

Tab 1 **SB 222** by **Gruters**; (Identical to H 00267) Swimming Pool Specialty Contracting Services

Tab 2 **SB 264** by **Hooper**; (Identical to H 00031) Firefighter Inquiries and Investigations

Tab 3 **SB 280** by **Hutson**; (Identical to H 00403) Local Ordinances

486704	D	S	WD	CA, Hutson	Delete everything after	01/12 01:40 PM
616410	D	S	RCS	CA, Hutson	Delete everything after	01/12 01:40 PM

Tab 4 **CS/SB 510** by **EE, Brodeur**; (Similar to H 00301) Financial Disclosures for Local Officers

Tab 5 **SB 644** by **Brodeur**; (Similar to CS/H 00423) Building Inspection Services

501904	D	S	WD	CA, Brodeur	Delete everything after	01/12 07:47 AM
775516	D	S		CA, Brodeur	Delete everything after	01/11 08:45 AM

Tab 6 **CS/SB 736** by **JU, Hutson**; (Similar to H 00583) Construction Defect Claims

916628	A	S	RCS	CA, Hutson	Delete L.45 - 88:	01/12 03:18 PM
606148	AA	S	RCS	CA, Hutson	Delete L.110 - 111:	01/12 03:18 PM

Tab 7 **SB 788** by **Hooper**; Florida Hometown Hero Housing Program

Tab 8 **SB 962** by **Bradley**; (Similar to H 00981) Mixed-use Residential Development Projects for Affordable Housing

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Bradley, Chair
Senator Garcia, Vice Chair

MEETING DATE: Wednesday, January 12, 2022

TIME: 9:30—11:30 a.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Bradley, Chair; Senator Garcia, Vice Chair; Senators Baxley, Brodeur, Cruz, Farmer, Hooper, Hutson, and Polsky

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 222 Gruters (Identical H 267)	Swimming Pool Specialty Contracting Services; Authorizing certain persons under the supervision of specified licensed contractors to perform certain specialty contracting services for commercial or residential swimming pools, interactive water features, hot tubs, and spas; providing that such supervision does not require a direct contract between those persons, etc. RI 11/02/2021 Favorable CA 01/12/2022 Favorable RC	Favorable Yeas 7 Nays 0
2	SB 264 Hooper (Identical H 31)	Firefighter Inquiries and Investigations; Providing that firefighters have certain rights during an informal inquiry; providing that a firefighter may not be threatened with certain disciplinary action during an informal inquiry or interrogation, etc. CA 01/12/2022 Favorable GO RC	Favorable Yeas 7 Nays 0
3	SB 280 Hutson (Identical H 403)	Local Ordinances; Authorizing courts to assess and award attorney fees and costs and damages in certain civil actions filed against local governments; requiring a board of county commissioners to prepare a business impact statement before the adoption of a proposed ordinance; requiring a governing body of a municipality to prepare a business impact statement before the adoption of a proposed ordinance, etc. CA 01/12/2022 Fav/CS JU RC	Fav/CS Yeas 6 Nays 2
4	CS/SB 510 Ethics and Elections / Brodeur (Similar H 301)	Financial Disclosures for Local Officers; Requiring specified local officers to file a full and public disclosure of financial interests, etc. EE 11/30/2021 Fav/CS CA 01/12/2022 Not Considered RC	Not Considered

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, January 12, 2022, 9:30—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 644 Brodeur (Similar CS/H 423)	Building Inspection Services; Revising eligibility requirements for a person applying to become certified as a building code inspector or plans examiner; revising the special conditions or requirements that the Florida Building Code Administrators and Inspectors Board may impose on provisional certificates; requiring the board to authorize, by rule, the transfer of a partial completion of an internship program between private entities; requiring the local jurisdiction to provide access to certain documents to a private provider, contractor, and owner; providing that a certificate of occupancy or certificate of completion is automatically granted and issued, and the permit application closed, under certain circumstances, etc. CA 01/12/2022 Not Considered RI RC	Not Considered
6	CS/SB 736 Judiciary / Hutson (Similar H 583)	Construction Defect Claims; Revising the limitations period for certain actions founded on the design, planning, or construction of an improvement on real property; requiring a claimant to include the reasons for rejecting an offer in a notice rejecting a settlement offer to remedy a construction defect; requiring the court to stay an action if a claimant initiates an action without first accepting or rejecting a supplemental offer; requiring a court to appoint an expert to examine certain alleged construction defects and to prepare an examination report, under certain circumstances; requiring a claimant to repair a construction defect if the claimant receives compensation for an alleged construction defect from specified persons, etc. JU 11/30/2021 Fav/CS CA 01/12/2022 Fav/CS RC	Fav/CS Yeas 6 Nays 2
7	SB 788 Hooper	Florida Hometown Hero Housing Program; Creating the Florida Hometown Hero Housing Program; providing the purpose of the program; specifying requirements for loans under the program; authorizing the Florida Housing Finance Corporation to underwrite and make such loans to specified borrowers; specifying ineligible employees, etc. CA 01/12/2022 Favorable ATD AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, January 12, 2022, 9:30—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 962 Bradley (Similar H 981)	Mixed-use Residential Development Projects for Affordable Housing; Authorizing counties and municipalities, respectively, to approve certain mixed-use residential development projects subject to certain conditions; providing that approval for an affordable housing development or a mixed-use residential development project is self-executing, etc. CA 01/12/2022 Favorable TR RC	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 222

INTRODUCER: Senator Gruters

SUBJECT: Swimming Pool Specialty Contracting Services

DATE: January 4, 2022

REVISED: _____

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

I. Summary:

SB 222 creates an exemption from local and state licensing requirements for persons under the supervision of a certified or registered pool contractor for the construction, remodeling, or repair of swimming pools, interactive water features, hot tubs, and spas. The supervising contractor need not employ or have a direct contract with the unlicensed person performing the specialty contracting services. The exemption is not available for persons required to be certified or registered as contractors for specified trade categories described in current law.¹

The bill is effective July 1, 2022.

II. Present Situation:

The Legislature regulates the construction industry “in the interest of the public health, safety, and welfare,”² and has enacted ch. 489, F.S., to address requirements for construction contracting, electrical and alarm system contracting, and septic tank contracting, and requirements for qualified persons to be licensed if they have sufficient technical expertise in the applicable trade.³

More than 20 categories of persons are exempt from the contractor licensing requirements of ch. 489, F.S., including but not limited to:

- Contractors in work on bridges, roads, streets, highways, or railroads, and other services defined by the board and the Florida Department of Transportation;

¹ See ss. 489.105(3)(a) through (i) and (m) through (o), F.S. The specified scopes of work are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor. See also s. 489.505, F.S., for the certification and registration requirements for electrical and alarm system contracting.

² See s. 489.101, F.S.

³ See parts I, II, and III, respectively, of ch. 489, F.S.

- Employees of licensed contractors, if acting within the scope of the contractor’s license, with that licensee’s knowledge;
- Certain employees of federal, state, or local governments or districts (excluding school and university boards), under limited circumstances;
- Certain public utilities, on construction, maintenance, and development work by employees;
- Property owners, when acting as their own contractor and providing “direct, onsite supervision” of all work not performed by licensed contractors on one-family or two-family residences, farm outbuildings, or commercial buildings at a cost not exceeding \$75,000;
- Work undertaken on federal property or when federal law supersedes part I of ch. 489, F.S.;
- Work falling under the so-called handyman exemption, meaning it is of a “casual, minor, or inconsequential nature,” and the total contract price for all labor, materials, and all other items is less than \$2,500, subject to certain exceptions;
- Registered architects and engineers acting within their licensed practice, including those exempt from such licensing, but not acting as a contractor unless licensed under ch. 489, F.S.;
- Work on one-, two-, or three-family residences constructed or rehabilitated by Habitat for Humanity, International, Inc., or a local affiliate, subject to certain requirements;
- Certain disaster recovery mitigation or other organizations repairing or replacing a one-family, two-family or three-family residence impacted by a disaster, subject to certain requirements;
- Employees of an apartment community or apartment community management company who make minor repairs to existing electric water heaters, electric heating, ventilating, and air-conditioning systems, subject to certain requirements; and
- Members of the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida when constructing chickees as described in s. 553.73(10)(i), F.S.⁴

Construction Contracting

The Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.⁵ The CILB is divided into two divisions with separate jurisdictions:

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal 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, and pollutant storage systems contractors.⁶

⁴ See s. 489.103, F.S., for additional exemptions.

⁵ See s. 489.107, F.S.

⁶ Section 489.105(3), F.S.

The Electrical Contractors' Licensing Board (ECLB) within the DBPR is responsible for licensing and regulating electrical and alarm system contractors in Florida under part II of ch. 489, F.S.⁷

Master septic tank contractors and septic tank contractors are regulated by the Department of Environmental Protection under part III of ch. 489, F.S.⁸

Construction contractors regulated under part I of ch. 489, F.S., and electrical and alarm contractors regulated under part II of ch. 489, F.S., must satisfactorily complete a licensure examination before being licensed.⁹ The CILB and ECLB may deny a license application for any person found guilty of any of the grounds for discipline set forth in s. 455.227(1), F.S., or set forth in the profession's practice act.¹⁰

A "specialty contractor" is a contractor whose scope of practice is limited to:

- A particular construction category adopted by board rule; and
- A subset of the trade categories for contractors listed in s. 489.105(3)(a) through (p), F.S., such as roofing, air-conditioning, plumbing, etc.¹¹

Swimming Pool/Spa Contractors

Section 489.105(3)(j), (k), and (l), F.S., provides three categories of pool/spa contractors in the construction industry. These contractor categories include commercial pool/spa, residential pool/spa, and swimming pool/spa servicing. If an individual's scope of work involves, but is not limited to, the construction, repair, and servicing of these types of swimming pools and spas, one must obtain a state license from the DBPR which is valid in any county or municipality throughout the state. In addition to the state licenses described in s. 489.105(3)(j), (k), and (l), F.S., the DBPR also provides, by rule, the opportunity to obtain a voluntary specialty contractor license in specific areas of pool/spa construction.¹² However, these specialty contractors must work under the supervision of a state-licensed contractor.¹³

The voluntary certification rules adopted by the CILB apply to the following swimming pool specialty contractors and residential pool/spa servicing contractors, including contractor licenses for:¹⁴

- Swimming Pool Layout;
- Swimming Pool Structural;
- Swimming Pool Excavation;
- Swimming Pool Trim;
- Swimming Pool Decking;

⁷ Section 489.507, F.S.

⁸ See ss. 489.551-489.558, F.S. Prior to July 1, 2021, the Department of Health regulated septic tank contracting. See s. 50, ch. 2020-150, L.O.F.

⁹ See ss. 489.113 and 489.516, F.S., respectively.

¹⁰ Section 455.227(2), F.S.

¹¹ Section 489.105(3)(q), F.S.

¹² See Fla. Admin. Code R. 61G4-15.032 and 61G4-15.040.

¹³ *Id.*

¹⁴ *Id.*

- Swimming Pool Piping; and
- Swimming Pool Finishes.

Certification and Registration of Contractors

Under current law, a “certified contractor” has met competency requirements for a particular trade category and holds a geographically unlimited certificate of competency from the DBPR which allows the contractor to contract in any jurisdiction in the state without being required to fulfill the competency requirements in those jurisdictions.¹⁵

The term “registered contractor” means a contractor who has registered with the DBPR as part of meeting competency requirements for a trade category in a particular jurisdiction, which limits the contractor to contracting only in the jurisdiction for which the registration is issued.¹⁶

Fees for Certification and Registration

As provided in s. 489.109, F.S., an applicant for certification as a contractor is required to pay an initial application fee not to exceed \$150, and, if an examination cost is included in the application fee, the combined amount may not exceed \$350. For an applicant for registration as a contractor, the initial application fee may not exceed \$100, and the initial registration fee and the renewal fee may not exceed \$200.¹⁷ The initial application fee and the renewal fee is \$50 for an application to certify or register a business.¹⁸

Fees must be adequate to ensure the continued operation of the CILB, and must be based on the DBPR’s estimates of revenue required to implement part I of ch. 489, F.S., and statutory provisions regulating the construction industry.¹⁹

Subcontractors

In most circumstances, a contractor must subcontract all electrical, mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work unless the contractor holds a state certificate or registration in the appropriate trade category.²⁰

A subcontractor who does not have a state certificate or registration may work under the supervision of a licensed or certified contractor, if:

- The work of the subcontractor falls within the scope of the contractor’s license; and

¹⁵ Sections 489.105(8) and 489.113(1), F.S.

¹⁶ Sections 489.105(10) and 489.117(1)(b), F.S.

¹⁷ Section 489.109, F.S. Any applicant who seeks certification as a contractor under part I of ch. 489, F.S., by taking a practical examination must pay as an examination fee the actual cost incurred by the DBPR in developing, preparing, administering, scoring, score reporting, and evaluating the examination, if the examination is conducted by the DBPR.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 489.113(3), F.S. Various exceptions for general, building, residential, and solar contractors are set forth in s. 489.113(3)(a) through (g), F.S.

- The subcontractor is not engaged in construction work that would require specified contractor licensing, i.e., licensure as an electrical contractor,²¹ septic tank contractor,²² sheet metal contractor, roofing contractor, Class A, B, or C air-conditioning contractor, mechanical contractor, commercial pool/spa contractor, residential pool/spa contractor, swimming pool servicing contractor, plumbing contractor, underground utility and excavation contractor, or solar contractor.²³

Licensure Exemption in s. 489.117(4)(d), F.S.

Section 489.117(4)(d), F.S., commonly referred to as the “Jim Walter” exemption, was enacted in 1993²⁴ and allows unlicensed persons to perform contracting services for the construction, remodeling, repair, or improvement of single-family residences and townhouses²⁵ without obtaining a local license. The person must be under the supervision of a certified or registered general, building, or residential contractor, and the work may not be work that requires licensure in the areas of roofing, sheet metal, air-conditioning, mechanical, pool/spa, plumbing, solar, or underground utility and excavation.²⁶ The supervising contractor need not have a direct contract with the unlicensed person performing the contracting services.

Florida’s Fifth District Court of Appeal addressed the applicability of this exemption to a local building contractor licensing requirement in a St. Johns County ordinance.²⁷ The court found the county’s ordinance requiring all non-certified contractors to obtain a local license conflicted with state law (s. 489.117(4)(d), F.S.).²⁸

Another example of this exemption’s applicability is contained in a 2001 Attorney General Opinion. In this opinion, Florida’s Attorney General, Robert A. Butterworth, explained that a county may not enact an ordinance that requires local certification of drywall installers. Mr. Butterworth reasoned that, under the exemption in s. 489.117(4)(d), F.S., “the county may not require certification of persons performing drywall installation on single-family residences when such persons are working under the supervision of a certified or registered general, building, or residential contractor.”²⁹ Drywall installation fits the local licensing exemption because one does not have to obtain registration or certification under s. 489.105(3)(d)-(o), F.S., to perform this aspect of construction.

The Florida Building Code

The Florida Building Code (building code) is the unified building code applicable to the design, construction, erection, alteration, modification, repair, or demolition of public or private

²¹ See Part II, of ch. 489, F.S., relating to Electrical and Alarm System Contracting.

²² See Part III of ch. 489, F.S., relating to Septic Tank Contracting.

²³ Section 489.113(2), F.S.

²⁴ See ch. 93-154, s. 3, and ch. 93-166, s. 12, Laws of Fla. These provisions have been subsequently amended.

²⁵ The term “townhouses” was added to the exemption in 2003. See ch. 2003-257, s. 5, Laws of Fla.

²⁶ Section 489.117(4)(d), F.S.

²⁷ See *Florida Home Builders Ass’n v. St. Johns County*, 914 So.2d 1035 (Fla. 5th DCA 2005).

²⁸ *Id.* at 1037.

²⁹ See Op. Att’y. Gen. Fla. 2001-25 (2001), available at

<http://www.myfloridalegal.com/ago.nsf/opinions/4c31d4cae5f162bf85256a1e00532dac> (last visited Oct. 27, 2021).

buildings, structures, and facilities in the state.³⁰ The building code must be applied, administered, and enforced uniformly and consistently throughout the state.³¹ The building code is adopted, updated, interpreted, and maintained by the commission, and is enforced by authorized state and local government agencies.³² The Florida Building Commission (commission), housed within the DBPR, adopts an updated building code every three years through review of codes published by the International Code Council and the National Fire Protection Association.³³

III. Effect of Proposed Changes:

SB 222 amends s. 487.117(4), F.S., to expand the circumstances under which unlicensed persons may perform certain specialty contracting services.

Under the bill, an exemption from local and state licensing is created for all persons performing certain specialty contracting services under the supervision of a certified or registered commercial pool/spa contractor, a residential pool/spa contractor, or a swimming pool/spa servicing contractor (a licensed pool contractor). The bill provides the supervising contractor is responsible for the work, however an employment or contractual relationship between the supervising contractor and those performing the specialty contracting services is not required (i.e., the performance of such contracting services is outside the business of contracting and need not be undertaken through an employer/employee or contractor/subcontractor relationship).

The services that may be performed by unlicensed persons under the supervision of a licensed pool contractor include the construction, remodeling, repair, or improvement of swimming pools, interactive water features, as defined in the Florida Building Code (code),³⁴ hot tubs, and spas. The current code does not appear to define “interactive water features.” However, the described scope of work for “swimming pool piping specialty contractor” includes “decorative or interactive water displays or areas.”³⁵

Under the bill, the work to be performed using exempted personnel may not include work that requires certification or registration in a specified trade category, including services required to be performed by certified or registered:

- Sheet metal contractors, as defined in s. 489.105(3)(d), F.S;

³⁰ See s. 553.72, F.S. Part IV of ch. 553, F.S., is cited as the “Florida Building Codes Act.” See s. 552.70, F.S. The Florida Building Code, 7th Edition, available at https://www.floridabuilding.org/bc/bc_default.aspx (last visited Oct. 27, 2021).

³¹ See s. 553.72(1), F.S.

³² See s. 553.72(3), F.S.

³³ See s. 553.73(7), F.S., which requires review of the International Building Code, the International Fuel Gas Code, the International Existing Building Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are copyrighted and published by the International Code Council, and the National Electrical Code, which is copyrighted and published by the National Fire Protection Association.

³⁴ The term “swimming pool” is defined as “[a]ny structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.” See ch. 2 of the 2017 Florida Building Code (Sixth Edition), available at <https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions> (last visited Oct. 27, 2021).

³⁵ See Fla. Admin. Code R. 61G4-15.032(2)(f), relating to certification of swimming pool piping specialty contractors, whose scope of work “is limited to the installation of piping or the installation of circulating, filtering, disinfecting, controlling, or monitoring equipment and devices used in the construction of pools, spas, hot tubs, and decorative or interactive water displays or areas.” *Id.*

- Roofing contractors, as defined in s. 489.105(3)(e), F.S.;
- Class A, Class B, or Class C air conditioning contractors, as defined in s. 489.105(3)(f)(g), and (h), F.S.;
- Mechanical contractors, as defined in s. 489.105(3)(i), F.S.;
- Plumbing contractors, as defined in s. 489.105(3)(m), F.S.;
- Underground utility and excavation contractors, as defined in s. 489.105(3)(n), F.S.;
- Solar contractors, as defined in s. 489.105(3)(o), F.S.; or
- Electrical and alarm system contractors, as defined in s. 489.505, F.S.

The exemption created by the bill does not limit any of the exemptions in existing law that are provided in s. 489.103, F.S.³⁶

The bill further provides the exemption may not be construed to expand the scope of a contractor required to be certified or registered as contractors for the trade categories described in s. 489.105(3)(j), (k), or (l), F.S, i.e., the servicing of commercial pools/spas, residential pools/spas, and swimming pools/spas) to provide plumbing or electrical services for which certification or registration is required by part I (Construction Contracting) or part II (Electrical and Alarm System Contracting) of ch. 489, F.S., relating to Contracting.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

³⁶ *Supra* n. 4, and *see* the accompanying text regarding exemptions under current law.

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

None.

B. Private Sector Impact:

Persons who are not licensed as contractors in a trade and have not been eligible to engage in such work may now, under the supervision of certified or registered contractors whose licenses cover such work, construct, remodel, repair, or improve swimming pools, interactive water features, hot tubs, or spas.

An unlimited number of unlicensed persons may be supervised by a contractor licensed to construct, remodel, repair, or improve swimming pools, interactive water features, hot tubs, or spas, although the contractor is responsible for the work that is performed. This may increase the availability of work for those who are not licensed, or in the process of becoming licensed.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.117 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 Gruters

23-00126A-22

2022222__

1 A bill to be entitled
 2 An act relating to swimming pool specialty contracting
 3 services; amending s. 489.117, F.S.; authorizing
 4 certain persons under the supervision of specified
 5 licensed contractors to perform certain specialty
 6 contracting services for commercial or residential
 7 swimming pools, interactive water features, hot tubs,
 8 and spas; providing that such supervision does not
 9 require a direct contract between those persons;
 10 providing construction; providing an effective date.

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

12 Section 1. Paragraph (e) is added to subsection (4) of
 13 section 489.117, Florida Statutes, to read:

14 489.117 Registration; specialty contractors.—
 15 (4)

16 (e) Any person who is not certified or registered may
 17 perform the work of a specialty contractor whose scope of
 18 practice is limited to the type of work specified under s.
 19 489.105(3)(j), (k), or (l) for the construction, remodeling,
 20 repair, or improvement of commercial or residential swimming
 21 pools, interactive water features as defined in the Florida
 22 Building Code, hot tubs, and spas without obtaining a local
 23 license or certification as a specialty contractor if he or she
 24 is supervised by a contractor who is certified or registered
 25 under s. 489.105(3)(j), (k), or (l); the work is within the
 26 scope of the supervising contractor's license; the supervising
 27 contractor is responsible for the work; and the work does not
 28
 29

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

23-00126A-22

2022222__

30 require certification or registration under s. 489.105(3)(d)-
 31 (i), (m)-(o), or s. 489.505. Such supervision does not require a
 32 direct contract between the contractor certified or registered
 33 under s. 489.105(3)(j), (k), or (l) and the person performing
 34 the work, or for the person performing the work to be an
 35 employee of the contractor certified or registered under s.
 36 489.105(3)(j), (k), or (l). This paragraph does not limit the
 37 exemptions provided in s. 489.103 and may not be construed to
 38 expand the scope of a contractor certified or registered under
 39 s. 489.105(3)(j), (k), or (l) to provide plumbing or electrical
 40 services for which certification or registration is required by
 41 this part or part II.

42 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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

The Florida Senate

APPEARANCE RECORD

SB 222

1/12/2022

Meeting Date

Community Affairs

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Mike Canto**

Phone **352-332-7665**

Address **3601 NW 97th Blvd.**

Email **mike@funstatepoolsinc.com**

Street

Gainsville

FL

32606

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22

Meeting Date

222

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Jim Magill

Phone 850-545-8911

Address 215 South Monroe St

Email JAMES.MAGILL@FLS.Senate.GOV

City TLM State FL Zip 32308

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 222

1/12/2022

Meeting Date

Community Affairs

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Dallas Thiesen

Phone 941-952-9293

Address 2555 Porter Laker Dr.

Email Dallas@FloridaPoolPro.com

Street

Sarsota

FL

34240

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Swimming Pool Association

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 264

INTRODUCER: Senator Hooper

SUBJECT: Firefighter Inquiries and Investigations

DATE: January 4, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 264 amends the Firefighters' Bill of Rights, which provides specific rights to a firefighter under investigation and when subject to interrogation for alleged misconduct that could lead to disciplinary action. The bill expands the rights given to a firefighter during questioning conducted under an informal inquiry. Currently, questioning pursuant to an informal inquiry is not subject to the Firefighters' Bill of Rights.

The bill requires that an informal inquiry be conducted at a reasonable time and for a reasonable duration, allowing reasonable periods of rest for the firefighter. Additionally, during an informal inquiry or interrogation a firefighter may not be threatened with transfer, suspension, dismissal, or disciplinary action as inducement to answer any questions.

The bill revises the definition of the term "informal inquiry" to exclude certain routine work-related discussions such as safety sessions or normal operational fire debriefings.

The bill takes effect on July 1, 2022.

II. Present Situation:

Chapter 633, F.S., provides state law on fire prevention and control. Section 633.104(1), F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division).¹ Under this authority, the State Fire Marshal:

- Regulates, educates or trains, and certifies fire service personnel;²
- Investigates the causes of fires;³

¹ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of the State Fire Marshal is located within the DFS. See s. 20.121, F.S.

² Section 633.128(1), F.S. See also ch. 633, part IV: Fire Standards and Training, F.S.

³ Section 633.104(2)(e), F.S.

- Enforces arson laws;⁴
- Regulates the installation and maintenance of fire equipment;⁵
- Conducts firesafety inspections of state buildings;⁶
- Develops firesafety standards;⁷
- Provides facilities for the analysis of fire debris;⁸ and
- Operates the Florida State Fire College.⁹

Additionally, the Division adopts by rule the Florida Fire Prevention Code, which contains or references all fire safety laws and rules regarding public and private buildings.¹⁰

Firefighters' Bill of Rights

The Firefighters' Bill of Rights provides specific rights when a firefighter¹¹ is under investigation and subject to interrogation for a reason which could lead to disciplinary action, including reprimand, suspension, or dismissal.¹² There is a similar law for law enforcement and correctional officers known as the Law Enforcement Officers' Bill of Rights.¹³

Currently, when an employing agency¹⁴ receives an allegation of misconduct regarding a firefighter, management may conduct an informal inquiry¹⁵ to determine whether a formal investigation¹⁶ is appropriate. Informal inquiries are not subject to the requirements of the Firefighters' Bill of Rights. Only after a formal investigation has begun do the requirements have effect.¹⁷

⁴ *Id.*

⁵ Section 633.104(2)(b), F.S. *See also* s. 633.104(2)(c), F.S., and ch. 633, part III: Fire Protection and Suppression, F.S.

⁶ Section 633.218, F.S.

⁷ Chapter 633, part II: Fire Safety and Prevention, F.S.

⁸ Section 633.432, F.S.

⁹ Section 633.128(1)(h)–(q), F.S. *See also* ss. 633.428–633.434, F.S.

¹⁰ Section 633.202(1), F.S.

¹¹ “Firefighter” means a person who is certified in compliance with s. 633.408, F.S., and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires. Section 112.81(1), F.S.

¹² Part VIII, ch. 112, F.S.

¹³ Part VI, ch. 112, F.S.

¹⁴ “Employing agency” means any municipality or the state or any political subdivision thereof, including authorities and special districts, which employs firefighters. Section 112.81(2), F.S.

¹⁵ “Informal inquiry” means a meeting by supervisory or management personnel with a firefighter about whom an allegation of misconduct has come to the attention of such supervisory or management personnel, the purpose of which meeting is to mediate a complaint or discuss the facts to determine whether a formal investigation should be commenced. Section 112.81(3), F.S.

¹⁶ “Formal investigation” means the process of an investigation ordered by supervisory personnel, after the supervisory personnel has previously determined that the firefighter shall be reprimanded, suspended, or removed, during which the questioning of a firefighter is conducted to gather evidence of misconduct. 112.81(4), F.S.

¹⁷ “Interrogation” means the questioning of a firefighter by an employing agency in connection with a formal investigation or an administrative proceeding but shall not include arbitration or civil service proceedings. Questioning during an informal inquiry shall not be deemed to be an interrogation. 112.81(6), F.S.

Under the Firefighters' Bill of Rights, an interrogation of a firefighter must be conducted according to the following terms:¹⁸

- The interrogation shall take place at the facility where the investigating officer is assigned or at the facility that has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer.
- No firefighter shall be subjected to interrogation without first receiving written notice in sufficient detail of the investigation to reasonably apprise the firefighter of the nature of the investigation. The firefighter shall be informed beforehand of the names of all complainants.
- All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter is on duty unless the importance of the interrogation or investigation is of such a nature that immediate action is required.
- The firefighter under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation.
- Interrogation sessions shall be of reasonable duration, and the firefighter shall be permitted reasonable periods for rest and personal necessities.
- The firefighter being interrogated shall not be subjected to offensive language or offered any incentive as an inducement to answer any questions.
- A complete record of any interrogation shall be made, and if a transcript of such interrogation is made, the firefighter under investigation shall be entitled to a copy without charge. Such records may be electronically recorded.
- An employee or officer of an employing agency may represent the agency, and an employee organization may represent any member of a bargaining unit desiring such representation in any proceeding to which this part applies. If a collective bargaining agreement provides for the presence of a representative of the collective bargaining unit during investigations or interrogations, such representative shall be allowed to be present.
- No firefighter shall be discharged, disciplined, demoted, denied promotion or seniority, transferred, reassigned, or otherwise disciplined or discriminated against in regard to his or her employment, or be threatened with any such treatment as retaliation for or by reason solely of his or her exercise of any of the rights granted or protected by this part.

III. Effect of Proposed Changes:

Section 1 amends s. 112.81, F.S., to revise the definitions of “informal inquiry” and “formal investigation.” “Informal inquiry” is revised to exclude certain discussions between supervisory and management personnel and firefighters, such as safety sessions, normal operational fire debriefings, and routine work-related discussions.

The term “formal investigation” is revised to mean an investigation undertaken to determine if a firefighter should be disciplined, reprimanded, suspended, or removed. A formal investigation may be initiated by management personnel as well as supervisory personnel.

¹⁸ Section 112.82, F.S.

Section 2 amends s. 112.82, F.S., to expand the rights given to a firefighter during questioning conducted under an informal inquiry. Namely, the following requirements are applied to an informal inquiry:

- It must be conducted at a reasonable time of day, preferably when the firefighter is on duty; and
- It must be conducted for a reasonable duration and the firefighter must be permitted reasonable periods for rest.

The bill further provides that during an interrogation a firefighter may not be threatened with transfer, suspension, dismissal, or disciplinary action as inducement to answer any questions.

Section 3 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.81 and 112.82 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 Hooper

16-00081A-22

2022264__

1 A bill to be entitled
 2 An act relating to firefighter inquiries and
 3 investigations; amending s. 112.81, F.S.; reordering
 4 and revising definitions; amending s. 112.82, F.S.;
 5 providing that firefighters have certain rights during
 6 an informal inquiry; providing that a firefighter may
 7 not be threatened with certain disciplinary action
 8 during an informal inquiry or interrogation; providing
 9 an effective date.

10 Be It Enacted by the Legislature of the State of Florida:
 11
 12

13 Section 1. Section 112.81, Florida Statutes, is amended to
 14 read:

15 112.81 Definitions.—As used in this part:

16 (3)(1) "Firefighter" means a person who is certified in
 17 compliance with s. 633.408 and who is employed solely within the
 18 fire department or public safety department of an employing
 19 agency as a full-time firefighter whose primary responsibility
 20 is the prevention and extinguishment of fires; the protection of
 21 life and property; and the enforcement of municipal, county, and
 22 state fire prevention codes and laws pertaining to the
 23 prevention and control of fires.

24 (2) "Employing agency" means any municipality or the state
 25 or any political subdivision thereof, including authorities and
 26 special districts, which employs firefighters.

27 (5)(3) "Informal inquiry" means a meeting by supervisory or
 28 management personnel with a firefighter about whom an allegation
 29 of misconduct has come to the attention of such supervisory or

Page 1 of 4

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

16-00081A-22

2022264__

30 management personnel, the purpose of which meeting is to mediate
 31 a complaint or discuss the facts to determine whether a formal
 32 investigation should be commenced. The term does not include
 33 routine work-related discussions, such as safety sessions or
 34 normal operational fire debriefings.

35 (4) "Formal investigation" means the process of
 36 investigation ordered by supervisory or management personnel to
 37 determine if, after the supervisory personnel have previously
 38 determined that the firefighter should shall be disciplined,
 39 reprimanded, suspended, or removed, during which the questioning
 40 of a firefighter is conducted for the purpose of gathering
 41 evidence of misconduct.

42 (1)(5) "Administrative proceeding" means any nonjudicial
 43 hearing which may result in the recommendation, approval, or
 44 order of disciplinary action against, or suspension or discharge
 45 of, a firefighter.

46 (6) "Interrogation" means the questioning of a firefighter
 47 by an employing agency in connection with a formal investigation
 48 or an administrative proceeding but does shall not include
 49 arbitration or civil service proceedings. The term does not
 50 include questioning during pursuant to an informal inquiry shall
 51 not be deemed to be an interrogation.

52 Section 2. Section 112.82, Florida Statutes, is amended to
 53 read:

54 112.82 Rights of firefighters.—Whenever a firefighter is
 55 subjected to an informal inquiry or interrogation, the inquiry
 56 or such interrogation must shall be conducted in accordance with
 57 pursuant to the terms of this section.

58 (1) An ~~The~~ interrogation must shall take place at the

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59 facility where the investigating officer is assigned, or at the
60 facility ~~that which~~ has jurisdiction over the place where the
61 incident under investigation allegedly occurred, as designated
62 by the investigating officer.

63 (2) ~~A No~~ firefighter ~~may not shall~~ be subjected to
64 interrogation without first receiving written notice ~~in of~~
65 sufficient detail of the formal investigation in order to
66 reasonably apprise the firefighter of the nature of the
67 investigation. The firefighter must shall be informed beforehand
68 of the names of all complainants.

69 (3) All interrogations must shall be conducted at a
70 reasonable time of day, preferably when the firefighter is on
71 duty, unless the importance of the interrogation ~~or~~
72 ~~investigation~~ is of such a nature that immediate action is
73 required.

74 (4) The firefighter under formal investigation must shall
75 be informed of the name, rank, and unit or command of the
76 officer in charge of the investigation, the interrogators, and
77 all persons present during any interrogation.

78 (5) Informal inquiries and interrogation sessions must
79 ~~shall~~ be of reasonable duration, and the firefighter must shall
80 be permitted reasonable periods for rest and personal
81 necessities.

82 (6) During an informal inquiry or interrogation, the
83 firefighter ~~may being interrogated shall~~ not be subjected to
84 offensive language; threatened with a transfer, suspension,
85 dismissal, or other disciplinary action; or offered any
86 incentive as an inducement to answer any questions.

87 (7) A complete record of any interrogation must shall be

Page 3 of 4

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16-00081A-22

2022264__

88 made, and if a transcript of such interrogation is made, the
89 firefighter under formal investigation ~~is shall~~ be entitled to a
90 copy of the transcript without charge. Such record may be
91 electronically recorded.

92 (8) An employee or officer of an employing agency may
93 represent the agency, and an employee organization may represent
94 any member of a bargaining unit desiring such representation in
95 any proceeding to which this part applies. If a collective
96 bargaining agreement provides for the presence of a
97 representative of the collective bargaining unit during
98 investigations or interrogations, such representative shall be
99 allowed to be present.

100 (9) ~~A No~~ firefighter ~~may not shall~~ be discharged,
101 disciplined, demoted, denied promotion or seniority,
102 transferred, reassigned, or otherwise disciplined or
103 discriminated against in regard to his or her employment, or be
104 threatened with any such treatment, as retaliation for or by
105 reason solely of his or her exercise of any of the rights
106 granted or protected by this part.

107 Section 3. This act shall take effect July 1, 2022.

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The Florida Senate

APPEARANCE RECORD

01-12-2022

Meeting Date

SB 264

Bill Number or Topic

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

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Phone 407-468-6622

Address FLORIDA FIRE CHIEFS ASSOC
221 Pinewood Dr.

Email ray@ffca.org

Street

Tallahassee FL 32303

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-12-22

Meeting Date

264

Bill Number or Topic

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

Community AFFAIRS
Committee

Amendment Barcode (if applicable)

Name Wayne "BERNIE" BERNOSKA Phone 321-231-9116

Address 343 W. MADISON St. Email BERNIE @ FPPF. ORG
Street

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FLORIDA PROFESSIONAL FIRE FIGHTERS

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/12/2022

Meeting Date

SB 264

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Jeffrey Newsome Palm Beach County fire fighters

Phone 561-436-7005

Address 3511 Old Lighthouse Cir

Email president@IAFF2928.com

Street

Wedge

City

FL

State

33414

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

1/12/2022

The Florida Senate APPEARANCE RECORD

264

Meeting Date

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

Bill Number or Topic

(S) Community Affairs

Committee

Amendment Barcode (if applicable)

Name Austin Stowers

Phone (850) 443-1763

Address 200 E Gaines St

Email Austin.Stowers@myflorida.cfo.com

Street

Tallahassee

FL

32399

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

CFO & State Fire Marshal
Jimmy Patronis

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 280

INTRODUCER: Community Affairs Committee and Senator Hutson

SUBJECT: Local Ordinances

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 280 pertains to the passage and challenging of local ordinances. It adds to the process for local governments passing ordinances and gives certain additional rights to those challenging local ordinances.

The bill requires counties and cities to produce a “business impact estimate” prior to passing an ordinance. The estimate must be published on the local government’s website and include certain information, such as the proposed ordinance’s purpose, estimated economic impact on businesses, and compliance costs.

Additionally, the bill imposes certain conditions on lawsuits brought to challenge the legal validity of local ordinances as preempted by state law, arbitrary, or unreasonable. In these cases, the bill:

- Requires the local government to suspend enforcement of an ordinance of such legal challenge, including appeals, under certain circumstances.
- Requires the court to give those cases in which enforcement of the ordinance is suspended priority over other pending cases and render a preliminary or final decision as expeditiously as possible.
- Outlines specific factors the court must consider to determine if an ordinance is arbitrary or unreasonable.
- Provides up to \$50,000 in attorney fees to a complainant who successfully challenges an ordinance as arbitrary or unreasonable.

The bill contains a finding of important state interest.

The bill takes effect October 1, 2022.

II. Present Situation:

Local Ordinances

The governing body of a county or municipality has broad legislative powers to enact ordinances, local laws, to perform governmental functions and exercise power to promote the health, welfare, safety, and quality of life of a local government's residents. Ordinances address a wide variety of local issues, from government structure and zoning laws to speed limits and noise ordinances. Procedures for passing local ordinances are prescribed by the Legislature and differ only slightly between counties and municipalities.

Procedures for Enacting Ordinances

A board of county commissioners must notice its intent to consider an ordinance or amendment to an ordinance 10 days before the meeting at which the ordinance will be considered. The notice, placed in a newspaper of general circulation, should include the date, time, and place of the meeting, the proposed ordinance title, and instructions for how to view the language. The board may then vote to pass the ordinance at the meeting, and upon passage, must send a certified copy of the ordinance to the Florida Department of State (DOS).¹ County ordinances take effect upon filing with the DOS, unless otherwise prescribed in the ordinance.²

Similarly, municipalities must notice intent to consider an ordinance 10 days before adoption. However, municipalities must also read the ordinance by title or in full on at least 2 separate days before adoption by vote.³ An ordinance passed by a municipality becomes effective 10 days after passage, unless otherwise prescribed in the ordinance.⁴

Emergency Ordinances

A board of county commissioners may adopt an emergency ordinance that bypasses the notice requirements if the governing body declares that an emergency exists requiring the immediate enactment of the ordinance and the ordinance is approved by a four-fifths vote of the membership.⁵ A municipality may bypass reading and notice requirements to pass an emergency ordinance by a two-thirds vote of the governing body.⁶ An emergency ordinance may not be used to adopt zoning and land use changes.⁷

¹ Section 125.66(2), F.S.

² *Id.*

³ Section 166.041(3)(a), F.S.

⁴ Section 166.041(4), F.S.

⁵ Section 125.66(3), F.S.

⁶ Section 166.041(3)(b), F.S.

⁷ *Supra* notes 5 and 6.

Local Government Authority

The Florida Constitution grants local governments broad authority to take actions furthering citizens' health, welfare, safety, and quality of life. This "home rule" authority includes legislative powers to enact local laws. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.⁸ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.⁹ Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.¹⁰

This authority, under the umbrella of governmental or municipal purpose, extends broadly to any ordinance necessary to promote the health, welfare, safety, and quality of life of a local government's residents.¹¹ Local governments' authority has been liberally construed when reviewed by courts. For example, courts have found the following to meet the standards for what constitutes a "municipal purpose," and therefore were valid local government actions:

- Acquisition and maintenance of a golf course;¹²
- Sale of souvenir photographs;¹³ and
- Prohibiting the rental of motorized scooters.¹⁴

In general, this broad home rule authority is limited by two guideposts: preemption, where a higher level of government such as the State has already legislated on a topic, and standards of reasonableness. Local governments may not pass ordinances which are apparently unreasonable or unreasonable, despite their wide-ranging powers.¹⁵ Anyone affected by an ordinance may challenge its validity in court by filing a civil action against the local government.¹⁶

Preemption

An ordinance can be declared invalid on the grounds that it is inconsistent with the State Constitution or Florida Statutes. Inconsistency may be found where a local ordinance is either preempted by or in conflict with the State Constitution or Florida Statutes.¹⁷ Preemption means that a local government is precluded from exercising authority in a particular area, while conflict exists where a municipality has the right to act but such action frustrates the purpose of the state regulation.¹⁸ Express preemption refers to instances where the Legislature has directly written

⁸ FLA. CONST. art. VIII, s. 1(f).

⁹ FLA. CONST. art. VIII, s. 1(g).

¹⁰ FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

¹¹ Art. VIII, § 2(b), Fla. Const.; Section 125.86, F.S.; for municipalities see *Quiles v. City of Boynton Beach*, 802 So. 2d 397, 398 (Fla. 4th DCA 2001); § 166.021, Fla. Stat.

¹² *West v. Town of Lake Placid*, 97 Fla. 127, 120 So. 361 (1929).

¹³ *City of Winter Park v. Montesi*, 448 So. 2d 1242 (Fla. 5th DCA 1984).

¹⁴ *Classy Cycles, Inc. v. Panama City Beach*, 301 So. 3d 1046 (Fla. 1st DCA 2019).

¹⁵ *Dennis v. City of Key West*, 381 So. 2d 312 (Fla. 3d DCA 1980).

¹⁶ *Hardage v. City of Jacksonville Beach*, 399 So. 2d 1077 (Fla. 1 DCA 1981). There are statutory requirements for being allowed to bring suit in certain cases, such as those based on a technical deficiency in the ordinance, but the cases at issue in this analysis merely require being affected.

¹⁷ *City of Jacksonville v. American Environmental Services Inc.*, 699 So. 2d 255 (Fla. 1st DCA 1997)

¹⁸ *Id.*

into law that the State intends to occupy a field of law, prohibiting local governments from taking action in that field.¹⁹

Implied preemption, however, refers to situations where no express preemption is written into statute, but the Legislature has regulated a field such that local legislation would present the danger of conflict with that regulatory scheme.²⁰ In this context, conflict occurs any time a citizen would necessarily violate one provision in order to comply with the other. Implied preemption and conflict are necessarily more nuanced and less foreseeable than express preemption.

Arbitrary and Unreasonable Ordinances: Presumption of Validity

An ordinance can also be declared invalid on the grounds that it is arbitrary or unreasonable, meaning that it has no legitimate governmental interest. In legal challenges to local ordinances based on being arbitrary or unreasonable, the local ordinances are presumed valid by courts reviewing them, and the burden falls on the challenger to establish the ordinance's arbitrary or unreasonable nature.²¹ Courts apply "rational basis review" to ordinances, simply determining whether an ordinance is rationally related to a legitimate government interest- if it fails to meet this test, an ordinance is declared invalid.²² In these instances, courts have stated that there is no governmental purpose where there is no apparent benefit, such as protecting the health, welfare, safety, and quality of life, to the citizens, the benefit appears to apply to non-residents, or the government has attempted to frustrate the purpose of another governmental entity.²³

Given this deference, courts have rarely found that an ordinance entirely lacks governmental, or municipal purpose. However, in one case, the Florida Supreme Court ruled that a local ordinance prohibiting the operation of surfboards and skimmers on beaches was unlawfully arbitrary and unreasonable. In its ruling, the court stated, "[t]he Town of Palm Beach may regulate and control surfing and skinning in areas subject to its jurisdiction and may prohibit these activities at certain places along the beach. However, the complete prohibition of this sport from all the beach area is arbitrary and unreasonable."²⁴

Attorney Fees For Challenges Based on Express Preemption

Current law provides that in a civil action to challenge the validity of a local ordinance on the grounds that it is expressly preempted by the State Constitution or by state law, the court must assess and award reasonable attorney fees, costs, and damages to the prevailing party, either the

¹⁹ See, e.g., s. 790.33, F.S. "... the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition..."

²⁰ See, e.g., *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880 (Fla. 2010).

²¹ See *Panama City Beach Community Redevelopment Agency v. State*, 831 So. 2d 662 (Fla. 2002), *Orange County v. Costco Wholesale Corp.*, 823 So.2d 732 (Fla. 2002)..

²² *Supra* note 12 at page 133, 134 "In testing the validity of a statute with reference to the facts and circumstances upon which it is to operate, the validity of the statute does not depend upon the preponderance of evidentiary considerations; but the statute stands unless it conclusively appears that there are or can be no conceivable circumstances upon which it can validly operate or that under no circumstances can it operate or be effective to accomplish the intended purpose, without violating organic rights."

²³ See generally *supra*, notes 13, 14, 15.

²⁴ *Carter v. Town of Palm Beach*, 237 So.2d 130 (Fla. 1970).

challenger or local government.²⁵ The local government can avoid paying attorney fees, costs, and damages if after receiving notices that an ordinance is expressly preempted, the governing body withdraws the proposed ordinance within 30 days.²⁶

Priority Docketing

The Florida Rules of Judicial Administration govern the ways a judge controls a case in terms of timing and docketing. Some cases that come before a court are deemed priority cases, either directly in statute, in rule of procedure, or case law. Every judge has a duty to expedite priority cases to the extent reasonably possible.²⁷ For these cases judges are tasked with implementing docket control policies necessary to advance the case and ensure prompt resolution.²⁸ Docket control policies include setting deadlines for phases of the case, giving priority to hearings required to advance the case, and advancing the trial setting. A party in a priority status case may file a notice of priority status, and has recourse if they believe the case has not been appropriately advanced on the docket or received priority in scheduling.²⁹

III. Effect of Proposed Changes:

Attorney Fees

Section 1 amends s. 57.112, F.S., to provide that when an ordinance is successfully challenged in court as arbitrary or unreasonable, the court may, but is not required to, award up to \$50,000 in attorney fees and costs to the complainant. These fees are not applicable where the complainant prevails on a separate claim regarding the same ordinance, or for fees and costs associated with litigating over attorney fees. This section applies prospectively to ordinances adopted on or after October 1, 2022.

Business Impact Estimate

Sections 2 and 4 amends ss. 125.66 and 166.041, F.S., require counties and cities, respectively, to produce a “business impact estimate” prior to passing an ordinance. The business impact estimate must include the following:

- A summary of the proposed ordinance, including a statement of the public purpose to be served by the proposed ordinance;
- An estimate of the direct economic impact of the proposed ordinance on private for-profit businesses in the county or city, including:
 - An estimate of direct compliance costs for businesses;
 - Identification of new charges and fees; and
 - An estimate of the county’s or city’s regulatory costs.
- A good faith estimate of the number of businesses likely impacted; and
- Any additional information deemed useful.

²⁵ Section 57.112, F.S.

²⁶ Or notices the intent to repeal the ordinance within 30 days and repeals the notice within 30 days thereafter. S. 57.112(3), F.S.

²⁷ Fla. R. Jud. Admin. 2.215(g).

²⁸ Fla. R. Jud. Admin. 2.545(b).

²⁹ Fla. R. Jud. Admin. 2.545(c).

The bill specifies that this requirement is not to be construed to require a county or city to procure an accountant or other financial consultant in preparing the estimate. Further, this requirement does not apply to emergency ordinances.

Challenging Ordinances

Sections 3 and 5 create ss. 125.675 and 166.0411, F.S., to set conditions on lawsuits brought to challenge local ordinances as preempted by the State Constitution or by state law, arbitrary, or unreasonable. The bill requires the local government to suspend enforcement of an ordinance subject to such an action, including appeals, if:

- The action was filed with the court no later than 90 days after the adoption date of the ordinance;
- The plaintiff or petitioner requests suspension in the initial complaint or petition; and
- The county or city has been served with a copy of the complaint or petition.

Additionally, the court must give those cases in which enforcement of the ordinance is suspended priority over other pending cases and render a preliminary or final decision as expeditiously as possible.

The bill also outlines factors the court is to consider in determining whether an ordinance is arbitrary or unreasonable. These include, but are not limited to:

- The extent to which the ordinance protects the health, welfare, safety, and quality of life of the residents of the county;
- The impact of the ordinance on the personal rights and privileges of the residents of the county;
- The total economic impact of the ordinance; and
- The business impact estimate prepared by the county or municipality.

These provisions do not apply to:

- Emergency ordinances;
- Growth policy, county and municipal planning, and land development regulations under part II of ch. 163, F.S.;
- Building code ordinances under s. 553.73, F.S.;
- Fire prevention code ordinances under s. 633.202, F.S.;
- Ordinances required to comply with federal or state law or regulation;
- Ordinances relating to financial obligations or issuance and refinancing of debt;
- Ordinances related to the adoption of county or municipal budgets or budget amendments; or
- Ordinances required to implement a contract or agreement, to include federal, state, local, or private grants and other financial assistance.

Finally, the bill provides a cross reference to the new attorney fee provisions in section 1 of the bill.

Sections 6 through 12 correct statutory references to conform to changes made by the bill.

Section 13 contains a finding of important state interest.

Section 14 provides the bill takes effect October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill requires local governments to expend funds to produce a business impact statement for each ordinance prior to consideration for adoption. Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

None of the constitutional exceptions appear to apply.

Article VII, section 18 (d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an “insignificant fiscal impact” are exempt from the mandate requirements, which for Fiscal Year 2021-2022 is forecast at approximately \$2.3 million.^{30,31,32} However, any local government costs associated with the bill are speculative and not readily estimable for purposes of determining whether the exemption for bills having an insignificant fiscal impact applies.

If the bill does qualify as a mandate, in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house. The bill contains a legislative finding that its provisions fulfill an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁰ FLA. CONST. art. VII, s. 18(d).

³¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 7, 2022).

³² Based on the Florida Demographic Estimating Conference’s March 3, 2021 population forecast for 2022 of 22,245,429. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 7, 2022).

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Article VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

This bill does not affect state or local revenue.

B. Private Sector Impact:

The bill may have an indeterminate positive impact on private parties who bring actions challenging the enactment or enforcement of an ordinance by a local government. Private parties may benefit from the automatic stay and priority docketing, which may reduce costs for legal action, and will benefit from recovering attorney fees for successful actions.

C. Government Sector Impact:

Business impact estimates will require staffing time and resources for each ordinance passed by a local government. The negative economic impact is indeterminate at this time.

Courts may see indeterminate economic impact as suspensions may reduce hearings sought for temporary injunctive relief, while priority docketing may increase workload for clerks of court.³³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 57.112, 125.66, 166.041, 163.2517, 163.3181, 163.3215, 376.80, 497.270, 562.45, and 847.0134 Florida Statutes.

³³ 2022 *Judicial Impact Statement*, Office of the State Courts Administrator, Nov. 9, 2021 (on file with Senate Committee on Community Affairs).

This bill creates sections 125.675 and 166.0411, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Community Affairs on January 12, 2022:

- With regards to attorney fees, the CS removes a provision applying the bill to ordinances challenged as “otherwise prohibited by law.” It also prohibits double recovery, and imposes a \$50,000 cap on attorney fees allowed. It further applies the provision to ordinances “adopted” after Oct 1, 2022, rather than cases “commenced” on or after Oct 1, 2022.
- With regards to the Business Impact Statement, the CS provides that a local government is not required to hire an accountant or other consultant. The required contents of the statement are also altered, and is renamed the “Business Impact Estimate.”
- With regards to the stay and priority docketing, the CS removes a provision applying the bill to ordinances challenged “as otherwise prohibited by law. The CS requires such a suit and request to be filed within 90 days of the adoption date of the ordinance, rather than within 20 days of the effective date. Finally, it adds several exceptions to this provision, such as ordinances related to budgets and financial obligations.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/12/2022	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 57.112, Florida Statutes, is amended to
read:

57.112 Attorney fees and costs and damages; preempted local
actions.—

(1) As used in this section, the term "attorney fees and
costs" means the reasonable and necessary attorney fees and



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11 costs incurred for all preparations, motions, hearings, trials,
12 and appeals in a proceeding.

13 (2) If a civil action is filed against a local government
14 to challenge the adoption or enforcement of a local ordinance on
15 the grounds that it is expressly preempted by the State
16 Constitution or by state law, the court shall assess and award
17 reasonable attorney fees and costs and damages to the prevailing
18 party.

19 (3) If a civil action is filed against a local government
20 to challenge the adoption of a local ordinance on the grounds
21 that the ordinance is arbitrary or unreasonable, the court may
22 assess and award reasonable attorney fees and costs and damages
23 to the complainant if successful. An award of reasonable
24 attorney fees or costs and damages pursuant to this subsection
25 may not exceed \$50,000. In addition, a prevailing party may not
26 recover any attorney fees or costs directly incurred or
27 associated with litigation to determine an award of reasonable
28 attorney fees or costs.

29 (4) Attorney fees and costs may not be awarded pursuant to
30 this section if:

31 (a) The governing body of a local governmental entity
32 receives written notice that an ordinance that has been publicly
33 noticed or adopted is expressly preempted by the State
34 Constitution or state law or is arbitrary or unreasonable; and

35 (b) The governing body of the local governmental entity
36 withdraws the proposed ordinance within 30 days; or, in the case
37 of an adopted ordinance, the governing body of a local
38 government notices an intent to repeal the ordinance within 30
39 days of receipt of the notice and repeals the ordinance within



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40 30 days thereafter.

41 (5)~~(4)~~ The provisions in this section are supplemental to
42 all other sanctions or remedies available under law or court
43 rule. However, this section may not be construed to authorize
44 double recovery if an affected person prevails on a damages
45 claim brought against a local government pursuant to other
46 applicable law involving the same ordinance, operative acts, or
47 transactions.

48 (6)~~(5)~~ This section does not apply to local ordinances
49 adopted pursuant to part II of chapter 163, s. 553.73, or s.
50 633.202.

51 (7) (a)~~(6)~~ Except as provided in paragraph (b), this section
52 is intended to be prospective in nature and applies ~~shall apply~~
53 only to cases commenced on or after July 1, 2019.

54 (b) The amendments to this section effective October 1,
55 2022, are prospective in nature and apply only to ordinances
56 adopted on or after October 1, 2022.

57 Section 2. Present subsections (3) through (6) of section
58 125.66, Florida Statutes, are redesignated as subsections (4)
59 through (7), respectively, a new subsection (3) is added to that
60 section, and paragraph (a) of subsection (2) of that section is
61 amended, to read:

62 125.66 Ordinances; enactment procedure; emergency
63 ordinances; rezoning or change of land use ordinances or
64 resolutions.-

65 (2) (a) The regular enactment procedure shall be as follows:
66 The board of county commissioners at any regular or special
67 meeting may enact or amend any ordinance, except as provided in
68 subsection (5) ~~(4)~~, if notice of intent to consider such



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69 ordinance is given at least 10 days before such meeting by
70 publication as provided in chapter 50. A copy of such notice
71 shall be kept available for public inspection during the regular
72 business hours of the office of the clerk of the board of county
73 commissioners. The notice of proposed enactment shall state the
74 date, time, and place of the meeting; the title or titles of
75 proposed ordinances; and the place or places within the county
76 where such proposed ordinances may be inspected by the public.
77 The notice shall also advise that interested parties may appear
78 at the meeting and be heard with respect to the proposed
79 ordinance.

80 (3) (a) Before the enactment of a proposed ordinance, the
81 board of county commissioners shall prepare a business impact
82 estimate in accordance with this subsection. The business impact
83 estimate must be posted on the county's website on the same day
84 the notice of proposed enactment is published pursuant to
85 paragraph (2) (a) and must include all of the following:

86 1. A summary of the proposed ordinance, including a
87 statement of the public purpose to be served by the proposed
88 ordinance, such as serving the public health, safety, morals,
89 and welfare of the county.

90 2. An estimate of the direct economic impact of the
91 proposed ordinance on private for-profit businesses in the
92 county, including the following, if any:

93 a. An estimate of direct compliance costs businesses may
94 reasonably incur if the ordinance is enacted.

95 b. Identification of any new charge or fee on businesses
96 subject to the proposed ordinance, or for which businesses will
97 be financially responsible.



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98 c. An estimate of the county's regulatory costs, including
99 an estimate of revenues from any new charges or fees that will
100 be imposed on businesses to cover such costs.

101 3. A good faith estimate of the number of businesses likely
102 to be impacted by the ordinance.

103 4. Any additional information the board determines may be
104 useful.

105 (b) This subsection may not be construed to require a
106 county to procure an accountant or other financial consultant to
107 prepare the business impact estimate required by this
108 subsection.

109 (c) This subsection does not apply to an emergency
110 ordinance enacted pursuant to this section.

111 Section 3. Section 125.675, Florida Statutes, is created to
112 read:

113 125.675 Legal challenges to certain recently enacted
114 ordinances.—

115 (1) A county must suspend enforcement of an ordinance that
116 is the subject of an action, including appeals, challenging the
117 ordinance's validity on the grounds that it is expressly
118 preempted by the State Constitution or by state law or is
119 arbitrary or unreasonable, if:

120 (a) The action was filed with the court no later than 90
121 days after the adoption of the ordinance;

122 (b) The complainant requests suspension in the initial
123 complaint or petition, citing this section; and

124 (c) The county has been served with a copy of the complaint
125 or petition.

126 (2) In order to request the suspension of a challenged



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127 ordinance, the complainant must have submitted, before the
128 enactment of the challenged ordinance, verbal or written
129 comments, recommendations, or objections to the county about the
130 proposed ordinance at any workshop or public hearing held by the
131 county or by certified mail or e-mail to the person designated
132 by the county to receive such comments, recommendations, or
133 objections.

134 (3) The court shall give cases in which the enforcement of
135 an ordinance is suspended under this section priority over other
136 pending cases and shall render a preliminary or final decision
137 on the validity of the ordinance as expeditiously as possible.

138 (4) In determining whether an ordinance is arbitrary or
139 unreasonable, the court shall consider, but is not limited to,
140 the following factors:

141 (a) The extent to which the ordinance protects the health,
142 welfare, safety, and quality of life of the residents of the
143 county;

144 (b) The impact of the ordinance on the personal rights and
145 privileges of the residents of the county;

146 (c) The total economic impact of the ordinance; and

147 (d) The business impact estimate prepared by the county as
148 required by s. 125.66(3).

149 (5) This section does not apply to local ordinances enacted
150 to implement the following:

151 (a) Part II of chapter 163;

152 (b) Section 553.73;

153 (c) Section 633.202;

154 (d) Ordinances required to comply with federal or state law
155 or regulation;



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156 (e) Ordinances related to the issuance or refinancing of
157 debt;

158 (f) Ordinances related to the adoption of budgets or budget
159 amendments; or

160 (g) Ordinances required to implement a contract or an
161 agreement, including, but not limited to, any federal, state,
162 local, or private grant, or other financial assistance accepted
163 by a county government.

164 (6) The court may award attorney fees and costs as provided
165 in s. 57.112.

166 Section 4. Present subsections (4) through (8) of section
167 166.041, Florida Statutes, are redesignated as subsections (5)
168 through (9), respectively, and a new subsection (4) is added to
169 that section, to read:

170 166.041 Procedures for adoption of ordinances and
171 resolutions.—

172 (4) (a) Before the enactment of a proposed ordinance, the
173 governing body of a municipality shall prepare a business impact
174 estimate in accordance with this subsection. The business impact
175 estimate must be posted on the municipality's website on the
176 same day the notice of proposed enactment is published pursuant
177 to paragraph (3) (a) and must include all of the following:

178 1. A summary of the proposed ordinance, including a
179 statement of the public purpose to be served by the proposed
180 ordinance, such as serving the public health, safety, morals,
181 and welfare of the municipality.

182 2. An estimate of the direct economic impact of the
183 proposed ordinance on private for-profit businesses in the
184 municipality, including the following, if any:



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185 a. An estimate of direct compliance costs businesses may
186 reasonably incur if the ordinance is enacted.

187 b. Identification of any new charge or fee on businesses
188 subject to the proposed ordinance, or for which businesses will
189 be financially responsible; and

190 c. An estimate of the municipality's regulatory costs,
191 including an estimate of revenues from any new charges or fees
192 that will be imposed on businesses to cover such costs.

193 3. A good faith estimate of the number of businesses likely
194 to be impacted by the ordinance.

195 4. Any additional information the governing body determines
196 may be useful.

197 (b) This subsection may not be construed to require a
198 municipality to procure an accountant or other financial
199 consultant to prepare the business impact estimate required by
200 this subsection.

201 (c) This subsection does not apply to an emergency
202 ordinance enacted pursuant to this section.

203 Section 5. Section 166.0411, Florida Statutes, is created
204 to read:

205 166.0411 Legal challenges to certain recently enacted
206 ordinances.—

207 (1) A municipality must suspend enforcement of an ordinance
208 that is the subject of an action, including appeals, challenging
209 the ordinance's validity on the grounds that it is expressly
210 preempted by the State Constitution or by state law or is
211 arbitrary or unreasonable, if:

212 (a) The action was filed with the court no later than 90
213 days after the adoption of the ordinance;



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214 (b) The complainant requests suspension in the initial
215 complaint or petition, citing this section; and

216 (c) The municipality has been served with a copy of the
217 complaint or petition.

218 (2) In order to request the suspension of a challenged
219 ordinance, the complainant must have submitted, before the
220 enactment of the challenged ordinance, verbal or written
221 comments, recommendations, or objections to the municipality
222 about the proposed ordinance at any workshop or public hearing
223 held by the municipality or by certified mail or e-mail to the
224 person designated by the municipality to receive such comments,
225 recommendations, or objections.

226 (3) The court shall give cases in which the enforcement of
227 an ordinance is suspended under this section priority over other
228 pending cases and shall render a preliminary or final decision
229 on the validity of the ordinance as expeditiously as possible.

230 (4) In determining whether an ordinance is arbitrary or
231 unreasonable, the court shall consider, but is not limited to,
232 the following factors:

233 (a) The extent to which the ordinance protects the health,
234 welfare, safety, and quality of life of the residents of the
235 municipality;

236 (b) The impact of the ordinance on the personal rights and
237 privileges of the residents of the municipality;

238 (c) The total economic impact of the ordinance; and

239 (d) The business impact estimate prepared by the
240 municipality as required by s. 166.041(4).

241 (5) This section does not apply to local ordinances enacted
242 to implement the following:



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- 243 (a) Part II of chapter 163;
244 (b) Section 553.73;
245 (c) Section 633.202;
246 (d) Ordinances required to comply with federal or state law
247 or regulation;
248 (e) Ordinances related to the issuance or refinancing of
249 debt;
250 (f) Ordinances related to the adoption of budgets or budget
251 amendments; or
252 (g) Ordinances required to implement a contract or
253 agreement, including, but not limited to, any federal, state,
254 local, or private grant, or other financial assistance accepted
255 by a municipal government.
256 (6) The court may award attorney fees and costs as provided
257 in s. 57.112.

258 Section 6. Subsection (5) of section 163.2517, Florida
259 Statutes, is amended to read:

260 163.2517 Designation of urban infill and redevelopment
261 area.-

262 (5) After the preparation of an urban infill and
263 redevelopment plan or designation of an existing plan, the local
264 government shall adopt the plan by ordinance. Notice for the
265 public hearing on the ordinance must be in the form established
266 in s. 166.041(3)(c)2. for municipalities, and s. 125.66(5)(b)2.
267 ~~s. 125.66(4)(b)2.~~ for counties.

268 Section 7. Paragraph (a) of subsection (3) of section
269 163.3181, Florida Statutes, is amended to read:

270 163.3181 Public participation in the comprehensive planning
271 process; intent; alternative dispute resolution.-



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272 (3) A local government considering undertaking a publicly
273 financed capital improvement project may elect to use the
274 procedures set forth in this subsection for the purpose of
275 allowing public participation in the decision and resolution of
276 disputes. For purposes of this subsection, a publicly financed
277 capital improvement project is a physical structure or
278 structures, the funding for construction, operation, and
279 maintenance of which is financed entirely from public funds.

280 (a) Prior to the date of a public hearing on the decision
281 on whether to proceed with the proposed project, the local
282 government shall publish public notice of its intent to decide
283 the issue according to the notice procedures described by s.
284 125.66(5)(b)2. ~~s. 125.66(4)(b)2.~~ for a county or s.
285 166.041(3)(c)2.b. for a municipality.

286 Section 8. Paragraph (a) of subsection (4) of section
287 163.3215, Florida Statutes, is amended to read:

288 163.3215 Standing to enforce local comprehensive plans
289 through development orders.-

290 (4) If a local government elects to adopt or has adopted an
291 ordinance establishing, at a minimum, the requirements listed in
292 this subsection, the sole method by which an aggrieved and
293 adversely affected party may challenge any decision of local
294 government granting or denying an application for a development
295 order, as defined in s. 163.3164, which materially alters the
296 use or density or intensity of use on a particular piece of
297 property, on the basis that it is not consistent with the
298 comprehensive plan adopted under this part, is by an appeal
299 filed by a petition for writ of certiorari filed in circuit
300 court no later than 30 days following rendition of a development



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301 order or other written decision of the local government, or when
302 all local administrative appeals, if any, are exhausted,
303 whichever occurs later. An action for injunctive or other relief
304 may be joined with the petition for certiorari. Principles of
305 judicial or administrative res judicata and collateral estoppel
306 apply to these proceedings. Minimum components of the local
307 process are as follows:

308 (a) The local process must make provision for notice of an
309 application for a development order that materially alters the
310 use or density or intensity of use on a particular piece of
311 property, including notice by publication or mailed notice
312 consistent with the provisions of ss. 125.66(5)(b)2. and 3. and
313 166.041(3)(c)2.b. and c. ~~ss. 125.66(4)(b)2. and 3. and~~
314 ~~166.041(3)(c)2.b. and c.~~, and must require prominent posting at
315 the job site. The notice must be given within 10 days after the
316 filing of an application for a development order; however,
317 notice under this subsection is not required for an application
318 for a building permit or any other official action of local
319 government which does not materially alter the use or density or
320 intensity of use on a particular piece of property. The notice
321 must clearly delineate that an aggrieved or adversely affected
322 person has the right to request a quasi-judicial hearing before
323 the local government for which the application is made, must
324 explain the conditions precedent to the appeal of any
325 development order ultimately rendered upon the application, and
326 must specify the location where written procedures can be
327 obtained that describe the process, including how to initiate
328 the quasi-judicial process, the timeframes for initiating the
329 process, and the location of the hearing. The process may



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330 include an opportunity for an alternative dispute resolution.

331 Section 9. Paragraph (c) of subsection (1) of section
332 376.80, Florida Statutes, is amended to read:

333 376.80 Brownfield program administration process.—

334 (1) The following general procedures apply to brownfield
335 designations:

336 (c) Except as otherwise provided, the following provisions
337 apply to all proposed brownfield area designations:

338 1. Notification to department following adoption.—A local
339 government with jurisdiction over the brownfield area must
340 notify the department, and, if applicable, the local pollution
341 control program under s. 403.182, of its decision to designate a
342 brownfield area for rehabilitation for the purposes of ss.
343 376.77–376.86. The notification must include a resolution
344 adopted by the local government body. The local government shall
345 notify the department, and, if applicable, the local pollution
346 control program under s. 403.182, of the designation within 30
347 days after adoption of the resolution.

348 2. Resolution adoption.—The brownfield area designation
349 must be carried out by a resolution adopted by the
350 jurisdictional local government, which includes a map adequate
351 to clearly delineate exactly which parcels are to be included in
352 the brownfield area or alternatively a less-detailed map
353 accompanied by a detailed legal description of the brownfield
354 area. For municipalities, the governing body shall adopt the
355 resolution in accordance with the procedures outlined in s.
356 166.041, except that the procedures for the public hearings on
357 the proposed resolution must be in the form established in s.
358 166.041(3)(c)2. For counties, the governing body shall adopt the



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359 resolution in accordance with the procedures outlined in s.
360 125.66, except that the procedures for the public hearings on
361 the proposed resolution shall be in the form established in s.
362 125.66(5)(b) ~~s. 125.66(4)(b)~~.

363 3. Right to be removed from proposed brownfield area.—If a
364 property owner within the area proposed for designation by the
365 local government requests in writing to have his or her property
366 removed from the proposed designation, the local government
367 shall grant the request.

368 4. Notice and public hearing requirements for designation
369 of a proposed brownfield area outside a redevelopment area or by
370 a nongovernmental entity. Compliance with the following
371 provisions is required before designation of a proposed
372 brownfield area under paragraph (2)(a) or paragraph (2)(c):

373 a. At least one of the required public hearings shall be
374 conducted as closely as is reasonably practicable to the area to
375 be designated to provide an opportunity for public input on the
376 size of the area, the objectives for rehabilitation, job
377 opportunities and economic developments anticipated,
378 neighborhood residents' considerations, and other relevant local
379 concerns.

380 b. Notice of a public hearing must be made in a newspaper
381 of general circulation in the area, must be made in ethnic
382 newspapers or local community bulletins, must be posted in the
383 affected area, and must be announced at a scheduled meeting of
384 the local governing body before the actual public hearing.

385 Section 10. Paragraph (a) of subsection (3) of section
386 497.270, Florida Statutes, is amended to read:

387 497.270 Minimum acreage; sale or disposition of cemetery



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388 lands.-

389 (3) (a) If the property to be sold, conveyed, or disposed of
390 under subsection (2) has been or is being used for the permanent
391 interment of human remains, the applicant for approval of such
392 sale, conveyance, or disposition shall cause to be published, at
393 least once a week for 4 consecutive weeks, a notice meeting the
394 standards of publication set forth in s. 125.66(5)(b)2. ~~s.~~
395 ~~125.66(4)(b)2.~~ The notice shall describe the property in
396 question and the proposed noncemetery use and shall advise
397 substantially affected persons that they may file a written
398 request for a hearing pursuant to chapter 120, within 14 days
399 after the date of last publication of the notice, with the
400 department if they object to granting the applicant's request to
401 sell, convey, or dispose of the subject property for noncemetery
402 uses.

403 Section 11. Paragraph (a) of subsection (2) of section
404 562.45, Florida Statutes, is amended to read:

405 562.45 Penalties for violating Beverage Law; local
406 ordinances; prohibiting regulation of certain activities or
407 business transactions; requiring nondiscriminatory treatment;
408 providing exceptions.-

409 (2) (a) Nothing contained in the Beverage Law shall be
410 construed to affect or impair the power or right of any county
411 or incorporated municipality of the state to enact ordinances
412 regulating the hours of business and location of place of
413 business, and prescribing sanitary regulations therefor, of any
414 licensee under the Beverage Law within the county or corporate
415 limits of such municipality. However, except for premises
416 licensed on or before July 1, 1999, and except for locations



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417 that are licensed as restaurants, which derive at least 51
418 percent of their gross revenues from the sale of food and
419 nonalcoholic beverages, pursuant to chapter 509, a location for
420 on-premises consumption of alcoholic beverages may not be
421 located within 500 feet of the real property that comprises a
422 public or private elementary school, middle school, or secondary
423 school unless the county or municipality approves the location
424 as promoting the public health, safety, and general welfare of
425 the community under proceedings as provided in s. 125.66(5) ~~s.~~
426 ~~125.66(4)~~, for counties, and s. 166.041(3)(c), for
427 municipalities. This restriction shall not, however, be
428 construed to prohibit the issuance of temporary permits to
429 certain nonprofit organizations as provided for in s. 561.422.
430 The division may not issue a change in the series of a license
431 or approve a change of a licensee's location unless the licensee
432 provides documentation of proper zoning from the appropriate
433 county or municipal zoning authorities.

434 Section 12. Subsection (1) of section 847.0134, Florida
435 Statutes, is amended to read:

436 847.0134 Prohibition of adult entertainment establishment
437 that displays, sells, or distributes materials harmful to minors
438 within 2,500 feet of a school.—

439 (1) Except for those establishments that are legally
440 operating or have been granted a permit from a local government
441 to operate as adult entertainment establishments on or before
442 July 1, 2001, an adult entertainment establishment that sells,
443 rents, loans, distributes, transmits, shows, or exhibits any
444 obscene material, as described in s. 847.0133, or presents live
445 entertainment or a motion picture, slide, or other exhibit that,



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446 in whole or in part, depicts nudity, sexual conduct, sexual
447 excitement, sexual battery, sexual bestiality, or
448 sadomasochistic abuse and that is harmful to minors, as
449 described in s. 847.001, may not be located within 2,500 feet of
450 the real property that comprises a public or private elementary
451 school, middle school, or secondary school unless the county or
452 municipality approves the location under proceedings as provided
453 in s. 125.66(5) ~~s. 125.66(4)~~ for counties or s. 166.041(3)(c)
454 for municipalities.

455 Section 13. The Legislature finds and declares that this
456 act fulfills an important state interest.

457 Section 14. This act shall take effect October 1, 2022.

458
459 ===== T I T L E A M E N D M E N T =====

460 And the title is amended as follows:

461 Delete everything before the enacting clause
462 and insert:

463 A bill to be entitled
464 An act relating to local ordinances; amending s.
465 57.112, F.S.; authorizing courts to assess and award
466 attorney fees and costs and damages in certain civil
467 actions filed against local governments; specifying a
468 limitation on awards and a restriction; providing
469 construction and applicability; amending s. 125.66,
470 F.S.; requiring a board of county commissioners to
471 prepare a business impact estimate before the
472 enactment of a proposed ordinance; specifying
473 requirements for the posting and content of the
474 estimate; providing construction and applicability;



475 creating s. 125.675, F.S.; requiring a county to
476 suspend enforcement of an ordinance that is the
477 subject of a certain legal action if certain
478 conditions are met; specifying a precondition for the
479 suspension of an ordinance to be requested; requiring
480 courts to give priority to certain cases; specifying
481 factors a court must consider in determining whether
482 an ordinance is arbitrary or unreasonable; providing
483 applicability; authorizing courts to award attorney
484 fees and costs under certain circumstances; amending
485 s. 166.041, F.S.; requiring a governing body of a
486 municipality to prepare a business impact estimate
487 before the enactment of a proposed ordinance;
488 specifying requirements for the posting and content of
489 the estimate; providing construction and
490 applicability; creating s. 166.0411, F.S.; requiring a
491 municipality to suspend enforcement of an ordinance
492 that is the subject of a certain legal action if
493 certain conditions are met; specifying a precondition
494 for the suspension of an ordinance to be requested;
495 requiring courts to give priority to certain cases;
496 specifying factors a court must consider in
497 determining whether an ordinance is arbitrary or
498 unreasonable; providing applicability; authorizing
499 courts to award attorney fees and costs under certain
500 circumstances; amending ss. 163.2517, 163.3181,
501 163.3215, 376.80, 497.270, 562.45, and 847.0134, F.S.;
502 conforming cross-references; providing a declaration
503 of important state interest; providing an effective



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504

date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 57.112, Florida Statutes, is amended to
read:

57.112 Attorney fees and costs and damages; preempted local
actions.—

(1) As used in this section, the term "attorney fees and
costs" means the reasonable and necessary attorney fees and



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11 costs incurred for all preparations, motions, hearings, trials,
12 and appeals in a proceeding.

13 (2) If a civil action is filed against a local government
14 to challenge the adoption or enforcement of a local ordinance on
15 the grounds that it is expressly preempted by the State
16 Constitution or by state law, the court shall assess and award
17 reasonable attorney fees and costs and damages to the prevailing
18 party.

19 (3) If a civil action is filed against a local government
20 to challenge the adoption of a local ordinance on the grounds
21 that the ordinance is arbitrary or unreasonable, the court may
22 assess and award reasonable attorney fees and costs and damages
23 to the complainant if successful. An award of reasonable
24 attorney fees or costs and damages pursuant to this subsection
25 may not exceed \$50,000. In addition, a prevailing party may not
26 recover any attorney fees or costs directly incurred or
27 associated with litigation to determine an award of reasonable
28 attorney fees or costs.

29 (4) Attorney fees and costs may not be awarded pursuant to
30 this section if:

31 (a) The governing body of a local governmental entity
32 receives written notice that an ordinance that has been publicly
33 noticed or adopted is expressly preempted by the State
34 Constitution or state law or is arbitrary or unreasonable; and

35 (b) The governing body of the local governmental entity
36 withdraws the proposed ordinance within 30 days; or, in the case
37 of an adopted ordinance, the governing body of a local
38 government notices an intent to repeal the ordinance within 30
39 days of receipt of the notice and repeals the ordinance within



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40 30 days thereafter.

41 (5)~~(4)~~ The provisions in this section are supplemental to
42 all other sanctions or remedies available under law or court
43 rule. However, this section may not be construed to authorize
44 double recovery if an affected person prevails on a damages
45 claim brought against a local government pursuant to other
46 applicable law involving the same ordinance, operative acts, or
47 transactions.

48 (6)~~(5)~~ This section does not apply to local ordinances
49 adopted pursuant to part II of chapter 163, s. 553.73, or s.
50 633.202.

51 (7) (a)~~(6)~~ Except as provided in paragraph (b), this section
52 is intended to be prospective in nature and applies ~~shall apply~~
53 only to cases commenced on or after July 1, 2019.

54 (b) The amendments to this section effective October 1,
55 2022, are prospective in nature and apply only to ordinances
56 adopted on or after October 1, 2022.

57 Section 2. Present subsections (3) through (6) of section
58 125.66, Florida Statutes, are redesignated as subsections (4)
59 through (7), respectively, a new subsection (3) is added to that
60 section, and paragraph (a) of subsection (2) of that section is
61 amended, to read:

62 125.66 Ordinances; enactment procedure; emergency
63 ordinances; rezoning or change of land use ordinances or
64 resolutions.-

65 (2) (a) The regular enactment procedure shall be as follows:
66 The board of county commissioners at any regular or special
67 meeting may enact or amend any ordinance, except as provided in
68 subsection (5) ~~(4)~~, if notice of intent to consider such



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69 ordinance is given at least 10 days before such meeting by
70 publication as provided in chapter 50. A copy of such notice
71 shall be kept available for public inspection during the regular
72 business hours of the office of the clerk of the board of county
73 commissioners. The notice of proposed enactment shall state the
74 date, time, and place of the meeting; the title or titles of
75 proposed ordinances; and the place or places within the county
76 where such proposed ordinances may be inspected by the public.
77 The notice shall also advise that interested parties may appear
78 at the meeting and be heard with respect to the proposed
79 ordinance.

80 (3) (a) Before the enactment of a proposed ordinance, the
81 board of county commissioners shall prepare a business impact
82 estimate in accordance with this subsection. The business impact
83 estimate must be posted on the county's website on the same day
84 the notice of proposed enactment is published pursuant to
85 paragraph (2) (a) and must include all of the following:

86 1. A summary of the proposed ordinance, including a
87 statement of the public purpose to be served by the proposed
88 ordinance, such as serving the public health, safety, morals,
89 and welfare of the county.

90 2. An estimate of the direct economic impact of the
91 proposed ordinance on private for-profit businesses in the
92 county, including the following, if any:

93 a. An estimate of direct compliance costs businesses may
94 reasonably incur if the ordinance is enacted.

95 b. Identification of any new charge or fee on businesses
96 subject to the proposed ordinance or for which businesses will
97 be financially responsible.



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98 c. An estimate of the county's regulatory costs, including
99 an estimate of revenues from any new charges or fees that will
100 be imposed on businesses to cover such costs.

101 3. A good faith estimate of the number of businesses likely
102 to be impacted by the ordinance.

103 4. Any additional information the board determines may be
104 useful.

105 (b) This subsection may not be construed to require a
106 county to procure an accountant or other financial consultant to
107 prepare the business impact estimate required by this
108 subsection.

109 (c) This subsection does not apply to an emergency
110 ordinance enacted pursuant to this section.

111 Section 3. Section 125.675, Florida Statutes, is created to
112 read:

113 125.675 Legal challenges to certain recently enacted
114 ordinances.—

115 (1) A county must suspend enforcement of an ordinance that
116 is the subject of an action, including appeals, challenging the
117 ordinance's validity on the grounds that it is expressly
118 preempted by the State Constitution or by state law or is
119 arbitrary or unreasonable if:

120 (a) The action was filed with the court no later than 90
121 days after the adoption of the ordinance;

122 (b) The complainant requests suspension in the initial
123 complaint or petition, citing this section; and

124 (c) The county has been served with a copy of the complaint
125 or petition.

126 (2) The court shall give cases in which the enforcement of



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127 an ordinance is suspended under this section priority over other
128 pending cases and shall render a preliminary or final decision
129 on the validity of the ordinance as expeditiously as possible.

130 (3) In determining whether an ordinance is arbitrary or
131 unreasonable, the court shall consider, but is not limited to,
132 the following factors:

133 (a) The extent to which the ordinance protects the health,
134 welfare, safety, and quality of life of the residents of the
135 county;

136 (b) The impact of the ordinance on the personal rights and
137 privileges of the residents of the county;

138 (c) The total economic impact of the ordinance; and

139 (d) The business impact estimate prepared by the county as
140 required by s. 125.66(3).

141 (4) This section does not apply to local ordinances enacted
142 to implement the following:

143 (a) Part II of chapter 163;

144 (b) Section 553.73;

145 (c) Section 633.202;

146 (d) Ordinances required to comply with federal or state law
147 or regulation;

148 (e) Ordinances related to the issuance or refinancing of
149 debt;

150 (f) Ordinances related to the adoption of budgets or budget
151 amendments; or

152 (g) Ordinances required to implement a contract or an
153 agreement, including, but not limited to, any federal, state,
154 local, or private grant, or other financial assistance accepted
155 by a county government.



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156 (5) The court may award attorney fees and costs as provided
157 in s. 57.112.

158 Section 4. Present subsections (4) through (8) of section
159 166.041, Florida Statutes, are redesignated as subsections (5)
160 through (9), respectively, and a new subsection (4) is added to
161 that section, to read:

162 166.041 Procedures for adoption of ordinances and
163 resolutions.—

164 (4) (a) Before the enactment of a proposed ordinance, the
165 governing body of a municipality shall prepare a business impact
166 estimate in accordance with this subsection. The business impact
167 estimate must be posted on the municipality's website on the
168 same day the notice of proposed enactment is published pursuant
169 to paragraph (3) (a) and must include all of the following:

170 1. A summary of the proposed ordinance, including a
171 statement of the public purpose to be served by the proposed
172 ordinance, such as serving the public health, safety, morals,
173 and welfare of the municipality.

174 2. An estimate of the direct economic impact of the
175 proposed ordinance on private for-profit businesses in the
176 municipality, including the following, if any:

177 a. An estimate of direct compliance costs businesses may
178 reasonably incur if the ordinance is enacted;

179 b. Identification of any new charge or fee on businesses
180 subject to the proposed ordinance, or for which businesses will
181 be financially responsible; and

182 c. An estimate of the municipality's regulatory costs,
183 including an estimate of revenues from any new charges or fees
184 that will be imposed on businesses to cover such costs.



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185 3. A good faith estimate of the number of businesses likely
186 to be impacted by the ordinance.

187 4. Any additional information the governing body determines
188 may be useful.

189 (b) This subsection may not be construed to require a
190 municipality to procure an accountant or other financial
191 consultant to prepare the business impact estimate required by
192 this subsection.

193 (c) This subsection does not apply to an emergency
194 ordinance enacted pursuant to this section.

195 Section 5. Section 166.0411, Florida Statutes, is created
196 to read:

197 166.0411 Legal challenges to certain recently enacted
198 ordinances.—

199 (1) A municipality must suspend enforcement of an ordinance
200 that is the subject of an action, including appeals, challenging
201 the ordinance's validity on the grounds that it is expressly
202 preempted by the State Constitution or by state law or is
203 arbitrary or unreasonable if:

204 (a) The action was filed with the court no later than 90
205 days after the adoption of the ordinance;

206 (b) The complainant requests suspension in the initial
207 complaint or petition, citing this section; and

208 (c) The municipality has been served with a copy of the
209 complaint or petition.

210 (2) The court shall give cases in which the enforcement of
211 an ordinance is suspended under this section priority over other
212 pending cases and shall render a preliminary or final decision
213 on the validity of the ordinance as expeditiously as possible.



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214 (3) In determining whether an ordinance is arbitrary or
215 unreasonable, the court shall consider, but is not limited to,
216 the following factors:

217 (a) The extent to which the ordinance protects the health,
218 welfare, safety, and quality of life of the residents of the
219 municipality;

220 (b) The impact of the ordinance on the personal rights and
221 privileges of the residents of the municipality;

222 (c) The total economic impact of the ordinance; and

223 (d) The business impact estimate prepared by the
224 municipality as required by s. 166.041(4).

225 (4) This section does not apply to local ordinances enacted
226 to implement the following:

227 (a) Part II of chapter 163;

228 (b) Section 553.73;

229 (c) Section 633.202;

230 (d) Ordinances required to comply with federal or state law
231 or regulation;

232 (e) Ordinances related to the issuance or refinancing of
233 debt;

234 (f) Ordinances related to the adoption of budgets or budget
235 amendments; or

236 (g) Ordinances required to implement a contract or
237 agreement, including, but not limited to, any federal, state,
238 local, or private grant, or other financial assistance accepted
239 by a municipal government.

240 (5) The court may award attorney fees and costs as provided
241 in s. 57.112.

242 Section 6. Subsection (5) of section 163.2517, Florida



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243 Statutes, is amended to read:

244 163.2517 Designation of urban infill and redevelopment
245 area.—

246 (5) After the preparation of an urban infill and
247 redevelopment plan or designation of an existing plan, the local
248 government shall adopt the plan by ordinance. Notice for the
249 public hearing on the ordinance must be in the form established
250 in s. 166.041(3)(c)2. for municipalities, and s. 125.66(5)(b)2.
251 ~~s. 125.66(4)(b)2.~~ for counties.

252 Section 7. Paragraph (a) of subsection (3) of section
253 163.3181, Florida Statutes, is amended to read:

254 163.3181 Public participation in the comprehensive planning
255 process; intent; alternative dispute resolution.—

256 (3) A local government considering undertaking a publicly
257 financed capital improvement project may elect to use the
258 procedures set forth in this subsection for the purpose of
259 allowing public participation in the decision and resolution of
260 disputes. For purposes of this subsection, a publicly financed
261 capital improvement project is a physical structure or
262 structures, the funding for construction, operation, and
263 maintenance of which is financed entirely from public funds.

264 (a) Prior to the date of a public hearing on the decision
265 on whether to proceed with the proposed project, the local
266 government shall publish public notice of its intent to decide
267 the issue according to the notice procedures described by s.
268 125.66(5)(b)2. ~~s. 125.66(4)(b)2.~~ for a county or s.
269 166.041(3)(c)2.b. for a municipality.

270 Section 8. Paragraph (a) of subsection (4) of section
271 163.3215, Florida Statutes, is amended to read:



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272 163.3215 Standing to enforce local comprehensive plans
273 through development orders.—

274 (4) If a local government elects to adopt or has adopted an
275 ordinance establishing, at a minimum, the requirements listed in
276 this subsection, the sole method by which an aggrieved and
277 adversely affected party may challenge any decision of local
278 government granting or denying an application for a development
279 order, as defined in s. 163.3164, which materially alters the
280 use or density or intensity of use on a particular piece of
281 property, on the basis that it is not consistent with the
282 comprehensive plan adopted under this part, is by an appeal
283 filed by a petition for writ of certiorari filed in circuit
284 court no later than 30 days following rendition of a development
285 order or other written decision of the local government, or when
286 all local administrative appeals, if any, are exhausted,
287 whichever occurs later. An action for injunctive or other relief
288 may be joined with the petition for certiorari. Principles of
289 judicial or administrative res judicata and collateral estoppel
290 apply to these proceedings. Minimum components of the local
291 process are as follows:

292 (a) The local process must make provision for notice of an
293 application for a development order that materially alters the
294 use or density or intensity of use on a particular piece of
295 property, including notice by publication or mailed notice
296 consistent with the provisions of ss. 125.66(5)(b)2. and 3. and
297 166.041(3)(c)2.b. and c. ~~ss. 125.66(4)(b)2. and 3. and~~
298 166.041(3)(c)2.b. and c., and must require prominent posting at
299 the job site. The notice must be given within 10 days after the
300 filing of an application for a development order; however,



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301 notice under this subsection is not required for an application
302 for a building permit or any other official action of local
303 government which does not materially alter the use or density or
304 intensity of use on a particular piece of property. The notice
305 must clearly delineate that an aggrieved or adversely affected
306 person has the right to request a quasi-judicial hearing before
307 the local government for which the application is made, must
308 explain the conditions precedent to the appeal of any
309 development order ultimately rendered upon the application, and
310 must specify the location where written procedures can be
311 obtained that describe the process, including how to initiate
312 the quasi-judicial process, the timeframes for initiating the
313 process, and the location of the hearing. The process may
314 include an opportunity for an alternative dispute resolution.

315 Section 9. Paragraph (c) of subsection (1) of section
316 376.80, Florida Statutes, is amended to read:

317 376.80 Brownfield program administration process.—

318 (1) The following general procedures apply to brownfield
319 designations:

320 (c) Except as otherwise provided, the following provisions
321 apply to all proposed brownfield area designations:

322 1. Notification to department following adoption.—A local
323 government with jurisdiction over the brownfield area must
324 notify the department, and, if applicable, the local pollution
325 control program under s. 403.182, of its decision to designate a
326 brownfield area for rehabilitation for the purposes of ss.
327 376.77–376.86. The notification must include a resolution
328 adopted by the local government body. The local government shall
329 notify the department, and, if applicable, the local pollution



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330 control program under s. 403.182, of the designation within 30
331 days after adoption of the resolution.

332 2. Resolution adoption.—The brownfield area designation
333 must be carried out by a resolution adopted by the
334 jurisdictional local government, which includes a map adequate
335 to clearly delineate exactly which parcels are to be included in
336 the brownfield area or alternatively a less-detailed map
337 accompanied by a detailed legal description of the brownfield
338 area. For municipalities, the governing body shall adopt the
339 resolution in accordance with the procedures outlined in s.
340 166.041, except that the procedures for the public hearings on
341 the proposed resolution must be in the form established in s.
342 166.041(3)(c)2. For counties, the governing body shall adopt the
343 resolution in accordance with the procedures outlined in s.
344 125.66, except that the procedures for the public hearings on
345 the proposed resolution shall be in the form established in s.
346 125.66(5)(b) ~~s. 125.66(4)(b)~~.

347 3. Right to be removed from proposed brownfield area.—If a
348 property owner within the area proposed for designation by the
349 local government requests in writing to have his or her property
350 removed from the proposed designation, the local government
351 shall grant the request.

352 4. Notice and public hearing requirements for designation
353 of a proposed brownfield area outside a redevelopment area or by
354 a nongovernmental entity. Compliance with the following
355 provisions is required before designation of a proposed
356 brownfield area under paragraph (2)(a) or paragraph (2)(c):

357 a. At least one of the required public hearings shall be
358 conducted as closely as is reasonably practicable to the area to



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359 be designated to provide an opportunity for public input on the
360 size of the area, the objectives for rehabilitation, job
361 opportunities and economic developments anticipated,
362 neighborhood residents' considerations, and other relevant local
363 concerns.

364 b. Notice of a public hearing must be made in a newspaper
365 of general circulation in the area, must be made in ethnic
366 newspapers or local community bulletins, must be posted in the
367 affected area, and must be announced at a scheduled meeting of
368 the local governing body before the actual public hearing.

369 Section 10. Paragraph (a) of subsection (3) of section
370 497.270, Florida Statutes, is amended to read:

371 497.270 Minimum acreage; sale or disposition of cemetery
372 lands.—

373 (3) (a) If the property to be sold, conveyed, or disposed of
374 under subsection (2) has been or is being used for the permanent
375 interment of human remains, the applicant for approval of such
376 sale, conveyance, or disposition shall cause to be published, at
377 least once a week for 4 consecutive weeks, a notice meeting the
378 standards of publication set forth in s. 125.66(5)(b)2. ~~s.~~
379 ~~125.66(4)(b)2.~~ The notice shall describe the property in
380 question and the proposed noncemetery use and shall advise
381 substantially affected persons that they may file a written
382 request for a hearing pursuant to chapter 120, within 14 days
383 after the date of last publication of the notice, with the
384 department if they object to granting the applicant's request to
385 sell, convey, or dispose of the subject property for noncemetery
386 uses.

387 Section 11. Paragraph (a) of subsection (2) of section



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388 562.45, Florida Statutes, is amended to read:

389 562.45 Penalties for violating Beverage Law; local
390 ordinances; prohibiting regulation of certain activities or
391 business transactions; requiring nondiscriminatory treatment;
392 providing exceptions.—

393 (2) (a) Nothing contained in the Beverage Law shall be
394 construed to affect or impair the power or right of any county
395 or incorporated municipality of the state to enact ordinances
396 regulating the hours of business and location of place of
397 business, and prescribing sanitary regulations therefor, of any
398 licensee under the Beverage Law within the county or corporate
399 limits of such municipality. However, except for premises
400 licensed on or before July 1, 1999, and except for locations
401 that are licensed as restaurants, which derive at least 51
402 percent of their gross revenues from the sale of food and
403 nonalcoholic beverages, pursuant to chapter 509, a location for
404 on-premises consumption of alcoholic beverages may not be
405 located within 500 feet of the real property that comprises a
406 public or private elementary school, middle school, or secondary
407 school unless the county or municipality approves the location
408 as promoting the public health, safety, and general welfare of
409 the community under proceedings as provided in s. 125.66(5) ~~s.~~
410 ~~125.66(4)~~, for counties, and s. 166.041(3)(c), for
411 municipalities. This restriction shall not, however, be
412 construed to prohibit the issuance of temporary permits to
413 certain nonprofit organizations as provided for in s. 561.422.
414 The division may not issue a change in the series of a license
415 or approve a change of a licensee's location unless the licensee
416 provides documentation of proper zoning from the appropriate



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417 county or municipal zoning authorities.

418 Section 12. Subsection (1) of section 847.0134, Florida
419 Statutes, is amended to read:

420 847.0134 Prohibition of adult entertainment establishment
421 that displays, sells, or distributes materials harmful to minors
422 within 2,500 feet of a school.—

423 (1) Except for those establishments that are legally
424 operating or have been granted a permit from a local government
425 to operate as adult entertainment establishments on or before
426 July 1, 2001, an adult entertainment establishment that sells,
427 rents, loans, distributes, transmits, shows, or exhibits any
428 obscene material, as described in s. 847.0133, or presents live
429 entertainment or a motion picture, slide, or other exhibit that,
430 in whole or in part, depicts nudity, sexual conduct, sexual
431 excitement, sexual battery, sexual bestiality, or
432 sadomasochistic abuse and that is harmful to minors, as
433 described in s. 847.001, may not be located within 2,500 feet of
434 the real property that comprises a public or private elementary
435 school, middle school, or secondary school unless the county or
436 municipality approves the location under proceedings as provided
437 in s. 125.66(5) ~~s. 125.66(4)~~ for counties or s. 166.041(3)(c)
438 for municipalities.

439 Section 13. The Legislature finds and declares that this
440 act fulfills an important state interest.

441 Section 14. This act shall take effect October 1, 2022.

442
443 ===== T I T L E A M E N D M E N T =====

444 And the title is amended as follows:

445 Delete everything before the enacting clause



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446 and insert:

447 A bill to be entitled
448 An act relating to local ordinances; amending s.
449 57.112, F.S.; authorizing courts to assess and award
450 reasonable attorney fees and costs and damages in
451 certain civil actions filed against local governments;
452 specifying a limitation on awards and a restriction;
453 providing construction and applicability; amending s.
454 125.66, F.S.; requiring a board of county
455 commissioners to prepare a business impact estimate
456 before the enactment of a proposed ordinance;
457 specifying requirements for the posting and content of
458 the estimate; providing construction and
459 applicability; creating s. 125.675, F.S.; requiring a
460 county to suspend enforcement of an ordinance that is
461 the subject of a certain legal action if certain
462 conditions are met; requiring courts to give priority
463 to certain cases; specifying factors a court must
464 consider in determining whether an ordinance is
465 arbitrary or unreasonable; providing applicability;
466 authorizing courts to award attorney fees and costs
467 under certain circumstances; amending s. 166.041,
468 F.S.; requiring a governing body of a municipality to
469 prepare a business impact estimate before the
470 enactment of a proposed ordinance; specifying
471 requirements for the posting and content of the
472 estimate; providing construction and applicability;
473 creating s. 166.0411, F.S.; requiring a municipality
474 to suspend enforcement of an ordinance that is the



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475 subject of a certain legal action if certain
476 conditions are met; requiring courts to give priority
477 to certain cases; specifying factors a court must
478 consider in determining whether an ordinance is
479 arbitrary or unreasonable; providing applicability;
480 authorizing courts to award attorney fees and costs
481 under certain circumstances; amending ss. 163.2517,
482 163.3181, 163.3215, 376.80, 497.270, 562.45, and
483 847.0134, F.S.; conforming cross-references; providing
484 a declaration of important state interest; providing
485 an effective date.

By Senator Hutson

7-00478-22

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1 A bill to be entitled
 2 An act relating to local ordinances; amending s.
 3 57.112, F.S.; authorizing courts to assess and award
 4 attorney fees and costs and damages in certain civil
 5 actions filed against local governments; providing
 6 construction; amending s. 125.66, F.S.; requiring a
 7 board of county commissioners to prepare a business
 8 impact statement before the adoption of a proposed
 9 ordinance; specifying requirements for the posting and
 10 content of the statement; providing applicability;
 11 creating s. 125.675, F.S.; requiring a county to
 12 suspend enforcement of an ordinance that is the
 13 subject of a certain legal action if certain
 14 conditions are met; requiring courts to give priority
 15 to certain cases; specifying factors a court must
 16 consider in determining whether an ordinance is
 17 arbitrary or unreasonable; providing applicability;
 18 authorizing courts to award attorney fees and costs
 19 under certain circumstances; amending s. 166.041,
 20 F.S.; requiring a governing body of a municipality to
 21 prepare a business impact statement before the
 22 adoption of a proposed ordinance; specifying
 23 requirements for the posting and content of the
 24 statement; providing applicability; creating s.
 25 166.0411, F.S.; requiring a municipality to suspend
 26 enforcement of an ordinance that is the subject of a
 27 certain legal action if certain conditions are met;
 28 requiring courts to give priority to certain cases;
 29 specifying factors a court must consider in

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30 determining whether an ordinance is arbitrary or
 31 unreasonable; providing applicability; authorizing
 32 courts to award attorney fees and costs under certain
 33 circumstances; amending ss. 163.2517, 163.3181,
 34 163.3215, 376.80, 497.270, 562.45, and 847.0134, F.S.;
 35 conforming cross-references; providing a declaration
 36 of important state interest; providing an effective
 37 date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Section 57.112, Florida Statutes, is amended to
 42 read:

43 57.112 Attorney fees and costs and damages; preempted local
 44 actions.—

45 (1) As used in this section, the term "attorney fees and
 46 costs" means the reasonable and necessary attorney fees and
 47 costs incurred for all preparations, motions, hearings, trials,
 48 and appeals in a proceeding.

49 (2) If a civil action is filed against a local government
 50 to challenge the adoption or enforcement of a local ordinance on
 51 the grounds that it is expressly preempted by the State
 52 Constitution or by state law, the court shall assess and award
 53 reasonable attorney fees and costs and damages to the prevailing
 54 party.

55 (3) If a civil action is filed against a local government
 56 to challenge the adoption or enforcement of a local ordinance on
 57 the grounds that the ordinance is arbitrary or unreasonable, or
 58 is prohibited by law other than via express preemption, the

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59 court may assess and award reasonable attorney fees and costs
60 and damages to the complainant if successful.

61 (4) Attorney fees and costs may not be awarded pursuant to
62 this section if:

63 (a) The governing body of a local governmental entity
64 receives written notice that an ordinance that has been publicly
65 noticed or adopted is ~~expressly~~ preempted by the State
66 Constitution or state law, is arbitrary or unreasonable, or is
67 otherwise prohibited by law; and

68 (b) The governing body of the local governmental entity
69 withdraws the proposed ordinance within 30 days; or, in the case
70 of an adopted ordinance, the governing body of a local
71 government notices an intent to repeal the ordinance within 30
72 days of receipt of the notice and repeals the ordinance within
73 30 days thereafter.

74 (5)~~(4)~~ The provisions in this section are supplemental to
75 all other sanctions or remedies available under law or court
76 rule.

77 (6)~~(5)~~ This section does not apply to local ordinances
78 adopted pursuant to part II of chapter 163, s. 553.73, or s.
79 633.202.

80 (7)~~(6)~~ Subsections (1), (2), (4), (5), and (6) are ~~This~~
81 ~~section is~~ intended to be prospective in nature and ~~shall~~ apply
82 only to cases commenced on or after July 1, 2019. Subsection (3)
83 is intended to be prospective in nature and applies only to
84 cases commenced on or after October 1, 2022.

85 Section 2. Present subsections (3) through (6) of section
86 125.66, Florida Statutes, are redesignated as subsections (4)
87 through (7), respectively, a new subsection (3) is added to that

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88 section, and paragraph (a) of subsection (2) of that section is
89 amended, to read:

90 125.66 Ordinances; enactment procedure; emergency
91 ordinances; rezoning or change of land use ordinances or
92 resolutions.—

93 (2) (a) The regular enactment procedure shall be as follows:
94 The board of county commissioners at any regular or special
95 meeting may enact or amend any ordinance, except as provided in
96 subsection (5) ~~(4)~~, if notice of intent to consider such
97 ordinance is given at least 10 days before such meeting by
98 publication as provided in chapter 50. A copy of such notice
99 shall be kept available for public inspection during the regular
100 business hours of the office of the clerk of the board of county
101 commissioners. The notice of proposed enactment shall state the
102 date, time, and place of the meeting; the title or titles of
103 proposed ordinances; and the place or places within the county
104 where such proposed ordinances may be inspected by the public.
105 The notice shall also advise that interested parties may appear
106 at the meeting and be heard with respect to the proposed
107 ordinance.

108 (3) (a) Before the adoption of each proposed ordinance, the
109 board of county commissioners shall prepare a business impact
110 statement in accordance with this subsection. The business
111 impact statement must be posted on the county's website on the
112 same day the notice of proposed enactment is published pursuant
113 to paragraph (2) (a) and must include:

114 1. A statement of the public purpose to be served by the
115 proposed ordinance, such as serving the public health, safety,
116 or welfare of the county;

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117 2. A statement of the reasonable connection between the
 118 public purpose and the expected effects of the ordinance;

119 3. The estimated economic effect of the proposed ordinance
 120 on businesses both within and outside the county, including both
 121 adverse and beneficial effects and both direct and indirect
 122 effects;

123 4. A good faith estimate of the number of businesses likely
 124 to be affected by the ordinance;

125 5. An analysis of the extent to which the proposed
 126 ordinance is likely to deter or encourage the formation of new
 127 businesses within the county's jurisdiction;

128 6. An analysis of the extent to which the proposed
 129 ordinance will impede the ability of businesses within the
 130 county to compete with other businesses in other areas of this
 131 state or other domestic markets;

132 7. If applicable, the scientific basis for the proposed
 133 ordinance;

134 8. Alternatives considered by the county which would reduce
 135 the impact of the proposed ordinance on businesses; and

136 9. Any additional information the board determines may be
 137 useful.

138 (b) This subsection does not apply to an emergency
 139 ordinance enacted pursuant to this section.

140 Section 3. Section 125.675, Florida Statutes, is created to
 141 read:

142 125.675 Legal challenges to certain recently enacted
 143 ordinances.—

144 (1) A county must suspend enforcement of an ordinance that
 145 is the subject of an action, including appeals, challenging the

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146 ordinance's validity on the grounds that it is preempted by the
 147 State Constitution or by state law, is arbitrary or
 148 unreasonable, or is otherwise prohibited by law, if:

149 (a) The action was filed with the court no later than 20
 150 days after the effective date of the ordinance;

151 (b) The plaintiff or petitioner requests suspension in the
 152 initial complaint or petition, citing this section; and

153 (c) The county has been served with a copy of the complaint
 154 or petition.

155 (2) The court shall give cases in which the enforcement of
 156 an ordinance is suspended under this section priority over other
 157 pending cases and shall render a preliminary or final decision
 158 on the validity of the ordinance as expeditiously as possible.

159 (3) In determining whether an ordinance is arbitrary or
 160 unreasonable, the court shall consider, but is not limited to,
 161 the following factors:

162 (a) The extent to which the ordinance protects the health,
 163 welfare, safety, and quality of life of the residents of the
 164 county;

165 (b) The impact of the ordinance on the personal rights and
 166 privileges of the residents of the county;

167 (c) The total economic impact of the ordinance; and

168 (d) The business impact statement prepared by the county as
 169 required by s. 125.66(3).

170 (4) This section does not apply to an emergency ordinance
 171 or an ordinance governed by part II of chapter 163, s. 553.73,
 172 or s. 633.202.

173 (5) The court may award attorney fees and costs as provided
 174 in s. 57.112.

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175 Section 4. Present subsections (4) through (8) of section
 176 166.041, Florida Statutes, are redesignated as subsections (5)
 177 through (9), respectively, and a new subsection (4) is added to
 178 that section, to read:

179 166.041 Procedures for adoption of ordinances and
 180 resolutions.—

181 (4) (a) Before the adoption of each proposed ordinance, the
 182 governing body of a municipality shall prepare a business impact
 183 statement in accordance with this subsection. The business
 184 impact statement must be posted on the municipality's website on
 185 the same day the notice of proposed enactment is published
 186 pursuant to paragraph (3) (a) and must include:

187 1. A statement of the public purpose to be served by the
 188 proposed ordinance, such as serving the public health, safety,
 189 or welfare of the municipality;

190 2. A statement of the reasonable connection between the
 191 public purpose and the expected effects of the ordinance;

192 3. The estimated economic effect of the proposed ordinance
 193 on businesses both within and outside the municipality,
 194 including both adverse and beneficial effects and both direct
 195 and indirect effects;

196 4. A good faith estimate of the number of businesses likely
 197 to be affected by the ordinance;

198 5. An analysis of the extent to which the proposed
 199 ordinance is likely to deter or encourage the formation of new
 200 businesses within the municipality's jurisdiction;

201 6. An analysis of the extent to which the proposed
 202 ordinance will impede the ability of businesses within the
 203 municipality to compete with other businesses in other areas of

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204 this state or other domestic markets;

205 7. If applicable, the scientific basis for the proposed
 206 ordinance;

207 8. Alternatives considered by the municipality which would
 208 reduce the impact of the proposed ordinance on businesses; and

209 9. Any additional information the governing body determines
 210 may be useful.

211 (b) This subsection does not apply to an emergency
 212 ordinance enacted pursuant to this section.

213 Section 5. Section 166.0411, Florida Statutes, is created
 214 to read:

215 166.0411 Legal challenges to certain recently enacted
 216 ordinances.—

217 (1) A municipality must suspend enforcement of an ordinance
 218 that is the subject of an action, including appeals, challenging
 219 the ordinance's validity on the grounds that it is preempted by
 220 the State Constitution or by state law, is arbitrary or
 221 unreasonable, or is otherwise prohibited by law, if:

222 (a) The action was filed with the court no later than 20
 223 days after the effective date of the ordinance;

224 (b) The plaintiff or petitioner requests suspension in the
 225 initial complaint or petition, citing this section; and

226 (c) The municipality has been served with a copy of the
 227 complaint or petition.

228 (2) The court shall give cases in which the enforcement of
 229 an ordinance is suspended under this section priority over other
 230 pending cases and shall render a preliminary or final decision
 231 on the validity of the ordinance as expeditiously as possible.

232 (3) In determining whether an ordinance is arbitrary or

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233 unreasonable, the court shall consider, but is not limited to,
 234 the following factors:

235 (a) The extent to which the ordinance protects the health,
 236 welfare, safety, and quality of life of the residents of the
 237 municipality;

238 (b) The impact of the ordinance on the personal rights and
 239 privileges of the residents of the municipality;

240 (c) The total economic impact of the ordinance; and

241 (d) The business impact statement prepared by the
 242 municipality as required by s. 166.041(4).

243 (4) This section does not apply to an emergency ordinance
 244 or an ordinance governed by part II of chapter 163, s. 553.73,
 245 or s. 633.202.

246 (5) The court may award attorney fees and costs as provided
 247 in s. 57.112.

248 Section 6. Subsection (5) of section 163.2517, Florida
 249 Statutes, is amended to read:

250 163.2517 Designation of urban infill and redevelopment
 251 area.—

252 (5) After the preparation of an urban infill and
 253 redevelopment plan or designation of an existing plan, the local
 254 government shall adopt the plan by ordinance. Notice for the
 255 public hearing on the ordinance must be in the form established
 256 in s. 166.041(3)(c)2. for municipalities, and s. 125.66(5)(b)2.
 257 ~~s. 125.66(4)(b)2.~~ for counties.

258 Section 7. Paragraph (a) of subsection (3) of section
 259 163.3181, Florida Statutes, is amended to read:

260 163.3181 Public participation in the comprehensive planning
 261 process; intent; alternative dispute resolution.—

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262 (3) A local government considering undertaking a publicly
 263 financed capital improvement project may elect to use the
 264 procedures set forth in this subsection for the purpose of
 265 allowing public participation in the decision and resolution of
 266 disputes. For purposes of this subsection, a publicly financed
 267 capital improvement project is a physical structure or
 268 structures, the funding for construction, operation, and
 269 maintenance of which is financed entirely from public funds.

270 (a) Prior to the date of a public hearing on the decision
 271 on whether to proceed with the proposed project, the local
 272 government shall publish public notice of its intent to decide
 273 the issue according to the notice procedures described by s.
 274 125.66(5)(b)2. ~~s. 125.66(4)(b)2.~~ for a county or s.
 275 166.041(3)(c)2.b. for a municipality.

276 Section 8. Paragraph (a) of subsection (4) of section
 277 163.3215, Florida Statutes, is amended to read:

278 163.3215 Standing to enforce local comprehensive plans
 279 through development orders.—

280 (4) If a local government elects to adopt or has adopted an
 281 ordinance establishing, at a minimum, the requirements listed in
 282 this subsection, the sole method by which an aggrieved and
 283 adversely affected party may challenge any decision of local
 284 government granting or denying an application for a development
 285 order, as defined in s. 163.3164, which materially alters the
 286 use or density or intensity of use on a particular piece of
 287 property, on the basis that it is not consistent with the
 288 comprehensive plan adopted under this part, is by an appeal
 289 filed by a petition for writ of certiorari filed in circuit
 290 court no later than 30 days following rendition of a development

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291 order or other written decision of the local government, or when
 292 all local administrative appeals, if any, are exhausted,
 293 whichever occurs later. An action for injunctive or other relief
 294 may be joined with the petition for certiorari. Principles of
 295 judicial or administrative res judicata and collateral estoppel
 296 apply to these proceedings. Minimum components of the local
 297 process are as follows:

298 (a) The local process must make provision for notice of an
 299 application for a development order that materially alters the
 300 use or density or intensity of use on a particular piece of
 301 property, including notice by publication or mailed notice
 302 consistent with the provisions of ss. 125.66(5)(b)2. and 3. and
 303 166.041(3)(c)2.b. and c. ~~ss. 125.66(4)(b)2. and 3. and~~
 304 ~~166.041(3)(e)2.b. and c.~~, and must require prominent posting at
 305 the job site. The notice must be given within 10 days after the
 306 filing of an application for a development order; however,
 307 notice under this subsection is not required for an application
 308 for a building permit or any other official action of local
 309 government which does not materially alter the use or density or
 310 intensity of use on a particular piece of property. The notice
 311 must clearly delineate that an aggrieved or adversely affected
 312 person has the right to request a quasi-judicial hearing before
 313 the local government for which the application is made, must
 314 explain the conditions precedent to the appeal of any
 315 development order ultimately rendered upon the application, and
 316 must specify the location where written procedures can be
 317 obtained that describe the process, including how to initiate
 318 the quasi-judicial process, the timeframes for initiating the
 319 process, and the location of the hearing. The process may

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320 include an opportunity for an alternative dispute resolution.
 321 Section 9. Paragraph (c) of subsection (1) of section
 322 376.80, Florida Statutes, is amended to read:
 323 376.80 Brownfield program administration process.—
 324 (1) The following general procedures apply to brownfield
 325 designations:
 326 (c) Except as otherwise provided, the following provisions
 327 apply to all proposed brownfield area designations:
 328 1. Notification to department following adoption.—A local
 329 government with jurisdiction over the brownfield area must
 330 notify the department, and, if applicable, the local pollution
 331 control program under s. 403.182, of its decision to designate a
 332 brownfield area for rehabilitation for the purposes of ss.
 333 376.77-376.86. The notification must include a resolution
 334 adopted by the local government body. The local government shall
 335 notify the department, and, if applicable, the local pollution
 336 control program under s. 403.182, of the designation within 30
 337 days after adoption of the resolution.
 338 2. Resolution adoption.—The brownfield area designation
 339 must be carried out by a resolution adopted by the
 340 jurisdictional local government, which includes a map adequate
 341 to clearly delineate exactly which parcels are to be included in
 342 the brownfield area or alternatively a less-detailed map
 343 accompanied by a detailed legal description of the brownfield
 344 area. For municipalities, the governing body shall adopt the
 345 resolution in accordance with the procedures outlined in s.
 346 166.041, except that the procedures for the public hearings on
 347 the proposed resolution must be in the form established in s.
 348 166.041(3)(c)2. For counties, the governing body shall adopt the

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349 resolution in accordance with the procedures outlined in s.
 350 125.66, except that the procedures for the public hearings on
 351 the proposed resolution shall be in the form established in s.
 352 125.66(5)(b) ~~s. 125.66(4)(b)~~.

353 3. Right to be removed from proposed brownfield area.—If a
 354 property owner within the area proposed for designation by the
 355 local government requests in writing to have his or her property
 356 removed from the proposed designation, the local government
 357 shall grant the request.

358 4. Notice and public hearing requirements for designation
 359 of a proposed brownfield area outside a redevelopment area or by
 360 a nongovernmental entity. Compliance with the following
 361 provisions is required before designation of a proposed
 362 brownfield area under paragraph (2)(a) or paragraph (2)(c):

363 a. At least one of the required public hearings shall be
 364 conducted as closely as is reasonably practicable to the area to
 365 be designated to provide an opportunity for public input on the
 366 size of the area, the objectives for rehabilitation, job
 367 opportunities and economic developments anticipated,
 368 neighborhood residents' considerations, and other relevant local
 369 concerns.

370 b. Notice of a public hearing must be made in a newspaper
 371 of general circulation in the area, must be made in ethnic
 372 newspapers or local community bulletins, must be posted in the
 373 affected area, and must be announced at a scheduled meeting of
 374 the local governing body before the actual public hearing.

375 Section 10. Paragraph (a) of subsection (3) of section
 376 497.270, Florida Statutes, is amended to read:

377 497.270 Minimum acreage; sale or disposition of cemetery

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378 lands.—

379 (3) (a) If the property to be sold, conveyed, or disposed of
 380 under subsection (2) has been or is being used for the permanent
 381 interment of human remains, the applicant for approval of such
 382 sale, conveyance, or disposition shall cause to be published, at
 383 least once a week for 4 consecutive weeks, a notice meeting the
 384 standards of publication set forth in s. 125.66(5)(b)2. ~~s.~~
 385 ~~125.66(4)(b)2.~~ The notice shall describe the property in
 386 question and the proposed noncemetery use and shall advise
 387 substantially affected persons that they may file a written
 388 request for a hearing pursuant to chapter 120, within 14 days
 389 after the date of last publication of the notice, with the
 390 department if they object to granting the applicant's request to
 391 sell, convey, or dispose of the subject property for noncemetery
 392 uses.

393 Section 11. Paragraph (a) of subsection (2) of section
 394 562.45, Florida Statutes, is amended to read:

395 562.45 Penalties for violating Beverage Law; local
 396 ordinances; prohibiting regulation of certain activities or
 397 business transactions; requiring nondiscriminatory treatment;
 398 providing exceptions.—

399 (2) (a) Nothing contained in the Beverage Law shall be
 400 construed to affect or impair the power or right of any county
 401 or incorporated municipality of the state to enact ordinances
 402 regulating the hours of business and location of place of
 403 business, and prescribing sanitary regulations therefor, of any
 404 licensee under the Beverage Law within the county or corporate
 405 limits of such municipality. However, except for premises
 406 licensed on or before July 1, 1999, and except for locations

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407 that are licensed as restaurants, which derive at least 51
 408 percent of their gross revenues from the sale of food and
 409 nonalcoholic beverages, pursuant to chapter 509, a location for
 410 on-premises consumption of alcoholic beverages may not be
 411 located within 500 feet of the real property that comprises a
 412 public or private elementary school, middle school, or secondary
 413 school unless the county or municipality approves the location
 414 as promoting the public health, safety, and general welfare of
 415 the community under proceedings as provided in s. 125.66(5) ~~s.~~
 416 ~~125.66(4)~~, for counties, and s. 166.041(3)(c), for
 417 municipalities. This restriction shall not, however, be
 418 construed to prohibit the issuance of temporary permits to
 419 certain nonprofit organizations as provided for in s. 561.422.
 420 The division may not issue a change in the series of a license
 421 or approve a change of a licensee's location unless the licensee
 422 provides documentation of proper zoning from the appropriate
 423 county or municipal zoning authorities.

424 Section 12. Subsection (1) of section 847.0134, Florida
 425 Statutes, is amended to read:

426 847.0134 Prohibition of adult entertainment establishment
 427 that displays, sells, or distributes materials harmful to minors
 428 within 2,500 feet of a school.—

429 (1) Except for those establishments that are legally
 430 operating or have been granted a permit from a local government
 431 to operate as adult entertainment establishments on or before
 432 July 1, 2001, an adult entertainment establishment that sells,
 433 rents, loans, distributes, transmits, shows, or exhibits any
 434 obscene material, as described in s. 847.0133, or presents live
 435 entertainment or a motion picture, slide, or other exhibit that,

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436 in whole or in part, depicts nudity, sexual conduct, sexual
 437 excitement, sexual battery, sexual bestiality, or
 438 sadomasochistic abuse and that is harmful to minors, as
 439 described in s. 847.001, may not be located within 2,500 feet of
 440 the real property that comprises a public or private elementary
 441 school, middle school, or secondary school unless the county or
 442 municipality approves the location under proceedings as provided
 443 in s. 125.66(5) ~~s. 125.66(4)~~ for counties or s. 166.041(3)(c)
 444 for municipalities.

445 Section 13. The Legislature finds and declares that this
 446 act fulfills an important state interest.

447 Section 14. This act shall take effect October 1, 2022.

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OFFICE OF THE STATE COURTS ADMINISTRATOR
2022 JUDICIAL IMPACT STATEMENT

DATE: November 9, 2021

BILL NUMBER: SB 280

SPONSOR(S): Senator Hutson

STATUTE(S) AFFECTED: ss. 57.112, 125.66, 125.675, 163.2517, 163.3181, 163.3215, 166.041, 166.0411, 376.80, 497.270, 562.45, 847.0134, F.S.

COMPANION BILL(S): HB 403 (Giallombardo)

AGENCY CONTACT: Tashiba Robinson, Legislative Affairs

TELEPHONE: (850) 922-5692

ASSIGNED OSCA STAFF: MEH

- I. SUMMARY: The bill requires counties and municipalities (“local governments”) to prepare and publish business impact statements for proposed ordinances. The bill also requires local governments to suspend enforcement of ordinances which are the subject of certain legal actions, requires courts to prioritize the resolution of such legal actions, and authorizes the award of attorney fees, costs, and damages to prevailing complainants in such legal actions.

The bill takes effect October 1, 2022.

II. ANALYSIS:

Adoption of Local Ordinances (Sections 2 & 4)

The bill amends ss. 125.66 and 166.041, F.S., to require that counties and municipalities (“local governments”) prepare and publish a business impact statement for proposed ordinances. The bill requires that the business impact statement include the following information:

- A statement of the public purpose served by the ordinance;
- A statement of the reasonable connection between the public purpose and the expected effects of the ordinance;
- The estimated economic effect of the ordinance on businesses;
- A good faith estimate of the number of businesses affected by the ordinance;
- An analysis of the extent to which the ordinance will deter or encourage the formation of new businesses or impede business competition;
- The scientific basis for the ordinance if applicable;
- Any alternatives considered by the county to reduce the business

OFFICE OF THE STATE COURTS ADMINISTRATOR
2022 JUDICIAL IMPACT STATEMENT

- impact of the ordinance; and
- Any additional information determined by the local government to be useful.

The requirement to prepare a business impact statement for proposed ordinances does not apply to emergency ordinances.

Legal Challenges to Local Ordinances (Sections 1, 3 & 5)

The bill creates ss. 125.675 and 166.0411, F.S., which require that local governments suspend the enforcement of an ordinance which has been legally challenged on the grounds that it is preempted, it is arbitrary or unreasonable, or it is otherwise prohibited by law, if:

- The legal action was filed with the court no later than 20 days after the effective date of the ordinance;
- The plaintiff or petitioner requests suspension of the ordinance in the initial complaint or petition, citing ss. 125.675 or 166.0411, F.S.; and
- The local government has been served with a copy of the complaint or petition.

The bill requires that the court:

- Give priority to actions in which the enforcement of an ordinance is suspended under ss. 125.675 or 166.0411, F.S.; and
- Render a preliminary or final decision on the validity of the ordinance as expeditiously as possible in such actions.

The bill also requires that the court consider the following factors when determining whether an ordinance is arbitrary or unreasonable:

- The extent to which the ordinance protects the health, welfare, safety, and quality of life of the residents of the county;
- The impact of the ordinance on the personal rights and privileges of the residents of the county;
- The total economic impact of the ordinance; and
- The business impact statement prepared by the local government when the ordinance was proposed.

The requirements of ss. 125.675 and 166.0411, F.S., do not apply to emergency ordinances, an ordinance related to municipal growth, or an ordinance governed by the Florida Building Code or the Florida Fire Prevention Code.

The bill also amends s. 57.112, F.S., to authorize courts to award attorney fees, costs, and damages to a complainant who prevails in an action alleging that an ordinance is arbitrary or unreasonable or otherwise prohibited by law.

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2022 JUDICIAL IMPACT STATEMENT

Other Provisions (Sections 6 - 14)

Pursuant to the requirements of Article VII, Section 18 of the Florida Constitution, the bill provides that the Legislature finds and declares that the bill fulfills an important state interest.

The bill also conforms statutory cross-references to changes made by the bill.

The bill takes effect October 1, 2022.

- III. ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT: Indeterminate. The automatic suspension of ordinances which are the subject of certain legal challenges may result in fewer proceedings for temporary injunctive relief while such actions are pending. However, the bill requires courts to prioritize such actions over other pending cases, and to provide a preliminary or final decision in such actions as expeditiously as possible which may increase judicial workload.
- IV. IMPACT TO COURT RULES/JURY INSTRUCTIONS: None anticipated.
- V. ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:
 - A. **Revenues:** None
 - B. **Expenditures:** The fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to establish the increase in judicial workload resulting from the potential for increased expedited case handling and the potential for reductions in other related causes of action, as discussed in Section III, above.

January 12, 2022

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 280

Bill Number or Topic

616410

Amendment Barcode (if applicable)

Name **Edward G. Labrador**

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Association of Counties

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

01/12/22

Meeting Date

Community Affairs

Committee

280

Bill Number or Topic

616410

Amendment Barcode (if applicable)

Name **Rebecca O'Hara**

Phone **850-701-3692**

Address **PO Box 1757**

Email **rohara@flcities.com**

Street

Tallahassee

FL

32302-1757

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida League of Cities

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

280

1/12/2022

Meeting Date

Bill Number or Topic

Comm Affairs

Committee

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

Amendment Barcode (if applicable)

Name SONATHAN WEBBER

Phone 954-593-4449

Address 1700 N. Monroe St. #11-286

Email JWEBBER@FCVOTERS.ORG

Street

Tallahassee

FL

32303

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FLORIDA CONSERVATIVE VOTERS

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22

Meeting Date

SB 280

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Letitia Harmon

Phone

Address 1010 N. Davis St.

Email

Letitia@floridaFishing.org

Street

Jacksonville, FL

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 280

Bill Number or Topic

1/12/22

Meeting Date

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Alec Wilcosky

Phone

309-258-2296

Address

3752 38TH AVE N

Email

alecwilcosky@gmail.com

Street

ST PETERBURG

City

FL

State

33713

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/21

Meeting Date

SB 280

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Rich Templin

Phone

850-221-6926

Address

135 S. Monroe

Email

Street

Tallahassee

FL

32304

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/12/22

Meeting Date

280

Bill Number or Topic

CA

Committee

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

Amendment Barcode (if applicable)

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **9830 ELM ST**

Email **cullenasea@gmail.com**

Street

OCEAN CITY

MD

21842

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SIERRA CLUB FLORIDA

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

280

1/12/22

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name Tda V. Eskamani

Phone

Address 134 E Colonial Dr

Email

Street

Orlando

FL

32801

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Immigrant Coalition

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

The Florida Senate

APPEARANCE RECORD

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

01.12.22

Meeting Date

#280

Bill Number or Topic

Comm. Affairs

Committee

Amendment Barcode (if applicable)

Name Ken Williams

Phone 813.886.1753

Address 7411 Meadow DR

Street

Email kwilliams@gmail.com

Tampa FL 33634

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11/2/22

Meeting Date

230

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Kyle Milwee

Phone 727-270-5807

Address 950 W. Tropicana Ct.

Email Kyle.Milwee@gmail.com

Street

Kissimmee

FL

34741

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

375

The Florida Senate

APPEARANCE RECORD

1/12/2022

Meeting Date

280

Bill Number or Topic

COMMUNITY AFFAIRS

Committee

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

Amendment Barcode (if applicable)

Name TRISH NEELY

Phone 850 322 3317

Address 2024 SHANGRI LA LANE

Email

Street

TALLY

City

FL

State

32303

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

LEAGUE WOMEN VOTERS FLORIDA

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-7-21

Meeting Date

SB 280

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

Jane West

Phone

904-671-4008

Address

Monroe St

Email

jwest@1000fof.org

Street

Tally

FL

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

1000 Friends of Florida

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

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

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

S-001 (08/10/2021)

1/12/22

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 0280

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name ERIC Rodriguez

Phone (386) 249-0923

Address 8833 141 lane

Email ERIC.Rodriguez@floridaea.org

Street

Live Oak FL 32060

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1-12-2022

Meeting Date

SB 280

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Patty Farley

Name

321-794-1953

Phone

173 Coral Way

Address

pfarley-101@hotmail.com

Email

Indialantic FL. 32903

Street

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22

Meeting Date

SB 280

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name David Bryant

Phone 904-928-3744

Address 8853 Attas Lane
Street

Email davidbryant177@gmail.com

Jacksonville
City

FL
State

32216
Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

280

Bill Number or Topic

12 January 2022

Meeting Date

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

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Alberto Balido

Phone (866) 960-5939

Address 201 W Park Ave Ste 100

Street

Email Albert@AnfieldFlorida.com

Tallahassee FL 32301

City

State

Zip

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

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

Florida Policy Institute

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 280

1-12-21

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name

Richard Myers

Phone

904 610-5609

Address

940 17th Ave N

Email

myersr48@hotmail.com

Street

Jax Bch

City

FL

State

32250

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/2022

Meeting Date

SB 280

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Devon West

Phone 954-785-9293

Address 100 S. Andrews Ave

Street

Email dewest@broward-sos

Ft Lauderdale, FL 33301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Broward County

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2022 1/12/22

Meeting Date

280

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Philip Swberman

Phone

Address

Email

Street

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Americans for Prosperity

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22

Meeting Date

SB 280

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Wayne Lukash

Phone 407 432 6030

Address 2415 Drake Dr
Street

Email Waynegetsildone@gmail.com

Orlando
City

FL
State

32810
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-12-22

Meeting Date

280

Bill Number or Topic

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

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Barbara DeVane

Phone 850-251-4280

Address 625 E. Brevard St

Email barmadevane1@yahoo.com

Tallahassee FL 32308

Street

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist representing: FL NOW National Organization for Women

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

280

January 12, 2022

Meeting Date

Community Affairs

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Samantha Padgett**

Phone **850-224-2250**

Address **230 South Adams Street**

Email **spadgett@frla.org**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Restaurant and Lodging Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22
Meeting Date

SB-280
Bill Number or Topic

COMMUNITY AFFAIRS
Committee

Amendment Barcode (if applicable)

Name J. B. CLARK Phone 850-556-8143

Address 2071 CYNTHIA DRIVE Email JBCLAKE5@EADTWORK.NET
Street

TALEA FL 32303
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FL. ELECTRICAL WORKERS ASSN.

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

280

Bill Number or Topic

1/12/2022

Meeting Date

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Karen Woodall

Phone

850-321-9386

Address

579 E. Cal St.

Email

kewo@yahoo.com

Street

Tallahassee FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Center for Fiscal & Economic Policy

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11,045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

280

January 12, 2022

Meeting Date

Community Affairs

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Nicole Fogarty

Phone (772) 462-6426

Address 2300 Virginia Avenue

Email fogartyn@stlucieco.org

Street

Fort Pierce

FL

34982

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

St. Lucie County

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/2022

Meeting Date

SB 280

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Joanne Cobbs

Phone 407.325.9463

Address 20116 Macon Parkway

Email JoanneCobbs49@gmail.com

Street

Orlando

FL

32833

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/12/22
Meeting Date

Community Affairs
Committee

SB 280
Bill Number or Topic

Amendment Barcode (if applicable)

Name Gary Hunter

Phone 850 567 5763

Address 119 S. Calhoun Street
Street

Email gary@vogelgroup.pdc.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
The Florida Chamber of Commerce

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/2022 Meeting Date

Community Affairs Committee

280 Bill Number or Topic

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL Phone 954-299-7806

Address 100 N. ANDREWS AVE Street Email DSAINVIL@FORTLAUDERDALE.GOV

FORT LAUDERDALE FL 33301 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: CITY OF FORT LAUDERDALE

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11,045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

1/12/22

280

Meeting Date

Bill Number or Topic

Community Affairs

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

Committee

Amendment Barcode (if applicable)

Name **Adam Basford**

Phone **850-224-7173**

Address **516 N Adams**

Email **abasford@aif.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Associated Industries of Florida

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

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

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S-001 (08/10/2021)

APPEARANCE RECORD

280

1/12/2022

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

Bill Number or Topic

Meeting Date
Comm Affs

Amendment Barcode (if applicable)

Committee
Name Aaron Carmela

Phone 727 204 8622

Address 2919 Dartmouth Ave N

Email acarmela@plaficio.org

Street
St Pete FL 33713
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

SD 280

Bill Number or Topic

1/12/2022

Meeting Date

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

Comm A

Committee

Amendment Barcode (if applicable)

Name JACK CORI

Phone 850-893-0997

Address 730 E Bay Pkwy AL

Email JACK CORI@PACE

Street

Jacksonville

FL

State

32301

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

City of JACKSONVILLE BEACH

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/12/22
Meeting Date

SB 280
Bill Number or Topic

COMMUNITY AFFAIRS
Committee

Amendment Barcode (if applicable)

Name Yolanda Russell

Phone 407-619-3641

Address 7810 CROSSWALK #5203
Street

Email yolanda.russell@earthlink.net

WINDERMERE FL 34786
City State Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 280

06/14/2022

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name VIVIAN Lyte-Johnson

Phone 407 595 4264

Address 1884 Ibis Bay Ct

Email V3576@att.net

Street

Osceola

FL

State

34761

Zip

City

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

LOCAL ORDINANCES

SB 280

1/12/2022
Meeting Date

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

Bill Number or Topic

COM AFFAIRS
Committee

Amendment Barcode (if applicable)

Name JEAN SIEBENALER Phone 513-532-5408

Address 7502 OLD BAY POINT RD Street Email jsiebenalergnail.com

MILTON FL 32583
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

The Florida Senate

APPEARANCE RECORD

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

01/12/2022
Meeting Date

SB280
Bill Number or Topic

Community Affairs
Committee

Amendment Barcode (if applicable)

Name Karen B Moser

Phone 321-327-2576

Address 1775 Atz Rd.
Street

Email mulesforever@gmail.com

Malabar, FL 32950
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 280

01/12/2022

Meeting Date

Bill Number or Topic

Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name Janet Laumont

Phone 321 216 7134

Address 1201 Riviera Dr

Email laumontj@yahoo.com

Street

Palm Bay

FL

State

32905

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-12-22

Meeting Date

SB 280

Bill Number or Topic

Community Affairs
Committee

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

Amendment Barcode (if applicable)

Name Deborah Baker-Rian

Phone 850.499.0198

Address 3926 Balsam Dr.
Street

Email deborah.bakerrian@gmail.com

Niceville FL 32578
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

01/17/2022

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 0280

Bill Number or Topic

Senate Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name Steven B Grant

Phone 561 742 6010

Address 100 East Ocean Ave

Email GRANTS@BBFL.US

Street

Boynton Beach FL 33435

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

City of Boynton Beach

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 510

INTRODUCER: Ethics and Elections Committee and Senator Brodeur

SUBJECT: Financial Disclosures for Local Officers

DATE: January 3, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rey</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 510 requires the following local officers to file full and public disclosure of financial interests pursuant to the Florida Constitution:¹

- Mayors.
- City commissioners.
- Elected members of a city council; town council; village council; or other governing body of a city, town, or village.
- City, county, town, or village managers.

The bill revises the definition of “local officers” to conform to the changes proposed in the bill.

This bill will take effect on January 1, 2023.

II. Present Situation:

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interest.² Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.³

¹ Fla. Const., art. II, s. 8(a) (2021).

² Fla. Const., art. II, ss. 8(a) and 8(i)(2) (2021).

³ Fla. Const., art. II, s. 8(a) (2021).

Pursuant to the Constitution, the term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value of each asset and liability in excess of \$1,000.⁴ The disclosure must be accompanied by either a sworn statement with this information or a copy of the reporting individual’s most recent federal income tax return.⁵ Pursuant to general law, the Commission on Ethics (Commission) has created by rule CE Form 6 to be used to make the required full and public financial disclosure.⁶

According to the Commission, and as articulated in the form, individuals holding the following positions must file CE Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including the mayor); compensation claims judges; Duval County superintendent of schools; Florida Housing Finance Corporation Board members; Florida Prepaid College Board members; and each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 348 or 343, F.S., or any other general law.⁷

Reporting individuals are required to file CE Form 6 annually with the Commission by July 1.⁸ Additionally, candidates for a constitutional officer are required to make a full and public disclosure of their financial interests at the time of qualifying.⁹

Beginning January 1, 2022, all disclosures filed with the Commission must be filed electronically through an electronic filing system created and maintained by the Commission as provided in s. 112.31446, F.S..¹⁰

Statement of Financial Interests (CE Form 1)

While elected local officers¹¹ may have the same spending power as county commissioners and other public officers that are required to file CE Form 6, state law only requires local officers to file CE Form 1, which is a less detailed form of financial disclosure.¹² Elected local officers, municipal officers, and candidates for such offices, must file this form at the time of qualifying and annually by July 1.¹³

Those who are required to file a statement of financial interests pursuant to s. 112.3145, F.S., are required to disclose primary sources of income (other than from his or her public position), secondary sources of income (in certain circumstances), real property (other than a residence or

⁴ Fla. Const., art. II, s. 8(i)(1) (2021).

⁵ Section 112.3144, F.S. (2021), beginning January 1, 2022, individuals required to file full and public disclosure of financial interests may not use federal income tax returns for the purposes of reporting income.

⁶ Rule 34-8.002, F.A.C.

⁷ Rule 34-8.003, F.A.C., http://www.ethics.state.fl.us/Documents/Forms/Form1.html#form_6 (last accessed on 11/19/2021).

⁸ Rule 34-8.002, F.A.C.

⁹ Section 99.061(5), F.S. (2021).

¹⁰ Section 112.3144, F.S. (2021).

¹¹ Section 112.3145(1) (2021).

¹² Section 112.3145(3), F.S. (2021); *see also* Rule 34-8.202, F.A.C.

¹³ Rule 34-8.202, F.A.C.

vacation home in Florida), intangible personal property, liabilities, and interests in specified businesses.¹⁴ The law permits a filer to report the required interest based upon one of two thresholds. First, the filer may report all interests which exceed certain dollar thresholds depending on the type of asset.¹⁵ Alternatively, the filer may calculate whether an interest is required to be reported based upon whether that interest exceeds a specified percentage of his or her net worth. This is referred to as the “comparative (percentage) threshold.” Because the law permits a filer to choose which threshold he or she is going to use, the CE Form 1 promulgated by the Commission requires the filer to identify the threshold used by checking a box. The statute does not expressly require this designation on the CE Form 1. The CE Form 1 is due July 1. A grace period is provided until September 1 of each year.¹⁶

A candidate for an office subject to the CE Form 1 filing requirement must file a CE Form 1 with his or her qualifying papers.¹⁷ If the candidate qualifies prior to the annual CE Form 1 filing deadline, the CE Form 1 that is filed with the candidate’s qualifying papers will satisfy the annual disclosure requirement.¹⁸ If the candidate qualifies after the annual CE Form 1 filing deadline, the candidate must file a copy of the CE Form 1 with the qualifying officer.¹⁹ General law also requires an individual subject to the CE Form 1 filing requirement to file a final disclosure statement within 60 day after leaving his or her public position.²⁰ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office or employment, unless the person takes another public position for which a CE Form 1 or CE Form 6 is required within the 60-day period, or if the person is otherwise required to file CE Form 1.²¹

Beginning January 1, 2023, all statements filed with the Commission must be filed electronically through an electronic filing system that is created and maintained by the commission as provided in s. 112.31446, F.S.²²

III. Effect of Proposed Changes:

The bill requires the following local officers to file the more detailed CE Form 6 annually, beginning with the 2022 filing year: mayors; city commissioners; elected members of a city council, town council, village council, or other governing body of a city, town or village; and city, county, town, or village managers.

The bill excludes the local officers listed above from being required to file CE Form 1.

The bill takes effect January 1, 2023.

¹⁴ Section 112.3145(3), F.S. (2021).

¹⁵ See Florida Commission on Ethics, Statement of Financial Interests (Form 1), available at http://www.ethics.state.fl.us/Documents/Forms/Form%201_2020i.pdf?cp=20211215 (last visited December 15, 2021).

¹⁶ Section 112.3145(8)(c), F.S. (2021).

¹⁷ Section 112.3145(2)(a), F.S. (2021).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 112.3145(2)(b), F.S. (2021).

²¹ *Id.*

²² Section 112.3145(2)(b), F.S. (2021).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires mayors; city commissioners; elected members of a city council; town council; village council; or other governing body of a city, town or village; and city, county, town, or village managers to file the more detailed CE Form 6 in lieu of the currently required CE 1. The expense to the Commission associated with mailing these individuals a CE Form 6 instead of a CE Form 1 is indeterminate, but likely insignificant and can be absorbed by current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.3144 and 112.3145 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 Ethics and Elections on November 30, 2021:

The CS excludes mayors; city commissioners; elected members of a city council; town council; village council; or other governing body of a city, town or village; and city, county, town, or village managers from the term “local officer” as used in s. 112.3145(2)(b), F.S., which addresses their obligation to file a CE Form 1. The aforementioned “local officers” must still comply with the other obligations in s. 112.3145, F.S.

- B. **Amendments:**

By the Committee on Ethics and Elections; and Senator Brodeur

582-01371-22

2022510c1

1 A bill to be entitled
 2 An act relating to financial disclosures for local
 3 officers; amending s. 112.3144, F.S.; requiring
 4 specified local officers to file a full and public
 5 disclosure of financial interests; amending s.
 6 112.3145, F.S.; conforming a provision to changes made
 7 by the act; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (d) is added to subsection (1) of
 12 section 112.3144, Florida Statutes, to read:
 13 112.3144 Full and public disclosure of financial
 14 interests.—
 15 (1)
 16 (d) The following local officers must comply with the
 17 financial disclosure requirements of s. 8, Art. II of the State
 18 Constitution and this section:
 19 1. Mayors.
 20 2. City commissioners.
 21 3. Elected members of a city council; town council; village
 22 council; or other governing body of a city, town, or village.
 23 4. City, county, town, or village managers.
 24 Section 2. Paragraph (b) of subsection (2) of section
 25 112.3145, Florida Statutes, is amended to read:
 26 112.3145 Disclosure of financial interests and clients
 27 represented before agencies.—
 28 (2)
 29 (b) Each state or local officer, except local officers

Page 1 of 2

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

582-01371-22

2022510c1

30 specified in s. 112.3144(1)(d), and each specified state
 31 employee shall file a statement of financial interests no later
 32 than July 1 of each year. Each state officer, local officer, and
 33 specified state employee shall file a final statement of
 34 financial interests within 60 days after leaving his or her
 35 public position for the period between January 1 of the year in
 36 which the person leaves and the last day of office or
 37 employment, unless within the 60-day period the person takes
 38 another public position requiring financial disclosure under
 39 this section or s. 8, Art. II of the State Constitution or
 40 otherwise is required to file full and public disclosure or a
 41 statement of financial interests for the final disclosure
 42 period. Each state or local officer who is appointed and each
 43 specified state employee who is employed shall file a statement
 44 of financial interests within 30 days after ~~from~~ the date of
 45 appointment or, in the case of a specified state employee, after
 46 ~~from~~ the date on which the employment begins, except that any
 47 person whose appointment is subject to confirmation by the
 48 Senate shall file before ~~prior to~~ confirmation hearings or
 49 within 30 days after ~~from~~ the date of appointment, whichever
 50 comes first.
 51 Section 3. This act shall take effect January 1, 2023.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 644

INTRODUCER: Senator Brodeur

SUBJECT: Building Inspection Services

DATE: January 4, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Pre-meeting
2.			RI	
3.			RC	

I. Summary:

SB 644 provides a number of revisions relating to building inspectors and plans reviewers licensure requirements and workforce availability. The bill also makes changes relating to transparency and efficiency for private providers and building officials under the alternative plans review and inspection process.

The bill makes the following changes pertaining to building inspector and plans examiner licensure:

- Provides that a person may sit for the building inspector or plans examiner licensure test by completing a 4-year internship with a private entity and under the direct supervision of a licensed building official.
- Requires the Building Code Administrators and Inspectors Board (BCAIB) to create a rule establishing that partial completion of an internship program may be transferred between local governments or private entities.
- Prohibits the BCAIB from issuing a provisional license with a special condition or requirement that such licensee be employed by a municipality, county, or other local government agency.

As it relates to private providers, the bill specifies that if a person uses a private provider, the local government must provide equal access to all permitting and inspection documents and reports to the private provider, the owner, and the contractor. It also defines the “reasonable administrative fee” a local government may charge for using a private provider as the actual cost incurred.

Finally, the bill provides that if a local building official does not provide a notice of deficiencies within two business days, the building permit is closed and the local building official must provide the permit applicant with the written certificate of occupancy or certificate of completion within 10 days after it has been automatically granted and considered issued.

II. Present Situation:

The Florida Building Code

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

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.³

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

The Florida Building Commission was statutorily created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,⁵ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.⁶

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Nov. 11, 2021).

² *Id.*; DBPR, *Building Code Information System*, available at: <https://floridabuilding.org/c/default.aspx#> (last visited on Nov. 11, 2021).

³ *Id.*

⁴ Section 553.72(1), F.S.

⁵ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Dec 2, 2021).

⁶ Sections 553.73, and 553.74, F.S.

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.⁷

Every local government must enforce the Building Code and issue building permits.⁸ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁹

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.¹⁰ Construction work may not be done beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required inspections is considered completed or closed.¹¹

Building Code Administrators and Inspectors and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board (BCAIB) within DBPR. The BCAIB consists of nine members appointed by the Governor and subjected to confirmation by the Senate.¹²

A building code administrator, otherwise known as a building official, is a local government employee or a person contracted by a local government who supervises building code activities, including plans review, enforcement, and inspection.¹³

A building code inspector (inspector) inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories the inspector has been licensed. The inspector categories are:¹⁴

- Building inspector
- Coastal construction inspector
- Commercial electrical inspector
- Residential electrical inspector
- Mechanical inspector

⁷ Section 553.72, F.S.

⁸ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

⁹ Sections 125.56(4)(a), 553.79(1), F.S.

¹⁰ Section 110 Seventh edition of the Florida Building Code (Building).

¹¹ Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, available at: <http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20%E2%80%93%20Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf> (last visited Dec 2, 2021).

¹² Section 468.605, F.S.

¹³ Section 468.603(2), F.S.

¹⁴ Section 468.603(5), F.S.

- Plumbing inspector
- Residential inspector
- Electrical inspector

During the 2020 Regular Session, the Legislature renamed the “one and two family dwelling inspector” to the “residential inspector” and expanded the scope of practice to include inspecting one-family, two-family, or three-family residences, and accessory use structures in connection therewith, for compliance with the building, plumbing, mechanical, accessibility, and electrical codes.¹⁵

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. The term includes a residential plans examiner who is qualified to determine that plans submitted for building permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes. A plans examiner’s ability to practice is limited to the category or categories the plans examiner has been licensed. The plans examiner categories are:¹⁶

- Building plans examiner
- Plumbing plans examiner
- Mechanical plans examiner
- Electrical plans examiner

The BCAIB may also create voluntary certificates that licensed inspectors and plans examiners may obtain. A voluntary certificate is a limited certificate that allows a licensed inspector or plans examiner to inspect or examine plans for additional categories. Voluntary certificates are not available to people who are not licensed as an inspector, plans examiner, or construction contractor. The BCAIB has created the following voluntary certificates:¹⁷

- Residential pool inspector
- Commercial pool inspector
- Roofing inspector
- Modular inspector
- Modular plans examiner
- Residential plans examiner

In order to sit for the plans examiner or inspector exam a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:¹⁸

- Have 4 years of combined relevant experience;
- Have 3 years of combined postsecondary education and relevant experience;
- Have 3 years of combined technical education and relevant experience;
- Complete an approved cross-training program and have at least 2 years of experience;
- Hold a standard certificate issued by the BCAIB or a firesafety inspector license; and
 - Have at least 4 years of relevant experience as an inspector or plans examiner;

¹⁵ Chapter 2020-160, s. 19, Laws of Fla.

¹⁶ Section 468.603(8), F.S.

¹⁷ See s. 468.609(10), F.S.; Fla. Admin. Code R. 61G19-6.016 (2021)

¹⁸ Section 468.609(2), F.S.

- Have a minimum of 3 years of experience in firesafety inspection, or firesafety plan review and completed a training program of not less than 100 hours in the new category sought;
- Complete an approved training program of not less than 200 hours in inspection or plans review except for one-family and two-family dwelling training programs, which may not be less than 500 hours; or
- Complete a 4-year internship certification program.

Internship Programs

After the recession in 2008, Florida experienced a shortage of inspectors, plans examiners, and building officials on account of many of them being laid off. In at least one county, the shortage forced the local building board to rehire retired inspectors.¹⁹

In response to the shortage, during the 2017 Regular Session, the Legislature created the 4-year internship program as an additional way to obtain licensure as a plans examiner or inspector.²⁰ A person may sit for the plans examiner or inspector exam in all categories if the person is at least 18 years of age, is of good moral character, and completes an internship program. The requirements of the internship program are:²¹

- Completing a 4-year internship as an inspector or plans examiner while employed full-time by a local government, under the direct supervision of a building official. Proof of graduation with a related vocational degree or college degree or of verifiable work experience may be exchanged for the internship experience requirement year-for-year, but may reduce the requirement to no less than 1 year;
- Passing an ICC administered examination in the license category sought;
- Passing the principles and practice examination before completing the internship program;
- Passing a BCAIB-approved 40-hour code training course in the license category sought before completing the internship; and
- Obtaining a favorable recommendation from the supervising building official after completion of the internship.

Current law requires the BCAIB to establish by rule that partial completion of the internship program may be transferred between jurisdictions.²²

Currently, the 4-year internship program only applies to a person employed full-time by a local government, and does not apply if the person is employed full-time with a private entity that provides building inspection and/or plans review services.

¹⁹ James Sullivan, Charles Kibert, Andriel Fenner, & Shirley Morque, *Florida Construction Workforce Taskforce: Address training issues among building code inspectors to increase the number qualified inspectors*, (March 9, 2017) available at: <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf> (last visited Dec 2, 2021).

²⁰ Chapter 2017-149, s. 5, Laws of Fla.

²¹ Section 468.609(2), F.S.

²² Section 468.609(10), F.S.

Provisional Licensure

A person who is qualified to sit for the building official, plans examiner, or inspector exam but has not taken the exam may be granted a provisional certificate by the BCAIB. A provisional certificate allows a person to engage in the duties of a building official, inspector, or plans examiner. Provisional licenses are valid for two years, but may be renewed by the BCAIB for just cause. A provisional license is not valid for more than three years. However, an applicant who is obtaining licensure as an inspector or plans examiner through an internship may apply to the BCAIB for a provisional certificate that is valid for the duration of the internship.²³

The BCAIB may issue provisional certificates with special conditions or requirements including conditions or requirements relating to the place of employment of the applicant, the supervision of the applicant on a consulting or advisory basis, or any other conditions the BCAIB deem necessary to protect the public safety and health.²⁴

Private Providers

In 2002, s. 553.791, F.S., was created to allow property owners and contractors to hire licensed building code officials, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.

Private providers are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's license. Licensed building inspectors and plans examiners may perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.²⁵

If an owner or contractor opts to use a private provider, the local government must calculate the cost savings to its building department and reduce the building permit fees accordingly.²⁶

A local government may not charge a fee for building inspections when an owner or contractor uses a private provider, but it may charge a "reasonable administrative fee."²⁷ However, current law does not specify what a "reasonable administrative" fee is.

A building official may audit a private provider to ensure the private provider has reviewed the building plans and is performing the required inspections. A building official may deny a building permit or a request for a certificate of completion if the building construction or plans do not comply with the Building Code. A building official may also issue a stop work order at any time if he or she determines any condition of the construction poses an immediate threat to public safety and welfare.²⁸

²³ Section 468.609, F.S.; Fla. Admin. Code R. 61G19-6.012 (2018)

²⁴ *Id.*

²⁵ Section 553.791(1)(n) and (3), F.S.

²⁶ Section 553.791(2)(b), F.S.

²⁷ *Id.*

²⁸ Section 553.791(1), (14), and (19), F.S.

When a property owner or a contractor elects to use a private provider, he or she must notify the building official, on a form adopted by the Florida Building Commission, at the time of the permit application or no less than two business days before the first or next scheduled inspection.²⁹

A private provider who approves building plans must sign a sworn affidavit that the plans comply with the Building Code and the private provider is authorized to review the plans.³⁰ Upon receipt of a building permit application from a private provider, a building official has 20 business days to grant or deny the permit. Denying a permit automatically tolls the remaining 20 business days.³¹

Before a private provider performs building inspections, he or she must notify the building official of each inspection the business day before the inspection. A local building official may visit a building site as often as necessary to ensure the private provider is performing the required inspections. Construction work on a building may continue as long as the private provider passes each inspection and the private provider gives proper notice of each inspection to the building official.³²

A private provider must post records of every inspection, including the results of the inspections, electronically or on the jobsite and provide the records to the local building official within two business days of posting the records.³³

Upon completion of all required inspections, a private provider must give the building official a record of all the inspections, a request for a certificate of occupancy, and a sworn statement indicating compliance with the Building Code. Upon receipt, the building official has two business days to issue the certificate of completion or provide the permit applicant a notice of deficiencies.³⁴

If the local building official does not provide a notice of the deficiencies within two business days, the request for a certificate of occupancy is deemed granted, and the local building official must issue the certificate of occupancy the next business day.³⁵

III. Effect of Proposed Changes:

Building Inspector and Plans Examiner Licensure

The bill amends s. 468.609 F.S., to expand licensing opportunities for building inspectors and plans examiners, by allowing a person to sit for the certification test upon completion of a 4-year full-time internship as an inspector or plans examiner with a *private entity*. Current law allows such for internships with a local government. To be eligible, the private entity must conduct the

²⁹ Section 553.791(4)-(5), F.S.

³⁰ Section 553.791(6), F.S.

³¹ Section 553.791(7), F.S.

³² Section 553.791(9) and (18), F.S.

³³ Section 553.791(11), F.S.

³⁴ Section 553.791(11)-(13), F.S.

³⁵ *Id.*

same or similar services as a local government and the person holding the internship must be under the direct supervision of a licensed building official.

The bill also directs the BCAIB to create a rule establishing that partial completion of an internship program may be transferred between jurisdictions or private entities. The bill provides that “private entity” has the same meaning as provided in s. 553.5141(1)(f), F.S.³⁶

The bill addresses the special conditions or requirements the BCAIB may impose when issuing provisional certificates for building officials, plans examiners, and building inspectors. The BCAIB may continue to impose special conditions or requirements to protect the public safety and health, but it may not require an applicant to be employed by a municipality, county, or other local government agency.

The bill corrects a scrivener’s error by renaming the “one-family and two-family dwelling” training program to the “residential” training program to conform to changes made during the 2020 Regular Session.³⁷

Alternative Plans Review and Inspection

The bill amends s. 553.791 F.S., to provide that if an owner or contractor retains a private provider for plans review or inspection services, the local government must provide equal access to all permitting and inspection documents and reports to the private provider, the owner, and the contractor.

The bill provides that the “reasonable administrative fee” a local government charges for using a private provider must be based on the cost that is actually incurred by the local government, including the labor cost of the personnel providing the service, or the cost attributable to the local government for the clerical and supervisory assistance required, or both.

Finally, the bill clarifies that if a local building official does not provide a notice of deficiencies within two business days, the request for a certificate of occupancy is “automatically” granted and considered issued the next business day. Also, the building permit is closed at that time and the local building official must provide the permit applicant with the written certificate of occupancy or certificate of completion within 10 days after it has been automatically granted and considered issued.

The bill provides for an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁶ “Private entity” means any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any other legal entity, or any natural person.

³⁷ See ch. 2020-160, s. 19, Laws of Fla.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill may provide for more availability of building inspectors and plans reviewers by providing additional opportunities for persons to qualify for licensure, which may also reduce construction costs and delays.

C. Government Sector Impact:

The bill may increase costs to local governments by requiring equal access to records for private providers, owners, and contractors under the alternative plans review and inspection process, however, any costs are likely minimal.

Additionally, the bill may result in a slight reduction of revenues to local governments by limiting the amount of an administrative fee a local government may charge when a permit holder uses the services of a private provider.

The Department of Business and Professional Regulation expects minimal impact to the agency, which can be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.603, 468.609, 553.791.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

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

None.

B. **Amendments:**

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/12/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (9) is added to section 468.603,
Florida Statutes, to read:

468.603 Definitions.—As used in this part:

(9) "Private provider" has the same meaning as in s.
553.791(1)(n).

Section 2. Paragraph (c) of subsection (2), paragraphs (c)



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11 and (d) of subsection (7), and paragraph (b) of subsection (10)
12 of section 468.609, Florida Statutes, are amended to read:

13 468.609 Administration of this part; standards for
14 certification; additional categories of certification.—

15 (2) A person may take the examination for certification as
16 a building code inspector or plans examiner pursuant to this
17 part if the person:

18 (c) Meets eligibility requirements according to one of the
19 following criteria:

20 1. Demonstrates 4 years' combined experience in the field
21 of construction or a related field, building code inspection, or
22 plans review corresponding to the certification category sought;

23 2. Demonstrates a combination of postsecondary education in
24 the field of construction or a related field and experience
25 which totals 3 years, with at least 1 year of such total being
26 experience in construction, building code inspection, or plans
27 review;

28 3. Demonstrates a combination of technical education in the
29 field of construction or a related field and experience which
30 totals 3 years, with at least 1 year of such total being
31 experience in construction, building code inspection, or plans
32 review;

33 4. Currently holds a standard certificate issued by the
34 board or a firesafety inspector license issued under ~~pursuant to~~
35 chapter 633, with a minimum of 3 years' verifiable full-time
36 experience in firesafety inspection or firesafety plan review,
37 and has satisfactorily completed a building code inspector or
38 plans examiner training program that provides at least 100 hours
39 but not more than 200 hours of cross-training in the



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40 certification category sought. The board shall establish by rule
41 criteria for the development and implementation of the training
42 programs. The board must ~~shall~~ accept all classroom training
43 offered by an approved provider if the content substantially
44 meets the intent of the classroom component of the training
45 program;

46 5. Demonstrates a combination of the completion of an
47 approved training program in the field of building code
48 inspection or plan review and a minimum of 2 years' experience
49 in the field of building code inspection, plan review, fire code
50 inspections and fire plans review of new buildings as a
51 firesafety inspector certified under s. 633.216, or
52 construction. The approved training portion of this requirement
53 must ~~shall~~ include proof of satisfactory completion of a
54 training program that provides at least 200 hours but not more
55 than 300 hours of cross-training that is approved by the board
56 in the chosen category of building code inspection or plan
57 review in the certification category sought with at least 20
58 hours but not more than 30 hours of instruction in state laws,
59 rules, and ethics relating to professional standards of
60 practice, duties, and responsibilities of a certificateholder.
61 The board shall coordinate with the Building Officials
62 Association of Florida, Inc., to establish by rule the
63 development and implementation of the training program. However,
64 the board must ~~shall~~ accept all classroom training offered by an
65 approved provider if the content substantially meets the intent
66 of the classroom component of the training program;

67 6. Currently holds a standard certificate issued by the
68 board or a firesafety inspector license issued under ~~pursuant to~~



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69 chapter 633 and:

70 a. Has at least 4 years' verifiable full-time experience as
71 an inspector or plans examiner in a standard certification
72 category currently held or has a minimum of 4 years' verifiable
73 full-time experience as a firesafety inspector licensed under
74 ~~pursuant to~~ chapter 633.

75 b. Has satisfactorily completed a building code inspector
76 or plans examiner classroom training course or program that
77 provides at least 200 but not more than 300 hours in the
78 certification category sought, except for residential ~~one-family~~
79 ~~and two-family dwelling~~ training programs, which must provide at
80 least 500 but not more than 800 hours of training as prescribed
81 by the board. The board shall establish by rule criteria for the
82 development and implementation of classroom training courses and
83 programs in each certification category; or

84 7.a. Has completed a 4-year internship certification
85 program as a building code inspector or plans examiner while
86 also employed full-time by a municipality, county, or other
87 governmental jurisdiction, under the direct supervision of a
88 certified building official. A person may also complete the
89 internship certification program while employed full-time by a
90 private provider or a private provider's firm that performs the
91 services of a building code inspector or plans examiner, while
92 under the direct supervision of the private provider who must be
93 a certified building official or a person licensed as an
94 engineer under chapter 471 or an architect under chapter 481.

95 Proof of graduation with a related vocational degree or college
96 degree or of verifiable work experience may be exchanged for the
97 internship experience requirement year-for-year, but may reduce



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98 the requirement to no less than 1 year.

99 b. Has passed an examination administered by the
100 International Code Council in the certification category sought.
101 Such examination must be passed before beginning the internship
102 certification program.

103 c. Has passed the principles and practice examination
104 before completing the internship certification program.

105 d. Has passed a board-approved 40-hour code training course
106 in the certification category sought before completing the
107 internship certification program.

108 e. Has obtained a favorable recommendation from the
109 supervising building official, engineer, or architect after
110 completion of the internship certification program.

111 (7)

112 (c) The board shall provide for appropriate levels of
113 provisional certificates and may issue these certificates with
114 such special conditions or requirements ~~relating to the place of~~
115 ~~employment of the person holding the certificate, the~~
116 ~~supervision of such person on a consulting or advisory basis, or~~
117 ~~other matters~~ as the board deems ~~may deem~~ necessary to protect
118 the public safety and health. The board may not place a special
119 condition or requirement on a provisional certificate with
120 respect to the requirement of employment by a municipality,
121 county, or other local government agency.

122 (d) A person may perform the duties of a plans examiner or
123 building code inspector for 120 days if a provisional
124 certificate application has been submitted if such person is
125 under the direct supervision of a person licensed as a certified
126 building code administrator under this part ~~who holds a standard~~



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127 ~~certification~~ and who has found such person qualified for a
128 provisional certificate. Direct supervision and the
129 determination of qualifications may also be provided by a
130 building code administrator who holds a limited or provisional
131 certificate in a county having a population of fewer than 75,000
132 and in a municipality located within such county.

133 (10)

134 (b) The board shall by rule establish:

135 1. Reciprocity of certification with any other state that
136 requires an examination administered by the International Code
137 Council.

138 2. That an applicant for certification as a building code
139 inspector or plans examiner may apply for a provisional
140 certificate valid for the duration of the internship period.

141 3. That partial completion of an internship program is
142 transferable among jurisdictions, private providers, and firms
143 of private providers ~~may be transferred between jurisdictions~~ on
144 a form prescribed by the board.

145 4. That an applicant may apply for a standard certificate
146 on a form prescribed by the board upon successful completion of
147 an internship certification program.

148 5. That an applicant may apply for a standard certificate
149 at least 30 days but ~~and~~ no more than 60 days before completing
150 the internship certification program.

151 6. That a building code inspector or plans examiner who has
152 standard certification may seek an additional certification in
153 another category by completing an additional nonconcurrent 1-
154 year internship program in the certification category sought and
155 passing an examination administered by the International Code



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156 Council and a board-approved 40-hour code training course.

157 Section 3. Paragraph (b) of subsection (2) and subsection
158 (13) of section 553.791, Florida Statutes, are amended, and
159 paragraph (c) is added to subsection (2) of that section, to
160 read:

161 553.791 Alternative plans review and inspection.—

162 (2)

163 (b) If an owner or contractor retains a private provider
164 for purposes of plans review or building inspection services,
165 the local jurisdiction must reduce the permit fee by the amount
166 of cost savings realized by the local enforcement agency for not
167 having to perform such services. Such reduction may be
168 calculated on a flat fee or percentage basis, or any other
169 reasonable means by which a local enforcement agency assesses
170 the cost for its plans review or inspection services. The local
171 jurisdiction may not charge fees for building inspections if the
172 fee owner or contractor hires a private provider to perform such
173 services; however, the local jurisdiction may charge a
174 reasonable administrative fee, which shall be based on the cost
175 that is actually incurred, including the labor cost of the
176 personnel providing the service, by the local jurisdiction or
177 attributable to the local jurisdiction for the clerical and
178 supervisory assistance required, or both.

179 (c) If an owner or a contractor retains a private provider
180 for purposes of plans review or building inspection services,
181 the local jurisdiction must provide equal access to all
182 permitting and inspection documents and reports to the private
183 provider, owner, and contractor.

184 (13) No more than 2 business days after receipt of a



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185 request for a certificate of occupancy or certificate of
186 completion and the applicant's presentation of a certificate of
187 compliance and approval of all other government approvals
188 required by law, the local building official shall issue the
189 certificate of occupancy or certificate of completion or provide
190 a notice to the applicant identifying the specific deficiencies,
191 as well as the specific code chapters and sections. If the local
192 building official does not provide notice of the deficiencies
193 within the prescribed 2-day period, the request for a
194 certificate of occupancy or certificate of completion is
195 automatically ~~shall be deemed~~ granted and deemed ~~the certificate~~
196 ~~of occupancy or certificate of completion shall be issued as of~~
197 ~~by the local building official on the next business day. The~~
198 local building official must provide the applicant with the
199 written certificate of occupancy or certificate of completion
200 within 10 days after it is automatically granted and issued.
201 After the expiration of the 10-day period, the permit is deemed
202 closed. If the local building official determines the applicant
203 failed to adhere to this subsection, the local building official
204 may rescind the certificate of occupancy or certificate of
205 completion within 30 days after its issuance and must provide
206 written notice to the permit applicant and private provider, as
207 applicable, as well as the fee owner of the rescinded
208 certificate. The notice must include specific reasons for
209 rescinding the certificate and detail how the certificate can be
210 reinstated. The permit must then be reopened, and the private
211 provider shall have the opportunity to cure any deficiencies and
212 resubmit the application for certificate of occupancy or
213 certificate of completion ~~To resolve any identified~~



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214 ~~deficiencies, the applicant may elect to dispute the~~
215 ~~deficiencies pursuant to subsection (14) or to submit a~~
216 ~~corrected request for a certificate of occupancy or certificate~~
217 ~~of completion.~~

218 Section 4. This act shall take effect July 1, 2022.

219
220 ===== T I T L E A M E N D M E N T =====

221 And the title is amended as follows:

222 Delete everything before the enacting clause
223 and insert:

224 A bill to be entitled
225 An act relating to building inspection services;
226 amending s. 468.603, F.S.; defining the term "private
227 provider"; amending s. 468.609, F.S.; revising
228 eligibility requirements for a person applying to
229 become certified as a building code inspector or plans
230 examiner; revising the special conditions or
231 requirements that the Florida Building Code
232 Administrators and Inspectors Board may impose on
233 provisional certificates; revising circumstances under
234 which a person may perform the duties of a plans
235 examiner or building code inspector for a specified
236 period; revising a requirement for the board's rules
237 relating to the transferability of a partial
238 completion of an internship program; amending s.
239 553.791, F.S.; specifying the required basis for a
240 certain administrative fee charged by local
241 jurisdictions relating to building inspections by
242 private providers; requiring the local jurisdiction to



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243 provide access to certain documents to a private
244 provider, owner, and contractor; providing that a
245 certificate of occupancy or certificate of completion
246 is automatically granted and issued under certain
247 circumstances; requiring the local building official
248 to provide a written certificate of occupancy or
249 certificate of completion within a specified time;
250 providing construction; specifying and revising
251 procedures and requirements if the local building
252 official determines the applicant failed to adhere to
253 certain requirements; providing an effective date.



775516

LEGISLATIVE ACTION

Senate

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. .
. .
. .
. .

House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (9) is added to section 468.603,
Florida Statutes, to read:

468.603 Definitions.—As used in this part:

(9) "Private provider" has the same meaning as in s.
553.791(1)(n).

Section 2. Paragraph (c) of subsection (2), paragraphs (c)



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11 and (d) of subsection (7), and paragraph (b) of subsection (10)
12 of section 468.609, Florida Statutes, are amended to read:

13 468.609 Administration of this part; standards for
14 certification; additional categories of certification.—

15 (2) A person may take the examination for certification as
16 a building code inspector or plans examiner pursuant to this
17 part if the person:

18 (c) Meets eligibility requirements according to one of the
19 following criteria:

20 1. Demonstrates 4 years' combined experience in the field
21 of construction or a related field, building code inspection, or
22 plans review corresponding to the certification category sought;

23 2. Demonstrates a combination of postsecondary education in
24 the field of construction or a related field and experience
25 which totals 3 years, with at least 1 year of such total being
26 experience in construction, building code inspection, or plans
27 review;

28 3. Demonstrates a combination of technical education in the
29 field of construction or a related field and experience which
30 totals 3 years, with at least 1 year of such total being
31 experience in construction, building code inspection, or plans
32 review;

33 4. Currently holds a standard certificate issued by the
34 board or a firesafety inspector license issued under ~~pursuant to~~
35 chapter 633, with a minimum of 3 years' verifiable full-time
36 experience in firesafety inspection or firesafety plan review,
37 and has satisfactorily completed a building code inspector or
38 plans examiner training program that provides at least 100 hours
39 but not more than 200 hours of cross-training in the



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40 certification category sought. The board shall establish by rule
41 criteria for the development and implementation of the training
42 programs. The board must ~~shall~~ accept all classroom training
43 offered by an approved provider if the content substantially
44 meets the intent of the classroom component of the training
45 program;

46 5. Demonstrates a combination of the completion of an
47 approved training program in the field of building code
48 inspection or plan review and a minimum of 2 years' experience
49 in the field of building code inspection, plan review, fire code
50 inspections and fire plans review of new buildings as a
51 firesafety inspector certified under s. 633.216, or
52 construction. The approved training portion of this requirement
53 must ~~shall~~ include proof of satisfactory completion of a
54 training program that provides at least 200 hours but not more
55 than 300 hours of cross-training that is approved by the board
56 in the chosen category of building code inspection or plan
57 review in the certification category sought with at least 20
58 hours but not more than 30 hours of instruction in state laws,
59 rules, and ethics relating to professional standards of
60 practice, duties, and responsibilities of a certificateholder.
61 The board shall coordinate with the Building Officials
62 Association of Florida, Inc., to establish by rule the
63 development and implementation of the training program. However,
64 the board must ~~shall~~ accept all classroom training offered by an
65 approved provider if the content substantially meets the intent
66 of the classroom component of the training program;

67 6. Currently holds a standard certificate issued by the
68 board or a firesafety inspector license issued under ~~pursuant to~~



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69 chapter 633 and:

70 a. Has at least 4 years' verifiable full-time experience as
71 an inspector or plans examiner in a standard certification
72 category currently held or has a minimum of 4 years' verifiable
73 full-time experience as a firesafety inspector licensed under
74 ~~pursuant to~~ chapter 633.

75 b. Has satisfactorily completed a building code inspector
76 or plans examiner classroom training course or program that
77 provides at least 200 but not more than 300 hours in the
78 certification category sought, except for residential ~~one-family~~
79 ~~and two-family dwelling~~ training programs, which must provide at
80 least 500 but not more than 800 hours of training as prescribed
81 by the board. The board shall establish by rule criteria for the
82 development and implementation of classroom training courses and
83 programs in each certification category; or

84 7.a. Has completed a 4-year internship certification
85 program as a building code inspector or plans examiner while
86 also employed full-time by a municipality, county, or other
87 governmental jurisdiction, under the direct supervision of a
88 certified building official. A person may also complete the
89 internship certification program while employed full-time by a
90 private provider or a private provider's firm that performs the
91 services of a building code inspector or plans examiner, while
92 under the direct supervision of the private provider who must be
93 a certified building official or a person licensed as an
94 engineer under chapter 471 or an architect under chapter 481.

95 Proof of graduation with a related vocational degree or college
96 degree or of verifiable work experience may be exchanged for the
97 internship experience requirement year-for-year, but may reduce



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98 the requirement to no less than 1 year.

99 b. Has passed an examination administered by the
100 International Code Council in the certification category sought.
101 Such examination must be passed before beginning the internship
102 certification program.

103 c. Has passed the principles and practice examination
104 before completing the internship certification program.

105 d. Has passed a board-approved 40-hour code training course
106 in the certification category sought before completing the
107 internship certification program.

108 e. Has obtained a favorable recommendation from the
109 supervising building official, engineer, or architect after
110 completion of the internship certification program.

111 (7)

112 (c) The board shall provide for appropriate levels of
113 provisional certificates and may issue these certificates with
114 such special conditions or requirements ~~relating to the place of~~
115 ~~employment of the person holding the certificate, the~~
116 ~~supervision of such person on a consulting or advisory basis, or~~
117 ~~other matters~~ as the board deems ~~may deem~~ necessary to protect
118 the public safety and health. The board may not place a special
119 condition or requirement on a provisional certificate with
120 respect to the requirement of employment by a municipality,
121 county, or other local government agency.

122 (d) A person may perform the duties of a plans examiner or
123 building code inspector for 120 days if a provisional
124 certificate application has been submitted if such person is
125 under the direct supervision of a person licensed as a certified
126 building code administrator under this part ~~who holds a standard~~



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127 ~~certification~~ and who has found such person qualified for a
128 provisional certificate. Direct supervision and the
129 determination of qualifications may also be provided by a
130 building code administrator who holds a limited or provisional
131 certificate in a county having a population of fewer than 75,000
132 and in a municipality located within such county.

133 (10)

134 (b) The board shall by rule establish:

135 1. Reciprocity of certification with any other state that
136 requires an examination administered by the International Code
137 Council.

138 2. That an applicant for certification as a building code
139 inspector or plans examiner may apply for a provisional
140 certificate valid for the duration of the internship period.

141 3. That partial completion of an internship program is
142 transferable among jurisdictions, private providers, and firms
143 of private providers ~~may be transferred between jurisdictions~~ on
144 a form prescribed by the board.

145 4. That an applicant may apply for a standard certificate
146 on a form prescribed by the board upon successful completion of
147 an internship certification program.

148 5. That an applicant may apply for a standard certificate
149 at least 30 days but ~~and~~ no more than 60 days before completing
150 the internship certification program.

151 6. That a building code inspector or plans examiner who has
152 standard certification may seek an additional certification in
153 another category by completing an additional nonconcurrent 1-
154 year internship program in the certification category sought and
155 passing an examination administered by the International Code



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156 Council and a board-approved 40-hour code training course.

157 Section 3. Subsection (25) is added to section 553.79,
158 Florida Statutes, to read:

159 553.79 Permits; applications; issuance; inspections.—

160 (25) (a) A local law, ordinance, or regulation may not
161 prohibit or otherwise restrict the ability of a private property
162 owner to obtain a building permit to demolish any single-family
163 residential structure located in a coastal high hazard area,
164 moderate flood zone, or special flood hazard area according to
165 Flood Insurance Rate Maps produced by the Federal Emergency
166 Management Agency in support of the National Flood Insurance
167 Program if the lowest finished floor elevation of such structure
168 is at or below base flood elevation as established by the
169 Florida Building Code, as amended, or a higher base flood
170 elevation as may be required by local ordinance, whichever is
171 higher, provided that such permit otherwise complies with all
172 applicable Florida Building Code requirements.

173 (b) Demolition permits sought pursuant to this subsection
174 may be reviewed only administratively for compliance with the
175 Florida Building Code and may not be subject to any additional
176 land development regulations or a public hearing as a requisite
177 to issuance. In the event of such demolition, a local government
178 may not impose additional regulatory requirements on the new
179 single-family residential structure constructed in place of the
180 demolished structure which would not otherwise be applicable to
181 a similarly situated, vacant parcel; nor may the local
182 government otherwise penalize the owner for such demolition.

183 (c) This subsection does not apply to any structure
184 designated on the National Register of Historic Places; to any



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185 privately owned single-family residential structure designated
186 historic by a local, state, or federal governmental agency on or
187 before January 1, 2022; or to any privately owned single-family
188 residential structure designated historic with the consent of
189 its owner subsequent to such date.

190 Section 4. Paragraph (b) of subsection (2) and subsection
191 (13) of section 553.791, Florida Statutes, are amended, and
192 paragraph (c) is added to subsection (2) of that section, to
193 read:

194 553.791 Alternative plans review and inspection.—

195 (2)

196 (b) If an owner or contractor retains a private provider
197 for purposes of plans review or building inspection services,
198 the local jurisdiction must reduce the permit fee by the amount
199 of cost savings realized by the local enforcement agency for not
200 having to perform such services. Such reduction may be
201 calculated on a flat fee or percentage basis, or any other
202 reasonable means by which a local enforcement agency assesses
203 the cost for its plans review or inspection services. The local
204 jurisdiction may not charge fees for building inspections if the
205 fee owner or contractor hires a private provider to perform such
206 services; however, the local jurisdiction may charge a
207 reasonable administrative fee, which shall be based on the cost
208 that is actually incurred, including the labor cost of the
209 personnel providing the service, by the local jurisdiction or
210 attributable to the local jurisdiction for the clerical and
211 supervisory assistance required, or both.

212 (c) If an owner or contractor retains a private provider
213 for purposes of plans review or building inspection services,



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214 the local jurisdiction must provide equal access to all
215 permitting and inspection documents and reports to the private
216 provider, owner, and contractor.

217 (13) No more than 2 business days after receipt of a
218 request for a certificate of occupancy or certificate of
219 completion and the applicant's presentation of a certificate of
220 compliance and approval of all other government approvals
221 required by law, the local building official shall issue the
222 certificate of occupancy or certificate of completion or provide
223 a notice to the applicant identifying the specific deficiencies,
224 as well as the specific code chapters and sections. If the local
225 building official does not provide notice of the deficiencies
226 within the prescribed 2-day period, the request for a
227 certificate of occupancy or certificate of completion is
228 automatically shall be deemed granted and deemed the certificate
229 of occupancy or certificate of completion shall be issued as of
230 by the local building official on the next business day. The
231 local building official must provide the applicant with the
232 written certificate of occupancy or certificate of completion
233 within 10 days after it is automatically granted and issued.
234 After the expiration of the 10-day period, the permit is deemed
235 closed. If the local building official determines the applicant
236 failed to adhere to this subsection, the local building official
237 may rescind the certificate of occupancy or certificate of
238 completion within 30 days after its issuance and must provide
239 written notice to the permit applicant and private provider, as
240 applicable, as well as the fee owner of the rescinded
241 certificate. The notice must include specific reasons for
242 rescinding the certificate and detail how the certificate can be



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243 reinstated. The permit must then be reopened, and the private
244 provider shall have the opportunity to cure any deficiencies and
245 resubmit the application for certificate of occupancy or
246 certificate of completion ~~To resolve any identified~~
247 ~~deficiencies, the applicant may elect to dispute the~~
248 ~~deficiencies pursuant to subsection (14) or to submit a~~
249 ~~corrected request for a certificate of occupancy or certificate~~
250 ~~of completion.~~

251 Section 5. This act shall take effect July 1, 2022.

252
253 ===== T I T L E A M E N D M E N T =====

254 And the title is amended as follows:

255 Delete everything before the enacting clause
256 and insert:

257 A bill to be entitled
258 An act relating to building inspections; amending s.
259 468.603, F.S.; defining the term "private provider";
260 amending s. 468.609, F.S.; revising eligibility
261 requirements for a person applying to become certified
262 as a building code inspector or plans examiner;
263 revising the special conditions or requirements that
264 the Florida Building Code Administrators and
265 Inspectors Board may impose on provisional
266 certificates; revising circumstances under which a
267 person may perform the duties of a plans examiner or
268 building code inspector for a specified period;
269 revising a requirement for the board's rules relating
270 to the transferability of a partial completion of an
271 internship program; amending s. 553.79, F.S.;



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272 prohibiting local laws, ordinances, or regulations
273 that prohibit or restrict a private property owner's
274 ability to obtain a building permit to demolish a
275 single-family residential structure located in certain
276 flood zones if certain conditions are met; specifying
277 restrictions on a local government's review of such
278 demolition permits and on certain actions by the local
279 government relating to the demolition; providing
280 applicability; amending s. 553.791, F.S.; specifying
281 the required basis for a certain administrative fee
282 charged by local jurisdictions relating to building
283 inspections by private providers; requiring the local
284 jurisdiction to provide access to certain documents to
285 a private provider, owner, and contractor; providing
286 that a certificate of occupancy or certificate of
287 completion is automatically granted and issued under
288 certain circumstances; requiring the local building
289 official to provide a written certificate of occupancy
290 or certificate of completion within a specified time;
291 providing construction; specifying and revising
292 procedures and requirements if the local building
293 official determines the applicant failed to adhere to
294 certain requirements; providing an effective date.

By Senator Brodeur

9-00831-22

2022644__

1 A bill to be entitled
 2 An act relating to building inspection services;
 3 amending s. 468.603, F.S.; defining the term "private
 4 entity"; amending s. 468.609, F.S.; revising
 5 eligibility requirements for a person applying to
 6 become certified as a building code inspector or plans
 7 examiner; revising the special conditions or
 8 requirements that the Florida Building Code
 9 Administrators and Inspectors Board may impose on
 10 provisional certificates; revising qualifications of a
 11 building code administrator who may directly supervise
 12 certain persons performing duties of a plans examiner
 13 or building code inspector under certain
 14 circumstances; requiring the board to authorize, by
 15 rule, the transfer of a partial completion of an
 16 internship program between private entities; amending
 17 s. 553.791, F.S.; specifying a requirement for the
 18 basis of the administrative fee that a local
 19 jurisdiction may charge when an owner or a contractor
 20 hires a private provider for inspection services;
 21 requiring the local jurisdiction to provide access to
 22 certain documents to a private provider, contractor,
 23 and owner; providing that a certificate of occupancy
 24 or certificate of completion is automatically granted
 25 and issued, and the permit application closed, under
 26 certain circumstances; requiring the local building
 27 official to provide a written certificate of occupancy
 28 or certificate of completion within a specified time;
 29 providing an effective date.

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

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2022644__

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Subsection (9) is added to section 468.603,
 34 Florida Statutes, to read:
 35 468.603 Definitions.—As used in this part:
 36 (9) "Private entity" has the same meaning as in s.
 37 553.5141(1)(f).
 38 Section 2. Paragraph (c) of subsection (2), paragraphs (c)
 39 and (d) of subsection (7), and paragraph (b) of subsection (10)
 40 of section 468.609, Florida Statutes, are amended to read:
 41 468.609 Administration of this part; standards for
 42 certification; additional categories of certification.—
 43 (2) A person may take the examination for certification as
 44 a building code inspector or plans examiner pursuant to this
 45 part if the person:
 46 (c) Meets eligibility requirements according to one of the
 47 following criteria:
 48 1. Demonstrates 4 years' combined experience in the field
 49 of construction or a related field, building code inspection, or
 50 plans review corresponding to the certification category sought;
 51 2. Demonstrates a combination of postsecondary education in
 52 the field of construction or a related field and experience
 53 which totals 3 years, with at least 1 year of such total being
 54 experience in construction, building code inspection, or plans
 55 review;
 56 3. Demonstrates a combination of technical education in the
 57 field of construction or a related field and experience which
 58 totals 3 years, with at least 1 year of such total being

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59 experience in construction, building code inspection, or plans
60 review;

61 4. Currently holds a standard certificate issued by the
62 board or a firesafety inspector license issued under ~~pursuant to~~
63 chapter 633, with a minimum of 3 years' verifiable full-time
64 experience in firesafety inspection or firesafety plan review,
65 and has satisfactorily completed a building code inspector or
66 plans examiner training program that provides at least 100 hours
67 but not more than 200 hours of cross-training in the
68 certification category sought. The board shall establish by rule
69 criteria for the development and implementation of the training
70 programs. The board must ~~shall~~ accept all classroom training
71 offered by an approved provider if the content substantially
72 meets the intent of the classroom component of the training
73 program;

74 5. Demonstrates a combination of the completion of an
75 approved training program in the field of building code
76 inspection or plan review and a minimum of 2 years' experience
77 in the field of building code inspection, plan review, fire code
78 inspections and fire plans review of new buildings as a
79 firesafety inspector certified under s. 633.216, or
80 construction. The approved training portion of this requirement
81 must ~~shall~~ include proof of satisfactory completion of a
82 training program that provides at least 200 hours but not more
83 than 300 hours of cross-training that is approved by the board
84 in the chosen category of building code inspection or plan
85 review in the certification category sought with at least 20
86 hours but not more than 30 hours of instruction in state laws,
87 rules, and ethics relating to professional standards of

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88 practice, duties, and responsibilities of a certificateholder.
89 The board shall coordinate with the Building Officials
90 Association of Florida, Inc., to establish by rule the
91 development and implementation of the training program. However,
92 the board must ~~shall~~ accept all classroom training offered by an
93 approved provider if the content substantially meets the intent
94 of the classroom component of the training program;

95 6. Currently holds a standard certificate issued by the
96 board or a firesafety inspector license issued under ~~pursuant to~~
97 chapter 633 and:

98 a. Has at least 4 years' verifiable full-time experience as
99 an inspector or plans examiner in a standard certification
100 category currently held or has a minimum of 4 years' verifiable
101 full-time experience as a firesafety inspector licensed under
102 ~~pursuant to~~ chapter 633.

103 b. Has satisfactorily completed a building code inspector
104 or plans examiner classroom training course or program that
105 provides at least 200 but not more than 300 hours in the
106 certification category sought, except for residential ~~one-family~~
107 ~~and two-family dwelling~~ training programs, which must provide at
108 least 500 but not more than 800 hours of training as prescribed
109 by the board. The board shall establish by rule criteria for the
110 development and implementation of classroom training courses and
111 programs in each certification category; or

112 7.a. Has completed a 4-year internship certification
113 program as a building code inspector or plans examiner while
114 also employed full-time by a municipality, county, or other
115 governmental jurisdiction, under the direct supervision of a
116 certified building official, or by a private entity that

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117 conducts the same or similar services as a municipality, county,
 118 or other governmental jurisdiction, while under the direct
 119 supervision of a person licensed as a building code
 120 administrator under this part. Proof of graduation with a
 121 related vocational degree or college degree or of verifiable
 122 work experience may be exchanged for the internship experience
 123 requirement year-for-year, but may reduce the requirement to no
 124 less than 1 year.

125 b. Has passed an examination administered by the
 126 International Code Council in the certification category sought.
 127 Such examination must be passed before beginning the internship
 128 certification program.

129 c. Has passed the principles and practice examination
 130 before completing the internship certification program.

131 d. Has passed a board-approved 40-hour code training course
 132 in the certification category sought before completing the
 133 internship certification program.

134 e. Has obtained a favorable recommendation from the
 135 supervising building official after completion of the internship
 136 certification program.

137 (7)

138 (c) The board shall provide for appropriate levels of
 139 provisional certificates and may issue these certificates with
 140 such special conditions or requirements ~~relating to the place of~~
 141 ~~employment of the person holding the certificate, the~~
 142 ~~supervision of such person on a consulting or advisory basis, or~~
 143 ~~other matters~~ as the board deems may deem necessary to protect
 144 the public safety and health. The board may not place a special
 145 condition or requirement on a provisional certificate with

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146 respect to the requirement of employment by a municipality,
 147 county, or other local government agency.

148 (d) A person may perform the duties of a plans examiner or
 149 building code inspector for 120 days if a provisional
 150 certificate application has been submitted if such person is
 151 under the direct supervision of a person licensed as a certified
 152 building code administrator under this part ~~who holds a standard~~
 153 ~~certification~~ and who has found such person qualified for a
 154 provisional certificate. Direct supervision and the
 155 determination of qualifications may also be provided by a
 156 building code administrator who holds a limited or provisional
 157 certificate in a county having a population of fewer than 75,000
 158 and in a municipality located within such county.

159 (10)

160 (b) The board shall by rule establish:

161 1. Reciprocity of certification with any other state that
 162 requires an examination administered by the International Code
 163 Council.

164 2. That an applicant for certification as a building code
 165 inspector or plans examiner may apply for a provisional
 166 certificate valid for the duration of the internship period.

167 3. That partial completion of an internship program may be
 168 transferred between jurisdictions or private entities on a form
 169 prescribed by the board.

170 4. That an applicant may apply for a standard certificate
 171 on a form prescribed by the board upon successful completion of
 172 an internship certification program.

173 5. That an applicant may apply for a standard certificate
 174 at least 30 days ~~but and~~ no more than 60 days before completing

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175 the internship certification program.

176 6. That a building code inspector or plans examiner who has
177 standard certification may seek an additional certification in
178 another category by completing an additional nonconcurrent 1-
179 year internship program in the certification category sought and
180 passing an examination administered by the International Code
181 Council and a board-approved 40-hour code training course.

182 Section 3. Paragraph (b) of subsection (2) and subsection
183 (13) of section 553.791, Florida Statutes, are amended, and
184 paragraph (c) is added to subsection (2) of that section, to
185 read:

186 553.791 Alternative plans review and inspection.-

187 (2)

188 (b) If an owner or contractor retains a private provider
189 for purposes of plans review or building inspection services,
190 the local jurisdiction must reduce the permit fee by the amount
191 of cost savings realized by the local enforcement agency for not
192 having to perform such services. Such reduction may be
193 calculated on a flat fee or percentage basis, or any other
194 reasonable means by which a local enforcement agency assesses
195 the cost for its plans review or inspection services. The local
196 jurisdiction may not charge fees for building inspections if the
197 fee owner or contractor hires a private provider to perform such
198 services; however, the local jurisdiction may charge a
199 reasonable administrative fee, which shall be based on the cost
200 that is actually incurred, including the labor cost of the
201 personnel providing the service, by the local jurisdiction or
202 attributable to the local jurisdiction for the clerical and
203 supervisory assistance required, or both.

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

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204 (c) If an owner or a contractor retains a private provider
205 for purposes of plans review or building inspection services,
206 the local jurisdiction must provide equal access to all
207 permitting and inspection documents and reports to the private
208 provider, owner, and contractor.

209 (13) No more than 2 business days after receipt of a
210 request for a certificate of occupancy or certificate of
211 completion and the applicant's presentation of a certificate of
212 compliance and approval of all other government approvals
213 required by law, the local building official shall issue the
214 certificate of occupancy or certificate of completion or provide
215 a notice to the applicant identifying the specific deficiencies,
216 as well as the specific code chapters and sections. If the local
217 building official does not provide notice of the deficiencies
218 within the prescribed 2-day period, the request for a
219 certificate of occupancy or certificate of completion is
220 automatically shall be deemed granted and considered the
221 certificate of occupancy or certificate of completion shall be
222 issued as of by the local building official on the next business
223 day, and the permit is closed. The local building official must
224 provide the applicant with the written certificate of occupancy
225 or certificate of completion within 10 days after it is
226 automatically granted and issued. To resolve any identified
227 deficiencies, the applicant may elect to dispute the
228 deficiencies pursuant to subsection (14) or to submit a
229 corrected request for a certificate of occupancy or certificate
230 of completion.

231 Section 4. This act shall take effect July 1, 2022.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 736

INTRODUCER: Community Affairs Committee, Judiciary Committee and Senator Hutson

SUBJECT: Construction Defect Claims

DATE: January 12, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	Fav/CS
2.	Hackett	Ryon	CA	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 736 expands on the existing “right to cure procedures” in chapter 558, F.S. These procedures establish an alternative dispute resolution process requiring a claimant and a contractor or similar person to attempt to resolve a construction defect claim before proceeding to litigation. Under the revised procedures, a claimant, in rejecting a settlement offer, must detail the reasons for rejecting the offer. The contractor must then be given an opportunity to make a supplemental offer. The bill encourages a claimant to accept a reasonable settlement offer or supplemental offer by making the claimant ineligible for an award of attorney fees in some circumstances.

Additionally, the bill provides for a 4-year limitations period for bringing a construction defect action, whether the action is based on a patent or obvious defect or a latent or hidden defect. The statutory provision authorizing a 10-year statute of repose for latent defects is amended to a variable length based on the type of building improved.

The bill takes effect July 1, 2022.

II. Present Situation:

Alternative Dispute Resolution Mechanism for Construction Defects

Chapter 558, F.S., titled, “Construction Defects,” creates an alternative dispute resolution mechanism that must be used in an attempt to resolve many construction defect claims before the claimant may resort to litigation. Under this dispute resolution mechanism, a claimant is required to file a notice of claim with a contractor or other similar person who is responsible for an alleged defect. Upon receipt of the notice of claim, the contractor or other person has an opportunity to resolve the claim through confidential settlement negotiations.¹ If a claimant files a civil action or arbitration proceeding before completing the requirements of chapter 558, F.S., the court must stay the action.² Legislation like chapter 558, F.S., is known as “right to cure” legislation.³

A construction defect, for purposes of chapter 558, F.S., is a:

deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction, repair, alteration, or remodeling of real property resulting from:

- Defective material, products, or components used in the construction or remodeling;
- A violation of the applicable codes in effect at the time of construction or remodeling which gives rise to a cause of action pursuant to s. 553.84 [for a violation of the building code];
- A failure of the design of real property to meet the applicable professional standards of care at the time of governmental approval; or
- A failure to construct or remodel real property in accordance with accepted trade standards for good and workmanlike construction at the time of construction.⁴

Notice of Claim

The specifics of the notice and cure process of chapter 558, F.S., begin with the service of a “written notice of claim” by the claimant upon the contractor, subcontractor, supplier, or design professional, who may be responsible for the alleged defect.⁵ The claimant must serve this notice “at least 60 days before filing any action, or at least 120 days before filing an action involving an association representing more than 20 parcels.”⁶ The notice must “describe in reasonable detail the nature of each alleged construction defect and, if known, the damage or loss resulting from the defect.”⁷ The location of each alleged construction defect must also be sufficiently described in the notice.

¹ Section 558.001, F.S.

² Section 558.003, F.S.

³ 4 TIFFANY REAL PROP. § 986.60 (3d ed.).

⁴ Section 558.002(5), F.S.

⁵ Section 558.004(1)(a), F.S.

⁶ *Id.*

⁷ *Id.*

Inspection of Alleged Defect

Upon receipt of the notice of claim, the contractor or other person served with the notice may inspect the property or each unit described in the notice to assess the alleged defects and to determine the extent of necessary repairs. The inspections must occur within 30 days after service of the notice or within 50 days after service of the notice involving an association representing more than 20 parcels.⁸

Response to Notice of Claim & Settlement Offers

The contractor, or other person served with the notice of claim, must serve a written response to the claimant within 45 days after service of the notice of claim or within 75 days after service of a copy of the notice of claim involving an association representing more than 20 parcels. The written response must provide:

- A written offer to remedy the alleged construction defect at no cost to the claimant, a detailed description of the proposed repairs necessary to remedy the defect, and a timetable for the completion of such repairs;
- A written offer to compromise and settle the claim by monetary payment, that will not obligate the person's insurer, and a timetable for making payment;
- A written offer to compromise and settle the claim by a combination of repairs and monetary payment, that will not obligate the person's insurer, that includes a detailed description of the proposed repairs and a timetable for the completion of such repairs and making payment;
- A written statement that the person disputes the claim and will not remedy the defect or compromise and settle the claim; or
- A written statement that a monetary payment, including insurance proceeds, if any, will be determined by the person's insurer within 30 days after notification to the insurer by means of serving the claim, which service shall occur at the same time the claimant is notified of this settlement option, which the claimant may accept or reject.⁹

Initiation of Legal Action

The claimant may initiate an action against the contractor or other person served with the notice of claim if the contractor or other person served with the notice disputes the claim or fails to timely respond.¹⁰ If the contractor or other person makes a settlement offer, the claimant may not initiate an action, unless the claimant rejects the settlement offer in writing within 45 days after receiving it.¹¹ The claimant may also initiate an action for the construction defect if the person making the settlement offer does not make the agreed upon repairs or payments within the agreed-upon time or manner.¹²

⁸ Section 558.004(2), F.S.

⁹ Section 558.004(5), F.S.

¹⁰ See s. 558.004(7), F.S.

¹¹ Section 558.004(6), F.S.

¹² Section 558.004(8), F.S.

Statutes of Limitation and Repose

Legal actions must be brought within the timeframes authorized by law. With respect to construction defect actions, there are two timeframes—a 4-year limitations period¹³ and a 10-year statute of repose.¹⁴ The 4-year limitations period applies to actions based on a patent defect,¹⁵ which is an obvious defect, and to a latent or hidden defect¹⁶ once it is discovered or should have been discovered.¹⁷ However, any action based on a latent or hidden defect must be brought within the 10-year statute of repose.¹⁸

The 4-and 10-year periods for bringing a construction defect action begin to run from:

the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction if not completed, or the date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest.

The specific point at which the 4 -or 10-year periods commence has been a subject of litigation and refined somewhat through legislation over the years.

III. Effect of Proposed Changes:

As detailed below, the bill expands on the existing policy in chapter 558, F.S., of requiring the parties to a potential construction defect action to attempt to resolve their disputes before initiating a civil action or arbitration proceeding.

Supplemental Offers, Attorney Fees, & Settlement Payments (Section 2)

Supplemental Offers

Existing law requires a contractor or other person who is served a notice of claim for a construction defect to make an offer to settle the claim or dispute the claim. If a settlement offer

¹³ A statute of limitations “set[s] a time limit within which an action must be filed as measured from the accrual of the cause of action, after which time obtaining relief is barred.” *National Auto Service Centers, Inc., v. F/R 500, LLC*, 192 So. 3d 498, 509 (Fla. 2d DCA 2016) (quoting *Hess v. Philip Morris USA, Inc.*, 175 So. 3d 687, 695 (Fla. 2015) (quoting *Merkle v. Robinson*, 737 So. 2d 540, 542 n. 6 (Fla.1999)). The purpose of a statute of limitations is to “require that a plaintiff with a known cause of action prosecute that claim diligently and within a predictable time that will allow for finality of claims prior to the potential loss of available evidence over time.” *Id.* at 510 (citing Statute of limitations, BLACK’S LAW DICTIONARY (10th ed. 2014)).

¹⁴ A statute of repose “precludes a right of action after a specified time . . . rather than establishing a time period within which the action must be brought measured from the point in time when the cause of action accrued.” *Id.* at 509 (citing *Univ. of Miami v. Bogorff*, 583 So. 2d 1000, 1003 (Fla.1991)).

¹⁵ A patent defect is “either one about which the owner had actual knowledge or one about which the owner would have known had he or she made a reasonably careful inspection.” *U.S. Lodging of Jacksonville, Ltd., v H.B. Daniel Const. Co., Inc.*, 617 So. 2d 448, 449 (Fla. 1st DCA 1993).

¹⁶ A latent defect is a defect that is not discernable by the exercise of reasonable care. *Kala Investments, Inc. v. Sklar*, 538 So. 2d 909, 914 (Fla. 3d DCA 1989) (citing *Maas Bros., Inc. v. Bishop*, 204 So.2d 16 (Fla. 2d DCA 1967)).

¹⁷ Section 95.11(3)(c), F.S.

¹⁸ *Id.*

is made, the claimant may not initiate a civil action or an arbitration proceeding based on the claim unless the claimant timely serves a written notice of rejection on the offeror.

The bill requires the claimant to include more information in a notice of rejection. Specifically, the notice must state the reasons for rejecting the offer, identify any items that the claimant believes were omitted from the offer, and detail all reasons why the claimant believes that the offer is unreasonable. The claimant's provision of additional information seems to function as a counteroffer or a request for clarification of the offer. Once the offeror is served the claimant's notice of rejection, the bill authorizes the offeror to make a supplemental offer of repair or monetary payment, or both, to the claimant within 15 days after service of the notice of rejection.

A claimant who rejects an initial settlement offer may not initiate an action for a construction defect until the claimant rejects any supplemental offer or the offeror has had 15 days to make a supplemental offer.

Attorney Fee Limitation

Existing law does not directly discourage a claimant from rejecting a reasonable settlement offer and initiating an action for a construction defect claim. However, the bill discourages the claimant from rejecting a reasonable settlement offer by limiting the potential for an award of attorney fees. Specifically, the bill provides that if:

[t]he claimant rejects a timely settlement offer or supplemental offer provided to remedy the alleged construction defect at no cost to the claimant, in any action brought for that defect, the claimant may not recover attorney fees from the offeror on any basis unless the claimant proves by a preponderance of the evidence that, at the time of the offer, additional repairs beyond those offered were necessary to remedy the defect. This [provision, however,] does not apply to any claim for attorney fees based on a contract between the claimant and the offeror.¹⁹

Court Appointed Expert (Section 3)

The bill requires the court in a civil action for a construction defect to appoint an engineer, contractor, building code inspector, or another expert to examine the alleged defect. The expert must then submit a written report which contains the expert's findings to the court for its consideration and to the parties. But the expert may not be appointed if all of the parties object or if the court finds that the costs of an expert outweigh any potential benefits to the resolution of the action. If appointed, the expert's report must:

- Describe how the expert conducted the examination of the alleged defect.
- Identify persons present at the site of the improvement while the expert conducted the examination.
- Include photographs or other documentation of the alleged defect including any relevant test results.

¹⁹ CS/CS/SB 736, lines 208-217.

- State whether the damages claimed by the claimant are more likely than not the result of a construction defect, another identified cause, or a construction defect and another identified cause.
- Address other matters related to the alleged defect as directed by the court.

If the expert's report wholly or partially validates the claimant's construction defect claim, the report "must state the actions necessary to repair the defect and any repairs related to the defect, provide an estimate of the reasonable cost of repairs, and state the anticipated time needed for repairs under the current market conditions for construction services and materials."²⁰

The bill provides for the expert to be compensated by the parties, but the prevailing party is entitled to reimbursement by the nonprevailing party. Moreover, the expert may not be employed to repair the alleged defect or recommend contractors to repair the defect.

Payment of Repair Costs (Sections 2 & 4)

Nothing in chapter 558, F.S., currently requires a claimant to use any funds recovered as a result of a construction defect claim to repair the defect.

The bill requires a claimant who accepts a settlement offer that includes a monetary payment for repairs to enter into a contract for repairs within 90 days. The payments, however, are to be made by the offeror directly to the claimant's contractor as the work is performed and expenses are incurred. The repairs generally must be completed within 12 months after the claimant contracts for repairs. The provision of payment from the offeror to the claimant's contractor is similar to procedures that an insurer may follow to pay for the repair of property damaged by a sinkhole.²¹

If a claimant recovers funds for a construction defect as the result of a civil action or arbitration, the bill requires the claimant to use the funds to repair the defect. If the claimant fails to fully repair the defect, the claimant is liable to a subsequent purchaser of the property for any damages resulting from the failure to disclose the defect.

The liability for failing to repair or disclose the defect is consistent with the duties of a seller of real property under existing law. The seller of real property has a duty to disclose "facts materially affecting the value of the property which are not readily observable and are not known to the buyer."²²

Timeframe for Construction Defect Action (Section 1)

Existing law specifies a 4-year statute of limitations for a claimant to bring a construction defect action based on a patent or obvious defect and a 10-year statute of repose for a claimant to bring a construction defect action based on a latent or hidden defect.

²⁰ CS/CS/SB 736, lines 265-270.

²¹ Section 627.707(5)(e), F.S., upon approval by any lienholder, authorizes an insurer to pay for repairs due to a sinkhole directly to the persons selected by the policyholder to perform the land and building stabilization and foundation repairs.

²² *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).

The bill divides improvements into four categories:

- A category 1 improvement is an improvement to a detached single-family home, including a manufactured home, or a standalone building or structure, intended for use by a single business, occupant, or owner, not exceeding three stories in height;
- A category 2 improvement is an improvement to a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units, or a commercial or nonresidential building not exceeding three stories in height;
- A category 3 improvement includes improvements to commercial or residential buildings or structures of four or more stories in height; and
- A category 4 improvement is any improvement not included in any of the above categories.

The bill maintains the same 4-year time limit for a claimant to bring a construction defect action based on a patent or obvious defect. However, the bill provides a variable statute of repose for a claimant to bring a construction defect action based on a latent or hidden defect on the following schedule:

- 5 years for a category 1 improvement;
- 7 years for a category 2 improvement; and
- 10 years for a category 3 or 4 improvement.

The commencement of this time period in current law is “the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction if not completed, or the date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is *latest*.” The bill provides that the time period commences on any of the same triggers, whichever date is *earliest*.

The bill further provides that counterclaims, cross-claims, and third party claims arising from the same circumstances must be commenced within 1 year of the initial pleading, and that work correcting defects does not extend the time period to bring suit.

Effective Date, Application & Savings Cause (Sections 5 & 6)

The bill takes effect on July 1, 2022, and the provisions of the bill amending the presuit procedures of ch. 558, F.S., apply to civil actions and arbitration proceedings initiated on or after that date.

The reduced time period for bringing a construction defect action applies to construction defects occurring before the effective date of the bill. However, the bill provides a savings clause that enables a person to bring an action for a construction defect within 1 year after the effective date of the bill if the action would otherwise be time barred by the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

CS/CS/SB 736 may reduce litigation costs to parties to a construction contract by requiring a claimant to detail the reasons for rejecting a presuit settlement offer and by authorizing counteroffers. Provisions requiring the use of any recovery for a construction defect to repair the defect may discourage the bringing of claims that are not well-founded.

C. Government Sector Impact:

The bill may reduce costs of the judicial branch to the extent that the bill reduces litigation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 95.11 and 558.004.

This bill creates the following sections of the Florida Statutes: 558.0045 and 558.0046.

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 January 12, 2022:

The committee substitute revises the timeline for bringing a construction defect action based on obvious and hidden defects in improvements to real property. A 4 year time limit to commence an action regarding an obvious defect will run from completion of the project, while the same limit will run from when a hidden defect is or should have been discovered, as current law provides. Additionally, the substitute applies a variable statute of repose, from 5 to 10 years depending on the type of property improved.

The committee substitute further provides that counterclaims, cross-claims, and third party claims arising from the same circumstances must be commenced within 1 year of the initial pleading, and that work correcting defects does not extend the time period to bring suit.

CS by Judiciary on November 30, 2021:

The committee substitute does not include section 5 of the original bill. The section required a claimant who served a notice of claim on a contractor or similar person to also provide notice of the claim to a mortgagee or assignee having a security interest in the relevant property. Additionally, the section required the claimant to notify the mortgagee or assignee of the completion of repairs that correct a construction defect.

- B. **Amendments:**

None.



916628

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2022	.	
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The Committee on Community Affairs (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 45 - 88

and insert:

Section 1. Paragraph (c) of subsection (3) of section 95.11, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:



916628

11 (3) WITHIN FOUR YEARS.-

12 ~~(c) An action founded on the design, planning, or~~
13 ~~construction of an improvement to real property, with the time~~
14 ~~running from the date of actual possession by the owner, the~~
15 ~~date of the issuance of a certificate of occupancy, the date of~~
16 ~~abandonment of construction if not completed, or the date of~~
17 ~~completion of the contract or termination of the contract~~
18 ~~between the professional engineer, registered architect, or~~
19 ~~licensed contractor and his or her employer, whichever date is~~
20 ~~latest; except that, when the action involves a latent defect,~~
21 ~~the time runs from the time the defect is discovered or should~~
22 ~~have been discovered with the exercise of due diligence. In any~~
23 ~~event, the action must be commenced within 10 years after the~~
24 ~~date of actual possession by the owner, the date of the issuance~~
25 ~~of a certificate of occupancy, the date of abandonment of~~
26 ~~construction if not completed, or the date of completion of the~~
27 ~~contract or termination of the contract between the professional~~
28 ~~engineer, registered architect, or licensed contractor and his~~
29 ~~or her employer, whichever date is latest. However,~~
30 ~~counterclaims, cross-claims, and third-party claims that arise~~
31 ~~out of the conduct, transaction, or occurrence set out or~~
32 ~~attempted to be set out in a pleading may be commenced up to 1~~
33 ~~year after the pleading to which such claims relate is served,~~
34 ~~even if such claims would otherwise be time barred. With respect~~
35 ~~to actions founded on the design, planning, or construction of~~
36 ~~an improvement to real property, if such construction is~~
37 ~~performed pursuant to a duly issued building permit and if a~~
38 ~~local enforcement agency, state enforcement agency, or special~~
39 ~~inspector, as those terms are defined in s. 553.71, has issued a~~



916628

40 ~~final certificate of occupancy or certificate of completion,~~
41 ~~then as to the construction which is within the scope of such~~
42 ~~building permit and certificate, the correction of defects to~~
43 ~~completed work or repair of completed work, whether performed~~
44 ~~under warranty or otherwise, does not extend the period of time~~
45 ~~within which an action must be commenced. Completion of the~~
46 ~~contract means the later of the date of final performance of all~~
47 ~~the contracted services or the date that final payment for such~~
48 ~~services becomes due without regard to the date final payment is~~
49 ~~made.~~

50 (12) ACTIONS RELATING TO AN IMPROVEMENT TO REAL PROPERTY.-

51 (a) Definitions.-As used in this subsection the term:

52 1. "Category 1 improvement" includes a detached single-
53 family home, including a manufactured home, or a standalone
54 building or structure, intended for use by a single business,
55 occupant, or owner, not exceeding three stories in height and
56 related improvements to such homes, buildings, or structures.

57 2. "Category 2 improvement" includes a single-family
58 dwelling unit not exceeding three stories in height which is
59 constructed in a series or group of attached units or a
60 commercial or nonresidential building not exceeding three
61 stories in height and related improvements to such dwellings,
62 buildings, or structures.

63 3. "Category 3 improvement" includes commercial or
64 residential buildings or structures of four or more stories in
65 height and related improvements to such buildings or structures.

66 4. "Category 4 improvement" includes an improvement that is
67 not a category 1 improvement, category 2 improvement, or
68 category 3 improvement.



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69 5. "Completion of the contract" means the later of the date
70 of final performance of all the contracted services or the date
71 that final payment for such services becomes due without regard
72 to the date final payment is made.

73 (b) Running of time to commence action.—An action founded
74 on the design, planning, or construction of an improvement to
75 real property must be commenced within the timeframes set forth
76 in this section or the action is time barred.

77 1. The time to commence the action runs from the date of
78 actual possession by the owner, the date of the issuance of a
79 certificate of occupancy, the date of abandonment of
80 construction if not completed, or the date of completion of the
81 contract or termination of the contract between the professional
82 engineer, registered architect, or licensed contractor and his
83 or her employer, whichever date is earliest.

84 2. Counterclaims, cross-claims, and third-party claims that
85 arise out of the conduct, transaction, or occurrence set out or
86 attempted to be set out in a pleading may be commenced up to 1
87 year after the pleading to which such claims relate is served,
88 even if such claims would otherwise be time barred.

89 3. If the action is based on construction that is performed
90 pursuant to a duly issued building permit and if a local
91 enforcement agency, state enforcement agency, or special
92 inspector, as those terms are defined in s. 553.71, has issued a
93 final certificate of occupancy or certificate of completion,
94 then as to the construction which is within the scope of such
95 building permit and certificate, the correction of defects to
96 completed work or repair of completed work, whether performed
97 under warranty or otherwise, does not extend the period of time



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98 within which an action must be commenced.

99 (c) Limitations and repose periods.-

100 1. An action founded on the design, planning, or
101 construction of an improvement to real property may be commenced
102 within 4 years after the time to commence an action begins to
103 run.

104 2. An action involving a latent defect may be commenced
105 within 4 years after the facts giving rise to the cause of
106 action are discovered or should have be discovered through the
107 exercise of due diligence. However, the action may not be
108 commenced more than 5 years after the time for commencing an
109 action begins to run for a category 1 improvement, 7 years for a
110 category 2 improvement, 12 years for a category 3 improvement,
111 and 10 years for a category 4 improvement.

112 Section 2. Subsection (2) of section 627.441, Florida
113 Statutes, is amended to read:

114 627.441 Commercial general liability policies; coverage to
115 contractors for completed operations.-

116 (2) A liability insurer must offer coverage at an
117 appropriate additional premium for liability arising out of
118 current or completed operations under an owner-controlled
119 insurance program for any period beyond the period for which the
120 program provides liability coverage, as specified in s.
121 255.0517(2) (b). The period of such coverage must be sufficient
122 to protect against liability arising out of an action brought
123 within the time limits provided in s. 95.11(12) ~~s. 95.11(3)(c)~~.

124
125 ===== T I T L E A M E N D M E N T =====

126 And the title is amended as follows:



916628

127 Delete lines 3 - 6
128 and insert:
129 amending s. 95.11, F.S.; defining terms; revising the
130 limitations period for certain actions founded on the
131 design, planning, or construction of an improvement on
132 real property; amending s. 627.441, F.S.; conforming a
133 cross-reference; amending s. 558.004, F.S.; requiring
134 a



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2022	.	
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The Committee on Community Affairs (Hutson) recommended the following:

Senate Amendment to Amendment (916628)

Delete lines 110 - 111

and insert:

category 2 improvement, and 10 years for a category 3 or category 4 improvement.

By the Committee on Judiciary; and Senator Hutson

590-01325-22

2022736c1

1 A bill to be entitled
 2 An act relating to construction defect claims;
 3 amending s. 95.11, F.S.; revising the limitations
 4 period for certain actions founded on the design,
 5 planning, or construction of an improvement on real
 6 property; amending s. 558.004, F.S.; requiring a
 7 claimant to include the reasons for rejecting an offer
 8 in a notice rejecting a settlement offer to remedy a
 9 construction defect; authorizing the person served
 10 with a notice rejecting a settlement offer to make a
 11 supplemental offer within a specified timeframe;
 12 providing notice requirements for a claimant who
 13 rejects a supplemental offer; requiring the court to
 14 stay an action if a claimant initiates an action
 15 without first accepting or rejecting a supplemental
 16 offer; limiting entitlement to attorney fees if a
 17 claimant rejects certain settlement offers to fully
 18 repair an alleged construction defect; requiring a
 19 claimant who accepts a certain offer to enter into a
 20 contract to complete repairs to remedy an alleged
 21 construction defect; requiring the offeror or insurer
 22 to pay the contractor or contractors directly for the
 23 repairs; prohibiting an offeror or insurer from
 24 requiring a claimant to advance payment for repairs;
 25 requiring that the repairs be completed within a
 26 specified timeframe; creating s. 558.0045, F.S.;
 27 requiring a court to appoint an expert to examine
 28 certain alleged construction defects and to prepare an
 29 examination report, under certain circumstances;

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

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30 requiring that the report contain specified
 31 information; requiring the parties to compensate the
 32 expert; prohibiting the expert from being employed to
 33 make repairs or from recommending contractors to make
 34 repairs; creating s. 558.0046, F.S.; requiring a
 35 claimant to repair a construction defect if the
 36 claimant receives compensation for an alleged
 37 construction defect from specified persons; providing
 38 that a claimant is liable for damages resulting from
 39 failure to disclose a construction defect to a
 40 purchaser of a property; providing applicability;
 41 providing an effective date.
 42
 43 Be It Enacted by the Legislature of the State of Florida:
 44
 45 Section 1. Paragraph (c) of subsection (3) of section
 46 95.11, Florida Statutes, is amended to read:
 47 95.11 Limitations other than for the recovery of real
 48 property.—Actions other than for recovery of real property shall
 49 be commenced as follows:
 50 (3) WITHIN FOUR YEARS.—
 51 (c) An action founded on the design, planning, or
 52 construction of an improvement to real property, with the time
 53 running from the date of actual possession by the owner, the
 54 date of the issuance of a certificate of occupancy, the date of
 55 abandonment of construction if not completed, or the date of
 56 completion of the contract or termination of the contract
 57 between the professional engineer, registered architect, or
 58 licensed contractor and his or her employer, whichever date is

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59 latest; ~~except that, when the action involves a latent defect,~~
 60 ~~the time runs from the time the defect is discovered or should~~
 61 ~~have been discovered with the exercise of due diligence. In any~~
 62 ~~event, the action must be commenced within 10 years after the~~
 63 ~~date of actual possession by the owner, the date of the issuance~~
 64 ~~of a certificate of occupancy, the date of abandonment of~~
 65 ~~construction if not completed, or the date of completion of the~~
 66 ~~contract or termination of the contract between the professional~~
 67 ~~engineer, registered architect, or licensed contractor and his~~
 68 ~~or her employer, whichever date is latest. However,~~
 69 counterclaims, cross-claims, and third-party claims that arise
 70 out of the conduct, transaction, or occurrence set out or
 71 attempted to be set out in a pleading may be commenced up to 1
 72 year after the pleading to which such claims relate is served,
 73 even if such claims would otherwise be time barred. With respect
 74 to actions founded on the design, planning, or construction of
 75 an improvement to real property, if such construction is
 76 performed pursuant to a duly issued building permit and if a
 77 local enforcement agency, state enforcement agency, or special
 78 inspector, as those terms are defined in s. 553.71, has issued a
 79 final certificate of occupancy or certificate of completion,
 80 then as to the construction which is within the scope of such
 81 building permit and certificate, the correction of defects to
 82 completed work or repair of completed work, whether performed
 83 under warranty or otherwise, does not extend the period of time
 84 within which an action must be commenced. Completion of the
 85 contract means the later of the date of final performance of all
 86 the contracted services or the date that final payment for such
 87 services becomes due without regard to the date final payment is

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88 made.
 89 Section 2. Present subsections (8) through (15) of section
 90 558.004, Florida Statutes, are redesignated as subsections (9)
 91 through (16), respectively, a new subsection (8) is added to
 92 that section, and paragraph (c) of subsection (1) and subsection
 93 (7) of that section are amended, to read:
 94 558.004 Notice and opportunity to repair.—
 95 (1)
 96 (c) The claimant shall endeavor to serve the notice of
 97 claim within 15 days after discovery of an alleged defect, but
 98 the failure to serve notice of claim within 15 days does not bar
 99 the filing of an action, subject to s. 558.003. This subsection
 100 does not preclude a claimant from filing an action sooner than
 101 60 days, or 120 days as applicable, after service of written
 102 notice as expressly provided in subsection (6), subsection (7),
 103 or subsection (9) ~~(8)~~.
 104 (7) (a) A claimant who receives a timely settlement offer
 105 must accept or reject the offer by serving written notice of
 106 such acceptance or rejection on the person making the offer
 107 within 45 days after receiving the settlement offer.
 108 (b) If the claimant rejects the settlement offer, the
 109 claimant must include the reasons for rejecting the offer in the
 110 notice rejecting the offer. If the claimant believes that the
 111 settlement offer omitted reference to any portion of the claim
 112 or was unreasonable in any manner, the claimant must include in
 113 the notice the items that the claimant believes were omitted and
 114 state in detail all known reasons why the claimant believes the
 115 settlement offer is unreasonable.
 116 (c) Upon receipt of a claimant's notice of rejection and

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117 the reasons for such rejection, the person served with the
 118 rejection, within 15 days after receipt of the notice, may make
 119 a supplemental offer of repair or monetary payment, or both, to
 120 the claimant.

121 (d) If the claimant rejects a supplemental offer to repair
 122 the construction defect or to settle the claim by monetary
 123 payment or a combination of both, the claimant must serve
 124 written notice of the claimant's rejection on the person making
 125 the supplemental offer. The notice must include all known
 126 reasons for the claimant's rejection of the supplemental
 127 settlement offer.

128 (e) If a claimant initiates an action without first
 129 accepting or rejecting the offer or supplemental offer, the
 130 court shall stay the action upon timely motion until the
 131 claimant complies with this subsection.

132 (8) (a) If the claimant rejects a timely settlement offer or
 133 supplemental offer provided to remedy the alleged construction
 134 defect at no cost to the claimant, in any action brought for
 135 that defect, the claimant may not recover attorney fees from the
 136 offeror on any basis unless the claimant proves by a
 137 preponderance of the evidence that, at the time of the offer,
 138 additional repairs beyond those offered were necessary to remedy
 139 the defect. This paragraph does not apply to any claim for
 140 attorney fees based on a contract between the claimant and the
 141 offeror.

142 (b) If a claimant accepts an offer made pursuant to
 143 paragraph (5) (b), paragraph (5) (c), or paragraph (5) (e) or a
 144 supplemental offer made pursuant to paragraph (7) (c), the
 145 claimant must, within 90 days after the acceptance, enter into a

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2022736c1

146 contract with one or more appropriately licensed contractors to
 147 complete the repairs necessary to remedy the alleged
 148 construction defect. The offeror or insurer shall pay directly
 149 to the contractor or contractors, from the accepted monetary
 150 payment, the amounts necessary to begin and to continue the
 151 repairs as the work is performed and expenses are incurred. The
 152 offeror or insurer may not require the claimant to advance
 153 payment for the repairs. The repairs must be completed within 12
 154 months after the claimant enters into the contract for repairs,
 155 absent mutual agreement between the offeror or insurer and the
 156 claimant.

157 Section 3. Section 558.0045, Florida Statutes, is created
 158 to read:

159 558.0045 Construction defect actions; attorney fees and
 160 costs.-

161 (1) In a civil action alleging a construction defect, the
 162 court shall appoint an engineer, a contractor, a building code
 163 inspector, or another expert having experience in the type of
 164 construction that is the basis of the claimant's claim to
 165 examine the alleged defect or, if repairs have been made, any
 166 evidence of the alleged defect. However, the court may not
 167 appoint an expert if all of the parties object or if the court
 168 finds that the costs of an expert outweigh any potential
 169 benefits to the resolution of the action. If an expert is
 170 appointed, the expert must coordinate and communicate with the
 171 parties as directed by the court. Within 15 days after
 172 conducting the examination, or as otherwise determined by the
 173 court, the expert shall submit a written report to the court for
 174 its consideration and to the parties which contains the expert's

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175 findings. The report must do all of the following:

176 (a) Describe how the expert conducted the examination of
177 the alleged defect.

178 (b) Identify persons present at the site of the improvement
179 while the expert conducted the examination.

180 (c) Include photographs or other documentation of the
181 alleged defect including any relevant test results.

182 (d) State whether the damages claimed by the claimant are
183 more likely than not the result of a construction defect,
184 another identified cause, or a construction defect and another
185 identified cause.

186 (e) Address other matters related to the alleged defect as
187 directed by the court.

188 (2) If the expert concludes that the damages are wholly or
189 partially the result of a construction defect, the report must
190 state the actions necessary to repair the defect and any repairs
191 related to the defect, provide an estimate of the reasonable
192 cost of repairs, and state the anticipated time needed for
193 repairs under the current market conditions for construction
194 services and materials.

195 (3) The parties shall compensate the expert, but the
196 prevailing party is entitled to reimbursement from the
197 nonprevailing party.

198 (4) An expert appointed by the court under this section may
199 not be employed to repair the alleged defect or recommend
200 contractors to repair the defect.

201 Section 4. Section 558.0046, Florida Statutes, is created
202 to read:

203 558.0046 Duty to repair construction defect.—If a claimant

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204 receives compensation for an alleged construction defect from a
205 contractor, a subcontractor, a supplier, a design professional,
206 or an insurer, the claimant must repair the defect. A claimant
207 who receives compensation and fails to fully repair the defect
208 is liable to a purchaser of the property for any damages
209 resulting from the failure to disclose the defect.

210 Section 5. (1) The amendments by this act to s.
211 95.11(3)(c), Florida Statutes, apply to any action commenced on
212 or after July 1, 2022, regardless of when the cause of action
213 accrued. However, any action that would not have been barred
214 under s. 95.11(3)(c), Florida Statutes, before the amendments
215 made by this act to that section may be commenced before July 1,
216 2023. If such action is not commenced by July 1, 2023, and is
217 barred by the amendments made by this act to s. 95.11(3)(c),
218 Florida Statutes, the action is barred.

219 (2) Sections 2 through 4 of this act apply to compensation
220 for construction defects received on or after July 1, 2022, and
221 to civil actions and proceedings for a construction defect which
222 are initiated on or after July 1, 2022.

223 Section 6. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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4/12/22

Meeting Date

Community Affairs

Committee

736

Bill Number or Topic

606148

Amendment Barcode (if applicable)

Name

Doug Bell

Phone

850 205 9000

Address

119 S. Monroe

Email

doug.bell@whdfirm.com

Street

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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1/12/22

Meeting Date

736

Bill Number or Topic

Community affairs

Committee

916628

Amendment Barcode (if applicable)

Name

Doug Bell

Phone

850 205 9000

Address

216 Hawk Meadow Dr

Email

doug.bell@mhdfirm.com

Street

Tall

City

State

Zip

Speaking:

For

Against

Information

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Associated General Contractors

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

CS/SB 736

January 12, 2022

Meeting Date

Community Affairs

Committee

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Bill Number or Topic

916628

Amendment Barcode (if applicable)

Name Rick Nutter

Phone (813) 575-4442

Address 606 E. Madison Street

Email rick@nutterlawgroup.com

Street

Tampa

FL

33602

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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JB 736

Bill Number or Topic

1-13-21

Meeting Date

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

KARI HEBRANK

Phone

850-566-7824

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Street

TALLAHASSEE FL 32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FHBA, PGT

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

736

Bill Number or Topic

1/12/22

Meeting Date

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Community Affairs

Committee

Amendment Barcode (if applicable)

Name Steve Rappaport

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Email srappaport@ssc.lawfirm.com

Street

Boynton Beach FL 33436

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

Community Association Lawyer

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 736

January 12, 2022

Meeting Date

Community Affairs

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Neil O'Brien

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Street

Palm Harbor

FL

34683

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

1/12/22

Meeting Date

Community Affairs

Committee

The Florida Senate

APPEARANCE RECORD

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2B 736

Bill Number or Topic

Amendment Barcode (if applicable)

Name

CHARDEL BARAKAT

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3713 W. Watrous Ave., ~~Florida 33629~~

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DR.HORTON.COM

Street

Tampa

FL

33629

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

January 12, 2022

Meeting Date

Community Affairs

Committee

The Florida Senate APPEARANCE RECORD

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DUPLICATE

CS/SB 736

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Martin Langesfeld**

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Email **martinlangesfeld@gmail.com**

Street

Doral

FL

33178

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

736

01.12.22

Meeting Date

Community Affairs

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name **William Large**

Phone **850-222-0170**

Address **210 South Monroe Street**

Email **William@fljustice.org**

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Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Justice Reform Institute

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

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

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S-001 (08/10/2021)

The Florida Senate
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 788

INTRODUCER: Senator Hooper

SUBJECT: Florida Hometown Hero Housing Program

DATE: January 10, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 788 creates the “Florida Hometown Hero Housing Program,” a new downpayment assistance program within the Florida Housing Finance Corporation (FHFC). Under the program, eligible homebuyers will have access to loans which reduce down payments and closing costs. Loans must be repaid when the property is sold, refinanced, rented, or transferred, unless otherwise approved by FHFC.

Eligible homebuyers are those seeking first mortgages, of limited family income, and employed as any of the following:

- A sworn law enforcement officer;
- A certified correctional officer or correctional probation officer;
- A 911 public safety telecommunicator;
- A firefighter;
- An educator;
- A certified paramedic or emergency medical technician;
- A licensed health care practitioner;
- A physician assistant or medical assistant; or
- A home health aide.

This program will supplement and function alongside existing down payment assistance programs currently administered by FHFC.

The bill takes effect upon becoming a law.

II. Present Situation:

Affordable Housing

One major goal at all levels of government is to ensure that citizens have access to affordable housing. Housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income for housing is considered "cost burdened," while those paying more than 50 percent are considered "extremely cost burdened." Severely cost burdened households are more likely to sacrifice other necessities like healthy food and healthcare to pay for housing, and to experience unstable housing situations like evictions.

Affordable housing is defined in terms of household income. Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels, published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. The following are standard household income level definitions and their relationship to the 2021 Florida state median of \$70,000 for a family of four (as family size increases or decreases, the income range also increases or decreases):¹

- Extremely low income – earning up to 30 percent AMI (at or below \$21,000);²
- Very low income – earning from 30.01 to 50 percent AMI (\$21,001 to \$35,000);³
- Low income – earning from 50.01 to 80 percent AMI (\$35,001 to \$56,000);⁴ and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$56,001 to \$84,000).⁵

Housing costs reflect what people are willing to pay to live in an area, which in some instances, due to low supply and high demand, makes it difficult for the workforce, elders, and people with disabilities to find affordable homes and apartments. The government helps make housing affordable through decreased monthly rent or mortgage payments, so that income eligible families are able to pay less for the housing than it would otherwise cost at "market rate." Lower monthly payments or down payment assistance is a result of affordable housing financing.

Florida Housing Finance Corporation

The 1997 Legislature created the Florida Housing Finance Corporation (FHFC) as a public-private entity to assist in providing a range of affordable housing opportunities for Floridians.⁶ The FHFC is a corporation held by the state and housed within the Department of Economic Opportunity (DEO). The FHFC is a separate budget entity and its operations, including those relating to personnel, purchasing, transactions involving real or personal property, and budgetary matters, are not subject to control, supervision, or direction by DEO.⁷

¹ U.S. Department of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas – Click Here for FY 2021 IL Documentation*, available at <https://www.huduser.gov/portal/datasets/il.html#2021> (last visited December 3, 2021).

² Section 420.0004(9), F.S.

³ Section 420.0004(17), F.S.

⁴ Section 420.0004(11), F.S.

⁵ Section 420.0004(12), F.S.

⁶ Chapter 97-167, Laws of Fla. Previously, from 1980 through 1997, the former Florida Housing Finance Agency, placed within the former Department of Community Affairs, performed similar duties.

⁷ Section 420.504(1), F.S.

The goal of the FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating investment of private capital and encouraging public and private sector housing partnerships. As a financial institution, the FHFC administers federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist homebuyers with financing and down payment assistance.

Funding for Affordable Housing

FHFC draws and administers funds from federal programs through federal tax credits and the Department of Housing and Urban Development,⁸ from the state through the State Housing Trust Fund and Local Government Housing Trust Fund,⁹ both funded by documentary stamp taxes, as well as ad hoc individual legislative appropriations, and through program income, which consists primarily of funds from successful loan repayment that is recycled into the program it came from.

The State Housing Trust Fund, administered by the FHFC,¹⁰ is “to be used for new construction and substantial rehabilitation of housing, to improve the state’s ability to serve first-time homebuyers, and to increase the affordability and availability of the housing stock in the State of Florida.”¹¹ The 1992 Sadowski Act increased documentary stamp tax rates and provided for a certain proportion of documentary stamp tax revenues to be distributed to the State Housing Trust Fund.

The Local Government Housing Trust Fund, administered by the FHFC,¹² is used to fund the State Housing Initiatives Partnership Program, which was created “for the purpose of providing funds to local governments as an incentive for the creation of partnerships to produce and preserve affordable housing.”¹³ A certain proportion of documentary stamp tax revenues are distributed to the Local Government Housing Trust Fund.

Documentary Stamp Tax

The documentary stamp tax imposes an excise tax on deeds or other documents that convey an interest in Florida real property. The tax comprises two taxes imposed on different bases at different tax rates. The first tax rate is 70 cents on each \$100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interests that are granted, assigned, transferred, conveyed or vested in a purchaser.¹⁴ The second tax rate is 35 cents per each \$100 of consideration for certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements.¹⁵

⁸ See ss. 420.507(33) and 159.608, F.S.

⁹ Section 201.15, F.S.

¹⁰ Chapter 92-317, ss. 1-35, Laws of Fla.; Section 420.0005, F.S.

¹¹ Chapter 88-376, s. 2, Laws of Fla.; s. 420.003(5), F.S. (1988).

¹² Section 420.9079, F.S.

¹³ Chapter 92-317, s. 32, Laws of Fla.; s. 420.9072, F.S. (1992).

¹⁴ Section 201.02(1), F.S.

¹⁵ Sections 201.07 and 201.08, F.S.

FHFC Homeownership Programs

FHFC's primary function is administering a variety of programs to assist in the development and rehabilitation of affordable housing stock, provide low interest loans for first-time homebuyers, provide down payment assistance and reduce closing costs, and assist in the housing side of disaster recovery. The following programs focus primarily on aiding first-time homebuyers into stable homeownership by reducing mortgage payments and onerous one-time costs associated with purchasing a home.

Homebuyer Loan Programs

FHFC's Homebuyer Loan Programs offer 30-year fixed-rate first mortgage loans originated by a network of participating lenders throughout Florida. The programs are offered to eligible first time homebuyers¹⁶ who meet income, purchase price and other program criteria; can qualify for a loan; and successfully complete a homebuyer education course.¹⁷ Borrowers who qualify for a first mortgage program may access one of FHFC's down payment assistance (DPA) programs.¹⁸

Down Payment Assistance

FHFC administers multiple DPA programs available to first time homebuyers utilizing a FHFC first mortgage loan product. DPA is typically offered as a low- or zero-rate loan, in the form of a second mortgage,¹⁹ to secure funding for down payments, closing costs, mortgage insurance premiums, or principal reduction to the first mortgage.²⁰ FHFC DPA programs are funded from a mix of sources including documentary stamp tax revenue, special legislative appropriation, and FHFC program income, which is primarily returned loan money. FHFC's individual DPA programs are further described in the paragraphs below.

Florida Homeownership Assistance Program - Florida Assist

The Florida Homeownership Assistance Program – Florida Assist (HAP) is a statutorily prescribed program, providing up to \$7,500 in DPA for first-time homebuyers.²¹ These loans are zero percent interest, non-amortizing second mortgage loans, which means the homebuyer does not make monthly payments on them. Instead, the loan is repaid when the homebuyer sells the home, transfers ownership, satisfies or refinances the first mortgage, or ceases to occupy the home. These loans are for applicants whose incomes are at or below 120 percent of AMI.²²

¹⁶ The IRS definition of "first-time homebuyer," generally accepted by Florida agencies and corporations, is a person who has not owned and occupied their primary residence for the past three years. See *Homebuyer Overview*, FHFC, available at <https://www.floridahousing.org/programs/homebuyer-overview-page> (last visited December 15, 2021).

¹⁷ FHFC funds homebuyer loans through various transaction types, including (a) the specified pool market, (2) tax-exempt bonds, and (3) forward delivery/To Be Announced (TBA) market.

¹⁸ See Florida Housing Finance Corporation, *2020 Annual Report*, p. 13, available at <https://www.floridahousing.org/data-docs-reports/annual-reports> (last visited November 30, 2021).

¹⁹ A second mortgage is a subordinate mortgage made while the original is still in effect.

²⁰ Only one FHFC DPA program can be used by a borrower.

²¹ Section 420.5088, F.S.

²² See Florida Housing Finance Corporation, *Down Payment Assistance Programs*, available at <https://www.floridahousing.org/programs/homebuyer-overview-page/down-payment-assistance-programs> (last visited November 30, 2021).

Homeownership Loan Program (HLP) Second Mortgage

The HLP Second Mortgage provides up to \$10,000 in DPA for first-time homebuyers. These loans are 3 percent interest, fully amortizing second mortgage loans. The loan is amortized over 15 years, making monthly payments more affordable to borrowers. The loan becomes due in full when the homebuyer sells the home, transfers ownership, satisfies or refinances the first mortgage, or ceases to occupy the home. These loans are available to applicants with income at or below 140 percent of AMI.

Housing Finance Agency (HFA) Preferred Plus Program

The HFA Preferred Plus Program allows first-time homebuyers to receive 3 percent, 4 percent, or 5 percent of the total first mortgage loan amount as DPA in the form of a forgivable second mortgage. The loan is forgiven at 20 percent a year over its 5-year term and is available to applicants whose incomes are at or below 140 percent of AMI.

Salute Our Soldiers Program

The Salute Our Soldiers Program is a targeted program operated by FHFC which offers first mortgages and DPA to active duty military and veterans. The DPA program offers forgivable second mortgages of up to 5 percent of the total loan amount.²³ To fund the DPA program, FHFC committed \$8,000,000 of internal program funds recovered from previous repaid loans.²⁴

Hurricane Michael Recovery Loan Program

In 2020, the Legislature appropriated \$10,000,000 of nonrecurring funds to FHFC to establish a DPA program for homebuyers purchasing residences in counties impacted by Hurricane Michael.²⁵ From this instruction, FHFC organized the Hurricane Michael Recovery Loan Program.²⁶ Borrowers utilizing certain first mortgage programs qualified for the second mortgage program. This second mortgage was a loan of up to \$15,000 at 0 percent interest rate, five-year term, and forgiven at the rate of 20 percent per year. These loans were available to applicants whose incomes were at or below 140 percent of AMI and with a purchase price limit of \$360,067, as decided by the FHFC.²⁷ Additionally, borrowers were not required to qualify as a first-time homebuyer to be eligible to participate in the program.

III. Effect of Proposed Changes:

The bill creates s. 420.5096, F.S., to establish the “Florida Hometown Hero Housing Program,” a new homeownership assistance program within the FHFC. Under the program, eligible purchasers will have access to 0-percent interest rate loans to reduce the amount of down payment and closing costs to a maximum of 5 percent or \$25,000, whichever is less. Loans must

²³ Florida Housing Finance Corporation, Lender Guide, March 2, 2020, available at <https://www.ehousingplus.com/wp-content/uploads/FHFC-SOS-06-22-20.pdf> (last visited November 30, 2020).

²⁴ Email from Stephanie Sutton, External Affairs Director, FHFC, August 3, 2021, on file with Senate Committee on Community Affairs.

²⁵ Chapter 2020-111, p. 320-321, item 2202A, Laws of Fla.

²⁶ See Florida Housing Finance Corporation, 2020 Annual Report, p. 24, available at https://issuu.com/fhfc/docs/2020_annual_report (last visited November 30, 2021).

²⁷ *Disaster Relief Resources and Information*, Florida Housing Finance Corporation, available at <https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program/disaster-relief> (last visited December 3, 2021).

be repaid when the property is sold, refinanced, rented, or transferred unless otherwise approved by FHFC.

Such loans are available to those seeking first mortgages whose family incomes do not exceed 150 percent of the state or local median income, whichever is greater, and are employed as any of the following:

- A sworn law enforcement officer;
- A certified correctional officer or correctional probation officer;
- A 911 public safety telecommunicator;
- A firefighter;
- An educator;
- A certified paramedic or emergency medical technician;
- A licensed health care practitioner;
- A physician assistant or medical assistant; or
- A home health aide.

Other-personnel-services and temporary employees are not eligible. The program applies to qualifying home purchases on or after July 1, 2022.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill does not affect state or local revenue.

B. Private Sector Impact:

When the program is funded, eligible homebuyers with an approved occupation will benefit from an additional DPA option, making homeownership more affordable.

C. Government Sector Impact:

The bill itself does not include an appropriation. Creating a new DPA program will increase FHFC responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 420.5096 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 Hooper

16-00850A-22

2022788__

A bill to be entitled

An act relating to the Florida Hometown Hero Housing Program; creating s. 420.5096, F.S.; creating the Florida Hometown Hero Housing Program; providing the purpose of the program; specifying requirements for loans under the program; authorizing the Florida Housing Finance Corporation to underwrite and make such loans to specified borrowers; specifying ineligible employees; providing applicability; providing an effective date.

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

Section 1. Section 420.5096, Florida Statutes, is created to read:

420.5096 Florida Hometown Hero Housing Program.—

(1) There is created the Florida Hometown Hero Housing Program for the purpose of assisting frontline emergency workers, certain medical and health care personnel, and educators in purchasing a home as their primary residence. Under the program, the purchaser may reduce the amount of the down payment and closing costs he or she pays by a maximum of 5 percent of the first mortgage loan or \$25,000, whichever is less. Loans must be made available at a 0 percent interest rate. The balance of any loan is due at closing if the property is sold, refinanced, rented, or transferred unless otherwise approved by the corporation.

(2) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

Page 1 of 3

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

16-00850A-22

2022788__

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families who have incomes that do not exceed 150 percent of the state median income or local median income, whichever is greater, and at the time of receiving the loan are employed full time as any of the following:

1. A sworn law enforcement officer as defined in s. 112.531.

2. A certified correctional officer as defined in s. 112.531 or correctional probation officer as defined in s. 943.10(3).

3. A 911 public safety telecommunicator certified under s. 401.465.

4. A firefighter certified under part IV of chapter 633.

5. An educator certified under s. 1012.56.

6. A certified paramedic or emergency medical technician as those terms are defined in s. 112.1911.

7. A licensed health care practitioner as defined in s. 456.001.

8. A physician assistant as defined in s. 458.347(2) or a medical assistant as defined in s. 458.3485(1).

9. A home health aide as defined in s. 400.462.

(b) Employees classified as other-personnel-services employees or temporary employees are not eligible for the program.

(c) Loans must be made available for the term of the first mortgage.

(3) This section applies to qualifying home purchases on or after July 1, 2022.

Page 2 of 3

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16-00850A-22

2022788__

59

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

The Florida Senate

APPEARANCE RECORD

1/12/22

Meeting Date

788

Bill Number or Topic

(S) Community Affairs

Committee

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

Amendment Barcode (if applicable)

Name Austin Stowers

Phone 850-443-1763

Address 200 E. Gaines St.

Email austin.stowers@myfloridacfo.com

Street

Tallahassee

FL

32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

CFO of State Fire Marshal Jimmy Patronis

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

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

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

S-001 (08/10/2021)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/22
Meeting Date

SB 788
Bill Number (if applicable)

Topic Honeymoon Heroes Program

Amendment Barcode (if applicable)

Name JEFF SHARKEY

Job Title CEO CAPITAL ALLIANCE GROUP

Address 106 E College Ave # 110

Phone 850 224 1060

Street

City

TPH

FL

State

32301

Zip

Email jeff@sharkeygroup.com

Speaking: For Against Information

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

Representing City of St Petersburg

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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The Florida Senate

APPEARANCE RECORD

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11/13/2022 Meeting Date
Community Affairs Committee

788 Bill Number or Topic
Amendment Barcode (if applicable)

Name Jeff Branch Phone 701-3655

Address Tallahassee FL 32302
Street City State Zip
Email jbranch@flcities.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
Florida League of Cities
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

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1-12-21

Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB 700

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Wayne "Bernie" Bernoska

Phone (850) 224-7333

Address 343 W. Madison St

Email Bernie@fpfp.org

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

01/12/2022

APPEARANCE RECORD

SB 788

Meeting Date

Bill Number or Topic

Community Affairs

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Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Christina Pappas

Phone (407) 438 - 1400

Address 7025 Augusta National Drive

Email Christinap@floridarealtors.org

Street

Orlando

Florida

32822

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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12 Jan 2022

Meeting Date

788

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Matthew Holliday

Phone 239-826-7864

Address 350 7th Street N.

Street

Email matthew.holliday@nchmd.org

Naples

City

FL

State

34102

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
NCH Healthcare System

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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01-12-2022

Meeting Date

SB 788

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Phone 407-468-6622

Address Florida Fire Chiefs' Assoc.

Email ray@ffca.org

Address 221 Pinewood Dr.

Street

Tallahassee FL

32303

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 962

INTRODUCER: Senator Bradley

SUBJECT: Mixed-use Residential Development Projects for Affordable Housing

DATE: January 4, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	_____	_____	<u>TR</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 962 authorizes a county or municipality, regardless of zoning ordinances or the locality’s comprehensive plan, to approve the development of mixed-use residential development projects on any parcel zoned for residential, commercial, or industrial use if a portion of the project is for affordable housing. Current law authorizes a county or municipality to approve the development of affordable housing regardless of zoning ordinances or the locality’s comprehensive plan, but does not specifically address mixed-use residential projects.

The sponsor of a project so approved must additionally agree not to apply for or receive funding from the state’s multi-family affordable housing program, known as the State Apartment Incentive Loan (SAIL), limiting eligible projects to those not already seeking SAIL funding.

The bill clarifies that the new and existing provisions allowing affordable housing projects to circumvent comprehensive plans and other ordinances are self-executing and do not require further action by local governments before using this approval process.

The bill takes effect upon becoming a law.

II. Present Situation:

Comprehensive Plans and Amendments

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development.¹ A locality’s comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up

¹ Section 163.3167(2), F.S.

of elements, each laying out regulations for a different facet of development. There are 10 required elements,² most relevant among them:

- The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.³
- The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.⁴

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive public hearings, the first held by the local planning board.⁵ The local government must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the Department of Economic Opportunity (DEO), the relevant Regional Planning Council, and adjacent local governments that request to participate in the review process.⁶ The process for approving comprehensive plan amendments is bifurcated. Most plan amendments are placed into the Expedited State Review Process, while plan amendments relating to large-scale developments are placed into the State Coordinated Review Process.⁷

Zoning and Amendments to Zoning

In addition to maintaining each comprehensive plan, local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, sign regulations, or any other regulations controlling the development of land.⁸

Statutes prescribe regular and emergency ordinance adoption procedures for counties and municipalities. Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category or ordinances or resolutions initiated by the local government that change the actual zoning map designation of a parcel or parcels of land must

² Section 163.3177(6), F.S. The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.

³ Section 163.3177(6)(a), F.S.

⁴ Section 163.3177(6)(f), F.S.

⁵ Sections 163.3174(4)(a) and 163.3184, F.S.

⁶ Section 163.3184, F.S.

⁷ See ss. 163.3184 and 380.06, F.S. In the Expedited State Review Process, DEO reviews and approves or amends the proposed comprehensive plan amendment. This process can take 4 to 6 months. The State Coordinated Review Process is a more thorough, complex, multi-phase process. For more information, see Florida Department of Economic Opportunity, *Amendments that Must Follow the State Coordinated Review Process; Procedures and Timeframes*, available at <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/amendments-that-must-follow-the-state-coordinated-review-process-procedures-and-timeframes> (last visited January 4, 2022).

⁸ See ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

follow additional enhanced notice requirements.⁹ If the area affected is less than 10 acres, the local government is required to notify by mail each property owner and hold a public meeting to discuss the ordinance or resolution before passage.¹⁰ If the area affected is 10 acres or greater the local government must hold two separate meetings at which to discuss the changes, and notice the public through either mail to each property owner or to the public generally by newspaper.¹¹

Affordable Housing

Affordable housing is safe and decent housing. It differs from market rate housing in two ways: the income of the family living in the housing; and the financing of the housing.¹² Affordable housing is defined in terms of the income of the people living in the home. Housing is considered affordable when monthly rent or mortgage payments including taxes and insurance do not exceed 30 percent of the household income.¹³ It is generally accepted that a lower income family spending more than 30-40 percent of its income on housing costs will be cost burdened and not have enough money left over to pay for items such as transportation, food, clothing and healthcare.¹⁴

What makes housing affordable is a decrease in monthly rent or mortgage payments, allowing a family to pay less for the housing than it otherwise would cost at “market rate.” Lower monthly payments are a result of affordable housing financing to support homeownership and rental housing, provided through public sector programs at the federal, state and local level.¹⁵

Resident eligibility for Florida’s state and federally funded housing programs is typically governed by area median income (AMI) levels, published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. The following are standard household income level definitions and their relationship to the 2021 Florida state AMI of \$70,000 for a family of four (as family size increases or decreases, the income range also increases or decreases):¹⁶

- Extremely low income – earning up to 30 percent AMI (at or below \$21,000);¹⁷
- Very low income – earning from 30.01 to 50 percent AMI (\$21,001 to \$35,000);¹⁸
- Low income – earning from 50.01 to 80 percent AMI (\$35,001 to \$56,000);¹⁹ and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$56,001 to \$84,000).²⁰

⁹ See sections 125.66(4) and 166.041(3), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² Affordable Housing Workgroup, 2017 Final Report, page 5, available at: https://www.floridahousing.org/docs/default-source/aboutflorida/august2017/ahwg-report_2017-web-print.pdf?sfvrsn=2 (last visited December 28, 2021).

¹³ Section 420.0004(3), F.S. Public housing, commonly referred to as Section 8 Housing, is provided by local housing agencies (HAs) for low-income residents. Funding for HAs is provided directly from HUD.

¹⁴ *Supra* note 12.

¹⁵ *Id.*

¹⁶ U.S. Department of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas – Click Here for FY 2021 IL Documentation*, available at <https://www.huduser.gov/portal/datasets/il.html#2021> (last visited December 3, 2021).

¹⁷ Section 420.0004(9), F.S.

¹⁸ Section 420.0004(17), F.S.

¹⁹ Section 420.0004(11), F.S.

²⁰ Section 420.0004(12), F.S.

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (Florida Housing) is a public corporation created by the Legislature to assist in providing a range of affordable housing opportunities for Florida residents. Florida Housing administers federal and state resources to make loans, guarantees of loans, and to issue bonds to finance the development and preservation of affordable homeowner and rental housing and assist homebuyers with financing and down payment assistance.²¹

Florida Housing is eligible to receive both state and federal funding to execute its affordable housing programs. Principal state funding, if appropriated, comes from documentary stamp tax revenues distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.²² Programs supported by the two trust funds include the State Apartment Incentive Loan Program (SAIL)²³ and the State Housing Initiatives Partnership Program (SHIP).²⁴

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers as gap financing for the construction or substantial rehabilitation of multifamily affordable housing developments.²⁵ Applicants may include individuals, public entities, nonprofit organizations, or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very-low-income individuals and families. In most cases, the SAIL loan cannot exceed 25 percent of the total development cost and can be used in conjunction with other state and federal programs.

The SHIP program provides funds to all 67 counties and Florida's larger cities on a population based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans.

Statutory Guidance on County and Municipal Affordable Housing

As part of ongoing efforts to ensure citizens have access to affordable housing options, the Legislature has enacted various policies to encourage the development of affordable housing at the local level in addition to state programs. In 2001, the Legislature authorized counties and municipalities to “adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances” regardless of other provisions of law.²⁶ “Inclusionary housing ordinances,” often called inclusionary “zoning” ordinances, are ordinances by which a local government will require affordable housing units as a prerequisite to

²¹ See *Overview of Florida Housing Finance Corporation*, Florida Housing Finance Corporation, available at <https://www.floridahousing.org/docs/default-source/aboutflorida/august2017/august2017/tab8.pdf>, (last visited December 28, 2021).

²² Section 201.15, F.S.

²³ Section 420.5087, F.S.

²⁴ Sections 420.907-420.9089, F.S.

²⁵ See section 420.5087, F.S., and Florida Housing, *State Apartment Incentive Loan, Background*, for information cited in this section, available at <http://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan> (last visited January 4, 2022).

²⁶ Sections 125.01055 and 166.04151, F.S.; Sections 15 and 16, ch. 2001-252, Laws of Fla.

approving development of market rate units.²⁷ The intent of such ordinances is to increase the production of affordable housing in general and also in specific geographic areas with a greater need for affordable housing.²⁸

More recently, in 2020, the Legislature enacted legislation to authorize counties and municipalities, notwithstanding any other provision of law, to approve the development of housing that is affordable on any parcel zoned for residential, commercial, or industrial use.²⁹ This allows counties and municipalities to approve developments which include affordable housing on any parcel without amending the locality's comprehensive plan or zoning ordinances, saving time and effort for both local governments and developers of affordable housing. The law is silent as to whether developments allowed to bypass comprehensive plans and zoning ordinances include mixed-use developments, as contemplated by the bill.

III. Effect of Proposed Changes:

The bill amends ss. 125.01055(6) and 166.04151(6), F.S., to authorize a county or municipality, respectively, notwithstanding any other provision of law, to approve the development of mixed-use residential development projects³⁰ on any parcel zoned for residential, commercial, or industrial use if a portion of the project is for housing that is affordable. The sponsor of the project must additionally agree not to apply for or receive SAIL program funding, limiting eligible projects to those not already seeking SAIL funding.

The bill also clarifies that new and existing provisions allowing affordable housing projects to circumvent comprehensive plans and other ordinances are self-executing and do not require further action by local governments before using this approval process.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁷ Ross, J. and Outka, U., The Florida Housing Coalition, *Inclusionary Housing: A Challenge Worth Taking*, available at <https://www.flhousing.org/wp-content/uploads/2012/05/Inclusionary-Housing-A-Challenge-Worth-Taking.pdf> (last visited January 4, 2022).

²⁸ *Id.*

²⁹ Sections 125.01055(6) and 166.04151(6), F.S.; Sections 1 and 6, ch. 2020-27, Laws of Fla.

³⁰ While "mixed-use residential development" is not defined in statute, it is generally accepted to include any development combining two or more land uses, so long as one is residential. The other use could be retail, professional, or any other use. See generally Tyler Adams, *Mixed-Use Zoning*, available at <https://sustainablecitycode.org/brief/mixed-use-zoning/> (last visited December 8, 2021).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Developers incorporating affordable housing into development projects may benefit from bypassing comprehensive plan amendments and other delays in project approval.

C. Government Sector Impact:

Local governments may experience greater efficiencies in approving developments including affordable housing components.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.01055 and 166.04151 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Bradley

5-00986A-22

2022962__

1 A bill to be entitled
 2 An act relating to mixed-use residential development
 3 projects for affordable housing; amending ss.
 4 125.01055 and 166.04151, F.S.; authorizing counties
 5 and municipalities, respectively, to approve certain
 6 mixed-use residential development projects subject to
 7 certain conditions; providing that approval for an
 8 affordable housing development or a mixed-use
 9 residential development project is self-executing;
 10 providing an effective date.

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

13
 14 Section 1. Subsection (6) of section 125.01055, Florida
 15 Statutes, is amended to read:

16 125.01055 Affordable housing.—

17 (6) Notwithstanding any other law or local ordinance or
 18 regulation to the contrary, the board of county commissioners
 19 may approve the development of housing that is affordable, as
 20 defined in s. 420.0004, on any parcel zoned for residential,
 21 commercial, or industrial use. An approval may include a mixed-
 22 use residential development project if a portion of the project
 23 is for housing that is affordable and the sponsor of the project
 24 agrees not to apply for or receive funding under s. 420.5087.
 25 The provisions of this subsection are self-executing and do not
 26 require the board of county commissioners to adopt an ordinance
 27 or a regulation before using the approval process in this
 28 subsection.

29 Section 2. Subsection (6) of section 166.04151, Florida

Page 1 of 2

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

5-00986A-22

2022962__

30 Statutes, is amended to read:

31 166.04151 Affordable housing.—

32 (6) Notwithstanding any other law or local ordinance or
 33 regulation to the contrary, the governing body of a municipality
 34 may approve the development of housing that is affordable, as
 35 defined in s. 420.0004, on any parcel zoned for residential,
 36 commercial, or industrial use. An approval may include a mixed-
 37 use residential development project if a portion of the project
 38 is for housing that is affordable and the sponsor of the project
 39 agrees not to apply for or receive funding under s. 420.5087.
 40 The provisions of this subsection are self-executing and do not
 41 require the governing body to adopt an ordinance or a regulation
 42 before using the approval process in this subsection.

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

Page 2 of 2

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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)

1/12/22
Meeting Date

SB 967
Bill Number (if applicable)

Topic AMENDABLE HAVANA

Amendment Barcode (if applicable)

Name JEFF SHARKEY

Job Title CEO CAPITAL ALLIANCE GROUP

Address 100 E COLLEGE AVE # 1110

Phone 850 224 1660

PH FL 32301
City State Zip

Email JEFFSHARKEY@CAPITALALLIANCEGROUP.COM

Speaking: For Against Information

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

Representing CITY OF ST PETERSBURG

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Community Affairs
Health Policy
Military and Veterans Affairs, Space,
and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JANET CRUZ

18th District

January 11, 2022

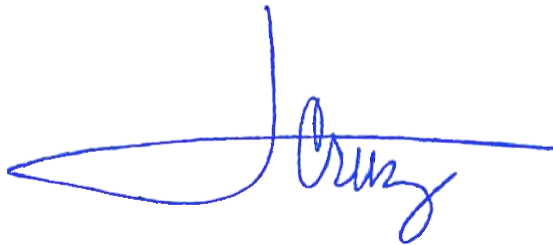
The Honorable Jennifer Bradley, Chair
Committee on Community Affairs
315 Knott Building
404 South Monroe Street,
Tallahassee, FL 32399-1400

Dear Chair Bradley,

I respectfully request an excused absence from the Committee on Community Affairs meeting scheduled for January 12, 2022. My mother is currently in the hospital and I will not be able to attend the scheduled committee meeting.

Please let me know if I may be of any further assistance with this request.

Respectfully,



Senator Janet Cruz

District 18

REPLY TO:

- 210A S. MacDill Avenue, Tampa, Florida 33609 (813) 348-1017 FAX: (888) 263-3681
- 216 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 37
Caption: Community Affairs

Case No.:
Judge:

Type:

Started: 1/12/2022 9:32:45 AM
Ends: 1/12/2022 11:30:15 AM

Length: 01:57:31

9:32:44 AM Chair calls committee meeting to order
9:32:48 AM Roll Call by Committee Administrative Assistant, quorum present
9:33:25 AM Tab 1 - SB 222 by Senator Gruters
9:33:30 AM Senator Gruters explains the bill
9:34:44 AM Mike Canto, of Gainesville, FL, speaking in support of SB 222
9:35:58 AM Jim Magill, waiving in support of SB 222
9:36:05 AM Dallas Thiesen, Florida Swimming Pool Association, waiving in support of bill
9:37:01 AM Sen. Gruters closes on SB 222
9:37:29 AM Roll is called
9:37:49 AM SB 222 passes favorably
9:38:07 AM Tab 2 - Sen. Hooper introduces SB 264
9:38:43 AM Chief Ray Colburn, Florida Fire Chiefs Assoc., waives in support SB 264
9:39:44 AM Wayne Bernoska, Florida Professional Firefighters, speaks in in support SB 264
9:40:16 AM Jeffrey Newsome, Palm Beach Co Firefighters, waiving in support SB 264
9:40:18 AM Austin Stowers, CFO State Fire Marshal Jimmy Patronis, waiving in support of bill
9:40:34 AM Sen. Farmer is in debate on SB 264
9:40:51 AM Sen. Hooper waives close
9:41:31 AM Roll is called
9:41:35 AM SB 264 passes favorably
9:41:45 AM Tab 7 - Sen. Hooper introduces SB 788
9:41:55 AM Austin Stowers, CFO State Fire Marshal Jimmy Patronis, waives in support
9:42:00 AM Jeff Starkey, City of St. Petersburg, waiving in support of bill
9:42:05 AM Jeff Branch, Florida League of Cities, waiving in support of bill
9:42:10 AM Wayne Bernoska, waiving in support of bill
9:42:15 AM Christina Pappas, of Orlando, FL, waiving in support of bill
9:42:20 AM Matthew Holliday, NCH Healthcare System, waiving in support of bill
9:43:10 AM Chief Ray Colburn, Florida Fire Chiefs Association, waives in support of SB 788
9:44:10 AM Bill in debate
9:44:45 AM
9:44:56 AM Sen. Hooper closes on SB 788
9:45:07 AM Roll is called
9:45:24 AM SB 788 passes favorably
9:45:35 AM Tab 8 - Sen. Bradley introduces SB 962
9:46:18 AM Jeff Sharkey, City of St. Petersburg, waives in support SB 962
9:47:07 AM Sen. Bradley closes on SB 962
9:47:20 AM Roll is called
9:47:23 AM SB 962 passes favorably
9:47:42 AM Tab 3 - Sen. Hutson introduces SB 280
9:48:33 AM Senator Hutson explains amendment 616410 on SB 280
9:49:04 AM
9:49:31 AM Rebecca O'Hara, Florida League of Cities, speaking against
9:51:37 AM
9:56:53 AM Edward Labrador, Florida Association of Counties, speaking for information on SB 280
10:02:21 AM Amendment is adopted, back on the bill as amended
10:03:20 AM Sen. Farmer in questions on SB 280
10:03:44 AM Sen. Hutson responds
10:06:36 AM Sen. Farmer in questions on SB 280
10:07:47 AM Sen. Hutson responds
10:09:35 AM Sen. Polsky in questions on SB 280
10:11:20 AM Sen. Hutson responds
10:15:49 AM Jonathan Webber, Florida Conservation Voters, speaking against SB 280
10:17:16 AM Letitia Harmon, Jacksonville, FL, speaking against SB 280

10:19:47 AM Alec Wilcosky, St. Petersburg, FL, speaking against SB 280
10:21:00 AM Rich Templin, Tallahassee, FL, speaking against SB 280
10:24:03 AM David Cullen, Sierra Club Florida, speaking against SB 280
10:25:59 AM Ida V. Eskamani, Florida Immigrant Coalition, speaking against SB 280
10:28:52 AM Ken Williams, Tampa, FL, speaking against SB 280
10:30:10 AM Sen. Garcia question for Ken Williams
10:33:54 AM Kyle Milwee, Kissimmee, FL, speaking against SB 280
10:34:54 AM Trish Neely, League Women Voters Florida, speaking against SB 280
10:36:14 AM Jane West, 1000 Friends of Florida, speaking against SB 280
10:38:37 AM Eric Rodriguez, Live Oak, FL, waiving against
10:38:40 AM Paty Farley, Inialantic, FL, waiving against
10:38:41 AM David Bryant, Jacksonville, FL, waiving against
10:38:42 AM Alberto Balido, Florida Policy Institute, waiving against
10:38:43 AM Richard Myers, Jax Bch, FL, waiving against
10:38:44 AM Devon West, Broward County, waiving against
10:38:45 AM Phillip Suderman, Americans for Prosperity, waiving in support
10:38:46 AM Wayne Lukash, Orlando, FL, waiving against
10:38:47 AM Barbara DeVane, FL Now National Organization for Women, waiving against
10:38:48 AM Samantha Padgett, Florida Restaurant and Lodging Association, waiving in support
10:38:48 AM J.B. Clark, FL Electrical Workers Assn, waiving against
10:38:49 AM Karen Woodall, FL Center for Fiscal and Economic Policy, waiving against
10:38:50 AM Nicole Fogarty, St. Lucie County, waiving against
10:38:51 AM Joanne Cobbs, Orlando, FL, waiving against
10:38:52 AM Gary Hunter, The Florida Chamber of Commerce, waiving in support
10:38:53 AM Daphnee Sainvil, City of Fort Lauderdale, waiving against
10:38:55 AM Adam Basford, Associated Industries of Florida, waiving in support
10:38:57 AM Aaron Carmela, St. Pete, FL, waiving against
10:39:00 AM Jack Cori, City of Jacksonville Beach, waiving against
10:39:02 AM Yolanda Russell, Windermere, FL, waiving against
10:39:04 AM Vivian Lyte-Johnson, Ocoee, FL, waiving against
10:39:04 AM Jean Siebenaler, Milton, FL, waiving against
10:39:18 AM Karen B. Moser, Malabar, FL, waiving against
10:39:22 AM Janet Laimont, Palm Bay, FL, waiving against
10:39:25 AM Deborah Baker-Rian, Niceville, FL, waiving against
10:40:10 AM Steven B. Grant, Boynton Beach, FL, waiving against
10:41:11 AM Sen. Baxley in debate
10:44:04 AM Sen. Polsky in debate
10:46:22 AM Sen. Hooper in debate
10:49:45 AM Sen. Brodeur in debate
10:50:01 AM Sen. Garcia in debate
10:50:17 AM Sen. Farmer in debate
10:57:53 AM Sen. Hutson closes on SB 280
10:59:42 AM Roll is called
11:00:41 AM SB 280 passes favorably
11:01:04 AM Tab 6 - Sen. Hutson introduces CS/SB 736
11:02:12 AM Sen. Hutson introduces amendment 916628 to CS/SB 736
11:02:30 AM Amendment 606148 to the amendment 916628 to CS/SB 736 is introduced
11:03:29 AM Doug Bell, Associated General Contractors, speaks for amendment to the amendment 606148
11:04:13 AM Amendment to the amendment is adopted
11:04:18 AM Rick Nutter, Tampa, FL, speaking against amendment 916628
11:07:59 AM Sen. Hutson waives close on the amendment
11:08:10 AM Amendment is passed, back on the bill as amended
11:08:18 AM Sen. Farmer in debate
11:08:44 AM Sen. Hutson replies
11:12:12 AM Sen. Polsky in questions
11:13:35 AM Sen. Hutson replies
11:15:17 AM Kari Hebrank, FHBA.PGT, speaking in support of bill
11:17:04 AM Steve Rappaport, community association lawyer, speaking against the bill
11:17:44 AM Sen. Hutson in questions
11:18:22 AM Neil O'Brien, Palm Harbor, FL, speaking against the bill
11:19:50 AM Charbel Barakat, Tampa, FL, speaking for the bill
11:22:25 AM Martin Langesfeld, Doral, FL, speaking against the bill

11:24:42 AM William Large, Florida Justice Reform Institute, waives in support
11:25:05 AM Sen. Farmer in debate
11:27:53 AM Sen. Hutson closes on the bill
11:28:52 AM Roll is called
11:28:56 AM CS/SB 736 passes favorably
11:29:23 AM Sen. Brodeur vote after request
11:29:30 AM Sen. Baxley vote after request
11:29:35 AM Sen. Polsky vote after request
11:29:49 AM Chair adjourns