendment Barcode (if applicable)

Name COREY MATTHEWS

273622

Job Title EXECUTION DIRECTOR

Address 1390 TEMBERLANE ROAD  
Street

Phone 850/222-6000

TALLAHASSEE FL 32312  
City State Zip

Email COREY@FAHRO.ORG

Speaking:  For  Against  Information

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

Representing FL ASSOCIATION OF HOUSING & REDEVELOPMENT OFFICIALS

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:

Rules, *Vice Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Environmental Preservation and Conservation  
Finance and Tax  
Judiciary

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

### SENATOR DARREN SOTO

*Democratic Caucus Rules Chair*  
14th District

March 6, 2015

The Honorable Wilton Simpson  
Committee on Community Affairs  
315 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Chair Simpson,

I respectfully request that Senate Bill 1520, Housing for Low-Income Persons, be placed on the agenda as soon as possible. Senate Bill 1520 declares that housing projects should aim to remove blighted areas surrounding such property and allow access to essential commercial goods and services. It prohibits housing authorities from seizing any projects, units, or vouchers of other housing authorities. This bill also aims to bring transparency to public housing.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in cursive script that reads "Darren M. Soto".

Darren M. Soto  
State Senator, District 14

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

#### REPLY TO:

- Kissimmee City Hall, 101 North Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (407) 846-5188
- 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
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 Committee on Community Affairs

---

BILL: CS/SB 414

INTRODUCER: Commerce and Tourism Committee and Senator Altman

SUBJECT: Service Animals

DATE: April 6, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 414 amends s. 413.08, F.S., to revise definitions, clarify the rights of an individual with a disability to use a service animal in public accommodations, and provide penalties for an individual who knowingly misrepresents himself or herself as being qualified to have a service animal in a public accommodation.

**II. Present Situation:**

**Americans with Disabilities Act**

The Americans with Disabilities Act (ADA)<sup>1</sup> prohibits discrimination against individuals with disabilities<sup>2</sup> in employment,<sup>3</sup> in the provision of public services,<sup>4</sup> and in public accommodations and businesses.<sup>5</sup> One of the requirements of the ADA is that public entities and businesses provide reasonable accommodations to disabled individuals accompanied by a service animal in all areas that are open to the public.<sup>6</sup>

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<sup>1</sup> 42 U.S.C. s. 12101 *et seq.*

<sup>2</sup> Under the ADA, a disability is broadly defined to mean a physical or mental impairment that substantially limits the major life activities of an individual, having a record of such impairment, or being regarded as having such an impairment.

42 U.S.C. s. 12102(1).

<sup>3</sup> 42 U.S.C. s. 12112.

<sup>4</sup> 42 U.S.C. s. 12132.

<sup>5</sup> 42 U.S.C. s. 12182.

<sup>6</sup> 28 C.F.R. ss. 36.302(a) and (c)(7) and 35.136(a) and (g).

A service animal is defined as a dog that is individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.<sup>7</sup> The work or tasks performed by a service dog must be directly related to the individual's disability.<sup>8</sup> Emotional support, comfort, and companionship provided by a dog, even for therapeutic or medical purposes, are insufficient to classify it as a service animal.<sup>9</sup>

Service dogs must be harnessed or leashed, unless doing so interferes with the dog's work or the individual's disability prevents doing so.<sup>10</sup> A person with a disability cannot be asked to remove his or her service dog from the premises, unless it is out of control and the dog's handler does not take action to control it, or if the dog is not housebroken.<sup>11</sup> However, if the dog is removed under such circumstances, the business or public entity must still allow the individual with a disability the opportunity to remain at the business or public entity without the service dog.<sup>12</sup>

Generally, when it is clear that a dog is trained to do work or perform tasks (such as a guide dog), a business or public entity may not ask about the necessity of the service dog. If it is not obvious what service or task the dog is providing, extremely limited questions are allowed: staff may only ask if a service dog is required because of a disability, and what tasks the dog has been trained to perform.<sup>13</sup> Any other questions, including the nature and extent of the person's disability or medical documentation, are prohibited.<sup>14</sup>

Although the definition of a service animal is limited to dogs, the ADA contains an additional provision related to miniature horses that have been individually trained to work or perform tasks for individuals with disabilities.<sup>15</sup> Miniature horses are an alternative to individuals with disabilities who may be allergic to dogs or whose religious belief precludes the use of dogs.<sup>16</sup> Additionally, miniature horses also have life spans considerably longer than dogs and are generally stronger than most dogs. Similar to the requirements for service dogs, public entities and public accommodations and businesses must permit the use of a miniature horse by an individual with a disability, where reasonable. In determining whether permitting a miniature horse is reasonable, a facility must consider four factors:

- Whether the miniature horse is housebroken;
- Whether the miniature horse is under the owner's control;

---

<sup>7</sup> 28 C.F.R. ss. 35.104 and 36.104.

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

<sup>9</sup> *Id.*; ADA National Network, *Service Animals and Emotional Support Animals: Where are they allowed and under what conditions?*, 3 (2014), available at [http://adata.org/sites/adata.org/files/files/Service\\_Animal\\_Booklet\\_2014\(1\).pdf](http://adata.org/sites/adata.org/files/files/Service_Animal_Booklet_2014(1).pdf) (last visited April 1, 2015).

<sup>10</sup> 28 C.F.R. ss. 35.136(d) and 36.302(b)(4).

<sup>11</sup> 28 C.F.R. ss. 35.136(b) and 36.302(c)(2).

<sup>12</sup> 28 C.F.R. ss. 35.136(c) and 36.302(c)(3).

<sup>13</sup> 28 C.F.R. ss. 35.136(f) and 36.302(c)(6).

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

<sup>15</sup> 28 C.F.R. ss. 35.136(i) and 36.302(c)(9). Miniature horses generally range in height from 2 to 3 feet to the shoulders and weigh between 70 and 100 pounds. U.S. Dep't of Justice, Civil Rights Division, *Service Animals*, 3 (July 2011), available at [http://www.ada.gov/service\\_animals\\_2010.pdf](http://www.ada.gov/service_animals_2010.pdf) (last visited April 1, 2015).

<sup>16</sup> U.S. Dep't. of Justice, *Americans with Disabilities Act Title III Regulations: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*, 96 (Sept. 15, 2010) available at [http://www.ada.gov/regs2010/titleIII\\_2010/titleIII\\_2010\\_regulations.pdf](http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.pdf) (last visited April 1, 2015).

- Whether the facility can accommodate the miniature horse's type, size, and weight; and
- Whether the miniature horse's presence will compromise safety requirements.<sup>17</sup>

If a business or public entity violates the ADA, a private party may file suit to obtain a court order to stop the violation. No monetary damages will be available in such suits; however, a reasonable attorney's fee may be awarded.<sup>18</sup> Individuals may also file complaints with the U.S. Attorney General, who is authorized to bring lawsuits in cases of general public importance or where a "pattern or practice" of discrimination is alleged.<sup>19</sup> In suits brought by the Attorney General, monetary damages and civil penalties may be awarded. Civil penalties may not exceed \$50,000 for a first violation or \$100,000 for any subsequent violation.<sup>20</sup>

### **Fair Housing Act**

The federal Fair Housing Act (FHA)<sup>21</sup> prohibits discrimination against a person with a disability in the sale or rental of housing.<sup>22</sup> Similar to the ADA, the FHA also requires a property owner to provide reasonable accommodations, including permitting the use of service animals, for a person with a disability.<sup>23</sup> However, unlike the ADA, which does not require reasonable accommodations for emotional support animals, accommodation of untrained emotional support animals may be required under the FHA if such an accommodation is reasonably necessary to allow a person with a handicap an equal opportunity to enjoy and use housing.<sup>24</sup>

A property owner may not ask about the existence, nature, or extent of a person's disability. However, an individual with a disability who requests a reasonable accommodation may be asked to provide documentation so that the property owner can properly review the accommodation request. They can ask a person to certify, in writing, that the tenant or a member of his or her family is a person with a disability; the need for the animal to assist the person with that specific disability; and that the animal actually assists the person with a disability.<sup>25</sup>

### **Air Carrier Access Act**

The federal Air Carrier Access Act prohibits discrimination, by an air carrier, against an individual with disabilities in the provision of air transportation.<sup>26</sup> In air transportation, emotional and psychiatric service animals are also allowable.<sup>27</sup> Air carriers are generally required to accommodate service animals; however, an air carrier is not required to accommodate certain unusual service animals, such as snakes, reptiles, and spiders. If the service animal is precluded

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<sup>17</sup> 28 C.F.R. ss. 35.136(i) and 36.302(c)(9).

<sup>18</sup> 42 U.S.C. ss. 12188 and 2000a-3.

<sup>19</sup> 42 U.S.C. s. 12188(b)(1)(B).

<sup>20</sup> 42 U.S.C. s. 12188(b)(2).

<sup>21</sup> 42 U.S.C. s. 3601 *et seq.*

<sup>22</sup> 42 U.S.C. s. 3604(f).

<sup>23</sup> *Id.*; 24 C.F.R. 5.303.

<sup>24</sup> 73 Fed Reg. 63834, 63836.

<sup>25</sup> 73 Fed Reg. 63834.

<sup>26</sup> 49 U.S.C. s.41705.

<sup>27</sup> 42 C.F.R. s. 382.117

from traveling in the cabin, the airline must advise the passenger of the reason for the denial and document the denial in writing.<sup>28</sup>

The Air Carrier Access Act preempts any state law that relates to the price, route, or service of an air craft carrier governed by its provisions.<sup>29</sup>

### **Florida Service Animal Law**

Section 413.08, F.S., specifies Florida law regarding service animals, and while it is similar to the ADA and FHA, s. 413.08, F.S., contains some significant differences from the ADA and the FHA. Consequently, businesses and public entities in Florida that comply with Florida law may be in violation of the ADA or the FHA.

Section 413.08, F.S., provides that an individual with a disability is entitled to equal access in public accommodations,<sup>30</sup> public employment,<sup>31</sup> and housing.<sup>32</sup> An “individual with a disability” means a person who is deaf, hard of hearing, blind, visually impaired, or otherwise has a physical impairment that substantially limits one or more major life activities.<sup>33</sup> Unlike the ADA and FHA, this definition does not include mental impairment. Consequently, s. 413.08, F.S., is narrower in scope than the ADA and FHA.

Under s. 413.08, F.S., an individual with a disability has the right to be accompanied by a trained service animal in all areas of public accommodations that the public is normally allowed to occupy.<sup>34</sup> However, unlike the ADA, s. 413.08, F.S., does not require a public accommodation to provide reasonable accommodations to such individuals.

Section 413.08, F.S., defines “service animal” broadly to mean “an animal that is trained to perform tasks for an individual with a disability,” and does not limit service animals only to dogs as in the ADA.<sup>35</sup> Additionally, because the definition of “individual with a disability” under s. 413.08, F.S., does not include mental impairment, an animal that is trained to perform work or tasks for an individual with a mental impairment is not considered a service animal under this section, as it would be under the ADA.

Similar to the ADA, s. 413.08, F.S., provides that documentation that a service animal is trained is not a precondition for providing service, though a public accommodation may ask if an animal

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<sup>28</sup> *Id.* at (a) and (f). The air carrier must take into account such factors as whether the animal is too large or heavy to be accommodated in the cabin, whether the animal poses a direct threat to the health and safety of others, whether it would cause a significant disruption of cabin service, or whether the service animal would be denied entry to a foreign country that is the flight’s destination.

<sup>29</sup> 49 U.S.C. s. 41713.

<sup>30</sup> Section 413.08(2), F.S. Pursuant to s. 413.08(1)(c), F.S., a public accommodation is “a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public . . . transportation; hotel; lodging place; place of public accommodation, amusement, or resort; and other places to which the general public is invited . . .”.

<sup>31</sup> Section 413.08(5), F.S.

<sup>32</sup> Section 413.08(6), F.S.

<sup>33</sup> Section 413.08(1)(b), F.S.

<sup>34</sup> Section 413.08(3), F.S.

<sup>35</sup> Section 413.08(1)(d), F.S.

is a service animal or what tasks it is trained to perform.<sup>36</sup> However, unlike the ADA, s. 413.08, F.S., does not prohibit asking about the nature or extent of an individual's disability nor does it require the service animal to be under the control of its handler and have a harness or leash. Although s. 413.08, F.S., permits a public accommodation to exclude or remove a service animal if its behavior poses a direct threat to the health and safety of others,<sup>37</sup> unlike the ADA it does not specify that a public accommodation may remove a service animal if it is out of control or not housebroken.

Like the FHA, under s. 413.08, F.S., an individual with a disability is entitled to rent or purchase any housing accommodations subject to the same conditions that are applicable to everyone.<sup>38</sup> An individual with a disability who has a service animal is entitled to full and equal access to all housing accommodations, and may not be required to pay extra compensation for the service animal.<sup>39</sup> Unlike the FHA, s. 413.08, F.S., does not provide an individual with a disability who has an emotional support animal with the same housing accommodation rights as an individual with a disability who has a service animal.

Section 413.08, F.S., provides that any person who denies or interferes with the rights of a person with a disability or an individual training a service animal commits a second-degree misdemeanor.<sup>40</sup>

### III. Effect of Proposed Changes:

The bill amends s. 413.08, F.S., to revise definitions, clarify the rights of an individual with a disability to use a service animal in public accommodations, and provide penalties for an individual who knowingly misrepresents himself or herself as being qualified to have a service animal in a public accommodation.

#### Definitions

The bill revises the definition of "individual with a disability" to mean a person with a physical or mental impairment that substantially limits one or more major life activities, such as caring for oneself, walking, seeing, speaking, and performing manual tasks. A "physical or mental impairment" is defined to include physiological disorders that affect one or more bodily functions, and mental or psychological disorders as specified by the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

The bill revises the definition of "public accommodations" to include a time share that is a transient public lodging establishment, which means it is rented to guests more than three times in a calendar year for periods of less than a month, or is held out to the public as a place that regularly rents to guests.<sup>41</sup>

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<sup>36</sup> Section 413.08(3)(a), F.S.

<sup>37</sup> Section 413.08(3)(e), F.S.

<sup>38</sup> Section 413.08(6), F.S.

<sup>39</sup> *Id.* at (6)(b).

<sup>40</sup> A second-degree misdemeanor is punishable by up to 60 days in jail or a fine up to \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

<sup>41</sup> Section 509.013(4)(a)1., F.S., defines public lodging establishment.

The definition of “service animal” is revised to include animals trained to work or perform tasks to assist individuals with physical, sensory, psychiatric, intellectual, or other mental disabilities. The work or tasks performed by the service animal must be directly related to the disability. The bill includes examples of work or tasks performed by a service animal, such as providing physical support with balance and stability to an individual with a mobility disability, reminding an individual with mental illness to take his or her medications, and calming an individual with posttraumatic stress disorder during an anxiety attack. The bill specifies that any crime-deterrent effect due to an animal’s presence or the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks within the definition of a service animal. Further, for the purposes of the provisions related to public accommodations, a service animal is limited to dogs and miniature horses.

### **Public Accommodations**

The bill requires a public accommodation to modify its policies, practices, and procedures to permit use of a service animal by a person with a disability. The bill also provides that a service animal must be kept under the control of its handler by a leash or harness, unless doing so interferes with the service animal’s work or the individual’s disability prevents doing so. A public accommodation may remove the animal if it is out of control and the handler does not take effective measures to control it, the animal is not housebroken, or the animal’s behavior poses a direct threat to the health and safety of others. A public accommodation may not ask about the nature or extent of an individual’s disability in order to determine whether an animal is a service animal or pet, but it may ask whether an animal is a service animal required because of a disability and what work the animal has been trained to perform. The bill excludes air carriers covered by the federal Air Carrier Access Act of 1986 and regulations adopted by the United States Department of Transportation from the definition of public accommodation.

The bill provides an additional penalty for any person who interferes with the rights of an individual with a disability or a person training a service animal. In addition to the current second-degree misdemeanor penalty, the bill also requires such person to complete 30 hours of community service for an organization that serves individuals with disabilities or other court-determined organization within 6 months of the court’s order.

### **Housing Accommodations**

The bill clarifies that the provisions of s. 413.08(6), F.S., do not limit the rights or remedies of a housing accommodation or an individual with a disability that are granted by federal law or another law of this state with regard to other assistance animals. Section 413.08(6), F.S., provides that an individual with a disability is entitled to rent or lease housing accommodations, under the same conditions as other individuals.<sup>42</sup>

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<sup>42</sup> This section does not require a person providing the rental property to modify the property to provide a higher degree of care for an individual with a disability than for an individual without a disability.



**Misrepresentation of Service Animals**

The bill makes it a second-degree misdemeanor to knowingly and willfully misrepresent oneself as using a service animal and being qualified to use a service animal or as a trainer of a service animal. A violation is punishable by up to 60 days in jail, a fine up to \$500,<sup>43</sup> and 30 hours of community service for an organization that serves individuals with disabilities or other court-determined organization, to be completed within 6 months.

**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 judicial system may incur costs related to prosecution and enforcement of the provisions of the bill. Specifically, the bill makes it a second-degree misdemeanor to misrepresent that one is qualified to use or train a service animal.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>43</sup> Sections 775.082(4)(b) and 775.083(1)(e), F.S.

**VIII. Statutes Affected:**

This bill substantially amends section 413.08 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 Commerce and Tourism on March 30, 2015:**

Excludes air carriers governed by the Air Carrier Access Act of 1986 and its regulations from the definition of public accommodations.

- 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 Commerce and Tourism; and Senator Altman

577-03102-15

2015414c1

1 A bill to be entitled  
2 An act relating to service animals; amending s.  
3 413.08, F.S.; providing and revising definitions;  
4 requiring a public accommodation to permit use of a  
5 service animal by an individual with a disability  
6 under certain circumstances; prohibiting a public  
7 accommodation from inquiring about the nature or  
8 extent of an individual's disability; providing  
9 conditions for a public accommodation to exclude or  
10 remove a service animal; revising penalties for  
11 certain persons or entities who interfere with use of  
12 a service animal in specified circumstances;  
13 specifying that the act does not limit certain rights  
14 or remedies granted under federal or state law;  
15 providing a penalty for knowing and willful  
16 misrepresentation with respect to use or training of a  
17 service animal; providing an effective date.

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

20  
21 Section 1. Section 413.08, Florida Statutes, is amended to  
22 read:

23 413.08 Rights and responsibilities of an individual with a  
24 disability; use of a service animal; prohibited discrimination  
25 in public employment, public accommodations, and ~~or~~ housing  
26 accommodations; penalties.—

27 (1) As used in this section and s. 413.081, the term:

28 (a) "Housing accommodation" means any real property or  
29 portion thereof which is used or occupied, or intended,

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30 arranged, or designed to be used or occupied, as the home,  
31 residence, or sleeping place of one or more persons, but does  
32 not include any single-family residence, the occupants of which  
33 rent, lease, or furnish for compensation not more than one room  
34 therein.

35 (b) "Individual with a disability" means a person who has a  
36 physical or mental impairment that substantially limits one or  
37 more major life activities of the individual ~~is deaf, hard of~~  
38 ~~hearing, blind, visually impaired, or otherwise physically~~  
39 ~~disabled~~. As used in this paragraph, the term:

40 1. "Major life activity" means a function such as caring  
41 for one's self, performing manual tasks, walking, seeing,  
42 hearing, speaking, breathing, learning, and working ~~"Hard of~~  
43 ~~hearing" means an individual who has suffered a permanent~~  
44 ~~hearing impairment that is severe enough to necessitate the use~~  
45 ~~of amplification devices to discriminate speech sounds in verbal~~  
46 ~~communication.~~

47 2. "Physical or mental impairment" means:

48 a. A physiological disorder or condition, disfigurement, or  
49 anatomical loss that affects one or more bodily functions; or

50 b. A mental or psychological disorder that meets one of the  
51 diagnostic categories specified in the most recent edition of  
52 the Diagnostic and Statistical Manual of Mental Disorders  
53 published by the American Psychiatric Association, such as an  
54 intellectual or developmental disability, organic brain  
55 syndrome, traumatic brain injury, posttraumatic stress disorder,  
56 or an emotional or mental illness ~~"Physically disabled" means~~  
57 ~~any person who has a physical impairment that substantially~~  
58 ~~limits one or more major life activities.~~

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59 (c) "Public accommodation" means a common carrier,  
60 airplane, motor vehicle, railroad train, motor bus, streetcar,  
61 boat, or other public conveyance or mode of transportation;  
62 hotel; a timeshare that is a transient public lodging  
63 establishment as defined in s. 509.013; lodging place; place of  
64 public accommodation, amusement, or resort; and other places to  
65 which the general public is invited, subject only to the  
66 conditions and limitations established by law and applicable  
67 alike to all persons. The term does not include air carriers  
68 covered by the Air Carrier Access Act of 1986, 49 U.S.C. s.  
69 41705, and by regulations that implement such act that are  
70 adopted by the United States Department of Transportation.

71 (d) "Service animal" means an animal that is trained to do  
72 work or perform tasks for an individual with a disability,  
73 including a physical, sensory, psychiatric, intellectual, or  
74 other mental disability. The work done or tasks performed must  
75 be directly related to the individual's disability and may  
76 include, but are not limited to, guiding an individual ~~a person~~  
77 who is visually impaired or blind, alerting an individual ~~a~~  
78 ~~person~~ who is deaf or hard of hearing, pulling a wheelchair,  
79 assisting with mobility or balance, alerting and protecting an  
80 individual ~~a person~~ who is having a seizure, retrieving objects,  
81 alerting an individual to the presence of allergens, providing  
82 physical support and assistance with balance and stability to an  
83 individual with a mobility disability, helping an individual  
84 with a psychiatric or neurological disability by preventing or  
85 interrupting impulsive or destructive behaviors, reminding an  
86 individual with mental illness to take prescribed medications,  
87 calming an individual with posttraumatic stress disorder during

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88 an anxiety attack, or doing other specific work or performing  
89 other special tasks. For purposes of subsections (2), (3), and  
90 (4), the term is limited to a dog or miniature horse. A service  
91 animal is not a pet. The crime-deterrent effect of an animal's  
92 presence and the provision of emotional support, well-being,  
93 comfort, or companionship do not constitute work or tasks for  
94 purposes of this definition.

95 (2) An individual with a disability is entitled to full and  
96 equal accommodations, advantages, facilities, and privileges in  
97 all public accommodations. A public accommodation must modify  
98 its policies, practices, and procedures to permit use of a  
99 service animal by an individual with a disability. This section  
100 does not require any person, firm, business, or corporation, or  
101 any agent thereof, to modify or provide any vehicle, premises,  
102 facility, or service to a higher degree of accommodation than is  
103 required for a person not so disabled.

104 (3) An individual with a disability has the right to be  
105 accompanied by a service animal in all areas of a public  
106 accommodation that the public or customers are normally  
107 permitted to occupy.

108 (a) The service animal must be under the control of its  
109 handler and must have a harness, leash, or other tether, unless  
110 either the handler is unable because of a disability to use a  
111 harness, leash, or other tether, or the use of a harness, leash,  
112 or other tether would interfere with the service animal's safe,  
113 effective performance of work or tasks, in which case the  
114 service animal must be otherwise under the handler's control by  
115 means of voice control, signals, or other effective means.

116 (b) ~~(a)~~ Documentation that the service animal is trained is

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117 not a precondition for providing service to an individual  
118 accompanied by a service animal. A public accommodation may not  
119 ask about the nature or extent of an individual's disability. To  
120 determine the difference between a service animal and a pet, a  
121 public accommodation may ask if an animal is a service animal  
122 required because of a disability and what work or ~~what~~ tasks the  
123 animal has been trained to perform in order to determine the  
124 difference between a service animal and a pet.

125 (c) ~~(b)~~ A public accommodation may not impose a deposit or  
126 surcharge on an individual with a disability as a precondition  
127 to permitting a service animal to accompany the individual with  
128 a disability, even if a deposit is routinely required for pets.

129 (d) ~~(e)~~ An individual with a disability is liable for damage  
130 caused by a service animal if it is the regular policy and  
131 practice of the public accommodation to charge nondisabled  
132 persons for damages caused by their pets.

133 (e) ~~(d)~~ The care or supervision of a service animal is the  
134 responsibility of the individual owner. A public accommodation  
135 is not required to provide care or food or a special location  
136 for the service animal or assistance with removing animal  
137 excrement.

138 (f) ~~(e)~~ A public accommodation may exclude or remove any  
139 animal from the premises, including a service animal, if the  
140 animal is out of control and the animal's handler does not take  
141 effective action to control it, the animal is not housebroken,  
142 or the animal's behavior poses a direct threat to the health and  
143 safety of others. Allergies and fear of animals are not valid  
144 reasons for denying access or refusing service to an individual  
145 with a service animal. If a service animal is excluded or

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146 removed for being a direct threat to others, the public  
147 accommodation must provide the individual with a disability the  
148 option of continuing access to the public accommodation without  
149 having the service animal on the premises.

150 (4) Any person, firm, or corporation, or the agent of any  
151 person, firm, or corporation, who denies or interferes with  
152 admittance to, or enjoyment of, a public accommodation or, with  
153 regard to a public accommodation, otherwise interferes with the  
154 rights of an individual with a disability or the trainer of a  
155 service animal while engaged in the training of such an animal  
156 pursuant to subsection (8), commits a misdemeanor of the second  
157 degree, punishable as provided in s. 775.082 or s. 775.083, and  
158 must perform 30 hours of community service for an organization  
159 that serves individuals with disabilities, or for another entity  
160 or organization at the discretion of the court, to be completed  
161 in not more than 6 months.

162 (5) It is the policy of this state that an individual with  
163 a disability be employed in the service of the state or  
164 political subdivisions of the state, in the public schools, and  
165 in all other employment supported in whole or in part by public  
166 funds, and an employer may not refuse employment to such a  
167 person on the basis of the disability alone, unless it is shown  
168 that the particular disability prevents the satisfactory  
169 performance of the work involved.

170 (6) An individual with a disability is entitled to rent,  
171 lease, or purchase, as other members of the general public, any  
172 housing accommodations offered for rent, lease, or other  
173 compensation in this state, subject to the conditions and  
174 limitations established by law and applicable alike to all



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175 persons.

176 (a) This section does not require any person renting,  
177 leasing, or otherwise providing real property for compensation  
178 to modify her or his property in any way or provide a higher  
179 degree of care for an individual with a disability than for a  
180 person who is not disabled.

181 (b) An individual with a disability who has a service  
182 animal or who obtains a service animal is entitled to full and  
183 equal access to all housing accommodations provided for in this  
184 section, and such a person may not be required to pay extra  
185 compensation for such ~~the service~~ animal. However, such a person  
186 is liable for any damage done to the premises or to another  
187 person on the premises by the ~~such an~~ animal. A housing  
188 accommodation may request proof of compliance with vaccination  
189 requirements.

190 (c) This subsection does not limit the rights or remedies  
191 of a housing accommodation or an individual with a disability  
192 that are granted by federal law or another law of this state  
193 with regard to other assistance animals.

194 (7) An employer covered under subsection (5) who  
195 discriminates against an individual with a disability in  
196 employment, unless it is shown that the particular disability  
197 prevents the satisfactory performance of the work involved, or  
198 any person, firm, or corporation, or the agent of any person,  
199 firm, or corporation, providing housing accommodations as  
200 provided in subsection (6) who discriminates against an  
201 individual with a disability, commits a misdemeanor of the  
202 second degree, punishable as provided in s. 775.082 or s.  
203 775.083.

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204 (8) Any trainer of a service animal, while engaged in the  
205 training of such an animal, has the same rights and privileges  
206 with respect to access to public facilities and the same  
207 liability for damage as is provided for those persons described  
208 in subsection (3) accompanied by service animals.

209 (9) A person who knowingly and willfully misrepresents  
210 herself or himself, through conduct or verbal or written notice,  
211 as using a service animal and being qualified to use a service  
212 animal or as a trainer of a service animal commits a misdemeanor  
213 of the second degree, punishable as provided in s. 775.082 or s.  
214 775.083, and must perform 30 hours of community service for an  
215 organization that serves individuals with disabilities, or for  
216 another entity or organization at the discretion of the court,  
217 to be completed in not more than 6 months.

218 Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-7-15  
Meeting Date

SB 414  
Bill Number (if applicable)

Topic SB 414 Service Animals Amendment Barcode (if applicable)

Name Margaret S. Hooper

Job Title Public Policy Coordinator

Address 124 Merritt Dr # 203

Phone 850 921-7263

Tallahassee FL 32311  
City State Zip

Email Margaret@FDAC.org

Speaking:  For  Against  Information

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

Representing Florida Developmental Disabilities Council

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)

4/7/15

Meeting Date

318 414  
Bill Number (if applicable)

Topic Service Animals

Amendment Barcode (if applicable)

Name Sylvia Smith

Job Title Director of Public Policy

Address 2728 Centerview Dr

Phone 322-2258

Street

Tallahassee FL 32301

City

State

Zip

Email SylviaS@

disabilityrightsflorida.org

Speaking:  For  Against  Information

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

Representing Disability Rights 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)

4/7/2015

Meeting Date

Service  
SB414 - Animals  
Bill Number (if applicable)

Topic SB414 - Service Animals

Amendment Barcode (if applicable)

Name CESAR SILVA

Job Title MBA CANDIDATE

Address 111 Palmetto Terrace

Phone 407-480-0757

Street Tampa FL 33610

Email

City State Zip

Speaking:  For  Against  Information

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

Representing self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/7/2015

Meeting Date

Service  
SB414 - Animals  
Bill Number (if applicable)

Topic SB 414 - Service Animals

Amendment Barcode (if applicable)

Name Samantha Tapia

Job Title

Address 111 Palmetto Terrace

Phone 407-480-0757

Street

Tampa FL 33610

Email

City

State

Zip

Speaking:  For  Against  Information

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

Representing

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/7/15

Meeting Date

SB414

Bill Number (if applicable)

Topic Service Dogs

Amendment Barcode (if applicable)

Name Helen Pferdehirt

Job Title Adminastrative Asst.

Address 3251 NE 190 AVE

Phone 352-425-1981

Street

Williston FL 33386

Email Helen@medicalservice dogs.com

City

State

Zip

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

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

Representing Guardian Angels Medical Service Dogs

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

Lobbyist registered with Legislature: [ ] Yes [X] 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:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Children, Families, and Elder Affairs, *Vice-Chair*  
Appropriations  
Appropriations Subcommittee on General Government  
Environmental Preservation and Conservation  
Finance and Tax

### SENATOR THAD ALTMAN

16th District

March 31, 2015

The Honorable Wilton Simpson  
Senate Committee on Community Affairs, Chair  
315 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that SB 0414, related to *Service Animals*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

CC: Tom Yeatman, Staff Director, 315 Knott Building  
Ann Whittaker, Committee Administrative Assistant

TA/svb

#### REPLY TO:

- 8710 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
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.)

---

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

---

BILL: SB 1010

INTRODUCER: Senator Braynon

SUBJECT: False Personation

DATE: April 6, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 1010 amends s. 843.08, F.S., relating to false personation of law enforcement officers and other specified persons, to add firefighters and fire or arson investigators of the Department of Financial Services. As a result of this change, false personation of these persons would be prohibited and subject to current penalties. Specifically, it would be:

- A third degree felony to falsely personate a firefighter or a fire or arson investigator of the Department of Financial Services;
- A second degree felony to commit this false personation during the course of the commission of a felony; and
- A first degree felony to commit this false personation during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

The bill also amends various offenses in s. 843.085, F.S., relating to unlawful use of badges or other indicia of authority, to make those offenses applicable to unauthorized wearing, display, sale, etc., of fire department badges and unauthorized ownership or operation of a motor vehicle marked or identified as a fire department vehicle. Further, the bill amends criminal intent language relevant to those offenses to address a 2005 Florida Supreme Court decision that held that the intent language is unconstitutional.

**II. Present Situation:**

**False Personation of Law Enforcement Officers and Other Specified Persons**

Section 843.08, F.S., punishes false personation of a law enforcement officer or other specified person. A person commits this false personation offense if he or she falsely assumes or pretends to be a law enforcement officer or other person specified in the statute and takes upon himself or

herself to act as such or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such specified person. The list of specified persons includes:

- Sheriff;
- Officer of the Florida Highway Patrol;
- Officer of the Fish and Wildlife Conservation Commission;
- Officer of the Department of Transportation;
- Officer of the Department of Financial Services;
- Officer of the Department of Corrections;
- Correctional probation officer;
- Deputy sheriff;
- State attorney or assistant state attorney;
- Statewide prosecutor or assistant statewide prosecutor;
- State attorney investigator;
- Coroner;
- Police officer;
- Lottery special agent or lottery investigator;
- Beverage enforcement agent;
- Watchman;
- Any member of the Parole Commission and any administrative aide or supervisor employed by the commission;
- Any personnel or representative of the Florida Department of Law Enforcement; and
- A federal law enforcement officer as defined in s. 901.1505, F.S.

It is a third degree felony<sup>1</sup> to commit this offense. It is a second degree felony<sup>2</sup> to commit this false personation during the course of the commission of a felony. It is a first degree felony<sup>3</sup> to commit this false personation during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

### **Unauthorized Wearing or Display of Indicia of Authority**

Section 843.085(1) and (5), F.S., provides that it is a first degree misdemeanor<sup>4</sup> to wear or display any authorized indicia of authority, including any badge, insignia, emblem, identification card, or uniform, or any colorable imitation thereof, of any federal, state, county, or municipal law enforcement agency, or other criminal justice agency<sup>5</sup> as now or hereafter defined in s. 943.045, F.S., which:

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<sup>1</sup> A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S.

<sup>2</sup> A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

<sup>3</sup> A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

<sup>4</sup> A first degree misdemeanor is punishable by up to 1 year incarceration in county jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

<sup>5</sup> The statute references the definition of “criminal justice agency” in s. 943.045, F.S. Section 943.045(11), F.S., defines a “criminal justice agency” as: a court; the Florida Department of Law Enforcement; the Department of Juvenile Justice; the

- Could deceive a reasonable person into believing that such item is authorized by any of those agencies for use by the person displaying or wearing it; or
- Displays in any manner or combination the word or words “police,” “patrolman,” “agent,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “state attorney,” “public defender,” “marshal,” “constable,” or “bailiff,” which could deceive a reasonable person into believing that such item is authorized by any of those agencies for use by the person displaying or wearing it.

This offense does not apply to:

- A person appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers);
- A person authorized to wear or display the indicia of authority by the appropriate agency;
- A person who displays the indicia of authority in a closed or mounted case as a collection or exhibit; or
- A fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, that uses the words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” or “bailiff” in the official name of the organization or association.

### **Unauthorized Ownership or Operation of Motor Vehicles with Certain Markings**

Section 843.085(2) and (5), F.S., provides that it is a first degree misdemeanor to own or operate a motor vehicle if:

- The vehicle is marked or identified in any manner or combination by the word or words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” or “bailiff,” or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields;
- The wording is officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle or a vehicle used by a criminal justice agency as now or hereafter defined in s. 943.045, F.S.; and
- The use of the wording on the vehicle could deceive a reasonable person into believing that the vehicle is authorized by the appropriate agency for use by the person operating the motor vehicle.

This offense does not apply if:

- The vehicle is owned or operated by the appropriate agency and its use is authorized by the agency;
- The local law enforcement agency authorizes the use of the vehicle;
- The person owning or operating the marked vehicle is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers); or
- The words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,”

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protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.

or “bailiff” are used by a fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, in the official name of the organization or association.

### **Unauthorized Sale or Transfer of a Badge**

Section 843.085(3) and (5), F.S., provides that it is a first degree misdemeanor to sell, transfer, or give away the authorized badge, or a colorable imitation of the badge, including miniatures, of any criminal justice agency as now or hereafter defined in s. 943.045, F.S., or bearing in any manner or combination the word or words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” “agent,” “state attorney,” “public defender,” or “bailiff,” which could deceive a reasonable person into believing that such item is authorized by any of those agencies.

This offense does not apply to:

- Agency purchases or upon the presentation and recordation of both a driver license and other identification showing any transferee to actually be a member of such criminal justice agency;
- A person appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers); or
- A fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, that uses the words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” or “bailiff” in the official name of the organization or association.

### **Sult v. State**

In *Sult v. State*,<sup>6</sup> the Florida Supreme Court held that s. 843.085, F.S. (2001), is unconstitutionally overbroad, vague, and violates substantive due process. The Court only discusses subsection (1) of this statute in its analysis but the intent language the Court found objectionable (“could deceive a reasonable person”) also appears in subsections (2) and (3) of the statute. Specifically, the Court found:

With no specific intent-to-deceive element, the section extends its prohibitions to innocent wearing and displaying of specified words. The reach of the statute is not tailored toward the legitimate public purpose of prohibiting conduct intended to deceive the public into believing law enforcement impersonators. The “could deceive a reasonable person” element of section 843.085(1), in conjunction with the prohibition of a display in any manner or combination of the words listed in the statute, results in a virtually boundless and uncertain restriction on expression.<sup>7</sup>

The Court also found that s. 843.085(1), F.S., “because of its imprecision, ... fails to give fair notice of what conduct is prohibited. The statute fails to delineate when the displaying or

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<sup>6</sup> 906 So.2d 1013 (Fla. 2005).

<sup>7</sup> *Sult*, 906 So.2d at 1021.

wearing of the prohibited words will subject the person to prosecution, thus inviting arbitrary and discriminatory enforcement and making entirely innocent activities subject to prosecution.”<sup>8</sup>

The Legislature has never amended the intent language to address the *Sult* decision.

### III. Effect of Proposed Changes:

The bill amends s. 843.08, F.S., relating to false personation of law enforcement officers and other specified persons, to add firefighters<sup>9</sup> and fire or arson investigators of the Department of Financial Services.<sup>10</sup> As a result of this change, false personation of these persons would be prohibited and subject to current penalties. Specifically, it would be:

- A third degree felony to falsely personate a firefighter or a fire or arson investigator of the Department of Financial Services;
- A second degree felony to commit this false personation during the course of the commission of a felony; and
- A first degree felony to commit this false personation during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

Currently, s. 843.08, F.S., prohibits false personation of a watchman. The term “watchman” is undefined. The bill defines a “watchman” as a security officer licensed under ch. 493, F.S.<sup>11</sup>

Currently, s. 843.08, F.S., prohibits false personation of an officer of the Department of Transportation. In 2011, the Office of Motor Carrier Compliance was transferred from the Department of Transportation to the Department of Highway Safety and Motor Vehicles Division of the Florida Highway Patrol (FHP).<sup>12</sup> FHP “troopers” perform the commercial motor vehicles inspection functions that used to be performed by Motor Carrier Compliance officers.<sup>13</sup> Consistent with this development, the bill removes reference to an officer of the Department of Transportation. FHP troopers are already covered under the statute (“officer of the Florida Highway Patrol”).

The bill also amends various offenses in s. 843.085, F.S., relating to unlawful use of badges or other indicia of authority, to make those offenses applicable to unauthorized wearing, display,

<sup>8</sup> *Sult*, 906 So.2d at 1022 (citation omitted).

<sup>9</sup> The bill does not define “firefighter” by reference to any specific definition of the term in the Florida Statutes. However, most of the descriptive terms for officers or persons listed in the statute are not defined by reference to a statutory definition (e.g., “police officer”). A person is certified as a “firefighter” pursuant to the requirements of Part IV of ch. 633, F.S.

<sup>10</sup> The Division of State Fire Marshal is a division of the Department of Financial Services. Section 20.121(2)(b), F.S. The Chief Financial Officer is designated as the “State Fire Marshal.” Section 633.104(1), F.S. One of the duties of the State Fire Marshal is to enforce all laws and provisions of ch. 633, F.S. (fire prevention and control), and any rules adopted pursuant to that chapter, relating to the suppression of arson and the investigation of the cause, origin, and circumstances of fire. Section 633.104(2)(e), F.S.

<sup>11</sup> Section 493.6101(19), F.S., defines a “security officer” as any individual who, for consideration: advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return of those items.

<sup>12</sup> Chapter 2011-66, L.O.F.

<sup>13</sup> See <http://www.flhsmv.gov/news/pdfs/PR062911.pdf> (last visited on April 1, 2015).

sale, etc., of fire department badges and unauthorized ownership or operation of a motor vehicle marked or identified as a fire department vehicle. The bill specifies that the statute does not prohibit a fraternal, benevolent, or labor organization or association, or their subsidiaries or chapters, from using the words “fire department,” in any manner or in any combination, if those words appear in the official name of the organization or association.

To address the Florida Supreme Court decision, in *Sult v. State*, the bill replaces current criminal intent language relevant to offenses in s. 843.085, F.S., (“could deceive a reasonable person”) with specific intent language (“intent to mislead or cause another person to believe”).

The bill also amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to make technical, corrective change to descriptive language regarding the current ranking of false personation under s. 843.08, F.S. It does not change the current ranking of the offense.

The bill takes effect on October 1, 2015.

#### **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 Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates the bill will have a positive insignificant prison bed impact (the bill may increase the Department of Corrections’ prison bed population by 10 or fewer beds annually).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 843.08, 843.085, and 921.0022.

**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 Braynon

36-01330-15

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1                                   A bill to be entitled  
 2           An act relating to false personation; amending s.  
 3           843.08, F.S.; revising the list of officials who are  
 4           prohibited from being falsely personated; revising  
 5           terminology; amending s. 843.085, F.S.; prohibiting  
 6           the sale or transfer of specified badges bearing in  
 7           any manner or combination the words "fire department"  
 8           and the ownership or operation of vehicles marked or  
 9           identified by the words "fire department"; requiring  
 10          specified intent for certain offenses; providing an  
 11          exception; amending s. 921.0022, F.S.; conforming  
 12          provisions to changes made by the act; providing an  
 13          effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Section 843.08, Florida Statutes, is amended to  
 18           read:

19           843.08 False personation ~~Falsely personating officer, etc.-~~  
 20           A person who falsely assumes or pretends to be a firefighter,  
 21           sheriff, officer of the Florida Highway Patrol, officer of the  
 22           Fish and Wildlife Conservation Commission, a fire or arson  
 23           investigator of the Department of Financial Services, ~~officer of~~  
 24           ~~the Department of Transportation,~~ officer of the Department of  
 25           Financial Services, officer of the Department of Corrections,  
 26           correctional probation officer, deputy sheriff, state attorney  
 27           or assistant state attorney, statewide prosecutor or assistant  
 28           statewide prosecutor, state attorney investigator, coroner,  
 29           police officer, lottery special agent or lottery investigator,



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30 beverage enforcement agent, or watchman, or any member of the  
31 Florida Commission on Offender Review and any administrative  
32 aide or supervisor employed by the commission, or any personnel  
33 or representative of the Department of Law Enforcement, or a  
34 federal law enforcement officer as defined in s. 901.1505, and  
35 takes upon himself or herself to act as such, or to require any  
36 other person to aid or assist him or her in a matter pertaining  
37 to the duty of any such officer, commits a felony of the third  
38 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
39 775.084. However, a person who falsely personates any such  
40 officer during the course of the commission of a felony commits  
41 a felony of the second degree, punishable as provided in s.  
42 775.082, s. 775.083, or s. 775.084. If the commission of the  
43 felony results in the death or personal injury of another human  
44 being, the person commits a felony of the first degree,  
45 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
46 The term "watchman" means a security officer licensed under  
47 chapter 493.

48 Section 2. Section 843.085, Florida Statutes, is amended to  
49 read:

50 843.085 Unlawful use of ~~police~~ badges or other indicia of  
51 authority. ~~It is unlawful for any person:~~

52 (1) It is unlawful for any person, unless appointed by the  
53 Governor pursuant to chapter 354, authorized by the appropriate  
54 agency, or displayed in a closed or mounted case as a collection  
55 or exhibit, to wear or display any authorized indicia of  
56 authority, including any badge, insignia, emblem, identification  
57 card, or uniform, or any colorable imitation thereof, of any  
58 federal, state, county, or municipal law enforcement agency, or

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59 other criminal justice agency as ~~now or hereafter~~ defined in s.  
60 943.045, with the intent to mislead or cause another person to  
61 believe that he or she is a member of that agency or is  
62 authorized to display or wear such item, or to wear or display  
63 any item that ~~which could deceive a reasonable person into~~  
64 ~~believing that such item is authorized by any of the agencies~~  
65 ~~described above for use by the person displaying or wearing it,~~  
66 ~~or which~~ displays in any manner or combination the word or words  
67 "police," "patrolman," "agent," "sheriff," "deputy," "trooper,"  
68 "highway patrol," "commission officer," "Wildlife Officer,"  
69 "Marine Patrol Officer," "state attorney," "public defender,"  
70 "marshal," "constable," ~~or~~ "bailiff," or "fire department," with  
71 the intent to mislead or cause another person to believe that he  
72 or she is a member of that agency or is authorized to wear or  
73 display such item ~~which could deceive a reasonable person into~~  
74 ~~believing that such item is authorized by any of the agencies~~  
75 ~~described above for use by the person displaying or wearing it.~~

76 (2) It is unlawful for a person to own or operate a motor  
77 vehicle marked or identified in any manner or combination by the  
78 word or words "police," "patrolman," "sheriff," "deputy,"  
79 "trooper," "highway patrol," "commission officer," "Wildlife  
80 Officer," "Marine Patrol Officer," "marshal," "constable," ~~or~~  
81 "bailiff," or "fire department," or by any lettering, marking,  
82 or insignia, or colorable imitation thereof, including, but not  
83 limited to, stars, badges, or shields, officially used to  
84 identify the vehicle as a federal, state, county, or municipal  
85 law enforcement vehicle or a vehicle used by a criminal justice  
86 agency as ~~now or hereafter~~ defined in s. 943.045, or a vehicle  
87 used by a fire department with the intent to mislead or cause

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88 another person to believe that such vehicle is an official  
89 vehicle of that agency and is authorized to be used by that  
90 agency ~~which could deceive a reasonable person into believing~~  
91 ~~that such vehicle is authorized by any of the agencies described~~  
92 ~~above for use by the person operating the motor vehicle,~~ unless  
93 such vehicle is owned or operated by the appropriate agency and  
94 its use is authorized by such agency, or the local law  
95 enforcement agency or fire department authorizes the use of such  
96 vehicle, or unless the person is appointed by the Governor  
97 pursuant to chapter 354.

98 (3) It is unlawful for a person to sell, transfer, or give  
99 away the authorized badge, or colorable imitation thereof,  
100 including miniatures, of any criminal justice agency as ~~now or~~  
101 ~~hereafter~~ defined in s. 943.045, or bearing in any manner or  
102 combination the word or words "police," "patrolman," "sheriff,"  
103 "deputy," "trooper," "highway patrol," "commission officer,"  
104 "Wildlife Officer," "Marine Patrol Officer," "marshal,"  
105 "constable," "agent," "state attorney," "public defender," ~~or~~  
106 "bailiff," or "fire department," with the intent to mislead or  
107 cause another person to believe that he or she is a member of  
108 that agency or is authorized to wear or display such item ~~which~~  
109 ~~could deceive a reasonable person into believing that such item~~  
110 ~~is authorized by any of the agencies described above,~~ except for  
111 agency purchases or upon the presentation and recordation of  
112 both a driver license and other identification showing any  
113 transferee to actually be a member of such criminal justice  
114 agency or unless the person is appointed by the Governor  
115 pursuant to chapter 354. A transferor of an item covered by this  
116 subsection is required to maintain for 2 years a written record

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117 of such transaction, including records showing compliance with  
 118 this subsection, and if such transferor is a business, it shall  
 119 make such records available during normal business hours for  
 120 inspection by any law enforcement agency having jurisdiction in  
 121 the area where the business is located.

122 (4) ~~Nothing in~~ This section does not shall prohibit a  
 123 fraternal, benevolent, or labor organization or association, or  
 124 their chapters or subsidiaries, from using the following words,  
 125 in any manner or in any combination, if those words appear in  
 126 the official name of the organization or association: "police,"  
 127 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"  
 128 "commission officer," "Wildlife Officer," "Marine Patrol  
 129 Officer," "marshal," "constable," ~~or~~ "bailiff," or "fire  
 130 department."

131 (5) Violation of any provision of this section is a  
 132 misdemeanor of the first degree, punishable as provided in s.  
 133 775.082 or s. 775.083. This section is cumulative to any law now  
 134 in force in the state.

135 Section 3. Paragraph (b) of subsection (3) of section  
 136 921.0022, Florida Statutes, is amended to read:

137 921.0022 Criminal Punishment Code; offense severity ranking  
 138 chart.-

139 (3) OFFENSE SEVERITY RANKING CHART

140 (b) LEVEL 2

141

142

Florida	Felony	Description
Statute	Degree	

143

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379.2431 3rd Possession of 11 or fewer  
 (1) (e) 3. marine turtle eggs in violation  
 of the Marine Turtle Protection  
 Act.

144

379.2431 3rd Possession of more than 11  
 (1) (e) 4. marine turtle eggs in violation  
 of the Marine Turtle Protection  
 Act.

145

403.413 (6) (c) 3rd Dumps waste litter exceeding  
 500 lbs. in weight or 100 cubic  
 feet in volume or any quantity  
 for commercial purposes, or  
 hazardous waste.

146

517.07 (2) 3rd Failure to furnish a prospectus  
 meeting requirements.

147

590.28 (1) 3rd Intentional burning of lands.

148

784.05 (3) 3rd Storing or leaving a loaded  
 firearm within reach of minor  
 who uses it to inflict injury  
 or death.

149

787.04 (1) 3rd In violation of court order,  
 take, entice, etc., minor  
 beyond state limits.

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150

806.13(1)(b)3. 3rd Criminal mischief; damage \$1,000 or more to public communication or any other public service.

151

810.061(2) 3rd Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.

152

810.09(2)(e) 3rd Trespassing on posted commercial horticulture property.

153

812.014(2)(c)1. 3rd Grand theft, 3rd degree; \$300 or more but less than \$5,000.

154

812.014(2)(d) 3rd Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.

155

812.015(7) 3rd Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.

156

817.234(1)(a)2. 3rd False statement in support of

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insurance claim.

157

817.481 (3) (a)

3rd

Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.

158

817.52 (3)

3rd

Failure to redeliver hired vehicle.

159

817.54

3rd

With intent to defraud, obtain mortgage note, etc., by false representation.

160

817.60 (5)

3rd

Dealing in credit cards of another.

161

817.60 (6) (a)

3rd

Forgery; purchase goods, services with false card.

162

817.61

3rd

Fraudulent use of credit cards over \$100 or more within 6 months.

163

826.04

3rd

Knowingly marries or has sexual intercourse with person to whom related.

164

831.01

3rd

Forgery.

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166  
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172

831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	<u>False personation</u> <del>Falsely impersonating an officer.</del>
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,



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(2)(c)6., (2)(c)7., (2)(c)8.,  
(2)(c)9., (3), or (4) drugs  
other than cannabis.

173

893.147(2)                    3rd    Manufacture or delivery of drug  
paraphernalia.

174

Section 4. This act shall take effect October 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/7/15

Meeting Date

SB 1010

Bill Number (if applicable)

Topic False Personation

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr

Phone

Street

Largo

City

Fl

State

33773

Zip

Email

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

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

Representing

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

Lobbyist registered with Legislature: [ ] Yes [X] 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)

4/7/15  
Meeting Date

1010  
Bill Number (if applicable)

Topic False Personation

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 345 W Madison St

Phone 941-724-5914

Street

Tallahassee

FL

32301

Email rocco.salvatori@icbud.com

City

State

Zip

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**  
**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 Committee on Community Affairs

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BILL: CS/CS/SB 244

INTRODUCER: Community Affairs Committee; Banking and Insurance Committee; and Senator Dean

SUBJECT: Volunteer Rural Firefighting

DATE: April 7, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 244 creates a volunteer rural firefighter certificate for volunteer firefighters that work for a fire safety provider located within a municipality with a population less than 12,000 or a county with a population less than 150,000. The bill requires the department to establish by rule training for a volunteer rural firefighter certificate including emergency medical responder training.

**II. Present Situation:**

**Division of the State Fire Marshal**

State law on fire prevention and control is provided in ch. 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division).<sup>1</sup> Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; develops fire safety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire

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<sup>1</sup> The head of the Department of Financial Services is the Chief Financial Officer. The Division of the State Fire Marshal is located within the Department of Financial Services.

Prevention Code, which contains or references all fire safety laws and rules regarding public and private buildings.<sup>2</sup>

The Division of the State Fire Marshal consists of the following four bureaus: the Bureau of Fire and Arson Investigations, the Bureau of Fire Standards and Training, the Bureau of Forensic Fire and Explosive Analysis, and the Bureau of Fire Prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.<sup>3</sup>

### **National Fire Protection Association**

The National Fire Protection Association (NFPA) is an international nonprofit organization whose mission is to reduce the worldwide burden of fire and other hazards by providing and advocating consensus codes and standards, research, training, and education. Membership of the NFPA includes more than 70,000 individuals from nearly 100 nations. The NFPA is the world's leading advocate of fire prevention and an authoritative source on public safety. The NFPA publishes 300 codes and standards that are designed to minimize the risk and effects of fire by establishing criteria for building, processing, design, service, and installation. Its more than 200 technical code and standard-development committees are comprised of over 6,000 volunteers. Volunteers vote on proposals and revisions in a process that is accredited by the American National Standards Institute.<sup>4</sup>

### **Firefighters Employment, Standards, and Training Council**

The Firefighters Employment, Standards, and Training Council (Council) is housed at the Department of Financial Services and consists of 13 members. Two members are fire chiefs appointed by the Florida Fire Chiefs Association; two members are firefighters who are not officers, appointed by the Florida Professional Firefighters Association; two members are firefighter officers who are not fire chiefs, appointed by the State Fire Marshal; one member is appointed by the Florida League of Cities; one member is appointed by the Florida Association of Counties; one member is appointed by the Florida Association of Special Districts; one member is appointed by the Florida Fire Marshal's Association; one member is appointed by the State Fire Marshal; and one member is a director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal. To be eligible for appointment as a fire chief member, firefighter officer member, firefighter member, or a director or instructor of a state-certified firefighting facility, a person shall have had at least 4 years' experience in the firefighting profession. The remaining member, who is appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government. Members serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed

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<sup>2</sup> Section 633.202(1), F.S.

<sup>3</sup> State Fire Marshal website: <http://www.myfloridacfo.com/sfm/> (Last visited April 1, 2015).

<sup>4</sup> National Fire Protection Association website: <http://www.nfpa.org/about-nfpa/nfpa-overview> (Last visited April 1, 2015).

meetings unless excused by the chair.<sup>5</sup> Members are appointed for 4-year terms and in no event shall a member serve more than two consecutive terms. Any vacancies are filled in the manner of the original appointment for the remaining time of the term.<sup>6</sup> The council has special powers in connection with the employment and training of firefighters as it:

- Recommends for adoption by the Division, uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters.
- Recommends for adoption by the Division, minimum curriculum requirements for schools operated by or for any fire service provider for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters.
- Recommends for adoption by the Division, on matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by this chapter.
- Makes or supports studies on any aspect of firefighting employment, education, and training or recruitment.

### **Curriculum Requirements for Volunteer Firefighters<sup>7</sup>**

Volunteer Firefighter training consists of Part I of the State of Florida Minimum Standards Course as required by ch. 633, F.S., and Rules 69A-37 and 69A-62 of the Florida Administrative Code. A significant portion of this training can be completed through both on-line and practical skill courses. The on-line courses can be taken in lieu of the traditional classroom lecture and satisfies most of the required academic objectives. The following academic components make up the Part I Minimum Standards Curriculum:

- Firefighter I Curriculum – consists of classroom and live fire based core training.
- National Incident Management System – focuses on the history, features, principles and organizational structure of Incident Command.
- Wildland Firefighter Training – curriculum and field exercises that address the basic skills required of all wildland firefighters who must understand the behavior and factors that affect the spread of wildfires.
- EMS First Responder – curriculum that is an introduction to basic life support and emergency care.

Volunteer Firefighters who have successfully completed the Firefighter Part I training are able to operate in the exclusionary or hot zone<sup>8</sup> and in an Immediately Dangerous to Life or Health environment.

### **Support Personnel**

Other volunteers who do not seek the level of training needed for a Volunteer Firefighters Certificate of Completion may still be members of a Volunteer Fire Department. These

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<sup>5</sup> Section 633.402(1), F.S.

<sup>6</sup> Section 633.402(2), F.S.

<sup>7</sup> Guidelines for the Firefighter Part I Certificate of Completion Program (Volunteer Firefighter), Division of the State Fire Marshal, the Florida State Fire College, Revision 1.7, October 2012.

<sup>8</sup> Section 633.102(17), F.S. “Hot zone” means the area immediately around an incident where serious threat of harm exists, which includes the collapse zone for a structure fire.

volunteers are known as Support Personnel. Support Personnel respond with volunteer firefighters and are part of the Volunteer Fire Department roster. Support Personnel serve a critical role in supporting any emergency response as long as they are always in a safe zone and are performing duties for which they have been “trained commensurate to duty.” They can perform all activities that a fire service provider (Volunteer Fire Department) has trained an individual to perform safely outside the hot zone of an emergency scene, including pulling hoses, opening and closing fire hydrants, driving and operating apparatus, carrying tools, carrying or moving equipment, directing traffic, manning a resource pool, or similar activities. “Trained commensurate to duty” means that the person must have documented training in the specific task assigned or a combination of skills required to accomplish any series of tasks which may be assigned to that individual, given a set of conditions or circumstances that the individual may undertake. Anticipated special circumstances such as hazardous materials operations, technical rescue, and similar conditions or circumstances require additional training.

### **Application**

After a candidate has completed the required coursework for a Volunteer Firefighter Certificate of Completion they can apply for such certification from the Division provided that they meet all of the following statutory requirements:<sup>9</sup>

- Be a high school graduate or the equivalent as determined by the Division.
- Be at least 18 years of age.
- Not have been convicted of a misdemeanor relating to the certification or to perjury or false statements, or a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country, or dishonorably discharged from any of the Armed Forces of the United States. “Convicted” means a finding of guilt or the acceptance of a plea of guilty or nolo contendere, in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.
- Submit a set of fingerprints to the Division with a current processing fee. The fingerprints will be forwarded to the Department of Law Enforcement for state processing and forwarded by the Department of Law Enforcement to the Federal Bureau of Investigation for national processing.
- Have a good moral character as determined by investigation under procedures established by the Division.
- Be in good physical condition as determined by a medical examination given by a physician, surgeon, or physician assistant licensed to practice in the state pursuant to ch. 458, F.S.; an osteopathic physician, surgeon, or physician assistant licensed to practice in the state pursuant to ch. 459, F.S.; or an advanced registered nurse practitioner licensed to practice in the state pursuant to ch. 464, F.S. Such examination may include, but need not be limited to, the NFPA Standard 1582. A medical examination evidencing good physical condition shall be submitted to the Division, on a form as provided by rule, before an individual is eligible for admission into a course under s. 633.408, F.S.
- Be a nonuser of tobacco or tobacco products for at least 1 year immediately preceding application, as evidenced by the sworn affidavit of the applicant.
- Pay an application fee.

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<sup>9</sup> Section 633.412, F.S.

**III. Effect of Proposed Changes:**

The bill creates a volunteer rural firefighter certificate for volunteer firefighters that provide services for a fire service provider located within a municipality with a population less than 12,000 or a county with a population less than 150,000. The bill requires the department to establish by rule training for a volunteer rural firefighter certificate not to exceed 160 hours and required to include emergency medical responder training. By rule any courses successfully completed after July 1, 1970, which were credited towards a certificate under ch. 633, F.S., can be applied toward the required training.

Additionally, the bill limits volunteer rural firefighters to only working in volunteer fire departments that are located within a municipality with a population less than 12,000 or a county with a population less than 150,000, and are in existence on July 1, 2015, or that were in existence at any time between July 1, 2000, and July 1, 2015, and subsequently reestablished after July 1, 2015.

**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:**

Individuals volunteering to work for a fire service provider located within a municipality with a population less than 12,000 or a county with a population less than 150,000 will be able to take less hours of training to be certified. This should result in a cost savings from the current requirements of a volunteer firefighter certificate.

**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: 633.102, 633.406, 633.408, 633.412, 633.414, and 633.416.

**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 Community Affairs on April 7, 2015:**

Deletes an exemption from the bill for volunteer rural firefighter certificate holders from the fitness requirements and tobacco use prohibitions applied to other firefighter certificates under ch. 633, F.S.

**CS by Banking and Insurance on March 23, 2015:**

The bill makes the following changes:

- Creates a volunteer rural firefighter certificate and limits such volunteer firefighters to working for a fire service provider that is in existence on July 1, 2015, or that was in existence at any time between July 1, 2000, and July 1, 2015, and is subsequently reestablished after July 1, 2015; and located within a municipality with a population less than 12,000 or a county with a population less than 150,000.
- Requires the department to establish by rule training not to exceed 160 hours and required to include emergency medical responder training. By rule, any courses successfully completed after July 1, 1970, which were credited towards a certificate under ch. 633, F.S., can be applied to the 160 hours. Exempts volunteer rural firefighter certificate holders from the fitness requirements and tobacco use prohibitions applied to other firefighter certificates under ch. 633, F.S.

- B. **Amendments:**

None.



747674

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 82 - 87.

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

And the title is amended as follows:

Delete lines 14 - 17

and insert:

division; amending s. 633.414, F.S.;

By the Committee on Banking and Insurance; and Senator Dean

597-02735-15

2015244c1

1                   A bill to be entitled  
2           An act relating to volunteer rural firefighting;  
3           amending 633.102, F.S.; defining the term "volunteer  
4           rural firefighter"; amending 633.406, F.S.;  
5           authorizing the Division of State Fire Marshal within  
6           the Department of Financial Services to award a  
7           Volunteer Rural Firefighter Certificate of Completion;  
8           amending s. 633.408, F.S.; authorizing the division to  
9           establish by rule courses and course examinations to  
10          provide training required to obtain the certificate;  
11          providing requirements for the issuance of the  
12          certificate; requiring the division to award credit  
13          for certain courses as provided by rule adopted by the  
14          division; amending s. 633.412, F.S.; exempting  
15          applicants for certification as a volunteer rural  
16          firefighter from certain qualifications for  
17          firefighter certification; amending s. 633.414, F.S.;  
18          specifying requirements for the retention of the  
19          certificate; amending s. 633.416, F.S.; specifying the  
20          circumstances under which a fire service provider may  
21          retain the services of a volunteer firefighter;  
22          requiring a fire service provider to provide notice to  
23          the division regarding a decision to retain or not  
24          retain a volunteer rural firefighter; providing an  
25          effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29          Section 1. Subsection (36) is added to section 633.102,

597-02735-15

2015244c1

30 Florida Statutes, to read:

31 633.102 Definitions.—As used in this chapter, the term:

32 (36) "Volunteer rural firefighter" means an individual who  
33 holds a current and valid Volunteer Rural Firefighter  
34 Certificate of Completion issued by the division under s.  
35 633.408 and provides fire extinguishment or fire prevention  
36 services through a fire service provider that:

37 (a) Is in existence on July 1, 2015, or that was in  
38 existence at any time between July 1, 2000 and July 1, 2015, and  
39 is subsequently reestablished after July 1, 2015; and

40 (b) Provides services in a municipality with a population  
41 of fewer than 12,000 or a county with a population of fewer than  
42 150,000.

43 Section 2. Paragraph (h) is added to subsection (1) of  
44 section 633.406, Florida Statutes, to read:

45 633.406 Classes of certification.—

46 (1) The division may award one or more of the following  
47 certificates:

48 (h) Volunteer Rural Firefighter Certificate of Completion.—  
49 A Volunteer Rural Firefighter Certificate of Completion may be  
50 awarded to a person who has satisfactorily completed the  
51 training requirements as prescribed by rule for a volunteer  
52 rural firefighter.

53 Section 3. Paragraph (c) is added to subsection (1) of  
54 section 633.408, Florida Statutes, present paragraph (c) of that  
55 subsection is redesignated as paragraph (d), and subsection (5),  
56 is amended, to read:

57 633.408 Firefighter and volunteer firefighter training and  
58 certification.—

597-02735-15

2015244c1

59 (1) The division shall establish by rule:

60 (a) A Minimum Standards Course and course examination to  
61 provide the training required to obtain a Firefighter  
62 Certificate of Compliance.

63 (b) Courses and course examinations to provide training  
64 required to obtain a Volunteer Firefighter Certificate of  
65 Completion or a Special Certificate of Compliance.

66 (c) Courses and course examinations to provide training  
67 required to obtain a Volunteer Rural Firefighter Certificate of  
68 Completion. The required courses may not exceed 160 hours and  
69 must include emergency medical responder training. The division  
70 shall award credit toward a certificate under this paragraph, as  
71 provided by rule adopted by the division, for any approved  
72 course successfully completed on or after July 1, 1970, which  
73 was creditable at the time of completion toward a certification  
74 under this chapter.

75 (5) The division shall issue a:

76 (a) Volunteer Firefighter Certificate of Completion to any  
77 individual who satisfactorily completes the course established  
78 under paragraph (1) (b).

79 (b) Volunteer Rural Firefighter Certificate of Completion  
80 to any individual who satisfactorily completes the course  
81 established under paragraph (1) (c).

82 Section 4. Subsection (3) is added to section 633.412,  
83 Florida Statutes, to read:

84 633.412 Firefighters; qualifications for certification.—

85 (3) The requirements of paragraphs (1) (e) and (1) (f) do not  
86 apply to an individual applying for certification as a volunteer  
87 rural firefighter.

597-02735-15

2015244c1

88 Section 5. Subsection (3) is added to section 633.414,  
89 Florida Statutes, present subsections (3) and (5) of that  
90 section are redesignated as subsections (4) and (6), and present  
91 subsection (4) is amended, to read:

92 633.414 Retention of firefighter certification.—

93 (3) In order for a volunteer rural firefighter to retain  
94 her or his Volunteer Rural Firefighter Certificate of  
95 Completion, every 4 years he or she must:

96 (a) Be active as a volunteer rural firefighter; or

97 (b) Successfully complete a refresher course consisting of  
98 a minimum of 40 hours of training to be prescribed by rule.

99 (5) ~~(4)~~ For the purposes of this section, the term "active"  
100 means being employed as a firefighter or providing service as a  
101 volunteer firefighter or volunteer rural firefighter for a  
102 cumulative 6 months within a 4-year period.

103 Section 6. Subsection (2) and paragraph (a) of subsection  
104 (4) of section 633.416, Florida Statutes, are amended to read:

105 633.416 Firefighter employment and volunteer firefighter  
106 service; saving clause.—

107 (2) (a) A fire service provider may not retain the services  
108 of an individual volunteering to extinguish fires for the  
109 protection of life or property or to supervise individuals who  
110 perform such services unless the individual holds a current and  
111 valid Volunteer Firefighter Certificate of Completion.

112 (b) A fire service provider may not retain the services of  
113 an individual volunteering to extinguish fires for the  
114 protection of life or property or to supervise individuals who  
115 perform such services only in a municipality with a population  
116 of fewer than 12,000 or a county with a population of fewer than

597-02735-15

2015244c1

117 150,000 unless the individual holds a current and valid  
118 Volunteer Rural Firefighter Certificate of Completion or a  
119 current and valid Volunteer Firefighter Certificate of  
120 Completion. This paragraph does not apply to volunteers who  
121 provide only support services.

122 (4) (a) A fire service provider must notify the division  
123 electronically, as directed by rule by the division, within 10  
124 days after:

125 1. The hiring of a firefighter.

126 2. The retention of a volunteer firefighter or a volunteer  
127 rural firefighter.

128 3. The cessation of employment of a firefighter.

129 4. A decision not to retain a volunteer firefighter or a  
130 volunteer rural firefighter.

131 Section 7. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-7-15

Meeting Date

244

Bill Number (if applicable)

Topic Volunteer ~~Fire~~ Fire Fighter

Amendment Barcode (if applicable)

Name Chris Doolin

Job Title Consultant

Address 1118-B Thomasville Rd

Phone 850-508-5492

Street

TALLAH. Fla

Email cdoolin@nettally.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing SMALL COUNTY COALITION

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

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Environmental Preservation and  
Conservation, *Chair*  
Agriculture, *Vice Chair*  
Appropriations Subcommittee on General  
Government  
Children, Families, and Elder Affairs  
Communications, Energy, and Public Utilities  
Community Affairs

**SENATOR CHARLES S. DEAN, SR.**

5th District

March 26, 2015

The Honorable Wilton Simpson  
322 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Simpson,

I respectfully request you place Committee Substitute for Senate Bill 244, relating to Volunteer Firefighting, on your Community Affairs Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean  
State Senator District 5

cc: Tom Yeatman, Staff Director

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
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 Committee on Community Affairs

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BILL: CS/SB 1486

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Residential Master Building Permit Programs

DATE: April 7, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	<b>Fav/CS</b>
2.			RI	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1486 provides for the creation of local residential master building permit programs to assist builders who construct certain dwellings and townhomes on a repetitive basis. The bill directs each local government to create a residential master building permit program within 6 months of a written request made by a licensed contractor to a licensed local building official. Under the program, a builder obtains a master building permit by submitting certain documents, such as a general construction plan, to the local building department. Within 120 days after receiving a complete application, the local building department must review the general construction plan to determine compliance with the building code and approve or deny the master building permit application.

If the local building department approves the general building plan and all documents provided with the master building permit application are verified, the builder receives a master building permit and permit number. After approving a master building permit application, the bill provides that the local building department may only require the builder to submit the limited documents for a site-specific building permit for a single-family or two-family dwelling.

## II. Present Situation:

### Florida Building Code and Local Amendments

Chapter 553, F.S., titled the “Florida Building Codes Act,” provides a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code. The Florida Building Commission (FBC) updates the Florida Building Code (code) every 3 years by selecting the most current versions of model codes to serve as the basis for the new edition of Florida’s code. During the triennial code adoption process, FBC staff integrates provisions that have been previously adopted by the commission in prior code editions that are related to state agency regulation, wind-resistance design of buildings in the high velocity hurricane zone and other provisions required for consistency with statute.<sup>1</sup>

While the Legislature has stated its intent that the code be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction,<sup>2</sup> flexibility is provided so that local governments may adopt amendments to the administrative provisions<sup>3</sup> and technical provisions of the code.<sup>4</sup> These local amendments, which apply solely within the jurisdiction of the local government, are:

- Required to be more stringent than the minimum standards of the code;
- Not allowed to be made more than once every 6 months;
- Not allowed to make additional requirements that are discriminatory against materials, products, or construction techniques of demonstrated capabilities;
- Not allowed to make additional requirements introducing a new subject not addressed in the code;<sup>5</sup> and
- Not applicable to state or school district owned buildings, manufactured buildings or factory-built school buildings approved by the commission, or prototype buildings approved pursuant to s. 553.77(3), F.S.<sup>6</sup>

Section 553.73(11), F.S., requires local building code enforcement officials and local fire code enforcement officials to resolve conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code by agreement as to the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and equivalent method of construction. Additionally, decisions made by local fire officials and the local building officials may be appealed to local administrative boards having firesafety responsibilities. All such decisions are subject to review by a joint committee composed of members of the FBC and the Fire Code Advisory Council.

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<sup>1</sup> Section 553.73(7)(g), F.S., provides that “Amendments or modifications related to state agency regulations which are adopted and integrated into an edition of the Florida Building Code shall be carried forward into the next edition of the code, subject to modification as provided in this part.” Amendments or modifications related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties which are adopted to the code do not expire, but are carried forward into the next edition of the code, subject to review or modification.

<sup>2</sup> Section 553.72, F.S.

<sup>3</sup> Section 553.73(4)(a), F.S.

<sup>4</sup> Section 553.73(4)(b), F.S.

<sup>5</sup> Section 553.73(4)(b)(3), F.S.

<sup>6</sup> Section 553.73(4)(c), F.S.

## Local Government Permitting

The Legislature has specified that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare.<sup>7</sup> Section 553.79(1), F.S., provides that it is unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building without first obtaining a permit from the appropriate enforcing agency or from such persons delegated the authority to issue permits, upon the payment of fees adopted by the enforcing agency. Typically, the appropriate enforcing agency is the local building department in the county or municipality in which the property is located. The builder is required to obtain a site-specific building permit for each individual site-specific building intended to be constructed, even if the builder expects to build multiple identical structures on a repetitive basis.

A builder is required to provide building plans and specifications at the time of application for a site-specific building permit, along with a structural inspection plan and additional supporting documents sufficient for the building code administrator or inspector to determine whether the building will be built according to the code.<sup>8</sup> The specific documents required to be submitted with the site-specific building permit application can vary depending upon the county or municipality reviewing the documents. The City of Tallahassee requests the following documents with the application for site-specific building permit:

- Completed permit application, signed by the contractor;
- Affidavit of the owner, designating contractor as the agent;
- Disclosure statement if the owner is acting as his or her own contractor;
- Affidavit of occupancy;
- Florida Lien Law form if the owner is acting as his or her own contractor;
- Certified copy of recorded Notice of Commencement;
- Two sets of construction plans, including floor plan, elevations, foundation plan or floor framing plan, wall sections, roof plan, two gas diagrams, manufacturer's truss layout, and fire resistance framing plan;
- Two engineered wind analyses, if the structure is over 400 square feet, has openings within three feet of a corner, or is two stories; the engineer must have the subdivision name, lot, and block or complete address;
- Environmental information, including a site plan, information regarding whether the property is located in a FIRM flood zone, street name, lot dimensions, setback dimensions, north arrow, easements and restrictions, location and size of all protected trees, limits of clearing and location for placement of sediment and erosion control measures, clearly labeled existing and proposed structures, existing and proposed two-foot contour lines labeled accordingly; all grading or other methods of storm-water conveyance; and finished floor elevation;
- 2010 Florida Building Code, Energy Conservation Form 402 or 405;
- EPL Display card signed by the builder with the date and address of the home;
- Manual J form with the HVAC load sizing summary for residential buildings signed by the preparer;
- Soil test, signed by an engineer with subdivision name, lot and block or complete address; and

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<sup>7</sup> Section 553.72(2), F.S.

<sup>8</sup> Section 553.79(2) and (6), F.S.

- Completed driveway connection application.<sup>9</sup>

Along with the application and listed documents, the builder submits a fee to cover both the review of the submitted documents and any inspection costs. The fees are based on a schedule adopted by the local government pursuant to s. 553.80(7), F.S., which provides that:

- The fees, and any fines or investment earnings related to the fees, may only be used to carry out the local government's responsibilities in enforcing the code;
- When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities;
- At the discretion of the local government, any unexpended balances are carried forward to future years for allowable activities or are refunded;
- The basis for a fee structure for allowable activities must relate to the level of service provided by the local government and must include consideration for refunding fees due to reduced services; and
- Fees charged must be consistently applied.

Section 553.80(7)(a), F.S., further specifies the types of enforcement activities that the fees may be used to fund:

- The direct costs and reasonable indirect costs associated with review of building plans;
- Building inspections;
- Reinspections;
- Building permit processing;
- Building code enforcement;
- Fire inspections associated with new construction;
- Training costs associated with the enforcement of the code; and
- Enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

The FBC sets standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only. Section 105.13 (phased permit approval), of the Florida Building Code provides the following:

After submittal of the appropriate construction documents, the building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

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<sup>9</sup> City of Tallahassee Applications and Forms, *Combination Residential Building, Environmental & Driveway Permit Application*, BI FORM AP-RESIDENTIAL\_BUILDING (Oct. 17, 2012), available at [http://www.talgov.com/Uploads/Public/Documents/growth/pdf/forms/combo\\_residential\\_bldg\\_env\\_permit\\_appl.pdf](http://www.talgov.com/Uploads/Public/Documents/growth/pdf/forms/combo_residential_bldg_env_permit_appl.pdf).

### III. Effect of Proposed Changes:

**Section 1** creates s. 553.794, F.S., to establish the parameters for local government residential master building permit programs. Upon receipt of a written request made by a licensed general, building, or residential contractor, a local government has 6 months to create a residential master building permit. The program is designed to achieve standardization and reduce the time spent by local building departments during the site-specific building permit application process.

In order to obtain a master building permit, builders must submit the following to the local building department:

- A completed master building permit application;
- A general construction plan that complies with specified requirements;
- All general construction plan pages, documents, and drawings, including structural calculations if required by the local building department, signed and sealed by the licensed architect or engineer;
- Written acknowledgement from the licensed architect or engineer that the plan pages, documents, and drawings contained within the application will be used for future site-specific building permit applications;
- Truss specifications signed and sealed by the engineer; and
- An energy performance calculation for all building orientations that considers the worst-case scenarios for the relevant climate zone and includes component and cladding product approvals for windows, pedestrian and garage doors, glazed opening impact protection devices, truss anchors, roof underlayments, and roof coverings.

The bill provides that the general construction plan:

- May be submitted in electronic or paper format, as required by the local building department; paper plans must be 36 inches by 48 inches or must comply with local building department requirements;
- Shall include left-hand and right-hand building orientations including floor plans;
- Shall include a model design, with up to four exterior elevations, that must:
  - Include a foundation plan;
  - Contain a truss layout sheet for each exterior elevation compatible with the roof plan;
  - Not contain more than three alternate garage layouts, with each garage limited to accommodating no more than three cars;
- Must show typical wall sections from the foundation to the roof;
- Must contain a complete set of applicable electrical, plumbing, fuel gas, and mechanical plans;
- Must contain window, door, and glaze opening impact protection device schedules, if applicable; and
- Must meet any other local building department requirements.

The local building department must review the general construction plan to determine compliance with the building code, and must approve or deny the master building permit application within 120 days after receiving a completed application, unless waived by the applicant. If the local building department approves the general building plan and all documents

provided with the master building permit application are verified, the builder receives a master building permit and permit number.

In order to build one of the buildings approved under the master building permit, the builder must apply for a site-specific building permit and include the master building permit number with the application. The bill provides that the local building department may only require the builder to submit the following documents for a site-specific building permit for a single-family or two-family dwelling or townhome after approving a master building permit application:

- A complete site-specific building permit application with the master building permit number, identifying the model design to be built, including elevation and garage style;
- Three signed and sealed copies of the lot or parcel survey or site plan, indicating the Federal Emergency Management Agency flood zone, based flood elevation, and minimum finish floor elevation. The survey or site plan must conform to local zoning regulations and lot or parcel drainage indicators must be shown with site elevations;
- An affidavit by the licensed engineer of record affirming the master building permit is a true and correct copy of the master building permit on file with the local building department, referencing the master building permit number and affirming that the master building permit will conform to soil conditions on the specific site;
- Complete mechanical drawings of the model design, including HVAC heating and cooling load calculations and equipment specifications; and
- Specific information not included in the master building permit application addressing the HVAC system design, including duct design and heating and cooling load calculations.

The builder may submit the master building permit number an unlimited number of times with the site-specific building permit applications, so long as the builder uses the model design contained in the master building permit and the permit is valid. Approved master building permits are valid until the code is updated as provided in s. 553.73, F.S.

Once a local building department has approved a master building permit, the local building department may:

- Not allow structural revisions to the building;
- Allow limited nonstructural revisions to the building so long as any revised floor plan is submitted to and approved by the local building department; and
- Accept limited field revisions, as determined by the local building department.

The bill provides that the governing bodies of local governments set fees pursuant to s. 553.80(7), F.S.

The bill provides that a builder or design professional who willfully violates provisions of the bill will be fined \$10,000 for each dwelling or townhome built under the master building permit that does not conform to the master building permit on file with the local building department.

**Section 2** provides an effective date of July 1, 2015.

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

Inasmuch as the bill requires cities and counties to incur expenses, i.e., creates a local residential master building permit program, the bill falls within the purview of subsection (a) of Article VII, Section 18, Florida Constitution, which provides that cities and counties are not bound by general laws requiring them to spend funds or take an action requiring them to spend funds unless specified exemptions or exceptions are met.

One of the exemptions is insignificant fiscal impact. The fiscal impact of this bill is indeterminate. If the exemption does not apply, and if the bill becomes law, cities and counties will not be bound by the law unless the Legislature determines that the bill fulfills an important state interest and approves the bill by a two-thirds vote of the membership of each House.

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

None.

**C. Trust Funds Restrictions:**

None.

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

Because local governments have control over fee schedules, any revenue impact will be determined by the local government.

**B. Private Sector Impact:**

By reducing the time spent by local building departments during the site-specific building permit process, builders will experience faster permit review times, possibly encouraging development and increasing private economic activity.

**C. Government Sector Impact:**

Costs to local governments to develop the program and review master building permit applications could be offset by the reduced requirements for reviewing site-specific building permit applications.

**VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 553.794 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Community Affairs on April 7, 2015:**

Provides that a local government whose licensed local building official receives a written request from a licensed general, building, or residential contractor has 6 months to create a master building permit program, and clarifies that local governments set fees for the master building permit program pursuant to existing provisions in s. 553.80(7), F.S.

- B. **Amendments:**

None.



933922

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 31 - 33  
and insert:

(1) MASTER BUILDING PERMIT PROGRAM CREATION.-If a local building official licensed pursuant to part XII of chapter 468 receives a written request from a general, building, or residential contractor licensed pursuant to chapter 489 requesting the creation of a master building permit program, the local government that employs the recipient building official



933922

11 shall create a residential master building permit program within  
12 6 months after receipt of the written request. A master building  
13 permit program is intended for use by builders who expect to  
14 construct identical

15

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

17 And the title is amended as follows:

18       Between lines 4 and 5

19 insert:

20       if requested by a licensed general, building, or  
21       residential contractor



783208

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
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	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 162 - 165

and insert:

(8) FEES.—The governing bodies of local governments may set fees pursuant to s. 553.80(7).

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

And the title is amended as follows:

Delete lines 17 - 20



783208

11 and insert:  
12 to approved master building permits; authorizing  
13 governing bodies of local governments to set specified  
14 fees; providing for penalties under certain

By Senator Brandes

22-01127-15

20151486\_\_

1                   A bill to be entitled  
2           An act relating to residential master building permit  
3           programs; creating s. 553.794, F.S.; requiring local  
4           governments to create master building permit programs  
5           to assist builders who construct certain dwellings and  
6           townhomes on a repetitive basis; defining terms;  
7           providing requirements for submitting a master  
8           building permit application, a general construction  
9           plan, or a site-specific building permit application;  
10          specifying documents that must be provided with the  
11          applications and plan; requiring master building  
12          permits to be approved or denied within a time  
13          certain; providing duration of validity of approved  
14          master building permits; authorizing a builder to use  
15          a master building permit for individual dwellings or  
16          townhomes under certain conditions; limiting revisions  
17          to approved master building permits; limiting the  
18          amount a local government may charge for master  
19          building permit or site-specific building permit  
20          applications; providing for penalties under certain  
21          circumstances; authorizing local governments to adopt  
22          procedures to carry out master building permit  
23          programs; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Section 553.794, Florida Statutes, is created to  
28           read:

29           553.794 Local government residential master building permit

22-01127-15

20151486\_\_

30 program.

31 (1) MASTER BUILDING PERMIT PROGRAM CREATION.—Each local  
32 government shall create a residential master building permit  
33 program for use by builders who expect to construct identical  
34 single-family or two-family dwellings or townhomes on a  
35 repetitive basis. The master building permit program must be  
36 designed to achieve standardization and consistency during the  
37 permitting process and to reduce the time spent by local  
38 building departments during the site-specific building permit  
39 application process.

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

41 (a) "Building orientation" means the placement of a  
42 building with respect to weathering elements such as sun, wind,  
43 and rain and environmental factors like topography.

44 (b) "Elevation" means a construction drawing that is drawn  
45 to scale and depicts the external face of the dwelling or  
46 townhome to be constructed.

47 (3) MASTER BUILDING PERMIT APPLICATION.—To obtain a master  
48 building permit, a builder must submit the following information  
49 to the local building department:

50 (a) A completed master building permit application.

51 (b) A general construction plan that complies with  
52 subsection (4).

53 (c) All general construction plan pages, documents, and  
54 drawings, including structural calculations if required by the  
55 local building department, signed and sealed by the design  
56 professional of record, along with a written acknowledgement  
57 from the design professional that the plan pages, documents, and  
58 drawings contained within the master building permit application

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20151486\_\_

59 will be used for future site-specific building permit  
60 applications. The design professional of record must be a  
61 licensed engineer or architect.

62 (d) Truss specifications, signed and sealed by the truss  
63 design engineer. The design professional of record must stamp  
64 and sign the truss layout sheet as reviewed and approved for  
65 each model design.

66 (e) Energy performance calculations for all building  
67 orientations. The calculations must consider worst-case  
68 scenarios for the relevant climate zone and must include  
69 component and cladding product approvals for all windows,  
70 pedestrian doors, garage doors, glazed opening impact protection  
71 devices, truss anchors, roof underlayments, and roof coverings.  
72 The design professional of record must stamp and sign all  
73 product approvals as reviewed and approved for use with each  
74 model design.

75 (4) GENERAL CONSTRUCTION PLAN.—The general construction  
76 plan submitted as part of a master building permit application:

77 (a) May be submitted in electronic or paper format, as  
78 required by the local building department. A plan submitted in  
79 paper format must be a minimum of 36 inches by 48 inches or must  
80 comply with requirements of the local building department.

81 (b) Shall include left-hand and right-hand building  
82 orientations, including floor plans.

83 (c) Shall include a model design that may include up to  
84 four alternate exterior elevations, each containing the same  
85 living space footprint. The model design:

86 1. May not contain more than three alternate garage  
87 layouts, with each garage layout limited to accommodating no



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88 more than three cars.

89 2. Must include a foundation plan.

90 3. Must contain a truss layout sheet for each exterior  
91 elevation that is compatible with the roof plan.

92 (d) Must show typical wall sections from the foundation to  
93 the roof.

94 (e) Must contain a complete set of applicable electrical,  
95 plumbing, fuel gas, and mechanical plans.

96 (f) Must contain window, door, and glazed opening impact  
97 protection device schedules, if applicable.

98 (5) MASTER BUILDING PERMIT APPROVAL PROCESS.—

99 (a) A builder may submit to the local building department a  
100 master building permit application that contains the information  
101 identified in subsection (3). Once a master building permit  
102 application is approved as provided in this subsection, the  
103 local building department may only require the builder to submit  
104 the documents identified in subsection (7) for each site-  
105 specific building permit application for a single-family or two-  
106 family dwelling or townhome.

107 (b) The local building department shall review the general  
108 construction plan submitted as part of the master building  
109 permit application to determine compliance with existing  
110 building code requirements. If the general construction plan is  
111 approved and all documents provided pursuant to subsections (3)  
112 and (4) are verified, the builder shall receive a master  
113 building permit and permit number.

114 (c) The local building department must approve or deny a  
115 master building permit application within 120 days after the  
116 local building department receives a completed application,

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117 unless the applicant agrees to a longer period.

118 (d) A builder may use the master building permit number for  
119 each dwelling or townhome as long as the builder uses the model  
120 design contained in the master building permit.

121 (e) An approved master building permit will remain valid  
122 until the Florida Building Code is updated as provided in s.  
123 553.73.

124 (6) REVISIONS TO MASTER BUILDING PERMIT.—Once a master  
125 building permit has been approved, a local building department:

126 (a) May not allow structural revisions to the master  
127 building.

128 (b) May allow limited nonstructural revisions to the master  
129 building so long as any revised floor plan is submitted to and  
130 approved by the local building department.

131 (c) May accept limited field revisions, as determined by  
132 the local building department.

133 (7) SITE-SPECIFIC BUILDING PERMIT APPLICATIONS.—Once a  
134 builder has an approved master building permit, the builder is  
135 only required to submit the following information for each site-  
136 specific building permit application for a single-family or two-  
137 family dwelling or townhome:

138 (a) A completed site-specific building permit application  
139 that includes the master building permit number and identifies  
140 the model design to be built, including elevation and garage  
141 style.

142 (b) Three signed and sealed copies of the lot or parcel  
143 survey or site plan, as applicable. The survey or site plan must  
144 indicate the Federal Emergency Management Agency flood zone,  
145 base flood elevation, and minimum finished floor elevation. Lot

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146 or parcel drainage indicators must be shown along with site  
147 elevations.

148 (c) An affidavit by the licensed engineer of record  
149 affirming that the master building permit is a true and correct  
150 copy of the master building permit on file with the local  
151 building department. The affidavit must reference the master  
152 building permit number. The licensed engineer of record must  
153 affirm that the master building permit will conform to soil  
154 conditions on the specific site.

155 (d) Complete mechanical drawings of the model design,  
156 including HVAC heating and cooling load calculations and  
157 equipment specifications.

158 (e) Specific information that was not included in the  
159 master building permit application addressing the HVAC system  
160 design, including duct design and heating and cooling load  
161 calculations.

162 (8) FEES.—Fees charged by the local government for a master  
163 building permit application or a site-specific building permit  
164 application are limited to the administrative and inspection  
165 portions of the applicable local government's fee schedule.

166 (9) PENALTIES.—In addition to any other penalty provided by  
167 law, a builder or design professional who willfully violates  
168 this section shall be fined \$10,000 for each dwelling or  
169 townhome that is built under the master building permit that  
170 does not conform to the master building permit on file with the  
171 local building department.

172 (10) PROGRAM GUIDELINES.—Each local government may adopt  
173 procedures to provide master building permit program guidelines  
174 and requirements for the submission and approval of materials

22-01127-15

20151486\_\_

175 and applications.

176 Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-7-15

Meeting Date

SB 1406  
Bill Number (if applicable)

Topic MASTER BUILDER PERMIT

Amendment Barcode (if applicable)

Name KARI HEBRANK

Job Title

Address 113 EAST COLLEGE

Phone 566-7824

Street  
TALLAHASSEE FL 32301  
City State Zip

Email khebrank@wilsonmgmt.com

Speaking:  For  Against  Information

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

Representing

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** March 30, 2015

---

I respectfully request that **Senate Bill #1486**, relating to **Residential Master Building Permit Programs**, 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", with a long horizontal line extending to the right.

---

Senator Jeff Brandes  
Florida Senate, District 22



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

**Location**  
402 Senate Office Building

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

DATE	COMM	ACTION
12/31/14	SM	Fav/1 amendment
3/10/15	JU	Fav/CS
4/7/15	CA	Favorable
	FP	

December 31, 2014

The Honorable Andy Gardiner  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **CS/SB 36** – Judiciary Committee and Senator Miguel Diaz de la Portilla  
Relief of Estate of Victor Guerrero

**SPECIAL MASTER'S FINAL REPORT**

THIS IS A CONTESTED EXCESS JUDGMENT CLAIM FOR \$6,873,838.19 BASED ON A JURY AWARD AGAINST PASCO COUNTY TO COMPENSATE THE ESTATE OF VICTOR GUERRERO FOR HIS DEATH IN A COLLISION WITH A COUNTY VEHICLE.

FINDINGS OF FACT:

On May 1, 2008, Victor Guerrero, a 48-year old, off-duty Tampa police officer, was traveling southbound on U.S. Highway 41 on his motorcycle. Highway 41 is a north-south thoroughfare in Pasco County and is a two-lane, undivided highway with a 55 mph speed limit in the area where Mr. Guerrero was driving. At the same time, Daniel Whipple, a Pasco County employee, was driving a Pasco County truck northbound on Highway 41 on his way to inspect a subdivision off of that road. The weather was clear and the view was not obstructed. As Mr. Guerrero approached Mr. Whipple, Mr. Whipple made a left hand turn into the southbound lane.

As Mr. Whipple turned, the Pasco County truck he was driving and Mr. Guerrero's motorcycle collided in the southbound lane. Mr. Whipple stated that he simply did not see the motorcycle. Mr. Guerrero's motorcycle struck the side of the Pasco County pickup truck, and Mr. Guerrero was ejected from the motorcycle. Mr. Guerrero was not wearing a helmet

at the time of the accident and died as a result of a brainstem laceration which occurred as a result of the incident.

A witness to the accident testified that Mr. Whipple's vehicle turned in front of Mr. Guerrero's motorcycle. The witness testified that Mr. Guerrero did not have an opportunity to avoid the collision. The witness did not believe that the motorcycle driver, Mr. Guerrero, did anything wrong. In addition, the Tampa Police Department investigator believed that Mr. Whipple violated section 316.122, Florida Statutes, by making an improper left turn.

Following the accident, Pasco County's Driver Safety Review Board conducted an internal investigation relating to the accident, and found that Daniel Whipple was negligent in causing the accident, citing mistakes due to carelessness. The Board recommended that Daniel Whipple's driving privileges, as extended to County vehicles and equipment, be suspended. The jury was informed of the Board's finding but not that Daniel Whipple's driving privileges were suspended.

Mr. Guerrero is survived by his wife of 2 years, Lara Guerrero, with whom he had lived since 2000 with her three children. Mr. Guerrero is also survived by three sons from a prior marriage, Michael, David, and Kevin, aged 21, 19, and 15 at the time of their father's death, respectively. At the time of Mr. Guerrero's death, his sons lived in South Carolina with their mother and had lived there for less than one year. Mr. Guerrero had seen his sons three times after their move. Mr. Guerrero traveled to South Carolina once and his sons returned to Florida twice. Prior to moving to South Carolina in 2007, Mr. Guerrero's sons and their mother resided in the Tampa area.

The Guerrero estate (the "estate" or "claimant") filed a lawsuit against Pasco County and, on February 10, 2012, the jury returned a verdict for \$7,845,127.30. The parties stipulated to economic damages of \$1,095,127.30. The jury awarded Lara Guerrero \$1,500,000 and award \$1,750,000 to each of the three children. The jury verdict for noneconomic damages was less than sought for Mrs. Guerrero (counsel suggested \$2,500,000 in noneconomic damages for Mrs. Guerrero) and more than sought each of the children (counsel suggested \$500,000 in noneconomic damages for each of the children). The verdict amount was reduced by ten percent for comparative negligence due to Mr. Guerrero's failure to wear



a helmet. The verdict form gave the jury the option to apportion liability to Mr. Guerrero for speeding but the jury did not do so. The Second District Court of Appeal affirmed the final judgment.

Following the trial, Michael and Kevin Guerrero have remained in South Carolina with their mother. Michael is currently employed at an auto body shop, and Kevin graduated from Northeastern Technical College in May of 2013 after obtaining an Associate in Arts Degree. Kevin currently works at the Food Lion. David was discharged from the United States Marine Corps in January 2013 and is currently in the Reserves. David currently resides in Florida and will begin the Hillsborough Community College Law Enforcement Academy in January 2015. Lara Guerrero moved out of the Tampa area after the home she, Victor, and her three children lived in was foreclosed following Victor's death. She currently resides in Fleming Island, Florida with her boyfriend, daughter, and boyfriend's son. Lara Guerrero has been employed sporadically since Victor Guerrero's death but is not currently employed. Prior to Victor's death, Lara Guerrero was employed by the Home Depot for over fifteen years.

In December, 2014, the House and Senate special masters held a joint hearing on this contested claim. The Guerreros and Pasco County submitted documents from pretrial discovery, from the trial, from the appellate record, and supplemented the record after the hearing with other documents. The Guerreros testified at the hearing. At the hearing, Pasco County presented expert testimony that Mr. Guerrero would not have died if he had been wearing a motorcycle helmet. Pasco County also presented expert testimony that Mr. Guerrero was speeding and that the accident would not have occurred if Mr. Guerrero had been driving a safe speed.

The Guerreros presented expert testimony that Mr. Guerrero would have died even if he had been wearing a helmet and presented evidence that Mr. Guerrero was not speeding.

Pasco County opposes a claim bill in this case. The County argues that Mr. Guerrero was speeding and not wearing a helmet and that he would have avoided the accident had he not been speeding and would have survived the accident had he been wearing a helmet. The County further argues that jury

verdict was excessive and unduly influenced by emotional testimony in the case.

A medical examiner testified at the trial and his trial testimony, including testimony presented outside the presence of the jury, was provided for the hearing. The medical examiner stated that Mr. Guerrero would have died from the accident even if he was wearing a helmet. A second expert witness presented by the estate testified that Mr. Guerrero would have died whether or not he had been wearing a helmet. He testified that no helmet could have prevented Mr. Guerrero's death. Pasco County's expert testified that Mr. Guerrero would have survived if he had been wearing a helmet.

Both sides presented evidence relating to whether or not Mr. Guerrero was speeding at the time of the accident. The claimant's expert testified that Mr. Guerrero was travelling between 51 and 58 miles per hour. The Pasco County expert testified that Mr. Guerrero was traveling between 66 and 83 miles per hour.

Pasco County has paid \$200,000 of the final judgment. Of that \$200,000, \$186,776.38 was paid to the claimant and \$13,223.62 was paid to the claimant's automobile insurance carrier to satisfy its subrogated property damage claim. Pasco County was insured by a Public Entity Excess Liability Policy issued by Star Insurance Company which has liability limits of \$1,000,000 for each covered accident or occurrence. The Policy is subject to a self-retention limit of \$1,000,000 which is eroded by certain costs and expenses incurred by the County in the defense or payment of a covered claim. Approximately \$690,000 remains of Pasco County's self-insured retention limit which must be exhausted before Star Insurance Company's duty to indemnify the County is triggered. The self-insured retention and any amount above the \$1,000,000 insurance policy would be paid from the County's general fund.

The \$186,776.38 paid to the claimant was divided as follows:

Mrs. Guerrero: \$7,937.99

Kevin Guerrero: \$6,761.99

Michael Guerrero: \$6,467.99

David Guerrero: \$6,467.99

Estate: \$1,764.00

Attorneys (including \$5,000 in trust for future costs and probate fees): \$157,386.42.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding to determine whether Pasco County is liable in negligence for the death of Mr. Guerrero and, if so, whether the amount of the claim is reasonable.

Section 316.122, Florida Statutes, requires the driver of a vehicle turning left to yield to oncoming traffic. Mr. Whipple, a Pasco County employee, failed to do so. Pasco County is liable as Mr. Whipple's employer.

Each side presented evidence relating to whether Mr. Guerrero would have died if he had been wearing a helmet. Given the conflicting testimony, the jury's finding apportioning most of the damages to the County but some of the damages to Mr. Guerrero was reasonable.

Similarly, there was conflicting expert testimony regarding Mr. Guerrero's speed at the time of the accident. However, an eyewitness saw the accident and believed that the driver of the truck, Mr. Whipple, was at fault. Given the conflicting expert testimony, the jury's apparent reliance on an eyewitness and finding that speed was not a factor was reasonable.

Pasco County objects to various evidentiary rulings made by the trial judge at trial. Specifically, the County objects to the admission of the Driver Safety Review Board finding that Mr. Whipple was at fault. The jury's finding of fault was reasonable in this case. An eyewitness saw the accident and believed that Mr. Whipple was at fault. Given eyewitness testimony, it is reasonable for the jury to find Mr. Whipple at fault even if one assumes the trial court erred in admitting the finding of the Driver Safety Review Board.

The County also argues that the jury was unduly influenced by emotional testimony at trial and that the jury award was excessive. Those issues were raised, or could have been raised, by the County on appeal, reviewed by the court under

an abuse of discretion standard, and rejected. The jury appears to have exercised independent judgment from that of the lawyers in the case. It awarded less than was asked for to Mrs. Guerrero and more than was sought to each of the three children. It is difficult to place a monetary value on the loss of a husband or a father but it is reasonable for a jury to determine that surviving children should receive more than a surviving spouse.

ATTORNEYS FEES:

The claimant's attorneys have agreed to limit their fees and lobbyist fees to not more than 25 percent of any amount awarded by the Legislature.

RECOMMENDED  
AMENDMENT:

This bill provides post-judgment interest at the rate of 4.75 percent. While paying post-judgment interest in claim bills is not unprecedented, the general practice is not to include post-judgment interest. This bill provides for a lump sum payment to the estate of Victor Guerrero but the jury made separate awards to the estate, to Lara Guerrero, and to each of the three children.

The recommended amendment removes references to post-judgment interest and apportions the claim to the estate, Mrs. Guerrero, and the three children as follows:

- Estate: \$962,337.34 (14%)
- Mrs. Guerrero: \$1,312,903.09 (19.1%)
- Kevin Guerrero: \$1,532,865.92 (22.3%)
- Michael Guerrero: \$1,532,865.92 (22.3%)
- David Guerrero: \$1,532,865.92 (22.3%)

I arrived at those amounts by calculating the percentage of the total award that the jury awarded to each claimant and multiplying those percentages by the total dollar amount of the bill.

RECOMMENDATIONS:

The undersigned recommends that the bill be reported favorably.

Respectfully submitted,

L. Michael Billmeier, Jr.  
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

**CS by Judiciary:**

The committee substitute reduces the amount appropriated by the claim bill to \$1.5 million. The committee substitute also apportions the appropriation among the Estate of Victor Guerrero and his survivors.

By the Committee on Judiciary; and Senator Diaz de la Portilla

590-02145-15

201536c1

1 A bill to be entitled

2 An act for the relief of the Estate of Victor Guerrero  
3 by Pasco County; providing for an appropriation to  
4 compensate the Guerrero family for Officer Guerrero's  
5 death, which was the result of negligence by an  
6 employee of Pasco County; providing that the  
7 appropriation settles all present and future claims  
8 relating to the death of Officer Guerrero; providing a  
9 limitation on fees and costs; providing an effective  
10 date.

11  
12 WHEREAS, on May 1, 2008, Victor Guerrero, a veteran of the  
13 United States Marine Corps and a decorated, 20-year veteran of  
14 the City of Tampa Police Department, was riding his motorcycle  
15 to visit his mother on his day off from work, and

16 WHEREAS, Officer Guerrero was traveling southbound on U.S.  
17 41, about 1 mile north of S.R. 52, which is a straightaway with  
18 no obstructions, and

19 WHEREAS, at the same time, Pasco County employee Daniel  
20 Whipple was driving a Pasco County vehicle northbound on U.S.  
21 41, and

22 WHEREAS, as Officer Guerrero approached Mr. Whipple, Mr.  
23 Whipple made a left hand turn directly into the path of Officer  
24 Guerrero, and

25 WHEREAS, an accident reconstruction expert estimated that  
26 Officer Guerrero was about 100 feet away when Mr. Whipple, who  
27 claimed that he never saw Officer Guerrero, made the turn, and

28 WHEREAS, Officer Guerrero had no time to brake or swerve  
29 and struck the side of Mr. Whipple's truck and was ejected from

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201536c1

30 the motorcycle, and

31 WHEREAS, Officer Guerrero was airlifted to St. Joseph's  
32 Hospital in Tampa, where he was pronounced dead, and

33 WHEREAS, the Pasco County Driver Safety Review Board  
34 investigated the accident and determined that Mr. Whipple was at  
35 fault, citing carelessness, and

36 WHEREAS, after the accident, Officer Guerrero's widow, Lara  
37 Guerrero, was unable to return to her job at Home Depot due to  
38 severe emotional distress, and was prescribed anti-depressant  
39 medication to assist her in dealing with her loss, and

40 WHEREAS, Officer Guerrero left behind three sons, Michael,  
41 David, and Kevin, who were 21, 19, and 15, respectively, at the  
42 time of the accident, and

43 WHEREAS, Lara Guerrero, as personal representative of the  
44 Estate of Victor Guerrero, filed a law suit against Pasco County  
45 in the Circuit Court of the Sixth Judicial Circuit in Pasco  
46 County, and

47 WHEREAS, on February 10, 2012, the jury in the case  
48 returned a verdict for \$7,845,127.30 in favor of the Estate of  
49 Victor Guerrero, which was reduced 10 percent for comparative  
50 negligence for Officer Guerrero's failure to wear a helmet,  
51 leaving a total verdict of \$7,060,614.57, plus interest at the  
52 statutory rate of 4.75 percent per annum, and

53 WHEREAS, the amount awarded by the jury includes economic  
54 damages of \$1,095,127.30, which were stipulated to by the  
55 parties and include damages for future loss of income and  
56 funeral expenses, damages representing loss of support for Lara  
57 Guerrero, and damages representing loss of support for Kevin  
58 Guerrero, and

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59 WHEREAS, the amount awarded by the jury also includes \$1.5  
60 million for Lara Guerrero for loss of her husband's  
61 companionship and protection and for her pain and suffering, and  
62 \$1.75 million for each of Officer Guerrero's sons for loss of  
63 parental companionship, instruction, and guidance and for their  
64 pain and suffering, and

65 WHEREAS, Pasco County has paid \$186,776.38 of the final  
66 judgment, and

67 WHEREAS, on March 6, 2015, Pasco County and the Guerrero  
68 family reached a settlement in this matter for the payment of  
69 1.5 million in addition to the amount previously paid, NOW,  
70 THEREFORE,

71  
72 Be It Enacted by the Legislature of the State of Florida:

73  
74 Section 1. The facts stated in the preamble to this act are  
75 found and declared to be true.

76 Section 2. Pasco County is authorized and directed to  
77 appropriate from funds of the county not otherwise appropriated  
78 and to draw a warrant payable to Lara Guerrero, as personal  
79 representative of the Estate of Victor Guerrero in the amount of  
80 \$1,500,000.00, which shall be apportioned as follows: to the  
81 Estate of Victor Guerrero in the amount of \$90,000.00, to Lara  
82 Guerrero in the amount of \$405,000.00, to Kevin Guerrero in the  
83 amount of \$345,000.00, to Michael Guerrero in the amount of  
84 \$330,000.00, and to David Guerrero in the amount of \$330,000.00,  
85 as compensation for injuries and damages sustained as a result  
86 of the death of Victor Guerrero.

87 Section 3. The amount paid previously by Pasco County and



590-02145-15

201536c1

88 the amount awarded under this act are intended to provide the  
89 sole compensation for all present and future claims arising out  
90 of the factual situation described in the preamble to this act  
91 which resulted in the death of Victor Guerrero. The total amount  
92 paid for attorney fees, lobbying fees, costs, and other similar  
93 expenses relating to this claim may not exceed 25 percent of the  
94 amount awarded under this act.

95 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)

4/7/15

Meeting Date

36

Bill Number (if applicable)

Topic Guerrero Claims Bill

Amendment Barcode (if applicable)

Name Kelly Mallette

Job Title

Address 104 West Jefferson Street

Phone (880) 224-3427

Street

City Tallahassee, FL 32301

City

State

Zip

Email kelly@rlbookpa.com

Speaking:  For  Against  Information

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

Representing Estate of Victor Guerrero

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)

April 7, 2015

*Meeting Date*

36

*Bill Number (if applicable)*

Topic Guerrero claim bill

*Amendment Barcode (if applicable)*

Name Jason Unger

Job Title GrayRobinson, PA

Address 301 South Bronough Street, Suite 600

Phone 850-577-9090

*Street*

Tallahassee

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 Meadowbrook

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**  
**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 Committee on Community Affairs

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BILL: CS/CS/SB 1232

INTRODUCER: Community Affairs Committee; Health Policy Committee; and Senator Simpson

SUBJECT: Building Codes

DATE: April 7, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1232 amends various sections of the Florida Statutes related to building codes. The bill:

- Reduces the experience and training requirements to take the exam for certification as a building code inspector, or plans examiner, and adds a training requirement for certification as a building code administrator;
- Requires the Florida Building Code Administrators and Inspectors Board to provide for appropriate levels of provisional certificates;
- Allows liquid petroleum gas installers to replace and service liquid petroleum gas water heaters without being certified as a plumbing contractor;
- Applies the requirements of the Florida Homeowner's Recovery Fund to Division II contractors and caps payments from the fund for injuries caused by Division II contractors to \$15,000 per claim and \$150,000 per transaction;
- Exempts landscapers from being certified as an electrical contractor when installing pre-wired low-voltage landscape lighting;
- Requires the Florida Building Code Compliance Mitigation Fund to fund, up to \$30,000, the recommendations made by the Building Code System Uniform Implementation Evaluation Workshop and to fund, up to \$15,000, for Florida Fire Code informal interpretations managed by the State Fire Marshal;
- Allows local boards created to address conflicts between the Florida Building Code and the Florida Fire Prevention Code to combine to create a single local board that must include at least one fire professional;

- Requires newly installed or replacement water heaters to have leak detection devices in buildings other than one- and two-family detached single-family dwellings;
- Restricts the Florida Building Code from requiring more than one fire service access elevator in residential buildings of a certain height;
- Requires residential buildings of a certain height to meet specific requirements related to fire service access elevator lobbies and exit access corridors;
- Allows building officials to issue phased permits for the construction of parts of a building project;
- Exempts any portable pool used for certain educational programs established by county school districts from the regulatory requirements of a public pool;
- Requires the Department of Health (DOH) to inspect public swimming pools for their compliance with the Florida Building Code as well as authorizes the DOH to deny an operating certificate, impose fines, or close a public pool for code violations;
- Specifies the duties of local enforcement agencies in permitting and inspecting certain public swimming pool repairs;
- Removes provisions regarding the development of advanced courses related to the Florida Building Code Compliance and Mitigation Program and accreditation of courses related to the code and instead authorizes the development of code-related training;
- Adds Underwriters Laboratories, LLC, an independent safety consulting and certification company, to the list of entities that are authorized to produce information on which product approvals are based;
- Requires the local enforcement agencies to accept certain duct and air infiltration tests when inspecting for thermal efficiency standards; and
- Amends provisions related to fire prevention and control to:
  - Clarify who may require the State Fire Marshal to issue a declaratory statement relating to the Florida Fire Prevention Code and clarify that such statements are not intended to be an appeal of a decision made by a local fire official or local board;
  - Require new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction. Existing high-rise buildings must comply by 2022 and existing apartment buildings must comply by 2025;
  - Require areas of refuge to be provided when required by the Florida Building Code-Accessibility; and
  - Require fire prevention plan reviewers to be certified at a minimum as a Plans Examiner Level II, or as the State Fire Marshal determines by rule.
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force to study and report on standards for grounding, bonding, lighting, wiring, and all electrical aspects for safety in and around public and private swimming pools. The report is due to the Governor, President, and Speaker by October 1, 2015, and the task force dissolves by December 31, 2015.

## II. Present Situation:

### **Building Code Administrators, Plans Examiners, and Inspectors Certifications**

#### ***Building Code Inspector and Plans Examiner***

In order to take the examination for building code inspector or plans examiner certification, s. 468.609(2), F.S., provides that a person must be at least 18, be of good moral character, and meet eligibility requirements of one of the following criteria:

- Demonstrates 5 years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
- Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review.
- Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review.
- Currently holds a standard certificate as issued by the Florida Building Code Administrators and Inspectors Board (FBCAIB), or a fire safety inspector license issued pursuant to ch. 633, F.S., has a minimum of 5 years' verifiable full-time experience in inspection or plan review, and satisfactorily completes a building code inspector or plans examiner training program of not less than 200 hours in the certification category sought. The FBCAIB shall establish by rule criteria for the development and implementation of the training programs.
- Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector, or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program of not less than 300 hours which is approved by the FBCAIB in the chosen category of building code inspection or plan review in the certification category sought with not less than 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder.

#### ***Building Code Administrator***

In order to take the examination for building code administrator certification, s. 468.609(3), F.S., provides that a person must be at least 18, be of good moral character, and meet eligibility requirements of one of the following criteria:

- Demonstrates 10 years' combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of such experience in supervisory positions; or
- Demonstrates a combination of postsecondary education in the field of construction or related field, no more than 5 years of which may be applied, and experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent which totals 10 years, with at least 5 years of such total being experience in supervisory positions.

## **Water Heaters**

### ***Liquid Petroleum Gas Water Heater Installation***

Currently, a person licensed as a liquid petroleum gas Installer C by the Department of Agriculture and Consumer Services (DACS) is authorized to install, service, alter, or modify appliances, equipment, piping, or tubing to convey liquefied petroleum gas to appliances or equipment.<sup>1</sup> A person with such a license is authorized to service or replace a liquid petroleum gas water heater and to hook up the water heater to the source of the gas, however, he or she may not hook the water heater to the home's plumbing without being certified as a plumbing contractor.<sup>2</sup> Currently, public and private natural gas utilities are exempt from the requirement to be certified as a plumbing contractor when servicing or replacing a water heater.

### ***Water Heater Leak Detection Devices***

Currently water heaters are not required to have leak detection devices with audible alarms attached to the drain pan area.

## **Florida Homeowner's Construction Recovery Fund**

The Florida Homeowner's Construction Recovery Fund (fund) was created by the Legislature in 1993 after Hurricane Andrew. The fund is the last resort to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building, and residential contractors. Covered losses include financial mismanagement or misconduct, project abandonment, or fraudulent statement of a contractor, financially responsible officer, or business organization licensed under ch. 489, F.S. A claimant must be a homeowner and the damage must have been caused by a Division I contractor.<sup>3</sup> Claims are filed with DACS, which reviews them for completeness and statutory eligibility. The DACS then presents the claim to the Construction Industry Licensing Board (CILB) for review. The CILB makes the determination for an award.

### ***Contractors***

Division I contractors are described under s. 489.105, F.S., as general contractors, building contractors and residential contractors. Division II contractors are described under s. 489.105, F.S., as sheet metal contractors, roofing contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, pollutant storage systems contractors, and specialty contractors.

### ***Construction Industry Licensing Board***

The CILB, within the Department of Business and Professional Regulation (DBPR), is responsible for licensing and regulating the construction industry in this state.<sup>4</sup> The CILB meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct

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<sup>1</sup> Rule 5J-20.012, F.A.C.,

<sup>2</sup> Section 489.105, F.S.

<sup>3</sup> Section 489.1402, F.S.

<sup>4</sup> Section 489.107, F.S.

informal hearings related to licensure and discipline.<sup>5</sup> The CILB engages in rulemaking to implement the provisions set forth in its statutes and conducts other general business, as necessary.<sup>6</sup>

The CILB is divided into Division I and Division II members based on the definitions of Division I and Division II contractors. The jurisdiction falls to each division relative to their scope,<sup>7</sup> and five members constitute a quorum for each division.

Section 489.129, F.S., grants the CILB the authority to take actions against any certificate holder or registrant if the contractor, financially responsible officer or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195, F.S., is found guilty of specific acts, including the acts that may qualify a claim to the fund, which is discussed below. These acts are described under s. 489.129(1)(g), (j), and (k), F.S.

### ***Violations Creating a Valid Claim***

Section 489.129(1)(g), F.S., allows disciplinary proceedings for committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

- Valid liens have been recorded against the customer's property by the contractor for supplies or services ordered by the contractor for which the customer has paid the contractor, but the contractor has not removed the liens within 75 days of such liens;
- The contractor has abandoned a job and the percentage of completion is less than the percentage of the contract price received by the contractor, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after abandonment; or
- The contractor's job has been completed, and the customer has been made to pay more than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the contractor's control, was caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

Section 489.129(1)(j), F.S., allows disciplinary proceedings for abandoning a construction project. Abandonment is presumed after 90 days if the contractor terminates the project without just cause or without proper notification to the owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days.

Section 489.129(1)(k), F.S., allows disciplinary proceedings for signing a statement with respect to a project or contract:

- Falsely indicating that the work is bonded;
- Falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or

---

<sup>5</sup> Florida Department of Business and Professional Regulation, *Construction Industry Licensing Board*, available at <http://www.myfloridalicense.com/DBPR/pro/cilb/index.html> (last visited Apr. 1, 2015).

<sup>6</sup> Section 489.108, F.S., grants rulemaking authority.

<sup>7</sup> See *supra* note 5 and see s. 489.107(4), F.S.



- Falsely indicating that workers' compensation and public liability insurance are provided.

Section 489.129, F.S., allows the CILB to take the following actions given the circumstances above:

- Place on probation or reprimand the licensee;
- Revoke, suspend, or deny the issuance or renewal of the certificate or registration;
- Require financial restitution to a consumer for financial harm directly related to a violation of a provision of ch. 489, F.S.;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.

### ***Duty of Contractor to give Notice of Fund***

Section 489.1425, F.S., provides that any agreement or contract for repair, restoration, improvement, or construction to residential real property must contain a written statement explaining the consumer's rights under the recovery fund, except where the value of all labor and materials does not exceed \$2,500. The written statement must be substantially in the form provided for by this statute.

### ***Requirements to Collect***

The claimant must have obtained a final judgment, arbitration award, or CILB issued restitution order against the contractor for damages that are a direct result of a compensable violation. The statute of limitations to make a claim is 1 year after the conclusion of an action or award in arbitration that is based on the misconduct.<sup>8</sup>

Completed claim forms must be submitted with:<sup>9</sup>

- A copy of the complaint that initiated action against the contractor;
- A certified copy of the underlying judgment, order of restitution, or award in arbitration, together with the judgment;<sup>10</sup>
- A copy of any contract between the claimant and the contractor, including change orders;
- Proof of payment to the contractor and/or subcontractors;
- Copies of any liens and releases filed against the property, together with the Notice of Claim and Notice to Owner; copies of applicable bonds, sureties, guarantees, warranties, letters of credit and/or policies of insurance; and
- Certified copies of levy and execution documents, and proof of all efforts and inability to collect the judgment or restitution order, and other documentation as may be required by the CILB to determine causation of injury or specific actual damages.

No claimant eligible for, or receiving, restitution shall be eligible to recover from the fund until two or more payments have been missed.<sup>11</sup> Prior to receiving any payments, such a claimant

<sup>8</sup> Section 61G4-21.003(5), F.A.C.

<sup>9</sup> Rule 61G4-21.003(2), F.A.C.

<sup>10</sup> Pursuant to Rule 61G4-21.003(3), F.A.C., if it is not expressly based on s. 489.129(1)(g), (j), or (k), F.S., the claimant must demonstrate that the contractor engaged in activity that is described in those sections.

<sup>11</sup> Section 61G4-21.005(3), F.A.C.

shall provide the CILB with a written statement indicating any amount received to date under such an order or plan, the date and amount of the last payment, and how much is still due and owing under such an order or plan.<sup>12</sup>

### ***Limits***

Pursuant to s. 489.143, F.S., each recovery claim is limited to both a per-claim maximum amount and a total lifetime per-contractor maximum.<sup>13</sup> For contracts entered prior to July 1, 2004, the fund claims are limited to \$25,000 per claimant with a total lifetime aggregate limit of \$250,000 per licensee.<sup>14</sup> For contracts entered after July 1, 2004, the per-claim payment limits are increased to \$50,000 with a total lifetime aggregate of \$500,000 per licensee.<sup>15</sup> The fund does not require a minimum contract amount for eligible claims.<sup>16</sup>

The fund is not permitted to compensate consumers who contracted with Division II contractors for types of work set forth in s. 489.105(3)(d)-(p), F.S., or to compensate consumers who have suffered damages as a result of payments made in violation of Florida Construction Lien Law under part I, ch. 713, F.S.

### ***Funding and Payouts***

The fund is financed by a 1.5 percent surcharge on all building permits issued for the enforcement of the Florida Building Code.<sup>17</sup> The proceeds from the surcharge are allocated equally to fund the Florida Homeowner's Construction Recovery Fund and the operations of the Building Code Administrators and Inspectors Board. The DBPR may transfer excess cash to the Florida Homeowner's Construction Recovery Fund if it is determined that the excess cash is not needed to fund the operation of the Building Code Administrators and Inspectors Board. However, the DBPR may not transfer excess cash that would exceed the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S.<sup>18</sup>

### ***Low-Voltage Landscape Lighting***

Part II of ch. 489, F.S., regulates electrical and alarm system contractors. This regulation seeks to enable qualified persons to obtain licensure, while ensuring that applicants have sufficient technical experience in the applicable trade prior to licensure, are tested on technical and business matters, and upon licensure are made subject to disciplinary procedures and effective policing of the profession.<sup>19</sup>

Section 489.503, F.S., provides exemptions to part II for persons performing various tasks such as someone licensed as a fire protection system contractor while engaged in work as a fire

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<sup>12</sup> Id.

<sup>13</sup> Department of Business and Professional Regulation *Senate Bill Analysis 1098*, (March 11, 2014).

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Section 438.631, F.S.

<sup>19</sup> Section 489.501, F.S.

protection system contractor, an employee monitoring an alarm system of a business, a lightning rod or related systems installer, etc.

### **Swimming Pools**

The Department of Health (DOH) is responsible for the oversight and regulation of water quality and safety of certain swimming pools in Florida under ch. 514, F.S. Inspections and permitting for swimming pools are conducted by the county health departments. Sanitation and safety standards for public pools have been adopted by rule under Rule 64E-9 of the Florida Administrative Code.

#### ***Swimming Pool Inspections***

In 2012, the Legislature determined that local building entities would have jurisdiction over permitting, plan reviews, and inspections of public swimming pools and public bathing places and that the DOH would continue to have jurisdiction over the operating permits for public swimming pools and public bathing places.<sup>20</sup>

A “public swimming pool” or “public pool” is defined as:

A watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. This term includes a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.<sup>21</sup>

A “public bathing place” is defined as:

A body of water, natural or modified by humans, for swimming, diving, and recreational bathing, together with adjacent shoreline or land area, buildings, equipment, and appurtenances pertaining thereto, used by consent of the owner or owners and held out to the public by any person or public body, irrespective of whether a fee is charged for the use thereof. The bathing water areas of public bathing places include, but are not limited to, lakes, ponds, rivers, streams, artificial impoundments, and waters along the coastal and intracoastal beaches and shores of the state.<sup>22</sup>

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<sup>20</sup> Chapter 2012-184, s. 104, Laws of Fla.

<sup>21</sup> Section 514.011(2), F.S.

<sup>22</sup> Section 514.011(4), F.S.

Due to the 2012 changes to ch. 514, F.S., DOH does not have authority to cite violations of the Florida Building Code during its routine inspections of public swimming pools and public bathing places. These routine inspections are done to ensure the pools and bathing places continue to be operated and maintained in compliance with their original approval to protect public health and safety. The DOH notes that, from September 2013 through September 2014, DOH conducted 75,478 inspections of the 37,600 public pools in the state and found 127,413 code violations.<sup>23</sup> Local building officials do not perform routine inspections of public swimming pools but can respond to complaints received.

### ***Swimming Pool Electrical Equipment***

Current construction rules for public pools require that written approval must be received from the DOH before construction can begin.<sup>24</sup> Plans are required that show the pool layout, tile markings, size of the pool ladder, gutter heights and if night swimming is permitted, an engineer in Florida must provide certification that the underwater lighting meets the requirements of Rule 64E-9.006(2)(c)3 of the Florida Administrative Code, which sets the maximum lighting at 15 volts. The rule also permits all underwater lighting requirements to be waived if overhead lighting provides at least 15 foot candles of illumination at the pool water surface and wet pool deck.<sup>25</sup>

Electrical equipment and wiring must meet national standards relating to the grounding of pool components. The standards that are incorporated into the rule as those of the National Fire Protection Association 70, National Electrical Code (NEC), 2008 Edition, and with any applicable local code. Finally, as part of the plan approval, the electrical contractor or electrical inspector must certify as to a pool's compliance, on the form designated by the DOH.<sup>26</sup>

The United States Consumer Product Union issued a Safety Alert in August 2012 recommending the installation of ground-fault circuit interrupter (GFCI) protections for pools, spas, and hot tubs for protection against electrocution hazards involving electrical circuits and underwater lighting circuits in and around pools, spas, and hot tubs.<sup>27</sup>

The Safety Alert noted that pools older than 30 years may not have the proper GFCI protection as the NEC provisions for spas only became effective in 1981. Underwater pool lighting electrical incidents happened more frequently than any other consumer product used in or around pools, spas, or hot tubs.

Several news stories in South Florida in the past year have also highlighted the issue. Three children were shocked in a Hialeah condominium community pool in April 2014. The building inspector's report found that the pool pump was not properly grounded.<sup>28</sup> During the same month

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<sup>23</sup> Department of Health, *House Bill 915 Analysis* (February 25, 2015), p. 2.

<sup>24</sup> Rule 64E-9.005, F.A.C.

<sup>25</sup> Rule 64E-9.006(2)(c)3, F.A.C.

<sup>26</sup> Rule 64E-9.006(2)(d), F.A.C.

<sup>27</sup> U.S. Product Safety Commission, *Safety Alert, CPSC Document #5059* (August 14, 2012), <http://www.cpsc.gov/PageFiles/118868/5039.pdf> (last visited Apr. 1, 2015).

<sup>28</sup> Roger Lohse, *Shoddy Electrical Work Lead to 3 Kids' Injuries at a Pool in Hialeah, Policy Say*, LOCAL 10.COM, (May 8, 2014) <http://www.local10.com/news/police-photos-show-shoddy-electrical-work-at-pool-that-caused-three-kids-to-be-shocked/25861796> (last visited Apr 1, 2015).

in North Miami, a 7 year-old boy, Calder Sloan, was electrocuted in his family's North Miami swimming pool from faulty wiring.<sup>29</sup>

In October 2014, the Miami-Dade Board of County Commissioners passed the Swimming Pool Light Ordinance 14-95. The Ordinance modifies two sections of the Florida Building Code, which applies to commercial pools for underwater lighting and makes those requirements applicable to residential pools.<sup>30</sup> Existing pools will be required to comply with the new low voltage requirements at the time of repair or alteration or the homeowner may decide not to have an underwater pool light. The county permit to change an existing pool light to low voltage light or to remove a light without a replacement in unincorporated Miami-Dade County is \$65.

### **Building Code Compliance and Mitigation Program**

The DBPR administers the Florida Building Code Compliance and Mitigation Program (program), which was created to develop, coordinate, and maintain education and outreach to people who are required to comply with the code and ensure consistent education, training, and communication of the code's requirements, including, but not limited to, methods for mitigation of storm-related damage.<sup>31</sup> The program is geared toward persons licensed and employed in the design and construction industries. The services and materials under the program must be provided by a private, nonprofit corporation under contract with DBPR.<sup>32</sup> The Florida Building Commission (FBC) implemented the accreditation process required by statute through its standard process of gathering input from all affected stakeholders and has continued to regularly modify the process based on concerns identified by its users. To date, the FBC has accredited approximately 300 courses finding that the courses' content to be an accurate reflection of the Florida Building Code or related processes.<sup>33</sup>

### **Florida Building**

Currently, s. 553.73(11), F.S., requires local building code enforcement officials and local fire code enforcement officials to resolve conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code by agreement as to the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and equivalent method of construction. Additionally, decisions made by local fire officials and the local building officials may be appealed to local administrative boards having firesafety responsibilities. All such decisions are subject to review by a joint committee composed of members of the FBC and the Fire Code Advisory Council.

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<sup>29</sup> Roger Lohse, *South Fla. Boy Electrocuted by Pool Light While Swimming*, LOCAL10.COM, (April 17, 2014), <http://www.local10.com/news/south-fla-boy-electrocuted-by-pool-light-while-swimming/25538944> (last visited Apr. 1, 2015).

<sup>30</sup> Miami-Dade County Regulatory and Economic Resources Department, *Is My Pool Safe?* <http://www.miamidade.gov/permits/library/brochures/swimming-pool-light.pdf> (last visited Apr. 1, 2015).

<sup>31</sup> Section 553.841(2), F.S.

<sup>32</sup> Section 553.841(3), F.S.

<sup>33</sup> Department of Business and Professional Regulation, *Senate Bill 1232 Analysis* (March 17, 2015) (on file with Senate Committee on Health Policy).

### **Building Plan Review**

Section 553.79, F.S., prohibits any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building within the state without first obtaining a permit therefor from the appropriate enforcing agency. Further, a permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the FBC within the Florida Building Code. However, the Florida Building Code shall set standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only.

Section 105.13 (phased permit approval), of the Florida Building Code provides the following:

After submittal of the appropriate construction documents, the building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

### **Product Approval**

The State Product Approval System provides manufacturers an opportunity to have building products approved for use in Florida by the FBC rather than seeking approval in each local jurisdiction where the product is used. One method of obtaining a state approval uses product evaluation reports from an approved evaluation entity. Section 553.842(8)(a), F.S., explicitly names the National Evaluation Service, the International Association of Plumbing and Mechanical Officials Evaluation Service, the International Code Council Evaluation Services, and the Miami-Dade County Building Code Compliance Office Product Control as evaluation entities.

Underwriters Laboratories (UL) is a safety science company established in 1890 which certifies, validates, tests, inspects, audits, advises, and trains. According to their webpage, UL is “dedicated to promoting safe living and working environments, UL helps safeguard people, products and places in important ways, facilitating trade and providing peace of mind.”<sup>34</sup>

### **Duct and Air Infiltration Tests**

On June 30, 2015, the new 5th Edition (2014) Florida Building Code, Energy Conservation, will go into effect. Part of this new code is section R402.4.1.2. According to this section, a home constructed to this code will be required to be tested via a blower door test/air infiltration test to demonstrate specific air infiltration levels.

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<sup>34</sup> About UL, available at <http://ul.com/aboutul/> (last visited Apr. 1, 2015).

Section R402.4.1.2 (testing), of the Florida Building Code provides the following:

The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour in Climate Zones 1 and 2, and 3 air changes per hour in Climate Zones 3 through 8. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

### **Division of the State Fire Marshal**

State law on fire prevention and control is provided in ch. 633, F.S. Section 633.01, F.S., and designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.<sup>35</sup> Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.<sup>36</sup>

The Division of the State Fire Marshal consists of the following four bureaus: fire and arson investigations, fire standards and training, forensic fire and explosives analysis, and fire prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year.

Every three years, the State Fire Marshal is required to adopt by rule the Florida Fire Prevention Code which must contain or incorporate by reference all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.

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

**Section 1** amends s. 468.609, F.S., to

- Modify certain training requirements to take the certification exam for building code inspector by:
  - Reducing the number of years' experience in inspection or plan review from 5 to 3 years and lowers the hour requirements for the training program from 200 to 100 hours;

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<sup>35</sup> The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

<sup>36</sup> Section 633.0215(1), F.S.

- Lowering the hour requirements for the training program from 300 to 200 hours and limits the required hours of instruction from not less than 20 hours to at least 20 hours but not more than 30 hours; and
- By adding the option to hold a standard certificate issued by the FBCAIB or a firesafety inspector license issued pursuant to ch. 633, F.S., and:
  - Have at least 5 years of verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of 5 years' verifiable full-time experience as a firesafety inspector licensed pursuant to ch. 633; and
  - Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides at least 40 but not more than 300 hours in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide at least 500 but not more than 800 hours of training as prescribed by the FBCAIB. The FBCAIB shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category.
- Modify certain training requirements to take the certification exam for building code administrator by adding a requirement of at least 20 hours but not more than 30 hours of training in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder.

**Sections 2, 3, 4, 5, 8, and 15** amend ss. 468.627, 471.0195, 481.215, 481.313, 489.115, and 489.517, F.S., to clarify that appropriate “code-related training” is required for issuance or renewal of specified licenses.

**Section 6** amends s. 489.103, F.S., to exempt employees of apartment communities with 100 or more apartments from contractor licensing requirements when they make minor repairs under \$1,000, and meet several criteria.

**Section 7** amends s. 489.105, F.S., to clarify that the definition of a “plumbing contractor” does not require a person licensed for the sale of liquefied petroleum gas under ch. 527, F.S., to become certified or registered as a plumbing contractor in order to disconnect or reconnect water lines when servicing or replacing a hot water heater.

**Sections 9, 10, 11, 12, and 13** amend various sections of the Florida Statutes related to the Florida Homeowners’ Construction Recovery Fund to include Division II contractors within the parameters of the fund.

The bill revises the statutory limits on recovery payments to include Division II contracts beginning January 1, 2016, for any contract entered into after July 1, 2015. The bill limits Division II claims to \$15,000 per claim with a \$150,000 lifetime maximum per licensee. The bill revises language for the notice that contractors must give to homeowners informing them of their rights under the recovery fund, to advise that payments from the fund are up to a limited amount. The bill also removes the prohibition against paying consumer claims where the damages resulted from payments made in violation of the Florida Construction Lien Law.



**Section 14** amends s. 489.503, F.S., to exempt persons who install low-voltage landscape lighting with a factory-installed electrical cord with a plug and which does not require installation, wiring, or modification to the electrical wiring of a structure from the requirement to be certified as an electrical contractor.

**Sections 16 and 17** amend ss. 489.517 and 489.0115, F.S., to add portable pools used for educational programs established by county school districts to the definition of “private pool,” and confer certain regulatory exemptions required for public pools.

**Sections 18 and 19** amend ss. 514.031 and 514.05, F.S., related to the operation and maintenance of public pools.

The bill requires the DOH to inspect permitted public swimming pools to ensure that they continue to be operated in compliance with DOH rules, the original plans and specifications for the pool, and provisions in the Florida Building Code<sup>37</sup> applicable to public pools. The DOH is authorized to adopt rules for such inspections and the bill specifies that DOH authority to inspect extends to the pool, the pool deck, the pool barrier,<sup>38</sup> and the bathroom facilities for pool patrons. Local enforcement agencies are required to permit and inspect repairs required as the result of DOH inspections and are authorized to take enforcement actions to ensure compliance. The DOH is required to ensure that rules enforced by the local enforcement agency are not inconsistent with the Florida Building Code.

The bill also authorizes the DOH to deny a permit, to impose administrative fines, or to close a public pool for noncompliance with applicable provisions in the Florida Building Code.

**Section 20** amends s. 553.721, F.S., to require the Florida Building Code Compliance Mitigation Fund to fund from existing resources, up to \$30,000, the recommendations made by the Building Code System Uniform Implementation Evaluation Workshop and to fund, up to \$15,000, for Florida Fire Code informal interpretations managed by the State Fire Marshal. The State Fire Marshal is provided with rule-making authority to implement these changes.

**Section 21** amends s. 553.73, F.S., to:

- Allow local boards created to address conflicts between the Florida Building Code and the Florida Fire Prevention Code to combine to create a single local board:
  - Which requires representation by at least one fire official at every meeting of the local board; and
  - Whose decisions may still be reviewed by a joint committee of the FBC and the Fire Code Advisory Council.
- Require that newly installed and replacement water heaters, except those in one- and two-family single-family homes, have hard-wired or battery-operated water-level detection devices secured to the drain pan area at a level lower than the drain connection. The device must have an audible alarm and, if battery operated, a 10-year low-battery notification; and
- Provide that, in residential buildings:

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<sup>37</sup> Chapter 533, F.S.

<sup>38</sup> As defined in s. 515.25, F.S.

- With an occupiable floor less than 420 feet above the level of fire service access, the Florida Building Code cannot require more than one fire service access elevator; and
- With an occupiable floor more than 420 feet above the level of fire service access, specific requirements related to fire service access elevator lobbies and exit access corridors apply.

The bill states that a requirement for a second fire service access elevator is not considered part of the Florida Building Code, and does not take effect until July 1, 2016.

**Section 22** amends s. 553.79, F.S., to allow the local building official to issue a phased permit after an applicant submits the appropriate construction documents. If the building official issues a phased permit, an outside agency may not require additional reviews or approvals because the project will need additional outside agency reviews and approvals before the issuance of a master building permit. The holder of a phased permit for the foundation or other parts of a building or structure may proceed with permitted activities at the holder's own risk and without assurance that a master building permit for the entire structure will be granted. The building official may require corrections to the phased permit to meet the requirements of the technical codes.

**Section 23** amends s. 553.841, F.S., to remove the requirement that the DBPR maintain, update, develop, or cause to be developed advanced modules designed for use by each profession while administering the Florida Building Code Compliance and Mitigation Program. Instead the DBPR is authorized to develop or update code-related training for each profession. The bill also removes the requirement that the FBC provide by rule for the accreditation of courses related to the Florida Building Code by accreditors approved by the Commission.

**Section 24** amends s. 553.842, F.S., to add Underwriters Laboratories, LLC, to the list of evaluation entities approved by the FBC.

**Section 25** amends s. 553.908, F.S., to require local enforcement agencies to accept duct and air infiltration tests conducted by specified individuals including energy raters and HVAC contractors.

**Sections 26 - 28** amend various sections of ch. 633, F.S., related to fire prevention and control, to:

- Specify that only people who will be or may be affected by the application of the Florida Fire Prevention Code to a property or building that the person owns, controls, or is considering purchasing, selling, designing, constructing, or altering may require the State Fire Marshal to issue a declaratory statement relating to the Florida Fire Prevention Code;
- Require new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction. Existing high-rise buildings must comply by 2022 and existing apartment buildings must comply by 2025;
- Require areas of refuge to be provided when required by the Accessibility portion of the Florida Building Code; and
- Require fire prevention plan reviewers to be certified at a minimum as a Plans Examiner Level II, or alternative equivalents that the State Fire Marshal determines by rule.

**Section 29** creates a new, undesignated section of the Florida Statutes to establish the Calder Sloan Swimming Pool Electrical-Safety Task Force within the FBC. The bill states the purpose of the task force is to study and report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2015, on recommended revisions to the Florida Statutes concerning standards pertaining to grounding, bonding, lighting, wiring, and all electrical aspects for safety in and around public and private swimming pools. The task force is comprised of the Swimming Pool and Electrical Technical Advisory Committees of the FBC, and chaired by the Swimming Pool Contractor appointed to the FBC.

The bill requires the FBC to provide staff, information and other assistance as reasonably necessary to assist the task force in carrying out its responsibilities. Members of the task force serve without compensation and are required to meet as often as necessary to fulfill its responsibilities and meetings may be conducted by conference call, teleconferencing, or other similar technology. The provisions of this section expire December 31, 2015.

**Section 30** establishes an effective date of July 1, 2015.

#### **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:

Consumers who have their liquid petroleum gas water heaters serviced or replaced may see an indeterminate positive fiscal impact due to not being required to hire a plumbing contractor to hook the water heater to the water line. Additionally, liquid petroleum gas appliance installers may see an indeterminate positive fiscal impact due to not being required to be certified as a plumbing contractor to hook such water heaters to the water line. Plumbing contractors may see an indeterminate negative fiscal impact due to the loss of such hook-up business.

The requirement for hot water heaters to have leak detection devices may increase the costs when installing or replacing a water heater.

The exemption from the requirement to be certified as an electrical contractor may reduce the costs of installing low-voltage landscape lighting.

Homeowners who have been harmed by Division II contractors and receive restitution from the Florida Homeowners' Construction Recovery Fund will benefit from the bill.

**C. Government Sector Impact:**

The DOH reports that, "As the violations will be cited during inspections already being done at public swimming pools, the bill does not have a significant fiscal impact on the Department."

The bill may cause an indeterminate negative fiscal impact on the FBC due to the creation of the Calder Sloan Swimming Pool Electrical-Safety Task Force and the requirement that the commission support and assist the task force.

The Department of Business and Professional Regulation has analyzed the bill and determined that the bill will have an annual fiscal impact of \$27,400.<sup>39</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 468.609, 468.627, 471.0195, 481.215, 481.313, 489.103, 489.105, 489.115, 489.1401, 489.1402, 489.141, 489.1425, 489.143, 489.503, 489.517, 514.011, 514.0115, 514.031, 514.05, 553.721, 553.73, 553.79, 553.841, 553.842, 553.908, 633.104, 633.202, and 633.216.

This bill creates one undesignated section 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/CS by Community Affairs on April 7, 2015:**

- Lowers the hour requirements for the building inspector training program from 300 to 200 hours;

<sup>39</sup> Dep't of Business and Professional Regulation, Legislative Bill Analysis of SB 1232, p. 4-5 (Mar. 17, 2015).

- Removes a provision that would have added a firesafety inspector certified under s. 633.216, F.S., to the list of occupations that may satisfy the experience requirement to become a building code administrator;
- Provides the State Fire Marshal with rule-making authority to address changes made concerning Florida Fire Prevention Code informal interpretations;
- Exempts any portable pool used for certain educational programs established by county school districts from regulatory requirements of a public pool;
- Provides regulations related to fire service access elevators, access elevator lobbies, and exit access corridors, in residential buildings of certain heights, including a provision that would delay a requirement for residential buildings to include a second fire service access elevator until July 1, 2016;
- Requires new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction;
- Removes a requirement that dead-end corridors have a maximum length of 50 feet in apartment buildings protected by automatic sprinklers;
- Removes a provision that State Fire Marshal declaratory statements relating to the Florida Fire Prevention Code are not intended to be an appeal of a decision made by a local fire official or local board;
- Removes a change made to the definition of “use” of real property, as it pertains to fire prevention and control;
- Requires all fire prevention plan reviewers to be certified at minimum as a Plans Examiner Level II, or as an alternative equivalent set in rule by the State Fire Marshal; and
- Provides that the Calder Sloan Electrical Safety Task Force is comprised of the Swimming Pool and Electrical Technical Advisory Committees of the FBC.

**CS by Health Policy on March 23, 2015:**

- Amends current provisions in the bill to:
  - Exempt one- and two-family homes from the requirement to have a hot water heater leak detection device installed when installing or replacing hot water heaters; and
  - Make conforming changes to provisions related to swimming pool inspections.
- Creates new provisions which:
  - Reduce the requirements for certification as a building code inspector, building code administrator, or a plans examiner and allows for a board certificate or a firesafety inspector license to qualify along with 5 years’ experience and required training.
  - Require the Florida Building Code Administrators and Inspectors Board to provide for appropriate levels of provisional certificates.
  - Apply the requirements of the Florida Homeowner’s Recovery Fund to Division II contractors and makes clarifying and technical changes to those sections related to the recovery fund.
  - Cap payments from the recovery fund for Division II contractors.
  - Exempt landscapers from being certified as an electrical contractor when installing pre-wired low-voltage landscape lighting.

- Clarify the DOH's authority to deny, revoke, or fine a public swimming pool permittee.
- Require the Florida Building Code Compliance Mitigation Fund to fund, up to \$30,000, the recommendations made by the Building Code System Uniform Implementation Evaluation Workshop and to fund, up to \$15,000, for Florida Fire Code informal interpretations managed by the State Fire Marshal.
- Allow local boards created to address conflicts between the Florida Building Code and the Florida Fire Prevention Code to combine to create a single local board.
- Restrict appeals of decisions made by local fire officials or local building officials.
- Restrict the Florida Building Code from requiring more than one access elevator in buildings that are Occupancy Group R-2.
- Allow building officials to issue phased permits for the construction of parts of a building project.
- Require the local enforcement agencies to accept certain duct and air infiltration tests when inspecting for thermal efficiency standards.
- Amend provisions related to fire prevention and control to:
  - Revise definitions;
  - Clarify who may require the State Fire Marshal to issue a declaratory statement relating to the Florida Fire Prevention Code and clarify that such process is not intended to be an appeal of a decision made by a local fire official or local board;
  - Require new and, by certain dates, existing high-rise buildings to comply with minimum radio signal strength;
  - Require areas of refuge to be provided under certain circumstances and restrict certain dead-end corridors; and
  - Require fire prevention plan reviewers to be certified.
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
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The Committee on Community Affairs (Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (2), (3), and (7) of section  
468.609, Florida Statutes, are amended to read:

468.609 Administration of this part; standards for  
certification; additional categories of certification.—

(2) A person may take the examination for certification as  
a building code inspector or plans examiner pursuant to this



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11 part if the person:

12 (a) Is at least 18 years of age.

13 (b) Is of good moral character.

14 (c) Meets eligibility requirements according to one of the  
15 following criteria:

16 1. Demonstrates 5 years' combined experience in the field  
17 of construction or a related field, building code inspection, or  
18 plans review corresponding to the certification category sought;

19 2. Demonstrates a combination of postsecondary education in  
20 the field of construction or a related field and experience  
21 which totals 4 years, with at least 1 year of such total being  
22 experience in construction, building code inspection, or plans  
23 review;

24 3. Demonstrates a combination of technical education in the  
25 field of construction or a related field and experience which  
26 totals 4 years, with at least 1 year of such total being  
27 experience in construction, building code inspection, or plans  
28 review;

29 4. Currently holds a standard certificate ~~as~~ issued by the  
30 board, or a firesafety ~~fire-safety~~ inspector license issued  
31 pursuant to chapter 633, has a minimum of 3 ~~5~~ years' verifiable  
32 full-time experience in inspection or plan review, and  
33 satisfactorily completes a building code inspector or plans  
34 examiner training program that provides at least 100 hours but  
35 not more ~~of not less~~ than 200 hours of cross-training in the  
36 certification category sought. The board shall establish by rule  
37 criteria for the development and implementation of the training  
38 programs. The board shall accept all classroom training offered  
39 by an approved provider if the content substantially meets the





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40 intent of the classroom component of the training program; or  
41 5. Demonstrates a combination of the completion of an  
42 approved training program in the field of building code  
43 inspection or plan review and a minimum of 2 years' experience  
44 in the field of building code inspection, plan review, fire code  
45 inspections, and fire plans review of new buildings as a  
46 firesafety inspector certified under s. 633.216, or  
47 construction. The approved training portion of this requirement  
48 shall include proof of satisfactory completion of a training  
49 program that provides at least 200 hours but not more ~~of not~~  
50 ~~less~~ than 300 hours of cross-training which is approved by the  
51 board in the chosen category of building code inspection or plan  
52 review in the certification category sought with at least ~~not~~  
53 ~~less than~~ 20 hours but not more than 30 hours of instruction in  
54 state laws, rules, and ethics relating to professional standards  
55 of practice, duties, and responsibilities of a  
56 certificateholder. The board shall coordinate with the Building  
57 Officials Association of Florida, Inc., to establish by rule the  
58 development and implementation of the training program. However,  
59 the board shall accept all classroom training offered by an  
60 approved provider if the content substantially meets the intent  
61 of the classroom component of the training program; or  
62 6. Currently holds a standard certificate issued by the  
63 board or a firesafety inspector license issued pursuant to  
64 chapter 633 and:  
65 a. Has at least 5 years' verifiable full-time experience as  
66 an inspector or plans examiner in a standard certification  
67 category currently held or has a minimum of 5 years' verifiable  
68 full-time experience as a firesafety inspector licensed pursuant



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69 to chapter 633; and

70 b. Satisfactorily completes a building code inspector or  
71 plans examiner classroom training course or program that  
72 provides at least 200 but not more than 300 hours in the  
73 certification category sought, except for one-family and two-  
74 family dwelling training programs that are required to provide  
75 at least 500 but not more than 800 hours of training as  
76 prescribed by the board. The board shall establish by rule  
77 criteria for the development and implementation of classroom  
78 training courses and programs in each certification category.

79 (3) A person may take the examination for certification as  
80 a building code administrator pursuant to this part if the  
81 person:

82 (a) Is at least 18 years of age.

83 (b) Is of good moral character.

84 (c) Meets eligibility requirements according to one of the  
85 following criteria:

86 1. Demonstrates 10 years' combined experience as an  
87 architect, engineer, plans examiner, building code inspector,  
88 registered or certified contractor, or construction  
89 superintendent, with at least 5 years of such experience in  
90 supervisory positions; or

91 2. Demonstrates a combination of postsecondary education in  
92 the field of construction or related field, no more than 5 years  
93 of which may be applied, and experience as an architect,  
94 engineer, plans examiner, building code inspector, registered or  
95 certified contractor, or construction superintendent which  
96 totals 10 years, with at least 5 years of such total being  
97 experience in supervisory positions. In addition, the applicant



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98 must have completed training consisting of at least 20 hours but  
99 not more than 30 hours of instruction in state laws, rules, and  
100 ethics relating to professional standards of practice, duties,  
101 and responsibilities of a certificateholder.

102 (7) (a) The board shall ~~may~~ provide for the issuance of  
103 provisional certificates valid for 1 year, as specified by board  
104 rule, to any newly employed or promoted building code inspector  
105 or plans examiner who meets the eligibility requirements  
106 described in subsection (2) and any newly employed or promoted  
107 building code administrator who meets the eligibility  
108 requirements described in subsection (3). The provisional  
109 license may be renewed by the board for just cause; however, a  
110 provisional license is not valid for a period longer than 3  
111 years.

112 (b) A ~~No~~ building code administrator, plans examiner, or  
113 building code inspector may not have a provisional certificate  
114 extended beyond the specified period by renewal or otherwise.

115 (c) The board shall ~~may~~ provide for appropriate levels of  
116 provisional certificates and may issue these certificates with  
117 such special conditions or requirements relating to the place of  
118 employment of the person holding the certificate, the  
119 supervision of such person on a consulting or advisory basis, or  
120 other matters as the board may deem necessary to protect the  
121 public safety and health.

122 (d) A newly employed or hired person may perform the duties  
123 of a plans examiner or building code inspector for 120 days if a  
124 provisional certificate application has been submitted if such  
125 person is under the direct supervision of a certified building  
126 code administrator who holds a standard certification and who



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127 has found such person qualified for a provisional certificate.  
128 Direct supervision and the determination of qualifications may  
129 also be provided by a building code administrator who holds a  
130 limited or provisional certificate in a county having a  
131 population of fewer than 75,000 and in a municipality located  
132 within such county.

133 Section 2. Subsection (5) of section 468.627, Florida  
134 Statutes, is amended to read:

135 468.627 Application; examination; renewal; fees.—

136 (5) The certificateholder shall provide proof, in a form  
137 established by board rule, that the certificateholder has  
138 completed at least 14 classroom hours of at least 50 minutes  
139 each of continuing education courses during each biennium since  
140 the issuance or renewal of the certificate, including code-  
141 related training ~~the specialized or advanced coursework approved~~  
142 ~~by the Florida Building Commission,~~ as part of the building code  
143 training program established pursuant to s. 553.841, appropriate  
144 to the licensing category sought. A minimum of 3 of the required  
145 14 classroom hours must be on state law, rules, and ethics  
146 relating to professional standards of practice, duties, and  
147 responsibilities of the certificateholder. The board shall by  
148 rule establish criteria for approval of continuing education  
149 courses and providers, and may by rule establish criteria for  
150 accepting alternative nonclassroom continuing education on an  
151 hour-for-hour basis.

152 Section 3. Section 471.0195, Florida Statutes, is amended  
153 to read:

154 471.0195 Florida Building Code training for engineers.—All  
155 licensees actively participating in the design of engineering



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156 works or systems in connection with buildings, structures, or  
157 facilities and systems covered by the Florida Building Code  
158 shall take continuing education courses and submit proof to the  
159 board, at such times and in such manner as established by the  
160 board by rule, that the licensee has completed any specialized  
161 or code-related training ~~advanced courses~~ on any portion of the  
162 Florida Building Code applicable to the licensee's area of  
163 practice. The board shall record reported continuing education  
164 courses on a system easily accessed by code enforcement  
165 jurisdictions for evaluation when determining license status for  
166 purposes of processing design documents. Local jurisdictions  
167 shall be responsible for notifying the board when design  
168 documents are submitted for building construction permits by  
169 persons who are not in compliance with this section. The board  
170 shall take appropriate action as provided by its rules when such  
171 noncompliance is determined to exist.

172 Section 4. Subsection (5) of section 481.215, Florida  
173 Statutes, is amended to read:

174 481.215 Renewal of license.—

175 (5) The board shall require, by rule adopted pursuant to  
176 ss. 120.536(1) and 120.54, a specified number of hours in  
177 specialized or code-related training ~~advanced courses, approved~~  
178 ~~by the Florida Building Commission,~~ on any portion of the  
179 Florida Building Code, adopted pursuant to part IV of chapter  
180 553, relating to the licensee's respective area of practice.

181 Section 5. Subsection (5) of section 481.313, Florida  
182 Statutes, is amended to read:

183 481.313 Renewal of license.—

184 (5) The board shall require, by rule adopted pursuant to



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185 ss. 120.536(1) and 120.54, a specified number of hours in  
186 specialized or code-related training ~~advanced courses, approved~~  
187 ~~by the Florida Building Commission,~~ on any portion of the  
188 Florida Building Code, adopted pursuant to part IV of chapter  
189 553, relating to the licensee's respective area of practice.

190 Section 6. Subsection (23) is added to section 489.103,  
191 Florida Statutes, to read:

192 489.103 Exemptions.—This part does not apply to:

193 (23) An employee of an apartment community or apartment  
194 community management company who makes minor repairs to existing  
195 water heaters or to existing heating, venting, and air-  
196 conditioning systems, if:

197 (a) The employee:

198 1. Does not hold himself or herself or his or her employer  
199 out to be licensed or qualified by a licensee;

200 2. Does not perform any acts outside the scope of this  
201 exemption which constitute contracting;

202 3. Receives compensation from and is under the supervision  
203 and control of an employer who regularly deducts the FICA and  
204 withholding tax and who provides workers' compensation, as  
205 prescribed by law; and

206 4. Holds a current certificate for apartment maintenance  
207 technicians issued by the National Apartment Association and  
208 accredited by the American National Standards Institute, or is  
209 under the direct supervision of a person holding such a  
210 certificate. Requirements for obtaining such certificate must  
211 include at least:

212 a. One year of apartment or rental housing maintenance  
213 experience;



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214 b. Successful completion of at least 90 hours of courses or  
215 online content that covers electrical maintenance and repair;  
216 plumbing maintenance and repair; heating, venting, or air-  
217 conditioning system maintenance and repair; appliance  
218 maintenance and repair; and interior and exterior maintenance  
219 and repair; and

220 c. Completion of all examination requirements within 24  
221 months after declaring candidacy for certification.

222 (b) The equipment:

223 1. Is already installed on the property owned by the  
224 apartment community or managed by the apartment community  
225 management company;

226 2. Is not being modified except to replace components  
227 necessary to return the equipment to its original condition, and  
228 the partial disassembly associated therewith;

229 3. Must be a type of equipment commonly installed in  
230 similar locations; and

231 4. Must be repaired with new parts that are functionally  
232 identical to the parts being replaced.

233 (c) An individual repair does not involve replacement parts  
234 that cost more than \$1,000. An individual repair may not be so  
235 extensive as to be a functional replacement of the water heater  
236 or the existing heating, venting, or air-conditioning system  
237 being repaired.

238 (d) The property owned by the apartment community or  
239 managed by the apartment community management company includes  
240 at least 100 apartments.

241 Section 7. Paragraph (m) of subsection (3) of section  
242 489.105, Florida Statutes, is amended to read:



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243 489.105 Definitions.—As used in this part:

244 (3) "Contractor" means the person who is qualified for, and  
245 is only responsible for, the project contracted for and means,  
246 except as exempted in this part, the person who, for  
247 compensation, undertakes to, submits a bid to, or does himself  
248 or herself or by others construct, repair, alter, remodel, add  
249 to, demolish, subtract from, or improve any building or  
250 structure, including related improvements to real estate, for  
251 others or for resale to others; and whose job scope is  
252 substantially similar to the job scope described in one of the  
253 paragraphs of this subsection. For the purposes of regulation  
254 under this part, the term "demolish" applies only to demolition  
255 of steel tanks more than 50 feet in height; towers more than 50  
256 feet in height; other structures more than 50 feet in height;  
257 and all buildings or residences. Contractors are subdivided into  
258 two divisions, Division I, consisting of those contractors  
259 defined in paragraphs (a)-(c), and Division II, consisting of  
260 those contractors defined in paragraphs (d)-(q):

261 (m) "Plumbing contractor" means a contractor whose services  
262 are unlimited in the plumbing trade and includes contracting  
263 business consisting of the execution of contracts requiring the  
264 experience, financial means, knowledge, and skill to install,  
265 maintain, repair, alter, extend, or, if not prohibited by law,  
266 design plumbing. A plumbing contractor may install, maintain,  
267 repair, alter, extend, or, if not prohibited by law, design the  
268 following without obtaining an additional local regulatory  
269 license, certificate, or registration: sanitary drainage or  
270 storm drainage facilities, water and sewer plants and  
271 substations, venting systems, public or private water supply





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272 systems, septic tanks, drainage and supply wells, swimming pool  
273 piping, irrigation systems, and solar heating water systems and  
274 all appurtenances, apparatus, or equipment used in connection  
275 therewith, including boilers and pressure process piping and  
276 including the installation of water, natural gas, liquefied  
277 petroleum gas and related venting, and storm and sanitary sewer  
278 lines. The scope of work of the plumbing contractor also  
279 includes the design, if not prohibited by law, and installation,  
280 maintenance, repair, alteration, or extension of air-piping,  
281 vacuum line piping, oxygen line piping, nitrous oxide piping,  
282 and all related medical gas systems; fire line standpipes and  
283 fire sprinklers if authorized by law; ink and chemical lines;  
284 fuel oil and gasoline piping and tank and pump installation,  
285 except bulk storage plants; and pneumatic control piping  
286 systems, all in a manner that complies with all plans,  
287 specifications, codes, laws, and regulations applicable. The  
288 scope of work of the plumbing contractor applies to private  
289 property and public property, including any excavation work  
290 incidental thereto, and includes the work of the specialty  
291 plumbing contractor. Such contractor shall subcontract, with a  
292 qualified contractor in the field concerned, all other work  
293 incidental to the work but which is specified as being the work  
294 of a trade other than that of a plumbing contractor. This  
295 definition does not limit the scope of work of any specialty  
296 contractor certified pursuant to s. 489.113(6) ~~7~~ and does not  
297 require certification or registration under this part for a  
298 category I liquefied petroleum gas dealer, LP gas installer, or  
299 specialty installer who is licensed under chapter 527 or an ~~of~~  
300 any authorized employee of a public natural gas utility or of a



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301 private natural gas utility regulated by the Public Service  
302 Commission when disconnecting and reconnecting water lines in  
303 the servicing or replacement of an existing water heater. A  
304 plumbing contractor may perform drain cleaning and clearing and  
305 install or repair rainwater catchment systems; however, a  
306 mandatory licensing requirement is not established for the  
307 performance of these specific services.

308 Section 8. Paragraph (b) of subsection (4) of section  
309 489.115, Florida Statutes, is amended to read:

310 489.115 Certification and registration; endorsement;  
311 reciprocity; renewals; continuing education.-

312 (4)

313 (b)1. Each certificateholder or registrant shall provide  
314 proof, in a form established by rule of the board, that the  
315 certificateholder or registrant has completed at least 14  
316 classroom hours of at least 50 minutes each of continuing  
317 education courses during each biennium since the issuance or  
318 renewal of the certificate or registration. The board shall  
319 establish by rule that a portion of the required 14 hours must  
320 deal with the subject of workers' compensation, business  
321 practices, workplace safety, and, for applicable licensure  
322 categories, wind mitigation methodologies, and 1 hour of which  
323 must deal with laws and rules. The board shall by rule establish  
324 criteria for the approval of continuing education courses and  
325 providers, including requirements relating to the content of  
326 courses and standards for approval of providers, and may by rule  
327 establish criteria for accepting alternative nonclassroom  
328 continuing education on an hour-for-hour basis. The board shall  
329 prescribe by rule the continuing education, if any, which is



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330 required during the first biennium of initial licensure. A  
331 person who has been licensed for less than an entire biennium  
332 must not be required to complete the full 14 hours of continuing  
333 education.

334 2. In addition, the board may approve specialized  
335 continuing education courses on compliance with the wind  
336 resistance provisions for one and two family dwellings contained  
337 in the Florida Building Code and any alternate methodologies for  
338 providing such wind resistance which have been approved for use  
339 by the Florida Building Commission. Division I  
340 certificateholders or registrants who demonstrate proficiency  
341 upon completion of such specialized courses may certify plans  
342 and specifications for one and two family dwellings to be in  
343 compliance with the code or alternate methodologies, as  
344 appropriate, except for dwellings located in floodways or  
345 coastal hazard areas as defined in ss. 60.3D and E of the  
346 National Flood Insurance Program.

347 3. The board shall require, by rule adopted pursuant to ss.  
348 120.536(1) and 120.54, a specified number of hours in  
349 specialized or code-related training ~~advanced module courses,~~  
350 ~~approved by the Florida Building Commission,~~ on any portion of  
351 the Florida Building Code, adopted pursuant to part IV of  
352 chapter 553, relating to the contractor's respective discipline.

353 Section 9. Subsections (2) and (3) of section 489.1401,  
354 Florida Statutes, are amended to read:

355 489.1401 Legislative intent.—

356 (2) It is the intent of the Legislature that the sole  
357 purpose of the Florida Homeowners' Construction Recovery Fund is  
358 to compensate an ~~any~~ aggrieved claimant who contracted for the



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359 construction or improvement of the homeowner's residence located  
360 within this state and who has obtained a final judgment in a any  
361 court of competent jurisdiction, was awarded restitution by the  
362 Construction Industry Licensing Board, or received an award in  
363 arbitration against a licensee on grounds of financial  
364 mismanagement or misconduct, abandoning a construction project,  
365 or making a false statement with respect to a project. Such  
366 grievance must arise ~~and arising~~ directly out of a any  
367 transaction conducted when the judgment debtor was licensed and  
368 must involve an act performed ~~any of the activities~~ enumerated  
369 under s. 489.129(1)(g), (j) or (k) ~~on the homeowner's residence~~.

370 (3) It is the intent of the Legislature that Division I and  
371 Division II contractors set apart funds for the specific  
372 objective of participating in the fund.

373 Section 10. Paragraphs (d), (i), (k), and (l) of subsection  
374 (1) of section 489.1402, Florida Statutes, are amended to read:

375 489.1402 Homeowners' Construction Recovery Fund;  
376 definitions.-

377 (1) The following definitions apply to ss. 489.140-489.144:

378 (d) "Contractor" means a Division I or Division II  
379 contractor performing his or her respective services described  
380 in s. 489.105(3)(a)-(q) ~~s. 489.105(3)(a)-(e)~~.

381 (i) "Residence" means a single-family residence, an  
382 individual residential condominium or cooperative unit, or a  
383 residential building containing not more than two residential  
384 units in which the owner contracting for the improvement is  
385 residing or will reside 6 months or more each calendar year upon  
386 completion of the improvement.

387 (k) "Same transaction" means a contract, or a any series of



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388 contracts, between a claimant and a contractor or qualified  
389 business, when such contract or contracts involve the same  
390 property or contiguous properties and are entered into either at  
391 one time or serially.

392 (1) "Valid and current license," for the purpose of s.  
393 489.141(2)(d), means a ~~any~~ license issued pursuant to this part  
394 to a licensee, including a license in an active, inactive,  
395 delinquent, or suspended status.

396 Section 11. Subsections (1) and (2) of section 489.141,  
397 Florida Statutes, are amended to read:

398 489.141 Conditions for recovery; eligibility.-

399 (1) A ~~Any~~ claimant is eligible to seek recovery from the  
400 recovery fund after making ~~having made~~ a claim and exhausting  
401 the limits of any available bond, cash bond, surety, guarantee,  
402 warranty, letter of credit, or policy of insurance if, ~~provided~~  
403 ~~that~~ each of the following conditions is satisfied:

404 (a) The claimant has received a final judgment in a court  
405 of competent jurisdiction in this state or has received an award  
406 in arbitration or the Construction Industry Licensing Board has  
407 issued a final order directing the licensee to pay restitution  
408 to the claimant. The board may waive this requirement if:

409 1. The claimant is unable to secure a final judgment  
410 against the licensee due to the death of the licensee; or

411 2. The claimant has sought to have assets involving the  
412 transaction that gave rise to the claim removed from the  
413 bankruptcy proceedings so that the matter might be heard in a  
414 court of competent jurisdiction in this state and, after due  
415 diligence, the claimant is precluded by action of the bankruptcy  
416 court from securing a final judgment against the licensee.



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417 (b) The judgment, award, or restitution is based upon a  
418 violation of s. 489.129(1)(g), (j), or (k) or s. 713.35.

419 (c) The violation was committed by a licensee.

420 (d) The judgment, award, or restitution order specifies the  
421 actual damages suffered as a consequence of such violation.

422 (e) The contract was executed and the violation occurred on  
423 or after July 1, 1993, and provided that:

424 1. The claimant has caused to be issued a writ of execution  
425 upon such judgment, and the officer executing the writ has made  
426 a return showing that no personal or real property of the  
427 judgment debtor or licensee liable to be levied upon in  
428 satisfaction of the judgment can be found or that the amount  
429 realized on the sale of the judgment debtor's or licensee's  
430 property pursuant to such execution was insufficient to satisfy  
431 the judgment;

432 2. If the claimant is unable to comply with subparagraph 1.  
433 for a valid reason to be determined by the board, the claimant  
434 has made all reasonable searches and inquiries to ascertain  
435 whether the judgment debtor or licensee is possessed of real or  
436 personal property or other assets subject to being sold or  
437 applied in satisfaction of the judgment and by his or her search  
438 has discovered no property or assets or has discovered property  
439 and assets and has taken all necessary action and proceedings  
440 for the application thereof to the judgment but the amount  
441 thereby realized was insufficient to satisfy the judgment; and

442 3. The claimant has made a diligent attempt, as defined by  
443 board rule, to collect the restitution awarded by the board.

444 (f) A claim for recovery is made within 1 year after the  
445 conclusion of any civil, criminal, or administrative action or



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446 award in arbitration based on the act. This paragraph applies to  
447 any claim filed with the board after October 1, 1998.

448 (g) Any amounts recovered by the claimant from the judgment  
449 debtor or licensee, or from any other source, have been applied  
450 to the damages awarded by the court or the amount of restitution  
451 ordered by the board.

452 (h) The claimant is not a person who is precluded by this  
453 act from making a claim for recovery.

454 (2) A claimant is not qualified to make a claim for  
455 recovery from the recovery fund, if:

456 (a) The claimant is the spouse of the judgment debtor or  
457 licensee or a personal representative of such spouse;

458 (b) The claimant is a licensee who acted as the contractor  
459 in the transaction that ~~which~~ is the subject of the claim;

460 (c) The claim is based upon a construction contract in  
461 which the licensee was acting with respect to the property owned  
462 or controlled by the licensee;

463 (d) The claim is based upon a construction contract in  
464 which the contractor did not hold a valid and current license at  
465 the time of the construction contract;

466 (e) The claimant was associated in a business relationship  
467 with the licensee other than the contract at issue; or

468 ~~(f) The claimant has suffered damages as the result of~~  
469 ~~making improper payments to a contractor as defined in part I of~~  
470 ~~chapter 713; or~~

471 (f) (g) The claimant has entered into a contract contracted  
472 with a licensee to perform a scope of work described in s.  
473 489.105(3)(d)-(g) before July 1, 2015 s. 489.105(3)(d)-(p).

474 Section 12. Subsection (1) of section 489.1425, Florida



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475 Statutes, is amended to read:

476 489.1425 Duty of contractor to notify residential property  
477 owner of recovery fund.—

478 (1) Each ~~Any~~ agreement or contract for repair, restoration,  
479 improvement, or construction to residential real property must  
480 contain a written statement explaining the consumer's rights  
481 under the recovery fund, except where the value of all labor and  
482 materials does not exceed \$2,500. The written statement must be  
483 substantially in the following form:

484  
485 FLORIDA HOMEOWNERS' CONSTRUCTION  
486 RECOVERY FUND

487  
488 PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE  
489 FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY  
490 ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS  
491 FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED  
492 CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A  
493 CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD  
494 AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

495  
496 The statement must ~~shall~~ be immediately followed by the board's  
497 address and telephone number as established by board rule.

498 Section 13. Section 489.143, Florida Statutes, is amended  
499 to read:

500 489.143 Payment from the fund.—

501 (1) The fund shall be disbursed as provided in s. 489.141  
502 on a final order of the board.

503 (2) A ~~Any~~ claimant who meets all of the conditions





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504 prescribed in s. 489.141 may apply to the board to cause payment  
505 to be made to a claimant from the recovery fund in an amount  
506 equal to the judgment, award, or restitution order or \$25,000,  
507 whichever is less, or an amount equal to the unsatisfied portion  
508 of such person's judgment, award, or restitution order, but only  
509 to the extent and amount of actual damages suffered by the  
510 claimant, and only up to the maximum payment allowed for each  
511 respective Division I and Division II claim. Payment from the  
512 fund for other costs related to or pursuant to civil proceedings  
513 such as postjudgment interest, attorney ~~attorney's~~ fees, court  
514 costs, medical damages, and punitive damages is prohibited. The  
515 recovery fund is not obligated to pay a ~~any~~ judgment, an award,  
516 or a restitution order, or any portion thereof, which is not  
517 expressly based on one of the grounds for recovery set forth in  
518 s. 489.141.

519 (3) Beginning January 1, 2005, for each Division I contract  
520 entered into after July 1, 2004, payment from the recovery fund  
521 shall be subject to a \$50,000 maximum payment for each Division  
522 I claim. Beginning January 1, 2016, for each Division II  
523 contract entered into on or after July 1, 2015, payment from the  
524 recovery fund is subject to a \$15,000 maximum payment for each  
525 Division II claim.

526 (4) ~~(3)~~ Upon receipt by a claimant under subsection (2) of  
527 payment from the recovery fund, the claimant shall assign his or  
528 her additional right, title, and interest in the judgment,  
529 award, or restitution order, to the extent of such payment, to  
530 the board, and thereupon the board shall be subrogated to the  
531 right, title, and interest of the claimant; and any amount  
532 subsequently recovered on the judgment, award, or restitution



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533 order, to the extent of the right, title, and interest of the  
534 board therein, shall be for the purpose of reimbursing the  
535 recovery fund.

536 (5)~~(4)~~ Payments for claims arising out of the same  
537 transaction shall be limited, in the aggregate, to the lesser of  
538 the judgment, award, or restitution order or the maximum payment  
539 allowed for a Division I or Division II claim, regardless of the  
540 number of claimants involved in the transaction.

541 (6)~~(5)~~ For contracts entered into before July 1, 2004,  
542 payments for claims against any one licensee may ~~shall~~ not  
543 exceed, in the aggregate, \$100,000 annually, up to a total  
544 aggregate of \$250,000. For any claim approved by the board which  
545 is in excess of the annual cap, the amount in excess of \$100,000  
546 up to the total aggregate cap of \$250,000 is eligible for  
547 payment in the next and succeeding fiscal years, but only after  
548 all claims for the then-current calendar year have been paid.  
549 Payments may not exceed the aggregate annual or per claimant  
550 limits under law. Beginning January 1, 2005, for each Division I  
551 contract entered into after July 1, 2004, payment from the  
552 recovery fund is subject only to a total aggregate cap of  
553 \$500,000 for each Division I licensee. Beginning January 1,  
554 2016, for each Division II contract entered into on or after  
555 July 1, 2015, payment from the recovery fund is subject only to  
556 a total aggregate cap of \$150,000 for each Division II licensee.

557 (7)~~(6)~~ Claims shall be paid in the order filed, up to the  
558 aggregate limits for each transaction and licensee and to the  
559 limits of the amount appropriated to pay claims against the fund  
560 ~~for the fiscal year in which the claims were filed.~~ Payments may  
561 not exceed the total aggregate cap per license or per claimant



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562 limits under this section.

563 (8)~~(7)~~ If the annual appropriation is exhausted with claims  
564 pending, such claims shall be carried forward to the next fiscal  
565 year. Any moneys in excess of pending claims remaining in the  
566 recovery fund at the end of the fiscal year shall be paid as  
567 provided in s. 468.631.

568 (9)~~(8)~~ Upon the payment of any amount from the recovery  
569 fund in settlement of a claim in satisfaction of a judgment,  
570 award, or restitution order against a licensee as described in  
571 s. 489.141, the license of such licensee shall be automatically  
572 suspended, without further administrative action, upon the date  
573 of payment from the fund. The license of such licensee may ~~shall~~  
574 not be reinstated until he or she has repaid in full, plus  
575 interest, the amount paid from the fund. A discharge of  
576 bankruptcy does not relieve a person from the penalties and  
577 disabilities provided in this section.

578 (10)~~(9)~~ A ~~Any~~ firm, a corporation, a partnership, or an  
579 association, or a ~~any~~ person acting in his or her individual  
580 capacity, who aids, abets, solicits, or conspires with another  
581 ~~any~~ person to knowingly present or cause to be presented a ~~any~~  
582 false or fraudulent claim for the payment of a loss under this  
583 act commits ~~is guilty of~~ a third-degree felony, punishable as  
584 provided in s. 775.082 or s. 775.084 and by a fine of up to ~~not~~  
585 ~~exceeding~~ \$30,000, unless the value of the fraud exceeds that  
586 amount, ~~\$30,000~~ in which event the fine may not exceed double  
587 the value of the fraud.

588 (11)~~(10)~~ Each payment ~~All payments~~ and disbursement  
589 ~~disbursements~~ from the recovery fund shall be made by the Chief  
590 Financial Officer upon a voucher signed by the secretary of the



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591 department or the secretary's designee.

592 Section 14. Subsection (24) is added to section 489.503,  
593 Florida Statutes, to read:

594 489.503 Exemptions.—This part does not apply to:

595 (24) A person who installs low-voltage landscape lighting  
596 that contains a factory-installed electrical cord and plug and  
597 does not require installation, wiring, or modification to the  
598 electrical wiring of the structure.

599 Section 15. Subsection (6) of section 489.517, Florida  
600 Statutes, is amended to read:

601 489.517 Renewal of certificate or registration; continuing  
602 education.—

603 (6) The board shall require, by rule adopted pursuant to  
604 ss. 120.536(1) and 120.54, a specialized number of hours in  
605 specialized or code-related training ~~advanced module courses,~~  
606 ~~approved by the Florida Building Commission,~~ on any portion of  
607 the Florida Building Code, adopted pursuant to part IV of  
608 chapter 553, relating to the contractor's respective discipline.

609 Section 16. Subsection (3) of section 514.011, Florida  
610 Statutes, is amended to read:

611 514.011 Definitions.—As used in this chapter:

612 (3) "Private pool" means a facility used only by an  
613 individual, family, or living unit members and their guests  
614 which does not serve any type of cooperative housing or joint  
615 tenancy of five or more living units. The term includes a  
616 portable pool used exclusively for providing swimming lessons or  
617 related instruction in support of an established educational  
618 program sponsored or provided by a county school district for  
619 the purposes of the exemptions provided under s. 514.0115.



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620 Section 17. Subsection (3) of section 514.0115, Florida  
621 Statutes, is amended to read:

622 514.0115 Exemptions from supervision or regulation;  
623 variances.—

624 (3) A private pool used for instructional purposes in  
625 swimming may ~~shall~~ not be regulated as a public pool. A portable  
626 pool used for instructional purposes or in furtherance of an  
627 approved educational program may not be regulated as a public  
628 pool.

629 Section 18. Subsections (2) through (5) of section 514.031,  
630 Florida Statutes, are redesignated as subsections (3) through  
631 (6), respectively, a new subsection (2) is added to that  
632 section, and present subsection (5) of that section is amended,  
633 to read:

634 514.031 Permit necessary to operate public swimming pool.—

635 (2) The department shall ensure through inspections that a  
636 public swimming pool with an operating permit continues to be  
637 operated and maintained in compliance with rules adopted under  
638 this section, the original approved plans and specifications or  
639 variances, and the Florida Building Code adopted under chapter  
640 553 applicable to public pools or public bathing places. The  
641 department may adopt and enforce rules to implement this  
642 subsection, including provisions for closing those pools and  
643 bathing places not in compliance. For purposes of this  
644 subsection, the department's jurisdiction includes the pool, the  
645 pool deck, the barrier as defined in s. 515.25, and the bathroom  
646 facilities for pool patrons. The local enforcement agency shall  
647 permit and inspect repairs or modifications required as a result  
648 of the department's inspections and may take enforcement action



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649 to ensure compliance. The department shall ensure that the rules  
650 enforced by the local enforcement agency under this subsection  
651 are consistent with the Florida Building Code adopted under  
652 chapter 553.

653 ~~(6)~~(5) An owner or operator of a public swimming pool,  
654 including, but not limited to, a spa, wading, or special purpose  
655 pool, to which admittance is obtained by membership for a fee  
656 shall post in a prominent location within the facility the most  
657 recent pool inspection report issued by the department  
658 pertaining to the health and safety conditions of such facility.  
659 The report shall be legible and readily accessible to members or  
660 potential members. The department shall adopt rules to enforce  
661 this subsection. A portable pool may not be used as a public  
662 pool, unless it is exempt under s. 514.0115.

663 Section 19. Subsections (1), (2), and (5) of section  
664 514.05, Florida Statutes, are amended to read:

665 514.05 Denial, suspension, or revocation of permit;  
666 administrative fines.-

667 (1) The department may deny an application for an a  
668 operating permit, suspend or revoke a permit issued to any  
669 person or public body, or impose an administrative fine upon the  
670 failure of such person or public body to comply with the  
671 provisions of this chapter, the original approved plans and  
672 specifications or variances, the Florida Building Code adopted  
673 under chapter 553 applicable to public pools or public bathing  
674 places, or the rules adopted hereunder.

675 (2) The department may impose an administrative fine, which  
676 shall not exceed \$500 for each violation, for the violation of  
677 this chapter, the original approved plans and specifications or



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678 variances, the Florida Building Code adopted under chapter 553  
679 applicable to public pools or public bathing places, or the  
680 rules adopted hereunder and for the violation of ~~any of the~~  
681 ~~provisions of~~ chapter 386. Notice of intent to impose such fine  
682 shall be given by the department to the alleged violator. Each  
683 day that a violation continues may constitute a separate  
684 violation.

685 (5) Under conditions specified by rule, the department may  
686 close a public pool that is not in compliance with this chapter,  
687 the original approved plans and specifications or variances, the  
688 Florida Building Code adopted under chapter 553 applicable to  
689 public pools or public bathing places, or the rules adopted  
690 under this chapter.

691 Section 20. Section 553.721, Florida Statutes, is amended  
692 to read:

693 553.721 Surcharge.—In order for the Department of Business  
694 and Professional Regulation to administer and carry out the  
695 purposes of this part and related activities, there is created a  
696 surcharge, to be assessed at the rate of 1.5 percent of the  
697 permit fees associated with enforcement of the Florida Building  
698 Code as defined by the uniform account criteria and specifically  
699 the uniform account code for building permits adopted for local  
700 government financial reporting pursuant to s. 218.32. The  
701 minimum amount collected on any permit issued shall be \$2. The  
702 unit of government responsible for collecting a permit fee  
703 pursuant to s. 125.56(4) or s. 166.201 shall collect the  
704 surcharge and electronically remit the funds collected to the  
705 department on a quarterly calendar basis for the preceding  
706 quarter and continuing each third month thereafter. The unit of



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707 government shall retain 10 percent of the surcharge collected to  
708 fund the participation of building departments in the national  
709 and state building code adoption processes and to provide  
710 education related to enforcement of the Florida Building Code.  
711 All funds remitted to the department pursuant to this section  
712 shall be deposited in the Professional Regulation Trust Fund.  
713 Funds collected from the surcharge shall be allocated to fund  
714 the Florida Building Commission and the Florida Building Code  
715 Compliance and Mitigation Program under s. 553.841. Funds  
716 allocated to the Florida Building Code Compliance and Mitigation  
717 Program shall be \$925,000 each fiscal year. The Florida Building  
718 Code Compliance and Mitigation Program shall fund the  
719 recommendations made by the Building Code System Uniform  
720 Implementation Evaluation Workgroup, dated April 8, 2013, from  
721 existing resources, not to exceed \$30,000 in the 2015-2016  
722 fiscal year. Funds collected from the surcharge shall also be  
723 used to fund Florida Fire Prevention Code informal  
724 interpretations managed by the State Fire Marshal and shall be  
725 limited to \$15,000 each fiscal year. The State Fire Marshal  
726 shall adopt rules to address the implementation and expenditure  
727 of the funds allocated to fund the Florida Fire Prevention Code  
728 informal interpretations under this section. The funds collected  
729 from the surcharge may not be used to fund research on  
730 techniques for mitigation of radon in existing buildings. Funds  
731 used by the department as well as funds to be transferred to the  
732 Department of Health and the State Fire Marshal shall be as  
733 prescribed in the annual General Appropriations Act. The  
734 department shall adopt rules governing the collection and  
735 remittance of surcharges pursuant to chapter 120.





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736 Section 21. Subsection (11) of section 553.73, Florida  
737 Statutes, is amended, and subsections (19) and (20) are added to  
738 that section, to read:

739 553.73 Florida Building Code.—

740 (11) (a) In the event of a conflict between the Florida  
741 Building Code and the Florida Fire Prevention Code and the Life  
742 Safety Code as applied to a specific project, the conflict shall  
743 be resolved by agreement between the local building code  
744 enforcement official and the local fire code enforcement  
745 official in favor of the requirement of the code which offers  
746 the greatest degree of lifesafety or alternatives which would  
747 provide an equivalent degree of lifesafety and an equivalent  
748 method of construction. Local boards created to address issues  
749 arising under the Florida Building Code and the Florida Fire  
750 Prevention Code may combine the appeals boards to create a  
751 single, local board having jurisdiction over matters arising  
752 under either or both codes. The combined local board of appeals  
753 has the authority to grant alternatives or modifications through  
754 procedures outlined in NFPA 1, Section 1.4, but does not have  
755 the authority to waive the requirements of the Florida Fire  
756 Prevention Code. In order to meet the quorum requirement to  
757 convene the combined appeals board there must be at least one  
758 member of the board who is a fire protection contractor, a fire  
759 protection design professional, a fire department operations  
760 professional, or a fire code enforcement professional.

761 (b) Any decision made by the local fire official regarding  
762 application, interpretation, or enforcement of the Florida Fire  
763 Prevention Code, and the local building official regarding  
764 application, interpretation, or enforcement of the Florida



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765 Building Code, or the appropriate application of either or both  
766 codes in the case of a conflict between the codes, may be  
767 appealed to a local administrative board designated by the  
768 municipality, county, or special district having firesafety  
769 responsibilities. If the decision of the local fire official and  
770 the local building official is to apply the provisions of either  
771 the Florida Building Code or the Florida Fire Prevention Code  
772 and the Life Safety Code, the board may not alter the decision  
773 unless the board determines that the application of such code is  
774 not reasonable. If the decision of the local fire official and  
775 the local building official is to adopt an alternative to the  
776 codes, the local administrative board shall give due regard to  
777 the decision rendered by the local officials and may modify that  
778 decision if the administrative board adopts a better  
779 alternative, taking into consideration all relevant  
780 circumstances. In any case in which the local administrative  
781 board adopts alternatives to the decision rendered by the local  
782 fire official and the local building official, such alternatives  
783 shall provide an equivalent degree of lifesafety and an  
784 equivalent method of construction as the decision rendered by  
785 the local officials.

786 (c) If the local building official and the local fire  
787 official are unable to agree on a resolution of the conflict  
788 between the Florida Building Code and the Florida Fire  
789 Prevention Code and the Life Safety Code, the local  
790 administrative board shall resolve the conflict in favor of the  
791 code which offers the greatest degree of lifesafety or  
792 alternatives which would provide an equivalent degree of  
793 lifesafety and an equivalent method of construction.



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794 (d) All decisions of the local administrative board, or if  
795 none exists, the decisions of the local building official and  
796 the local fire official in regard to the application,  
797 enforcement, or interpretation of the Florida Fire Prevention  
798 Code, or conflicts between the Florida Fire Prevention Code and  
799 the Florida Building Code, are subject to review by a joint  
800 committee composed of members of the Florida Building Commission  
801 and the Fire Code Advisory Council. If the joint committee is  
802 unable to resolve conflicts between the codes as applied to a  
803 specific project, the matter shall be resolved pursuant to the  
804 provisions of paragraph (1)(d). Decisions of the local  
805 administrative board solely in regard to the provisions of the  
806 Florida Building Code are subject to review as set forth in s.  
807 553.775.

808 (e) The local administrative board shall, to the greatest  
809 extent possible, be composed of members with expertise in  
810 building construction and firesafety standards.

811 (f) All decisions of the local building official and local  
812 fire official and all decisions of the administrative board  
813 shall be in writing and shall be binding upon a person but do  
814 not limit the authority of the State Fire Marshal or the Florida  
815 Building Commission pursuant to paragraph (1)(d) and ss. 633.104  
816 and 633.228. Decisions of general application shall be indexed  
817 by building and fire code sections and shall be available for  
818 inspection during normal business hours.

819 (19) In other than one- and two-family detached dwellings,  
820 a local enforcing agency that requires a permit to install or  
821 replace a hot water heater shall require that a hard-wired or  
822 battery-operated water-level detection device be secured to the



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823 drain pan area at a level lower than the drain connection upon  
824 installation or replacement of the hot water heater. The device  
825 must include an audible alarm and, if battery-operated, must  
826 have a 10-year low-battery notification capability.

827 (20) The Florida Building Code may not require more than  
828 one fire service access elevator in a residential occupancy if  
829 the highest occupiable floor in the residential occupancy is  
830 less than 420 feet above the level of fire service access. If a  
831 fire service access elevator is required, a 1 hour fire-rated  
832 fire service access elevator lobby with direct access from the  
833 fire service access elevator may not be required if the fire  
834 service access elevator opens into an exit access corridor. The  
835 exit access corridor must be at least 6 feet wide for its entire  
836 length with the exception of door openings and must have a  
837 minimum 1 hour fire rating with three quarter hour rated  
838 openings. If there is a transient residential occupancy at floor  
839 levels more than 420 feet above the level of fire service  
840 access, a one hour fire-rated fire service access elevator lobby  
841 with direct access from the fire service access elevator is  
842 required. The requirement for a second fire service access  
843 elevator is not considered to be a part of the Florida Building  
844 Code, and therefore, does not take effect until July 1, 2016.

845 Section 22. Subsections (6) and (11) of section 553.79,  
846 Florida Statutes, are amended to read:

847 553.79 Permits; applications; issuance; inspections.-

848 (6) A permit may not be issued for any building  
849 construction, erection, alteration, modification, repair, or  
850 addition unless the applicant for such permit complies with the  
851 requirements for plan review established by the Florida Building



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852 Commission within the Florida Building Code. However, the code  
853 shall set standards and criteria to authorize preliminary  
854 construction before completion of all building plans review,  
855 including, but not limited to, special permits for the  
856 foundation only, and such standards shall take effect concurrent  
857 with the first effective date of the Florida Building Code.  
858 After submittal of the appropriate construction documents, the  
859 building official is authorized to issue a permit for the  
860 construction of foundations or any other part of a building or  
861 structure before the construction documents for the whole  
862 building or structure have been submitted. No other agency  
863 review or approval may be required before the issuance of a  
864 phased permit due to the fact that the project will need all the  
865 necessary outside agencies' reviews and approvals before the  
866 issuance of a master building permit. The holder of such permit  
867 for the foundation or other parts of a building or structure  
868 shall proceed at the holder's own risk with the building  
869 operation and without assurance that a permit for the entire  
870 structure will be granted. Corrections may be required to meet  
871 the requirements of the technical codes.

872 (11) (a) The local enforcing agency may not issue a building  
873 permit to construct, develop, or modify a public swimming pool  
874 without proof of application, whether complete or incomplete,  
875 for an operating permit pursuant to s. 514.031. A certificate of  
876 completion or occupancy may not be issued until such operating  
877 permit is issued. The local enforcing agency shall conduct its  
878 review of the building permit application upon filing and in  
879 accordance with this chapter. The local enforcing agency may  
880 confer with the Department of Health, if necessary, but may not



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881 delay the building permit application review while awaiting  
882 comment from the Department of Health.

883 (b) If the department determines under s. 514.031(2) that a  
884 public pool or a public bathing place is not being operated or  
885 maintained in compliance with department's rules, the original  
886 approved plans and specifications or variances, and the Florida  
887 Building Code, the local enforcing agency shall permit and  
888 inspect the repairs or modifications required as a result of the  
889 department's inspections and may take enforcement action to  
890 ensure compliance.

891 Section 23. Subsections (4) and (7) of section 553.841,  
892 Florida Statutes, are amended, to read:

893 553.841 Building code compliance and mitigation program.—

894 (4) In administering the Florida Building Code Compliance  
895 and Mitigation Program, the department may ~~shall~~ maintain,  
896 update, develop, or cause to be developed code-related training  
897 and education ~~advanced modules designed~~ for use by each  
898 profession.

899 ~~(7) The Florida Building Commission shall provide by rule~~  
900 ~~for the accreditation of courses related to the Florida Building~~  
901 ~~Code by accreditors approved by the commission. The commission~~  
902 ~~shall establish qualifications of accreditors and criteria for~~  
903 ~~the accreditation of courses by rule. The commission may revoke~~  
904 ~~the accreditation of a course by an accreditor if the~~  
905 ~~accreditation is demonstrated to violate this part or the rules~~  
906 ~~of the commission.~~

907 Section 24. Paragraph (a) of subsection (8) of section  
908 553.842, Florida Statutes, is amended to read:

909 553.842 Product evaluation and approval.—



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910 (8) The commission may adopt rules to approve the following  
911 types of entities that produce information on which product  
912 approvals are based. All of the following entities, including  
913 engineers and architects, must comply with a nationally  
914 recognized standard demonstrating independence or no conflict of  
915 interest:

916 (a) Evaluation entities approved pursuant to this  
917 paragraph. The commission shall specifically approve the  
918 National Evaluation Service, the International Association of  
919 Plumbing and Mechanical Officials Evaluation Service, the  
920 International Code Council Evaluation Services, Underwriters  
921 Laboratories, LLC, and the Miami-Dade County Building Code  
922 Compliance Office Product Control Division. Architects and  
923 engineers licensed in this state are also approved to conduct  
924 product evaluations as provided in subsection (5).

925 Section 25. Section 553.908, Florida Statutes, is amended  
926 to read:

927 553.908 Inspection.—Before construction or renovation is  
928 completed, the local enforcement agency shall inspect buildings  
929 for compliance with the standards of this part. The local  
930 enforcement agency shall accept duct and air infiltration tests  
931 conducted in accordance with the Florida Building Code-Energy  
932 Conservation by individuals certified in accordance with s.  
933 553.993(5) or (7) or individuals licensed under s.  
934 489.105(3)(f), (g), or (i). The local enforcement agency may  
935 accept inspections in whole or in part by individuals certified  
936 in accordance with s. 553.993(5) or (7).

937 Section 26. Subsection (6) of section 633.104, Florida  
938 Statutes, is amended to read:



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939 633.104 State Fire Marshal; authority; duties; rules.-

940 (6) Only the State Fire Marshal may issue, and, when  
941 requested in writing by any substantially affected person or a  
942 local enforcing agency, the State Fire Marshal shall issue  
943 declaratory statements pursuant to s. 120.565 relating to the  
944 Florida Fire Prevention Code. For the purposes of this section,  
945 the term "substantially affected person" means a person who,  
946 will be, or may be affected by the application of the Florida  
947 Fire Prevention Code to a property or building that the person  
948 owns, controls, or is, or is considering purchasing, selling,  
949 designing, constructing, or altering.

950 Section 27. Subsections (17) and (18) are added to section  
951 633.202, Florida Statutes, to read:

952 633.202 Florida Fire Prevention Code.-

953 (17) In all new high-rise and existing high-rise buildings,  
954 minimum radio signal strength for fire department communications  
955 shall be maintained at a level determined by the authority  
956 having jurisdiction. Existing buildings may not be required to  
957 comply with minimum radio strength for fire department  
958 communications and two-way radio system enhancement  
959 communications as required by the Florida Fire Prevention Code  
960 until January 1, 2022. However, by December 31, 2019, an  
961 existing building that is not in compliance with the  
962 requirements for minimum radio strength for fire department  
963 communications must initiate an application for an appropriate  
964 permit for the required installation with the local government  
965 agency having jurisdiction and must demonstrate that the  
966 building will become compliant by January 1, 2022. Existing  
967 apartment buildings may not be required to comply until January





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968 1, 2025. However, existing apartment buildings are required to  
969 initiate the appropriate permit for the required communications  
970 installation by December 31, 2022.

971 (18) Areas of refuge shall be provided when required by the  
972 Florida Building Code-Accessibility. Required portions of an  
973 area of refuge shall be accessible from the space they serve by  
974 an accessible means of egress.

975 Section 28. Subsection (10) is added to section 633.216,  
976 Florida Statutes, to read:

977 633.216 Inspection of buildings and equipment; orders;  
978 firesafety inspection training requirements; certification;  
979 disciplinary action.—The State Fire Marshal and her or his  
980 agents or persons authorized to enforce laws and rules of the  
981 State Fire Marshal shall, at any reasonable hour, when the State  
982 Fire Marshal has reasonable cause to believe that a violation of  
983 this chapter or s. 509.215, or a rule adopted thereunder, or a  
984 minimum firesafety code adopted by the State Fire Marshal or a  
985 local authority, may exist, inspect any and all buildings and  
986 structures which are subject to the requirements of this chapter  
987 or s. 509.215 and rules adopted thereunder. The authority to  
988 inspect shall extend to all equipment, vehicles, and chemicals  
989 which are located on or within the premises of any such building  
990 or structure.

991 (10) In addition to any other requirements that may be  
992 imposed by the Florida Statutes, the State Fire Marshal shall  
993 adopt, by rule, a certification program for firesafety  
994 inspectors who perform fire plan review activities to determine  
995 compliance with the Florida Fire Prevention Code. The  
996 certification program shall incorporate the knowledge and skills



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997 contained in NFPA 1031 Plan Examiner Level II at a minimum and  
998 shall be Pro Board Accredited. All newly appointed Fire Code  
999 Plans Examiners shall, after 24 months from the effective date  
1000 of this statute, be certified, at a minimum, as NFPA 1031 Plans  
1001 Examiner Level II by the State Fire Marshal at the time of their  
1002 appointment to conduct Fire Code plans reviews. The State Fire  
1003 Marshal shall incorporate provisions by rule for existing Fire  
1004 Code Plans Examiners to continue to practice in their current  
1005 employment while actively obtaining the additional certification  
1006 and shall adopt, by rule, a limited time frame for existing Fire  
1007 Code Plans Examiners to achieve the required certification. The  
1008 State Fire Marshal may, by rule, determine alternative  
1009 educational and experience requirements or certifications as  
1010 equivalent as long as such equivalence achieve Pro Board  
1011 Accreditation.

1012 Section 29. The Calder Sloan Swimming Pool Electrical-  
1013 Safety Task Force.-There is established within the Florida  
1014 Building Commission the Calder Sloan Swimming Pool Electrical-  
1015 Safety Task Force.

1016 (1) The primary purpose of the task force is to study and  
1017 report to the Governor, the President of the Senate, and the  
1018 Speaker of the House of Representatives on recommended revisions  
1019 to the Florida Statutes concerning standards on grounding,  
1020 bonding, lighting, wiring, and all electrical aspects for safety  
1021 in and around public and private swimming pools. The task force  
1022 report is due by October 1, 2015.

1023 (2) The task force shall consist of the Swimming Pool and  
1024 Electrical Technical Advisory Committees of the Florida Building  
1025 Commission.



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1026           (3) The task force shall be chaired by the Swimming Pool  
1027 Contractor appointed to the Florida Building Commission pursuant  
1028 to s. 553.74, Florida Statutes.

1029           (4) The Florida Building Commission shall provide such  
1030 staff, information, and other assistance as is reasonably  
1031 necessary to assist the task force in carrying out its  
1032 responsibilities.

1033           (5) Members of the task force shall serve without  
1034 compensation.

1035           (6) The task force shall meet as often as necessary to  
1036 fulfill its responsibilities and meetings may be conducted by  
1037 conference call, teleconferencing, or similar technology.

1038           (7) This section expires December 31, 2015.

Section 30. This act shall take effect July 1, 2015.

1040  
1041 ===== T I T L E   A M E N D M E N T =====

1042 And the title is amended as follows:

1043           Delete everything before the enacting clause  
1044 and insert:

1045                                   A bill to be entitled  
1046           An act relating to building codes; amending s.  
1047           468.609, F.S.; revising the certification examination  
1048           requirements for building code inspectors, plans  
1049           examiners, and building code administrators; requiring  
1050           the Florida Building Code Administrators and  
1051           Inspectors Board to provide for issuance of certain  
1052           provisional certificates; amending ss. 468.627,  
1053           471.0195, 481.215, and 481.313, F.S.; requiring a  
1054           licensee or certificateholder to undergo code-related



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1055 training as part of his or her continuing education  
1056 courses; amending s. 489.103, F.S.; providing an  
1057 exemption for a specified employee who makes minor  
1058 repairs to existing waters heaters or to existing  
1059 heating, venting, and air-conditioning systems in  
1060 certain circumstances; amending s. 489.105, F.S.;  
1061 revising the term "plumbing contractor"; amending s.  
1062 489.115, F.S.; requiring a certificateholder or  
1063 registrant to undergo code-related training as part of  
1064 his or her continuing education requirements; amending  
1065 s. 489.1401, F.S.; revising legislative intent with  
1066 respect to the purpose of the Florida Homeowners'  
1067 Construction Recovery Fund; providing legislative  
1068 intent that Division II contractors set apart funds to  
1069 participate in the fund; amending s. 489.1402, F.S.;  
1070 revising terms; amending s. 489.141, F.S.; authorizing  
1071 certain claimants to make a claim against the recovery  
1072 fund for certain contracts entered into before a  
1073 specified date; amending s. 489.1425, F.S.; revising a  
1074 notification provided by contractors to certain  
1075 residential property owners to state that payment from  
1076 the recovery fund is limited; amending s. 489.143,  
1077 F.S.; revising provisions concerning payments from the  
1078 recovery fund; specifying claim amounts for certain  
1079 contracts entered into before or after specified  
1080 dates; providing aggregate caps for payments; amending  
1081 s. 489.503, F.S.; exempting certain low-voltage  
1082 landscape lighting from licensed electrical contractor  
1083 installation requirements; amending s. 489.517, F.S.;



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1084 requiring a certificateholder or registrant to undergo  
1085 code-related training as part of his or her continuing  
1086 education requirements; amending s. 514.011, F.S.;  
1087 revising the term "private pool"; amending s.  
1088 514.0115, F.S.; prohibiting a portable pool from being  
1089 regulated as a public pool in certain circumstances;  
1090 amending s. 514.031, F.S.; requiring the Department of  
1091 Health to conduct inspections of certain public pools  
1092 with operating permits to ensure continued compliance  
1093 with specified criteria; authorizing the department to  
1094 adopt rules; specifying the department's jurisdiction  
1095 for purposes of inspecting certain public pools;  
1096 specifying duties of local enforcement agencies  
1097 regarding modifications and repairs made to certain  
1098 public pools as a result of the department's  
1099 inspections; requiring the department to ensure that  
1100 certain rules enforced by local enforcement agencies  
1101 comply with the Florida Building Code; conforming a  
1102 provision to changes made by the act; amending s.  
1103 514.05, F.S.; specifying that the department may deny,  
1104 suspend, or revoke operating permits for certain pools  
1105 and bathing places if certain plans, variances, or  
1106 requirements of the Florida Building Code are  
1107 violated; specifying that the department may assess an  
1108 administrative fine for violations by certain public  
1109 pools and bathing places if certain plans, variances,  
1110 or requirements of the Florida Building Code are  
1111 violated; amending s. 553.721, F.S.; directing the  
1112 Florida Building Code Compliance and Mitigation



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1113 Program to fund, from existing resources, the  
1114 recommendations made by the Building Code System  
1115 Uniform Implementation Evaluation Workgroup; providing  
1116 a limitation; requiring that a specified amount of  
1117 funds from the surcharge be used to fund certain  
1118 Florida Fire Prevention Code informal interpretations;  
1119 requiring the State Fire Marshal to adopt specified  
1120 rules; amending s. 553.73, F.S.; authorizing local  
1121 boards created to address specified issues to combine  
1122 the appeals boards to create a single, local board;  
1123 authorizing the local board to grant alternatives or  
1124 modifications through specified procedures; requiring  
1125 at least one member of a board to be a fire protection  
1126 contractor, a fire protection design professional, a  
1127 fire department operations professional, or a fire  
1128 code enforcement professional in order to meet a  
1129 specified quorum requirement; authorizing the appeal  
1130 to a local administrative board of specified decisions  
1131 made by a local fire official; specifying the  
1132 decisions of the local building official and the local  
1133 fire official which are subject to review; requiring  
1134 the permitted installation or replacement of a water  
1135 heater in a conditioned or attic space to include a  
1136 water-level detection device; prohibiting the Florida  
1137 Building Code from requiring more than one fire access  
1138 elevator in certain buildings; prohibiting a 1 hour  
1139 fire-rated fire service access elevator lobby from  
1140 being required in certain circumstances; requiring a 1  
1141 hour fire-related fire service access elevator lobby



1142 in certain circumstances; providing that the  
1143 requirement for a second fire service access elevator  
1144 is not considered to be part of the Florida Building  
1145 Code; amending s. 553.79, F.S.; authorizing a building  
1146 official to issue a permit for the construction of the  
1147 foundation or any other part of a building or  
1148 structure before the construction documents for the  
1149 whole building or structure have been submitted;  
1150 providing that the holder of such permit shall begin  
1151 building at the holder's own risk with the building  
1152 operation and without assurance that a permit for the  
1153 entire structure will be granted; requiring local  
1154 enforcing agencies to permit and inspect modifications  
1155 and repairs made to certain public pools and public  
1156 bathing places as a result of the Department of  
1157 Business and Professional Regulation's inspections;  
1158 amending s. 553.841, F.S.; authorizing the department  
1159 to maintain, update, develop, or cause to be developed  
1160 code-related training and education; removing  
1161 provisions related to the development of advanced  
1162 courses with respect to the Florida Building Code  
1163 Compliance and Mitigation Program and the  
1164 accreditation of courses related to the Florida  
1165 Building Code; amending s. 553.842, F.S.; providing  
1166 that Underwriters Laboratories, LLC, is an approved  
1167 evaluation entity; amending s. 553.908, F.S.;  
1168 requiring local enforcement agencies to accept duct  
1169 and air infiltration tests conducted in accordance  
1170 with certain guidelines by specified individuals;



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1171 amending s. 633.104, F.S.; defining a term; clarifying  
1172 intent; amending s. 633.202, F.S.; requiring all new  
1173 high-rise and existing high-rise buildings to maintain  
1174 a minimum radio signal strength for fire department  
1175 communications; providing a transitory period for  
1176 compliance; requiring existing buildings and existing  
1177 apartment buildings that are not in compliance with  
1178 the requirements for minimum radio strength for fire  
1179 department communications to initiate an application  
1180 for an appropriate permit by a specified date;  
1181 requiring areas of refuge to be required as determined  
1182 by the Florida Building Code-Accessibility; amending  
1183 s. 633.216, F.S.; requiring the State Fire Marshal to  
1184 adopt a certification program for specified firesafety  
1185 inspectors; requiring newly appointed Fire Code Plans  
1186 Examiners and existing Fire Code Plans Examiners to  
1187 meet specified certification requirements; requiring  
1188 the State Fire Marshall to provide a transitory period  
1189 for existing Fire Code Plans Examiners to receive  
1190 their certification; authorizing the State Fire  
1191 Marshal to determine alternative educational and  
1192 experience requirements or certifications; creating  
1193 the Calder Sloan Swimming Pool Electrical-Safety Task  
1194 Force within the Florida Building Commission;  
1195 specifying the purpose of the task force; requiring a  
1196 report to the Governor and the Legislature by a  
1197 specified date; providing for membership; requiring  
1198 the Florida Building Commission to provide staff,  
1199 information, and other assistance to the task force;





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1200 providing that members of the task force serve without  
1201 compensation; authorizing the task force to meet as  
1202 often as necessary; providing for future repeal of the  
1203 task force; providing an effective date.



445904

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/07/2015	.	
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The Committee on Community Affairs (Brandes) recommended the following:

1           **Senate Amendment to Amendment (183756) (with title**  
2 **amendment)**

3  
4           Between lines 924 and 925  
5 insert:

6           Section 25. Section 553.883, Florida Statutes, is amended  
7 to read:

8           553.883 Smoke alarms in one-family and two-family dwellings  
9 and townhomes.—One-family and two-family dwellings and townhomes  
10 undergoing a repair, or a level 1 alteration as defined in the



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11 Florida Building Code, may use smoke alarms powered by 10-year  
12 nonremovable, nonreplaceable batteries in lieu of retrofitting  
13 such dwelling with smoke alarms powered by the dwelling's  
14 electrical system. Effective January 1, 2015, a battery-powered  
15 smoke alarm that is newly installed or replaces an existing  
16 battery-powered smoke alarm must be powered by a nonremovable,  
17 nonreplaceable battery that powers the alarm for at least 10  
18 years. The battery requirements of this section do not apply to  
19 a fire alarm, smoke detector, smoke alarm, or ancillary  
20 component that is electronically connected as a part of a  
21 centrally monitored or supervised alarm system; that uses a low-  
22 power, radio frequency wireless communication signal; or that  
23 contains multiple sensors, such as a smoke alarm combined with a  
24 carbon monoxide alarm or other devices as the State Fire Marshal  
25 designates through its regulatory process.

26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete line 1167

30 and insert:

31 evaluation entity; amending s. 553.883, F.S.; revising  
32 the applicability of specified battery requirements  
33 for a smoke alarm; amending s. 553.908, F.S.;

By the Committee on Health Policy; and Senator Simpson

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1                   A bill to be entitled  
2           An act relating to building codes; amending s.  
3           468.609, F.S.; revising the certification examination  
4           requirements for building code inspectors, plans  
5           examiners, and building code administrators; requiring  
6           the Florida Building Code Administrators and  
7           Inspectors Board to provide for issuance of certain  
8           provisional certificates; amending s. 489.105, F.S.;  
9           revising the term "plumbing contractor"; amending s.  
10          489.1401, F.S.; revising legislative intent with  
11          respect to the purpose of the Florida Homeowners'  
12          Construction Recovery Fund; providing legislative  
13          intent that Division II contractors set apart funds to  
14          participate in the fund; amending s. 489.1402, F.S.;  
15          revising terms; amending s. 489.141, F.S.; prohibiting  
16          certain claimants from making a claim against the  
17          recovery fund for certain contracts entered into  
18          before a specified date; amending s. 489.1425, F.S.;  
19          revising a notification provided by contractors to  
20          certain residential property owners to state that  
21          payment from the recovery fund is limited; amending s.  
22          489.143, F.S.; revising provisions concerning payments  
23          from the recovery fund; specifying claim amounts for  
24          certain contracts entered into before or after  
25          specified dates; providing aggregate caps for  
26          payments; amending s. 489.503, F.S.; exempting certain  
27          low-voltage landscape lighting from licensed  
28          electrical contractor installation requirements;  
29          amending s. 514.031, F.S.; requiring the Department of

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30 Health to conduct inspections of certain public pools  
31 with operating permits to ensure continued compliance  
32 with specified criteria; authorizing the department to  
33 adopt rules; specifying the department's jurisdiction  
34 for purposes of inspecting certain public pools;  
35 specifying duties of local enforcement agencies  
36 regarding modifications and repairs made to certain  
37 public pools as a result of the department's  
38 inspections; requiring the department to ensure that  
39 certain rules enforced by local enforcement agencies  
40 comply with the Florida Building Code; amending s.  
41 514.05, F.S.; specifying that the department may deny,  
42 suspend, or revoke operating permits for certain pools  
43 and bathing places if certain plans, variances, or  
44 requirements of the Florida Building Code are  
45 violated; specifying that the department may assess an  
46 administrative fine for violations by certain public  
47 pools and bathing places if certain plans, variances,  
48 or requirements of the Florida Building Code are  
49 violated; amending s. 553.721, F.S.; directing the  
50 Florida Building Code Compliance and Mitigation  
51 Program to fund, from existing resources, the  
52 recommendations made by the Building Code System  
53 Uniform Implementation Evaluation Workgroup; providing  
54 a limitation; requiring that a specified amount of  
55 funds from the surcharge be used to fund certain  
56 Florida Fire Code informal interpretations; amending  
57 s. 553.73, F.S.; authorizing local boards created to  
58 address specified issues to combine the appeals boards

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59 to create a single, local board; authorizing the  
60 appeal to a local administrative board of specified  
61 decisions made by a local fire official; specifying  
62 the decisions of the local building official and the  
63 local fire official which are subject to review;  
64 requiring the permitted installation or replacement of  
65 a water heater in a conditioned or attic space to  
66 include a water leak detection device; prohibiting the  
67 Florida Building Code from requiring more than one  
68 fire access elevator in certain buildings; amending s.  
69 553.79, F.S.; authorizing a building official to issue  
70 a permit for the construction of the foundation or any  
71 other part of a building or structure before the  
72 construction documents for the whole building or  
73 structure have been submitted; providing that the  
74 holder of such permit shall begin building at the  
75 holder's own risk with the building operation and  
76 without assurance that a permit for the entire  
77 structure will be granted; requiring local enforcing  
78 agencies to permit and inspect modifications and  
79 repairs made to certain public pools and public  
80 bathing places as a result of the department's  
81 inspections; amending s. 553.841, F.S.; authorizing  
82 the department to maintain, update, develop or cause  
83 to be developed code-related training and education;  
84 removing provisions related to the development of  
85 advanced courses with respect to the Florida Building  
86 Code Compliance and Mitigation Program and the  
87 accreditation of courses related to the Florida

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88 Building Code; amending s. 553.842, F.S.; providing  
89 that Underwriters Laboratories, LLC, is an approved  
90 evaluation entity; amending s. 553.908, F.S.;  
91 requiring local enforcement agencies to accept duct  
92 and air infiltration tests conducted in accordance  
93 with certain guidelines by specified individuals;  
94 amending s. 633.102, F.S.; revising terms; amending s.  
95 633.104, F.S.; defining a term; clarifying intent;  
96 amending s. 633.202, F.S.; requiring all new high-rise  
97 and existing high-rise buildings to maintain a minimum  
98 radio signal strength for fire department  
99 communications; providing a transitory period for  
100 compliance; requiring areas of refuge to be required  
101 as determined by the Florida Building Code-  
102 Accessibility; prohibiting dead-end corridors within  
103 an apartment from exceeding a specified footage in  
104 specified buildings; amending s. 633.216, F.S.;  
105 requiring fire prevention plan reviewers to be  
106 certified by a specified date; authorizing the State  
107 Fire Marshal to determine alternative educational and  
108 experience requirements or certifications; creating  
109 the Calder Sloan Swimming Pool Electrical-Safety Task  
110 Force within the Florida Building Commission;  
111 specifying the purpose of the task force; providing  
112 for membership; requiring members of the task force to  
113 elect the chair; requiring the Florida Building  
114 Commission to provide staff, information, and other  
115 assistance to the task force; authorizing the  
116 reimbursement of task force members for certain

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117 expenses; requiring a report to the Governor, the  
118 President of the Senate, and the Speaker of the House  
119 of Representatives by a specified date; providing for  
120 future repeal of the task force; providing an  
121 effective date.

122

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

124

125 Section 1. Subsections (2), (3), and (7) of section  
126 468.609, Florida Statutes, are amended to read:

127 468.609 Administration of this part; standards for  
128 certification; additional categories of certification.—

129 (2) A person may take the examination for certification as  
130 a building code inspector or plans examiner pursuant to this  
131 part if the person:

132 (a) Is at least 18 years of age.

133 (b) Is of good moral character.

134 (c) Meets eligibility requirements according to one of the  
135 following criteria:

136 1. Demonstrates 5 years' combined experience in the field  
137 of construction or a related field, building code inspection, or  
138 plans review corresponding to the certification category sought;

139 2. Demonstrates a combination of postsecondary education in  
140 the field of construction or a related field and experience  
141 which totals 4 years, with at least 1 year of such total being  
142 experience in construction, building code inspection, or plans  
143 review;

144 3. Demonstrates a combination of technical education in the  
145 field of construction or a related field and experience which



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146 totals 4 years, with at least 1 year of such total being  
147 experience in construction, building code inspection, or plans  
148 review;

149 4. Currently holds a standard certificate ~~as~~ issued by the  
150 board, ~~or a~~ firesafety ~~fire safety~~ inspector license issued  
151 pursuant to chapter 633, has a minimum of 3 ~~5~~ years' verifiable  
152 full-time experience in inspection or plan review, and  
153 satisfactorily completes a building code inspector or plans  
154 examiner training program that provides at least 100 hours but  
155 not more ~~of not~~ less than 200 hours of cross-training in the  
156 certification category sought. The board shall establish by rule  
157 criteria for the development and implementation of the training  
158 programs. The board shall accept all classroom training offered  
159 by an approved provider if the content substantially meets the  
160 intent of the classroom component of the training program; ~~or~~

161 5. Demonstrates a combination of the completion of an  
162 approved training program in the field of building code  
163 inspection or plan review and a minimum of 2 years' experience  
164 in the field of building code inspection, plan review, fire code  
165 inspections, and fire plans review of new buildings as a  
166 firesafety inspector certified under s. 633.216, or  
167 construction. The approved training portion of this requirement  
168 shall include proof of satisfactory completion of a training  
169 program that provides at least 200 hours but not more ~~of not~~  
170 ~~less than 300 hours~~ of cross-training which is approved by the  
171 board in the chosen category of building code inspection or plan  
172 review in the certification category sought with at least ~~not~~  
173 ~~less than~~ 20 hours but not more than 30 hours of instruction in  
174 state laws, rules, and ethics relating to professional standards

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175 of practice, duties, and responsibilities of a  
176 certificateholder. The board shall coordinate with the Building  
177 Officials Association of Florida, Inc., to establish by rule the  
178 development and implementation of the training program. However,  
179 the board shall accept all classroom training offered by an  
180 approved provider if the content substantially meets the intent  
181 of the classroom component of the training program; or

182 6. Currently holds a standard certificate issued by the  
183 board or a firesafety inspector license issued pursuant to  
184 chapter 633 and:

185 a. Has at least 5 years of verifiable full-time experience  
186 as an inspector or plans examiner in a standard certification  
187 category currently held or has a minimum of 5 years' verifiable  
188 full-time experience as a firesafety inspector licensed pursuant  
189 to chapter 633; and

190 b. Satisfactorily completes a building code inspector or  
191 plans examiner classroom training course or program that  
192 provides at least 40 but not more than 300 hours in the  
193 certification category sought, except for one-family and two-  
194 family dwelling training programs which are required to provide  
195 at least 500 but not more than 800 hours of training as  
196 prescribed by the board. The board shall establish by rule  
197 criteria for the development and implementation of classroom  
198 training courses and programs in each certification category.

199 (3) A person may take the examination for certification as  
200 a building code administrator pursuant to this part if the  
201 person:

202 (a) Is at least 18 years of age.

203 (b) Is of good moral character.

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204 (c) Meets eligibility requirements according to one of the  
205 following criteria:

206 1. Demonstrates 7 ~~10~~ years' combined experience as an  
207 architect, engineer, plans examiner, building code inspector,  
208 firesafety inspector certified under s. 633.216, registered or  
209 certified contractor, or construction superintendent, with at  
210 least 3 ~~5~~ years of such experience in supervisory positions; or

211 2. Demonstrates a combination of postsecondary education in  
212 the field of construction or related field, no more than 5 years  
213 of which may be applied, and experience as an architect,  
214 engineer, plans examiner, building code inspector, firesafety  
215 inspector certified under s. 633.216, registered or certified  
216 contractor, or construction superintendent which totals 7 ~~10~~  
217 years, with at least 3 ~~5~~ years of such total being experience in  
218 supervisory positions. In addition, the applicant must have  
219 completed training consisting of at least 20 hours but not more  
220 than 30 hours of instruction in state laws, rules, and ethics  
221 relating to professional standards of practice, duties, and  
222 responsibilities of a certificateholder.

223 (7) (a) The board shall ~~may~~ provide for the issuance of  
224 provisional certificates valid for 1 year, as specified by board  
225 rule, to any newly employed or promoted building code inspector  
226 or plans examiner who meets the eligibility requirements  
227 described in subsection (2) and any newly employed or promoted  
228 building code administrator who meets the eligibility  
229 requirements described in subsection (3). The provisional  
230 license may be renewed by the board for just cause; however, a  
231 provisional license is not valid for a period longer than 3  
232 years.

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233 (b) No building code administrator, plans examiner, or  
234 building code inspector may have a provisional certificate  
235 extended beyond the specified period by renewal or otherwise.

236 (c) The board shall ~~may~~ provide for appropriate levels of  
237 provisional certificates and may issue these certificates with  
238 such special conditions or requirements relating to the place of  
239 employment of the person holding the certificate, the  
240 supervision of such person on a consulting or advisory basis, or  
241 other matters as the board may deem necessary to protect the  
242 public safety and health.

243 (d) A newly employed or hired person may perform the duties  
244 of a plans examiner or building code inspector for 120 days if a  
245 provisional certificate application has been submitted if such  
246 person is under the direct supervision of a certified building  
247 code administrator who holds a standard certification and who  
248 has found such person qualified for a provisional certificate.  
249 Direct supervision and the determination of qualifications may  
250 also be provided by a building code administrator who holds a  
251 limited or provisional certificate in a county having a  
252 population of fewer than 75,000 and in a municipality located  
253 within such county.

254 Section 2. Paragraph (m) of subsection (3) of section  
255 489.105, Florida Statutes, is amended to read:

256 489.105 Definitions.—As used in this part:

257 (3) "Contractor" means the person who is qualified for, and  
258 is only responsible for, the project contracted for and means,  
259 except as exempted in this part, the person who, for  
260 compensation, undertakes to, submits a bid to, or does himself  
261 or herself or by others construct, repair, alter, remodel, add

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262 to, demolish, subtract from, or improve any building or  
263 structure, including related improvements to real estate, for  
264 others or for resale to others; and whose job scope is  
265 substantially similar to the job scope described in one of the  
266 paragraphs of this subsection. For the purposes of regulation  
267 under this part, the term "demolish" applies only to demolition  
268 of steel tanks more than 50 feet in height; towers more than 50  
269 feet in height; other structures more than 50 feet in height;  
270 and all buildings or residences. Contractors are subdivided into  
271 two divisions, Division I, consisting of those contractors  
272 defined in paragraphs (a)-(c), and Division II, consisting of  
273 those contractors defined in paragraphs (d)-(q):

274 (m) "Plumbing contractor" means a contractor whose services  
275 are unlimited in the plumbing trade and includes contracting  
276 business consisting of the execution of contracts requiring the  
277 experience, financial means, knowledge, and skill to install,  
278 maintain, repair, alter, extend, or, if not prohibited by law,  
279 design plumbing. A plumbing contractor may install, maintain,  
280 repair, alter, extend, or, if not prohibited by law, design the  
281 following without obtaining an additional local regulatory  
282 license, certificate, or registration: sanitary drainage or  
283 storm drainage facilities, water and sewer plants and  
284 substations, venting systems, public or private water supply  
285 systems, septic tanks, drainage and supply wells, swimming pool  
286 piping, irrigation systems, and solar heating water systems and  
287 all appurtenances, apparatus, or equipment used in connection  
288 therewith, including boilers and pressure process piping and  
289 including the installation of water, natural gas, liquefied  
290 petroleum gas and related venting, and storm and sanitary sewer

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291 lines. The scope of work of the plumbing contractor also  
292 includes the design, if not prohibited by law, and installation,  
293 maintenance, repair, alteration, or extension of air-piping,  
294 vacuum line piping, oxygen line piping, nitrous oxide piping,  
295 and all related medical gas systems; fire line standpipes and  
296 fire sprinklers if authorized by law; ink and chemical lines;  
297 fuel oil and gasoline piping and tank and pump installation,  
298 except bulk storage plants; and pneumatic control piping  
299 systems, all in a manner that complies with all plans,  
300 specifications, codes, laws, and regulations applicable. The  
301 scope of work of the plumbing contractor applies to private  
302 property and public property, including any excavation work  
303 incidental thereto, and includes the work of the specialty  
304 plumbing contractor. Such contractor shall subcontract, with a  
305 qualified contractor in the field concerned, all other work  
306 incidental to the work but which is specified as being the work  
307 of a trade other than that of a plumbing contractor. This  
308 definition does not limit the scope of work of any specialty  
309 contractor certified pursuant to s. 489.113(6) ~~7~~ and does not  
310 require certification or registration under this part for a  
311 category I liquefied petroleum gas dealer, LP gas installer, or  
312 specialty installer who is licensed under chapter 527 or an ~~of~~  
313 ~~any~~ authorized employee of a public natural gas utility or of a  
314 private natural gas utility regulated by the Public Service  
315 Commission when disconnecting and reconnecting water lines in  
316 the servicing or replacement of an existing water heater. A  
317 plumbing contractor may perform drain cleaning and clearing and  
318 install or repair rainwater catchment systems; however, a  
319 mandatory licensing requirement is not established for the

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320 performance of these specific services.

321 Section 3. Subsections (2) and (3) of section 489.1401,  
322 Florida Statutes, are amended to read:

323 489.1401 Legislative intent.—

324 (2) It is the intent of the Legislature that the sole  
325 purpose of the Florida Homeowners' Construction Recovery Fund is  
326 to compensate an ~~any~~ aggrieved claimant who contracted for the  
327 construction or improvement of the homeowner's residence located  
328 within this state and who has obtained a final judgment in a ~~any~~  
329 court of competent jurisdiction, was awarded restitution by the  
330 Construction Industry Licensing Board, or received an award in  
331 arbitration against a licensee on grounds of financial  
332 mismanagement or misconduct, abandoning a construction project,  
333 or making a false statement with respect to a project. Such  
334 grievance must arise ~~and arising~~ directly out of a ~~any~~  
335 transaction conducted when the judgment debtor was licensed and  
336 must involve an act performed ~~any of the activities~~ enumerated  
337 under s. 489.129(1)(g), (j) or (k) ~~on the homeowner's residence~~.

338 (3) It is the intent of the Legislature that Division I and  
339 Division II contractors set apart funds for the specific  
340 objective of participating in the fund.

341 Section 4. Paragraphs (d), (i), (k), and (l) of subsection  
342 (1) of section 489.1402, Florida Statutes, are amended to read:

343 489.1402 Homeowners' Construction Recovery Fund;  
344 definitions.—

345 (1) The following definitions apply to ss. 489.140-489.144:

346 (d) "Contractor" means a Division I or Division II  
347 contractor performing his or her respective services described  
348 in s. 489.105(3)(a)-(g) ~~489.105(3)(a)-(e)~~.

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349 (i) "Residence" means a single-family residence, an  
350 individual residential condominium or cooperative unit, or a  
351 residential building containing not more than two residential  
352 units in which the owner contracting for the improvement is  
353 residing or will reside 6 months or more each calendar year upon  
354 completion of the improvement.

355 (k) "Same transaction" means a contract, or a any series of  
356 contracts, between a claimant and a contractor or qualified  
357 business, when such contract or contracts involve the same  
358 property or contiguous properties and are entered into either at  
359 one time or serially.

360 (l) "Valid and current license," for the purpose of s.  
361 489.141(2)(d), means a any license issued pursuant to this part  
362 to a licensee, including a license in an active, inactive,  
363 delinquent, or suspended status.

364 Section 5. Subsections (1) and (2) of section 489.141,  
365 Florida Statutes, are amended to read:

366 489.141 Conditions for recovery; eligibility.—

367 (1) A Any claimant is eligible to seek recovery from the  
368 recovery fund after making ~~having made~~ a claim and exhausting  
369 the limits of any available bond, cash bond, surety, guarantee,  
370 warranty, letter of credit, or policy of insurance if, provided  
371 ~~that~~ each of the following conditions is satisfied:

372 (a) The claimant has received a final judgment in a court  
373 of competent jurisdiction in this state or has received an award  
374 in arbitration or the Construction Industry Licensing Board has  
375 issued a final order directing the licensee to pay restitution  
376 to the claimant. The board may waive this requirement if:

377 1. The claimant is unable to secure a final judgment



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378 against the licensee due to the death of the licensee; or

379 2. The claimant has sought to have assets involving the  
380 transaction that gave rise to the claim removed from the  
381 bankruptcy proceedings so that the matter might be heard in a  
382 court of competent jurisdiction in this state and, after due  
383 diligence, the claimant is precluded by action of the bankruptcy  
384 court from securing a final judgment against the licensee.

385 (b) The judgment, award, or restitution is based upon a  
386 violation of s. 489.129(1)(g), (j), or (k) or s. 713.35.

387 (c) The violation was committed by a licensee.

388 (d) The judgment, award, or restitution order specifies the  
389 actual damages suffered as a consequence of such violation.

390 (e) The contract was executed and the violation occurred on  
391 or after July 1, 1993, and provided that:

392 1. The claimant has caused to be issued a writ of execution  
393 upon such judgment, and the officer executing the writ has made  
394 a return showing that no personal or real property of the  
395 judgment debtor or licensee liable to be levied upon in  
396 satisfaction of the judgment can be found or that the amount  
397 realized on the sale of the judgment debtor's or licensee's  
398 property pursuant to such execution was insufficient to satisfy  
399 the judgment;

400 2. If the claimant is unable to comply with subparagraph 1.  
401 for a valid reason to be determined by the board, the claimant  
402 has made all reasonable searches and inquiries to ascertain  
403 whether the judgment debtor or licensee is possessed of real or  
404 personal property or other assets subject to being sold or  
405 applied in satisfaction of the judgment and by his or her search  
406 has discovered no property or assets or has discovered property

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407 and assets and has taken all necessary action and proceedings  
408 for the application thereof to the judgment but the amount  
409 thereby realized was insufficient to satisfy the judgment; and

410 3. The claimant has made a diligent attempt, as defined by  
411 board rule, to collect the restitution awarded by the board.

412 (f) A claim for recovery is made within 1 year after the  
413 conclusion of any civil, criminal, or administrative action or  
414 award in arbitration based on the act. This paragraph applies to  
415 any claim filed with the board after October 1, 1998.

416 (g) Any amounts recovered by the claimant from the judgment  
417 debtor or licensee, or from any other source, have been applied  
418 to the damages awarded by the court or the amount of restitution  
419 ordered by the board.

420 (h) The claimant is not a person who is precluded by this  
421 act from making a claim for recovery.

422 (2) A claimant is not qualified to make a claim for  
423 recovery from the recovery fund<sup>7</sup> if:

424 (a) The claimant is the spouse of the judgment debtor or  
425 licensee or a personal representative of such spouse;

426 (b) The claimant is a licensee who acted as the contractor  
427 in the transaction that ~~which~~ is the subject of the claim;

428 (c) The claim is based upon a construction contract in  
429 which the licensee was acting with respect to the property owned  
430 or controlled by the licensee;

431 (d) The claim is based upon a construction contract in  
432 which the contractor did not hold a valid and current license at  
433 the time of the construction contract;

434 (e) The claimant was associated in a business relationship  
435 with the licensee other than the contract at issue; or

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436 ~~(f) The claimant has suffered damages as the result of~~  
 437 ~~making improper payments to a contractor as defined in part I of~~  
 438 ~~chapter 713; or~~

439 (f)(g) The claimant has entered into a contract ~~contracted~~  
 440 with a licensee to perform a scope of work described in s.  
 441 489.105(3)(d)-(g) before July 1, 2015 ~~489.105(3)(d)-(p).~~

442 Section 6. Subsection (1) of section 489.1425, Florida  
 443 Statutes, is amended to read:

444 489.1425 Duty of contractor to notify residential property  
 445 owner of recovery fund.—

446 (1) Each ~~Any~~ agreement or contract for repair, restoration,  
 447 improvement, or construction to residential real property must  
 448 contain a written statement explaining the consumer's rights  
 449 under the recovery fund, except where the value of all labor and  
 450 materials does not exceed \$2,500. The written statement must be  
 451 substantially in the following form:

452  
 453 FLORIDA HOMEOWNERS' CONSTRUCTION  
 454 RECOVERY FUND

455  
 456 PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE  
 457 FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY  
 458 ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS  
 459 FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED  
 460 CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A  
 461 CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD  
 462 AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

463  
 464 The statement must ~~shall~~ be immediately followed by the board's

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465 address and telephone number as established by board rule.

466 Section 7. Section 489.143, Florida Statutes, is amended to  
467 read:

468 489.143 Payment from the fund.—

469 (1) The fund shall be disbursed as provided in s. 489.141  
470 on a final order of the board.

471 (2) A ~~Any~~ claimant who meets all of the conditions  
472 prescribed in s. 489.141 may apply to the board to cause payment  
473 to be made to a claimant from the recovery fund in an amount  
474 equal to the judgment, award, or restitution order or \$25,000,  
475 whichever is less, or an amount equal to the unsatisfied portion  
476 of such person's judgment, award, or restitution order, but only  
477 to the extent and amount of actual damages suffered by the  
478 claimant, and only up to the maximum payment allowed for each  
479 respective Division I and Division II claim. Payment from the  
480 fund for other costs related to or pursuant to civil proceedings  
481 such as postjudgment interest, attorney ~~attorney's~~ fees, court  
482 costs, medical damages, and punitive damages is prohibited. The  
483 recovery fund is not obligated to pay a ~~any~~ judgment, an award,  
484 or a restitution order, or any portion thereof, which is not  
485 expressly based on one of the grounds for recovery set forth in  
486 s. 489.141.

487 (3) Beginning January 1, 2005, for each Division I contract  
488 entered into after July 1, 2004, payment from the recovery fund  
489 shall be subject to a \$50,000 maximum payment for each Division  
490 I claim. Beginning January 1, 2016, for each Division II  
491 contract entered into on or after July 1, 2015, payment from the  
492 recovery fund shall be subject to a \$15,000 maximum payment for  
493 each Division II claim.

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494        (4)~~(3)~~ Upon receipt by a claimant under subsection (2) of  
495 payment from the recovery fund, the claimant shall assign his or  
496 her additional right, title, and interest in the judgment,  
497 award, or restitution order, to the extent of such payment, to  
498 the board, and thereupon the board shall be subrogated to the  
499 right, title, and interest of the claimant; and any amount  
500 subsequently recovered on the judgment, award, or restitution  
501 order, to the extent of the right, title, and interest of the  
502 board therein, shall be for the purpose of reimbursing the  
503 recovery fund.

504        (5)~~(4)~~ Payments for claims arising out of the same  
505 transaction shall be limited, in the aggregate, to the lesser of  
506 the judgment, award, or restitution order or the maximum payment  
507 allowed for a Division I or Division II claim, regardless of the  
508 number of claimants involved in the transaction.

509        (6)~~(5)~~ For contracts entered into before July 1, 2004,  
510 payments for claims against any one licensee may ~~shall~~ not  
511 exceed, in the aggregate, \$100,000 annually, up to a total  
512 aggregate of \$250,000. For any claim approved by the board which  
513 is in excess of the annual cap, the amount in excess of \$100,000  
514 up to the total aggregate cap of \$250,000 is eligible for  
515 payment in the next and succeeding fiscal years, but only after  
516 all claims for the then-current calendar year have been paid.  
517 Payments may not exceed the aggregate annual or per claimant  
518 limits under law. Beginning January 1, 2005, for each Division I  
519 contract entered into after July 1, 2004, payment from the  
520 recovery fund is subject only to a total aggregate cap of  
521 \$500,000 for each Division I licensee. Beginning January 1,  
522 2016, for each Division II contract entered into on or after

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523 July 1, 2015, payment from the recovery fund is subject only to  
524 a total aggregate cap of \$150,000 for each Division II licensee.

525 (7)(6) Claims shall be paid in the order filed, up to the  
526 aggregate limits for each transaction and licensee and to the  
527 limits of the amount appropriated to pay claims against the fund  
528 ~~for the fiscal year in which the claims were filed.~~ Payments may  
529 not exceed the total aggregate cap per license or per claimant  
530 limits under this section.

531 (8)(7) If the annual appropriation is exhausted with claims  
532 pending, such claims shall be carried forward to the next fiscal  
533 year. Any moneys in excess of pending claims remaining in the  
534 recovery fund at the end of the fiscal year shall be paid as  
535 provided in s. 468.631.

536 (9)(8) Upon the payment of any amount from the recovery  
537 fund in settlement of a claim in satisfaction of a judgment,  
538 award, or restitution order against a licensee as described in  
539 s. 489.141, the license of such licensee shall be automatically  
540 suspended, without further administrative action, upon the date  
541 of payment from the fund. The license of such licensee ~~may shall~~  
542 not be reinstated until he or she has repaid in full, plus  
543 interest, the amount paid from the fund. A discharge of  
544 bankruptcy does not relieve a person from the penalties and  
545 disabilities provided in this section.

546 (10)(9) A ~~Any~~ firm, a corporation, a partnership, or an  
547 association, or a ~~any~~ person acting in his or her individual  
548 capacity, who aids, abets, solicits, or conspires with another  
549 ~~any~~ person to knowingly present or cause to be presented a ~~any~~  
550 false or fraudulent claim for the payment of a loss under this  
551 act commits ~~is guilty of~~ a third-degree felony, punishable as

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552 provided in s. 775.082 or s. 775.084 and by a fine of up to not  
553 ~~exceeding~~ \$30,000, unless the value of the fraud exceeds that  
554 amount, \$30,000 in which event the fine may not exceed double  
555 the value of the fraud.

556 ~~(11)(10)~~ Each payment ~~All payments~~ and disbursement  
557 ~~disbursements~~ from the recovery fund shall be made by the Chief  
558 Financial Officer upon a voucher signed by the secretary of the  
559 department or the secretary's designee.

560 Section 8. Subsection (24) is added to section 489.503,  
561 Florida Statutes, to read:

562 489.503 Exemptions.—This part does not apply to:

563 (24) A person who installs low-voltage landscape lighting  
564 that contains a factory-installed electrical cord with plug and  
565 does not require installation, wiring, or modification to the  
566 electrical wiring of a structure.

567 Section 9. Subsections (2) through (5) of section 514.031,  
568 Florida Statutes, are renumbered as subsections (3) through (6),  
569 respectively, and a new subsection (2) is added to that section  
570 to read:

571 514.031 Permit necessary to operate public swimming pool.—

572 (2) The department shall ensure through inspections that a  
573 public swimming pool with an operating permit continues to be  
574 operated and maintained in compliance with rules adopted under  
575 this section, the original approved plans and specifications or  
576 variances, and the Florida Building Code adopted under chapter  
577 553 applicable to public pools or public bathing places. The  
578 department may adopt and enforce rules to implement this  
579 subsection, including provisions for closing those pools and  
580 bathing places not in compliance. For purposes of this

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581 subsection, the department's jurisdiction includes the pool, the  
582 pool deck, the barrier as defined in s. 515.25, and the bathroom  
583 facilities for pool patrons. The local enforcement agency shall  
584 permit and inspect repairs or modifications required as a result  
585 of the department's inspections and may take enforcement action  
586 to ensure compliance. The department shall ensure that the rules  
587 enforced by the local enforcement agency under this subsection  
588 are not inconsistent with the Florida Building Code adopted  
589 under chapter 553.

590 Section 10. Subsections (1), (2), and (5) of section  
591 514.05, Florida Statutes, are amended to read:

592 514.05 Denial, suspension, or revocation of permit;  
593 administrative fines.—

594 (1) The department may deny an application for an a  
595 operating permit, suspend or revoke a permit issued to any  
596 person or public body, or impose an administrative fine upon the  
597 failure of such person or public body to comply with the  
598 provisions of this chapter, the original approved plans and  
599 specifications or variances, the Florida Building Code adopted  
600 under chapter 553 applicable to public pools or public bathing  
601 places, or the rules adopted hereunder.

602 (2) The department may impose an administrative fine, which  
603 shall not exceed \$500 for each violation, for the violation of  
604 this chapter, the original approved plans and specifications or  
605 variances, the Florida Building Code adopted under chapter 553  
606 applicable to public pools or public bathing places, or the  
607 rules adopted hereunder and for the violation of ~~any of the~~  
608 ~~provisions of~~ chapter 386. Notice of intent to impose such fine  
609 shall be given by the department to the alleged violator. Each



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610 day that a violation continues may constitute a separate  
611 violation.

612 (5) Under conditions specified by rule, the department may  
613 close a public pool that is not in compliance with this chapter,  
614 the original approved plans and specifications or variances, the  
615 Florida Building Code adopted under chapter 553 applicable to  
616 public pools or public bathing places, or the rules adopted  
617 under this chapter.

618 Section 11. Section 553.721, Florida Statutes, is amended  
619 to read:

620 553.721 Surcharge.—In order for the Department of Business  
621 and Professional Regulation to administer and carry out the  
622 purposes of this part and related activities, there is created a  
623 surcharge, to be assessed at the rate of 1.5 percent of the  
624 permit fees associated with enforcement of the Florida Building  
625 Code as defined by the uniform account criteria and specifically  
626 the uniform account code for building permits adopted for local  
627 government financial reporting pursuant to s. 218.32. The  
628 minimum amount collected on any permit issued shall be \$2. The  
629 unit of government responsible for collecting a permit fee  
630 pursuant to s. 125.56(4) or s. 166.201 shall collect the  
631 surcharge and electronically remit the funds collected to the  
632 department on a quarterly calendar basis for the preceding  
633 quarter and continuing each third month thereafter. The unit of  
634 government shall retain 10 percent of the surcharge collected to  
635 fund the participation of building departments in the national  
636 and state building code adoption processes and to provide  
637 education related to enforcement of the Florida Building Code.  
638 All funds remitted to the department pursuant to this section

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639 shall be deposited in the Professional Regulation Trust Fund.  
640 Funds collected from the surcharge shall be allocated to fund  
641 the Florida Building Commission and the Florida Building Code  
642 Compliance and Mitigation Program under s. 553.841. Funds  
643 allocated to the Florida Building Code Compliance and Mitigation  
644 Program shall be \$925,000 each fiscal year. The Florida Building  
645 Code Compliance and Mitigation Program shall fund the  
646 recommendations made by the Building Code System Uniform  
647 Implementation Evaluation Workgroup, dated April 8, 2013, from  
648 existing resources, not to exceed \$30,000 in the 2015-2016  
649 fiscal year. Funds collected from the surcharge shall also be  
650 used to fund Florida Fire Code informal interpretations managed  
651 by the State Fire Marshal and shall be limited to \$15,000 each  
652 fiscal year. The funds collected from the surcharge may not be  
653 used to fund research on techniques for mitigation of radon in  
654 existing buildings. Funds used by the department as well as  
655 funds to be transferred to the Department of Health and the  
656 State Fire Marshal shall be as prescribed in the annual General  
657 Appropriations Act. The department shall adopt rules governing  
658 the collection and remittance of surcharges pursuant to chapter  
659 120.

660 Section 12. Subsection (11) of section 553.73, Florida  
661 Statutes is amended, and subsections (19) and (20) are added to  
662 that to read:

663 553.73 Florida Building Code.—

664 (11) (a) In the event of a conflict between the Florida  
665 Building Code and the Florida Fire Prevention Code and the Life  
666 Safety Code as applied to a specific project, the conflict shall  
667 be resolved by agreement between the local building code

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668 enforcement official and the local fire code enforcement  
669 official in favor of the requirement of the code which offers  
670 the greatest degree of lifesafety or alternatives which would  
671 provide an equivalent degree of lifesafety and an equivalent  
672 method of construction. Local boards created to address issues  
673 arising under the Florida Building Code and the Florida Fire  
674 Prevention Code may combine the appeals boards to create a  
675 single, local board having jurisdiction over matters arising  
676 under either or both codes.

677 (b) Any decision made by the local fire official regarding  
678 application, interpretation, or enforcement of the Florida Fire  
679 Prevention Code or ~~and~~ the local building official regarding  
680 application, interpretation, or enforcement of the Florida  
681 Building Code, or the appropriate application of either or both  
682 codes in the case of a conflict between the codes, may be  
683 appealed to a local administrative board designated by the  
684 municipality, county, or special district having firesafety  
685 responsibilities. If the decision of the local fire official and  
686 the local building official is to apply the provisions of either  
687 the Florida Building Code or the Florida Fire Prevention Code  
688 and the Life Safety Code, the board may not alter the decision  
689 unless the board determines that the application of such code is  
690 not reasonable. If the decision of the local fire official and  
691 the local building official is to adopt an alternative to the  
692 codes, the local administrative board shall give due regard to  
693 the decision rendered by the local officials and may modify that  
694 decision if the administrative board adopts a better  
695 alternative, taking into consideration all relevant  
696 circumstances. In any case in which the local administrative

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697 board adopts alternatives to the decision rendered by the local  
698 fire official and the local building official, such alternatives  
699 shall provide an equivalent degree of lifesafety and an  
700 equivalent method of construction as the decision rendered by  
701 the local officials.

702 (c) If the local building official and the local fire  
703 official are unable to agree on a resolution of the conflict  
704 between the Florida Building Code and the Florida Fire  
705 Prevention Code and the Life Safety Code, the local  
706 administrative board shall resolve the conflict in favor of the  
707 code which offers the greatest degree of lifesafety or  
708 alternatives which would provide an equivalent degree of  
709 lifesafety and an equivalent method of construction.

710 (d) All decisions of the local administrative board, or if  
711 none exists, the decisions of the local building official and  
712 the local fire official in regard to the application,  
713 enforcement, or interpretation of the Florida Fire Prevention  
714 Code, or conflicts between the Florida Fire Prevention Code and  
715 the Florida Building Code, are subject to review by a joint  
716 committee composed of members of the Florida Building Commission  
717 and the Fire Code Advisory Council. If the joint committee is  
718 unable to resolve conflicts between the codes as applied to a  
719 specific project, the matter shall be resolved pursuant to the  
720 provisions of paragraph (1) (d). Decisions of the local  
721 administrative board solely in regard to the provisions of the  
722 Florida Building Code are subject to review as set forth in s.  
723 553.775.

724 (e) The local administrative board shall, to the greatest  
725 extent possible, be composed of members with expertise in

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726 building construction and firesafety standards.

727 (f) All decisions of the local building official and local  
728 fire official and all decisions of the administrative board  
729 shall be in writing and shall be binding upon a person but do  
730 not limit the authority of the State Fire Marshal or the Florida  
731 Building Commission pursuant to paragraph (1) (d) and ss. 633.104  
732 and 633.228. Decisions of general application shall be indexed  
733 by building and fire code sections and shall be available for  
734 inspection during normal business hours.

735 (19) In other than one- and two-family detached single-  
736 family dwellings, a local enforcing agency that requires a  
737 permit to install or replace a hot water heater shall require  
738 that a hard-wired or battery-operated water-level detection  
739 device be secured to the drain pan area at a level lower than  
740 the drain connection upon installation or replacement of the hot  
741 water heater. The device must include an audible alarm and, if  
742 battery-operated, must have a 10-year low-battery notification  
743 capability.

744 (20) The Florida Building Code may not require more than  
745 one fire access elevator in buildings that are Occupancy Group  
746 R-2.

747 Section 13. Subsections (6) and (11) of section 553.79,  
748 Florida Statutes, are amended to read:

749 553.79 Permits; applications; issuance; inspections.-

750 (6) A permit may not be issued for any building  
751 construction, erection, alteration, modification, repair, or  
752 addition unless the applicant for such permit complies with the  
753 requirements for plan review established by the Florida Building  
754 Commission within the Florida Building Code. However, the code

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755 shall set standards and criteria to authorize preliminary  
756 construction before completion of all building plans review,  
757 including, but not limited to, special permits for the  
758 foundation only, and such standards shall take effect concurrent  
759 with the first effective date of the Florida Building Code.  
760 After submittal of the appropriate construction documents, the  
761 building official is authorized to issue a permit for the  
762 construction of foundations or any other part of a building or  
763 structure before the construction documents for the whole  
764 building or structure have been submitted. No other agency  
765 review or approval may be required before the issuance of a  
766 phased permit due to the fact that the project will need all the  
767 necessary outside agencies' reviews and approvals before the  
768 issuance of a master building permit. The holder of such permit  
769 for the foundation or other parts of a building or structure  
770 shall proceed at the holder's own risk with the building  
771 operation and without assurance that a permit for the entire  
772 structure will be granted. Corrections may be required to meet  
773 the requirements of the technical codes.

774 (11) (a) The local enforcing agency may not issue a building  
775 permit to construct, develop, or modify a public swimming pool  
776 without proof of application, whether complete or incomplete,  
777 for an operating permit pursuant to s. 514.031. A certificate of  
778 completion or occupancy may not be issued until such operating  
779 permit is issued. The local enforcing agency shall conduct its  
780 review of the building permit application upon filing and in  
781 accordance with this chapter. The local enforcing agency may  
782 confer with the Department of Health, if necessary, but may not  
783 delay the building permit application review while awaiting

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784 comment from the Department of Health.

785 (b) If the department determines under s. 514.031(2) that a  
786 public pool or a public bathing place is not being operated or  
787 maintained in compliance with department's rules, the original  
788 approved plans and specifications or variances, and the Florida  
789 Building Code, the local enforcing agency shall permit and  
790 inspect the repairs or modifications required as a result of the  
791 department's inspections and may take enforcement action to  
792 ensure compliance.

793 Section 14. Subsections (4) and (7) of section 553.841,  
794 Florida Statutes, are amended, to read:

795 553.841 Building code compliance and mitigation program.—

796 (4) In administering the Florida Building Code Compliance  
797 and Mitigation Program, the department may ~~shall~~ maintain,  
798 update, develop, or cause to be developed code-related training  
799 and education ~~advanced modules designed~~ for use by each  
800 profession.

801 ~~(7) The Florida Building Commission shall provide by rule~~  
802 ~~for the accreditation of courses related to the Florida Building~~  
803 ~~Code by accreditors approved by the commission. The commission~~  
804 ~~shall establish qualifications of accreditors and criteria for~~  
805 ~~the accreditation of courses by rule. The commission may revoke~~  
806 ~~the accreditation of a course by an accreditor if the~~  
807 ~~accreditation is demonstrated to violate this part or the rules~~  
808 ~~of the commission.~~

809 Section 15. Paragraph (a) of subsection (8) of section  
810 553.842, Florida Statutes, is amended to read:

811 553.842 Product evaluation and approval.—

812 (8) The commission may adopt rules to approve the following

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813 types of entities that produce information on which product  
814 approvals are based. All of the following entities, including  
815 engineers and architects, must comply with a nationally  
816 recognized standard demonstrating independence or no conflict of  
817 interest:

818 (a) Evaluation entities approved pursuant to this  
819 paragraph. The commission shall specifically approve the  
820 National Evaluation Service, the International Association of  
821 Plumbing and Mechanical Officials Evaluation Service, the  
822 International Code Council Evaluation Services, Underwriters  
823 Laboratories, LLC, and the Miami-Dade County Building Code  
824 Compliance Office Product Control Division. Architects and  
825 engineers licensed in this state are also approved to conduct  
826 product evaluations as provided in subsection (5).

827 Section 16. Section 553.908, Florida Statutes, is amended  
828 to read:

829 553.908 Inspection.—Before construction or renovation is  
830 completed, the local enforcement agency shall inspect buildings  
831 for compliance with the standards of this part. The local  
832 enforcement agency shall accept duct and air infiltration tests  
833 conducted in accordance with the Florida Building Code-Energy  
834 Conservation by individuals certified in accordance with s.  
835 553.993(5) or (7) or individuals licensed under s.  
836 489.105(3)(f), (g), or (i). The local enforcement agency may  
837 accept inspections in whole or in part by individuals certified  
838 in accordance with s. 553.993(5) or (7) or by individuals  
839 certified as energy inspectors by the International Code  
840 Council, provided that the inspection complies with the Florida  
841 Building Code-Energy Conservation.



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842 Section 17. Present subsections (2) through (35) of section  
843 633.102, Florida Statutes, are redesignated as subsections (3)  
844 through (36), a new subsection (2) is added to that section and  
845 present subsection (34) is amended, to read:

846 633.102 Definitions.—As used in this chapter, the term:

847 (2) "Change of occupancy" means a change in the purpose of  
848 level of activity within a building which involves a change in  
849 application of the requirements of the Florida Fire Prevention  
850 Code.

851 ~~(34) "Use" means application, employment; that enjoyment of~~  
852 ~~property which consists of its employment, occupation, exercise,~~  
853 ~~or practice.~~

854 Section 18. Subsection (6) of section 633.104, Florida  
855 Statutes, is amended to read:

856 633.104 State Fire Marshal; authority; duties; rules.—

857 (6) Only the State Fire Marshal may issue, and, when  
858 requested in writing by any substantially affected person or a  
859 local enforcing agency, the State Fire Marshal shall issue  
860 declaratory statements pursuant to s. 120.565 relating to the  
861 Florida Fire Prevention Code. For the purposes of this section,  
862 the term "substantially affected person" means a person who,  
863 will be, or may be affected by the application of the Florida  
864 Fire Prevention Code to a property or building that the person  
865 owns, controls, or is, or is considering purchasing, selling,  
866 designing, constructing, or altering. A petition for declaratory  
867 statement is not intended to be an appeal of a decision of a  
868 local fire official or an appeal of a local board reviewing a  
869 decision of a local fire official.

870 Section 19. Subsections (17), (18), and (19) are added to

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871 section 633.202, Florida Statutes, to read:

872 633.202 Florida Fire Prevention Code.—

873 (17) In all new high-rise and existing high-rise buildings,  
874 minimum radio signal strength for fire department communications  
875 shall be maintained at a level determined by the authority  
876 having jurisdiction. Existing buildings may not be required to  
877 comply with minimum radio strength for fire department  
878 communications and two-way radio system enhancement  
879 communications as required by the Florida Fire Prevention Code  
880 until January 1, 2022. Existing apartment buildings may not be  
881 required to comply until January 1, 2025.

882 (18) Areas of refuge shall be provided when required by the  
883 Florida Building Code-Accessibility. Required portions of an  
884 area of refuge shall be accessible from the space they serve by  
885 an accessible means of egress.

886 (19) Dead-end corridors within an apartment may not exceed  
887 50-feet in buildings protected throughout by an approved  
888 automatic supervised sprinkler system.

889 Section 20. Subsection (10) is added to section 633.216,  
890 Florida Statutes, to read:

891 633.216 Inspection of buildings and equipment; orders;  
892 firesafety inspection training requirements; certification;  
893 disciplinary action.—The State Fire Marshal and her or his  
894 agents or persons authorized to enforce laws and rules of the  
895 State Fire Marshal shall, at any reasonable hour, when the State  
896 Fire Marshal has reasonable cause to believe that a violation of  
897 this chapter or s. 509.215, or a rule adopted thereunder, or a  
898 minimum firesafety code adopted by the State Fire Marshal or a  
899 local authority, may exist, inspect any and all buildings and

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900 structures which are subject to the requirements of this chapter  
901 or s. 509.215 and rules adopted thereunder. The authority to  
902 inspect shall extend to all equipment, vehicles, and chemicals  
903 which are located on or within the premises of any such building  
904 or structure.

905 (10) In addition to any other requirements that may be  
906 imposed by this state, fire prevention plan reviewers shall,  
907 after 12 months from the effective date of this statute, be  
908 certified, at a minimum, as a Fire Inspector I by the State Fire  
909 Marshal. The State Fire Marshal may, by rule, determine  
910 alternative educational and experience requirements, or  
911 certifications, as equivalent.

912 Section 21. Calder Sloan Swimming Pool Electrical-Safety  
913 Task Force.—There is established within the Florida Building  
914 Commission a Calder Sloan Swimming Pool Electrical-Safety Task  
915 Force, which is a task force as defined in s. 20.03, Florida  
916 Statutes.

917 (1) The primary purpose of the task force is to study and  
918 report to the Governor, the President of the Senate, and the  
919 Speaker of the House of Representatives on recommended revisions  
920 to the Florida Statutes concerning standards pertaining to  
921 grounding, bonding, lighting, wiring, and all electrical aspects  
922 for safety in and around public and private swimming pools. The  
923 task force report is due by October 1, 2015.

924 (2) The task force shall consist of 10 members, including  
925 the chair of the Florida Building Commission or her or his  
926 designee, the State Surgeon General or her or his designee, and  
927 8 members who are appointed by the chair of the Florida Building  
928 Commission. Each appointed member must be or represent one of

588-02725-15

20151232c1

929 the following:

930 (a) An electrical contractor certified to do business in  
931 this state and actively engaged in the profession, who has  
932 experience with swimming pools.

933 (b) A general contractor certified to do business in this  
934 state and actively engaged in the profession, who has experience  
935 with swimming pools.

936 (c) A swimming pool contractor licensed to do business in  
937 this state and actively engaged in the profession.

938 (d) An electric utility provider doing business in this  
939 state.

940 (e) A county building code inspector.

941 (f) A licensed real estate broker.

942 (g) An owner of a public swimming pool as defined in s.  
943 514.011, Florida Statutes.

944 (h) An owner of a private swimming pool as defined in s.  
945 514.011, Florida Statutes.

946 (3) The members of the task force shall elect the chair.

947 (4) The Florida Building Commission shall provide such  
948 staff, information, and other assistance as is reasonably  
949 necessary to assist the task force in carrying out its  
950 responsibilities.

951 (5) Members of the task force shall serve without  
952 compensation, but may receive reimbursement as provided in s.  
953 112.061, Florida Statutes, for travel and other necessary  
954 expenses incurred in the performance of their official duties.

955 (6) The task force shall meet as often as necessary to  
956 fulfill its responsibilities and meetings may be conducted by  
957 conference call, teleconferencing, or similar technology.

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958        (7) This section expires December 31, 2015.

959        Section 22. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/7/15

Meeting Date

1232

Bill Number (if applicable)

Topic Building Code

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Legislative Counsel

Address P.O. Box 10038

Phone 850 222-0000

Street

Tallahassee FL 32302

Email rick@rwatsonandassociates.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against

(The Chair will read this information into the record.)

Representing Associated Builders and Contractors of FL

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

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4/7/15  
Meeting Date

SB 1232  
Bill Number (if applicable)

Topic Bldg. Code

Amendment Barcode (if applicable)

Name Bruce Kerchner

Job Title

Address 231 West Bay Ave.

Phone 407-830-1882

Longwood FL 32750  
City State Zip

Email RBKerchner@att.net

Speaking:  For  Against  Information

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

Representing United Pool & Spa Assn.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/7/15

Meeting Date

SB 1232

Bill Number (if applicable)

Topic Bid Code Bill

Amendment Barcode (if applicable)

Name Jennifer Hatfield

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

Address 729 Ocean Tuleet Dr.  
Street

Phone 941-345-3263

Bayton Beach FL 33435  
City State Zip

Email jene@hatfieldandassociates.com

Speaking:  For  Against  Information

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

Representing FL Swimming Pool Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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4.7.15

Meeting Date

SB 1232

Bill Number (if applicable)

Topic Building code and fire code

Amendment Barcode (if applicable)

Name Robert Finie

Job Title

Address 333 SE 2nd AVE

Phone 305-579-0826

Street

Miami, FL 33134

City

State

Zip

Email finier@gtlaw.com

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

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

Representing FLA Homebuilders - tech assist

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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4-7-15

Meeting Date

1232

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Dale Calhoun

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

Address PO Box 11026

Street

Phone 850 681 0496

Tallahassee FL 32302

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Propane Gas Association

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)

4/7/15  
Meeting Date

1232  
Bill Number (if applicable)

Topic Waive in support of ~~strike-all~~

Amendment Barcode (if applicable)

Name Courtney Barnard

Job Title Director of Gov. Affairs

Address 875 Concourse Pkwy S. Ste 145  
Street

Phone 407-284-8538

MAITLAND FL 32751  
City State Zip

Email courtney@fanhq.org

Speaking:  For  Against  Information

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

Representing FL Apartment Assn.

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)

4-7-15

Meeting Date

1232

Bill Number (if applicable)

183756

Amendment Barcode (if applicable)

Topic Building Codes

Name Jonathan Kanzigg

Job Title Fire Chief

Address 2563 Holley Place  
Street

Phone (850) 232-5351

Gulf Breeze Fl. 32563  
City State Zip

Email jonathan.kanzigg@Midwayfire.com

Speaking:  For  Against  Information

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

Representing Florida Fire Chiefs

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/17/15

Meeting Date

1232

Bill Number (if applicable)

183756

Amendment Barcode (if applicable)

Topic BUILDING CONES

Name JON PASQUALONE

Job Title EXECUTIVE DIRECTOR

Address PO BOX 325

Street

Phone 572-992-1555

HOPE SOUND FL 33475

City

State

Zip

Email jon.pasqualone@fflida.org

Speaking:  For  Against  Information

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

Representing FL FIRE MARSHALS & INSPECTORS ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

4-7-15  
Meeting Date

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

CS/1232  
Bill Number (if applicable)

Topic BUILDING CODES - APARTMENT MAINTENANCE EXEMPTION 183756  
Amendment Barcode (if applicable)

Name CAM FENTRISS

Job Title LOBBYIST

Address 1400 VILLAGE SQUARE #3243 Phone 850-222-2772  
Street

TALL FL 32312 Email AFENTRISS@AOL.COM  
City State Zip

Speaking:  For  Against  Information

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

Representing FLORIDA REFRIGERATION & A/C CONTRACTORS  
~~FLORIDA ASSN PLUMBING, HEATING COOLING CONTRACTORS~~

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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4-9-15

Meeting Date

SB 1232

Bill Number (if applicable)

STRIKE-ALL

Amendment Barcode (if applicable)

Topic FLORIDA BUILDING CODE

Name KARI HEBRAK

Job Title

Address 113 EAST COLLEGE AVE

Street

Phone 850-566-7824

TALLAHASSEE FL 32301

City

State

Zip

Email khebrak@wilsonmgmt.com

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

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

Representing FLORIDA HOME BUILDERS

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

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/7/15

Meeting Date

1232

Bill Number (if applicable)

183756

Amendment Barcode (if applicable)

Topic Building Code

Name Kelly Mardette

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

Address 104 W. Jefferson Street  
Street

Phone (850) 224-3427

Tallahassee, FL 32301  
City State Zip

Email kelly@rlbodypa.com

Speaking:  For  Against  Information

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

Representing Florida Apartment Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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# CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 4/7/2015 1:33:47 PM

Ends: 4/7/2015 2:25:18 PM Length: 00:51:32

1:33:55 PM Call to order  
1:34:58 PM Tab 2 SB 54 Senator Montford  
1:36:00 PM Roll call on SB 54  
1:36:12 PM Bill reported favorably  
1:36:24 PM Tab 5 SB 414 Senator Altman  
1:37:34 PM Samantha Tapia  
1:37:44 PM Cesar Silva  
1:39:01 PM Helen Pferdehirt, Guardian Angels Medical Service Dogs  
1:39:34 PM Senator Brandes  
1:41:28 PM Mr. Silva  
1:42:33 PM Sylvia Smith, Disability Rights Florida  
1:43:44 PM Senator Brandes  
1:44:30 PM Margaret Hooper, Florida Development Disabilities Council  
1:44:57 PM Roll call on SB 414  
1:45:11 PM Bill reported favorably  
1:45:30 PM Tab 1 SB 510 Senator Garcia  
1:46:16 PM Senator Bradley  
1:48:00 PM Ernie Barnett, Miami-Dade Limerock Products Association  
1:48:14 PM Lester Sola, Miami-Dade Water and Sewer  
1:48:38 PM Senator Diaz de la Portilla  
1:48:56 PM Mr. Sola  
1:52:02 PM Senator Diaz de la Portilla  
1:52:21 PM Douglas Yoder, Miami-Dade Water and Sewer  
1:53:54 PM Senator Diaz de la Portilla  
1:55:16 PM Senator Bradley  
1:55:26 PM Mr. Yoder  
1:56:54 PM Mr. Sola  
1:57:57 PM Senator Bradley  
1:59:12 PM Senator Dean  
1:59:19 PM Senator Garcia  
2:01:22 PM Roll call on SB 510  
2:01:36 PM Bill reported favorably  
2:01:59 PM Tab 4 SB 1520 Senator Soto  
2:02:13 PM Amendment Barcode 273622  
2:04:08 PM Amendment to the amendment Barcode 590028  
2:04:11 PM Senator Brandes  
2:04:44 PM Amendment to the amendment adopted  
2:05:21 PM Corey Mathews, Florida Association of Housing and Redevelopment Officials  
2:05:41 PM Megan Sirjane-Samples, Florida League of Cities  
2:05:45 PM Amendment adopted  
2:06:04 PM Senator Soto close  
2:06:20 PM Roll call on SB 1520  
2:06:32 PM Bill reported favorably  
2:06:46 PM Senator Dean motion  
2:07:15 PM Tab 6 SB 1010 Senator Braynon  
2:07:23 PM Oneca Lowery, Senator Braynon LA  
2:07:47 PM Senator Brandes  
2:08:31 PM Rocco Salvatori, Florida Professional Firefighters  
2:08:38 PM Greg Pound  
2:10:03 PM Roll call on SB 1010  
2:10:17 PM Bill reported favorably  
2:10:38 PM Tab 3 SB 788 Senator Sobel

**2:10:46 PM** Alexa Rollins, Senator Sobel staff  
**2:12:37 PM** Ms. Rollins close  
**2:12:43 PM** Roll call on SB 788  
**2:12:55 PM** Bill reported favorably  
**2:13:12 PM** Tab 7 SB 244 Senator Dean  
**2:13:53 PM** Amendment Barcode 747674  
**2:14:20 PM** Amendment adopted  
**2:14:39 PM** Chris Doolin, Small County Coalition  
**2:14:45 PM** Roll call on SB 244  
**2:14:52 PM** Bill reported favorably  
**2:15:11 PM** Tab 8 SB 1486 Senator Brandes  
**2:15:35 PM** Amendment Barcode 933922  
**2:16:01 PM** Amendment adopted  
**2:16:13 PM** Amendment Barcode 783208  
**2:16:31 PM** Amendment adopted  
**2:16:48 PM** Kari Hebrank  
**2:16:55 PM** Roll call on SB 1486  
**2:17:03 PM** Bill reported favorably  
**2:17:16 PM** Tab 9 SB 36 Senator Diaz de la Portilla  
**2:19:00 PM** Jason Unger, Meadowbrook  
**2:19:15 PM** Kelly Mallette, Estate of Victor Guerrero  
**2:19:20 PM** Roll call on SB 36  
**2:19:25 PM** Bill reported favorably  
**2:19:50 PM** Tab 10 SB 1232 Senator Simpson  
**2:20:01 PM** Amendment Barcode 183756  
**2:21:27 PM** Amendment to the amendment Barcode 445904  
**2:21:32 PM** Amendment withdrawn  
**2:21:53 PM** Kari Herbrank, Florida Home Builders  
**2:22:08 PM** Kelly Mallette, Florida Apartment Association  
**2:22:19 PM** Cam Fentriss, Florida Refrigeration and AC Contractors  
**2:22:46 PM** Jon Pasqualone, Florida Fire Marshals and Inspectors Association  
**2:23:33 PM** Jonathan Kanzigg, Florida Fire Chiefs  
**2:23:40 PM** Courtney Barnard, Florida Apartment Association  
**2:23:55 PM** Amendment adopted  
**2:24:12 PM** Dale Calhoun, Florida Propane Gas Association  
**2:24:21 PM** Robert Fine, Florida Homebuilders  
**2:24:29 PM** Jennifer Hatfield, Florida Swimming Pool Association  
**2:24:34 PM** Bruce Kershner, United Pool and Spa Association  
**2:24:47 PM** Richard Watson, Associated Builders and Contractors of Florida  
**2:24:54 PM** Roll call SB 1232  
**2:25:00 PM** Bill reported favorably  
**2:25:14 PM** Adjourned