

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Detert, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Monday, April 7, 2014
TIME: 4:00 —6:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Detert, Chair; Senator Abruzzo, Vice Chair; Senators Bean, Hays, Hukill, Margolis, Richter, Ring, Simpson, Stargel, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1672 Banking and Insurance (Compare CS/CS/H 565, CS/H 1089, CS/H 1109, CS/S 1260, CS/S 1274)	Property Insurance; Providing exemptions from the restriction on obtaining coverage from Citizens Property Insurance Corporation for major structures under certain conditions; authorizing the corporation to offer commercial residential policies excluding wind; requiring the corporation to implement procedures for diverting ineligible applicants and existing policyholders for commercial residential coverage from the corporation by a certain date; increasing the amount of the deductible that an insurer must offer for residential property insurance, etc. CM 04/07/2014 Fav/CS RC	Fav/CS Yeas 8 Nays 0
2	SB 618 Simmons (Identical H 887)	Professional Sports Franchises; Redefining the term "league" to include Major League Soccer; providing that a previously certified applicant is not eligible for an additional certification under certain circumstances; requiring the Department of Economic Opportunity to reserve two facility certifications for new Major League Soccer franchises, etc. CM 04/07/2014 Favorable CA AFT AP	Favorable Yeas 8 Nays 0
3	SB 952 Simpson (Similar CS/H 785, Compare H 471, CS/CS/H 565, CS/S 1260)	Workers' Compensation; Authorizing employers to negotiate the retrospectively rated premium with insurers under certain conditions, etc. BI 03/11/2014 Favorable CM 04/07/2014 Fav/CS GO	Fav/CS Yeas 8 Nays 0

Consideration of proposed committee bill:

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, April 7, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SPB 7128	Entertainment Industry; Specifying the application of the term "entertainment industry"; renaming the Office of Film and Entertainment within the Department of Economic Opportunity as the Division of Film and Entertainment and housing the division within Enterprise Florida, Inc.; revising the powers and duties of the Florida Film and Entertainment Advisory Council; requiring the department, rather than the Office of Film and Entertainment, to be responsible for applications for the entertainment industry financial incentive program, etc.	Submitted as Committee Bill Yeas 7 Nays 1

Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate committee page on the Senate's website, www.flsenate.gov

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 Commerce and Tourism

BILL: CS/SB 1672

INTRODUCER: Commerce and Tourism Committee and Banking and Insurance Committee

SUBJECT: Property Insurance

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Matiyow, Knudson</u>	<u>Knudson</u>		BI SPB 7062 as introduced
1.	<u>Siples</u>	<u>Hrdlicka</u>	<u>CM</u>	Fav/CS
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1672 enacts the following changes to property insurance laws, primarily relating to Citizens Property Insurance Corporation (Citizens). The bill:

- Prohibits a public adjuster from accepting a power of attorney that vests in the public adjuster the right to select the person or entity that will perform repairs.
- Delays the prohibition for Citizens to provide coverage to structures within the Coastal Resources Barrier System by 1 year, from July 1, 2014, to July 1, 2015.
- Directs Citizens to stop writing new commercial residential multi-peril policies in the coastal account. Instead, Citizens will write separate Wind and All-Other Perils policies.
- Reduces 5 percent of the Citizens policyholder surcharge for deficits arising from the personal lines account and increases 5 percent of the Citizens policyholder surcharge for deficits arising from the coastal account.
- Requires all procurement protests within Citizens to be decided by the Division of Administrative Hearings.
- Directs Citizens to include commercial residential buildings within the Citizens policyholder eligibility clearinghouse program (clearinghouse) by October 1, 2015.
- Allows surplus lines insurers to make offers of similar coverage through the clearinghouse if no authorized insurers participating in the clearinghouse make an offer of coverage.
- Requires surplus lines insurers participating in the clearinghouse meet enhanced financial and disclosure requirements.

- Requires Citizens to issue an annual report of its estimated bonding capacity, estimated claims paying capacity, and estimated year-end cash balance.
- Increases the residential property insurance deductible for non-hurricane losses that must be offered by insurers from \$500 to \$1,000 (effective January 1, 2015).
- Prohibits an authorized mitigation inspector from paying any referral fees or other forms of compensation to an insurance agent, broker, or insurance agency employee that recommends the inspector's services to an insured. The bill also prohibits an insurance agent, broker, or insurance agency employee from accepting any referral fees or other forms of compensation from an authorized mitigation inspector.
- Allows an insurer to exempt from independent verification, a uniform mitigation verification form completed by an authorized mitigation inspector that has a quality assurance program approved by the insurer.
- Provides that a uniform mitigation verification form provided to Citizens and completed by an authorized mitigation inspector with a quality assurance program approved by Citizens is not subject to independent verification or re-inspection if there has been no material changes to the structure.

II. Present Situation:

Public Adjusters

A public adjuster is a person, other than a licensed attorney, who, for compensation, prepares or files an insurance claim form for an insured or third-party claimant in negotiating or settling an insurance claim on behalf of the insured or third party.¹ The responsibilities of property insurance public adjusters include inspecting the loss site, analyzing damages, assembling claim support data, reviewing the insured's coverage, determining current replacement costs, and conferring with the insurer's representatives to adjust the claim. Public adjusters are licensed by the Department of Financial Services (DFS) and must meet specified age, residency, examination, and surety bond requirements.² The conduct of a public adjuster is governed by statute and by rule.³

Citizens Property Insurance Corporation

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.⁴ Citizens is not a private insurance company.⁵ Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association. Citizens operates in accordance with s. 627.351(6), F.S., and is governed by a nine member board of

¹ Section 626.854(1), F.S.

² Section 626.865, F.S.

³ See generally, ss. 626.854, 626.8698, 626.876, 626.878, 626.8795 and 626.8796, F.S., and Rule 69B-220, F.A.C.

⁴ Admitted market means insurance companies licensed to transact insurance in Florida.

⁵ Section 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the Office of Insurance Regulation.

governors⁶ (board) that administers its Plan of Operations, which is reviewed and approved by the Financial Services Commission.

Citizens offers property insurance in three separate accounts: personal lines, commercial lines, and coastal. Each account is a separate statutory account with separate calculations of surplus and deficits. Assets may not be commingled or used to fund losses in another account.⁷

The personal lines account (PLA) offers personal lines residential policies that provide comprehensive, multiperil coverage, except for those areas of the state covered by the coastal account. The PLA also writes policies that exclude wind coverage in areas contained within the coastal account. Personal lines residential coverage consists of the types of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, and condominium unit owner's policies.⁸

The commercial lines account (CLA) offers commercial lines residential and nonresidential policies that provide basic perils coverage, except for those areas covered by the coastal account. The CLA also writes policies that exclude coverage for wind in areas contained within the coastal account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial nonresidential policies covering business properties.

The coastal account⁹ offers personal residential, commercial residential, and commercial non-residential policies in eligible coastal areas. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multiperil policies.¹⁰

Eligibility for Citizens coverage is at times restricted, or alternatively, the amount of coverage provided by Citizens is limited. Personal lines residential structures are ineligible for Citizens if they have an insured value of \$1 million or greater.¹¹ The eligibility threshold for such policies will be reduced annually in \$100,000 increments until it reaches \$700,000.¹² Citizens will insure commercial residential properties at unlimited values. Citizens writes only the first \$1 million of commercial non-residential wind-only coverage and the first \$2.5 million of commercial non-residential multi-peril policies.

⁶ The Governor, the Chief Financial Officer, the President of the Senate and the Speaker of the House of Representatives each appoint two members to the board. The Governor is also responsible for appointing one individual to serve solely as an advocate of the consumer. All members of the board must be Florida residents, and the board must be geographically diverse.

⁷ Section 627.351(6)(b)2.b., F.S.

⁸ Citizens, *2010 Annual Report*, available at

https://www.citizensfla.com/about/reports.cfm?show=pdf&link=/shared/documents/2010_AnnualReport.pdf (last visited Mar. 21, 2014).

⁹ This account was formerly known as the High Risk Account.

¹⁰ In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. See Press Release, Citizens, *New Citizens Program Provides Potential Savings for Wind-Only Policyholders* (July 31, 2007), available at https://www.citizensfla.com/shared/press/articles/new/07_31_2007.cfm (last visited Mar. 21, 2014). Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account. See Citizens, *2008 Annual Report*, available at https://www.citizensfla.com/shared/documents/2008_AnnualReport.pdf (last visited Mar. 24, 2014).

¹¹ Section 627.351(6)(a)3.a., F.S.

¹² See s. 627.351(a)3.a.-d., F.S. Effective January 1, 2017, the eligibility limit for coverage by Citizens will be \$700,000.

Citizens Financial Resources for Paying Claims

Citizens' financial resources include insurance premiums, investment income, and operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. Citizens projected surplus for 2014 and its policies, premium in force and total exposure as of January 31, 2014, is as follows:¹³

Table 1: Citizens Surplus, Premium, Exposure, and Premium in Force

Citizens Account	Surplus ¹⁴	Policies In Force	Premium In Force ¹⁵	Total Exposure ¹⁶
PLA	\$2.73 Billion	610,237	\$999 Million	\$113.4 Billion
CLA	\$1.54 Billion	7,534	\$196 Million	\$36.8 Billion
Coastal	\$3.39 Billion	383,106	\$1.071 Billion	\$164.6 Billion
TOTAL	\$7.66 Billion	1,000,877	\$2.266 Billion	\$314.8 Billion

It is estimated that as of December 31, 2014, Citizens will have an accumulated surplus of approximately \$7.66 billion.¹⁷ Citizens has approximately \$1.85 billion in private reinsurance/catastrophe bonds coverage¹⁸ and \$4.48 billion in mandatory layer reinsurance from the FHCF.¹⁹ Citizens has additional pre-event liquidity²⁰ of \$3.93 billion. For the 2014 storm season, Citizens has an estimated aggregate claims paying capacity of \$17.9 billion.

If Citizens incurs a deficit (i.e. its obligations to pay claims exceeds its capital plus reinsurance recoveries), it may levy regular assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute as follows:²¹

¹³ See Citizens, "Book of Business, Archived Policies in Force," available at <https://www.citizensfla.com/about/corpfinancials.cfm> (last visited Mar. 24, 2014).

¹⁴ Citizens, *Annual Report of Aggregate Net Probable Maximum Losses, Financing Options, and Potential Assessments* (Feb. 4, 2014) (on file with Senate Banking and Insurance Committee). See also e-mail from Christine Turner, Vice President-Communications, Legislative and External Affairs, Citizens Property Insurance Corp. (Mar. 4, 2014) (on file with Senate Banking and Insurance Committee).

¹⁵ Rounded to the nearest \$1 million.

¹⁶ Rounded to the nearest \$100 million.

¹⁷ See *supra* note 11 at 5. Surplus amounts consist of preliminary (unaudited) 2013 surplus and 2014 projected net income.

¹⁸ 2014 projected private risk transfer estimated as of the 2013 program. See *supra* note 11 at 5.

¹⁹ FHCF coverage is based on preliminary 2013 retention and payment multiples. Actual multiples may be significantly different (on file with Senate Banking and Insurance Committee). See *supra* note 11 at 6.

²⁰ Pre-Event Liquidity does not represent risk transfer and any monies drawn must be repaid.

²¹ Sections 627.351(6)(b)3.a.,d., and i., F.S. See also Citizens, "Assessments," available at <https://www.citizensfla.com/about/citizensAssessments.cfm> (last visited Mar. 28, 2014).

Citizens Surcharge²²

Require up to a 15 percent of premium surcharge for 12 months on all Citizens’ policies, collected upon issuance or renewal. This 15 percent assessment can be levied on each of the three Citizens’ accounts with a maximum assessment of 45 percent of premium.

Regular Assessment²³

If the Citizens’ surcharge is insufficient to cure the deficit for the coastal account, Citizens can require an assessment against all other insurers (except medical malpractice and workers compensation). The assessment may be recouped from policyholders through a rate filing process of up to 2 percent of premium or 2 percent of the deficit, whichever is greater. This assessment is not levied against Citizens’ policyholders.

Emergency Assessment²⁴

Requires any remaining deficit for either of Citizens three accounts be funded by multi-year emergency assessments on all insurance policyholders, including Citizens policyholders.²⁵ This assessment is levied up to 10 percent of premium or 10 percent of the deficit per account, whichever is greater. The maximum emergency assessment that can be levied against Florida’s varicose insurance policyholders is 30 percent per policy.

Citizens resources for paying claims and assessable shortfall amounts for probable maximum loss events occurring once every 50 years, 100 years, and 250 years are detailed in tables 2-A, 2-B, and 2-C, below.²⁶

Table 2-A: Citizens 1 in 50 Year Probable Maximum Losses (PML) and Potential Assessments²⁷
(\$ in billions)

Citizens Accounts	1: 50 Year PML Loss	Surplus Recovery	FHCF Reimbursement	Reinsurance/ Cat Bonds	Assessable Shortfall
PLA/CLA	\$3.129	\$1.428	\$1.702	\$0	\$0
Coastal	\$7.563	\$2.934	\$2.780	\$1.850	\$0
TOTAL	\$10.657	\$4.326	\$4.481	\$1.850	\$0

²² Section 627.351(6)(b)3.i., F.S.

²³ Section 627.351(6)(b)3.a., F.S.

²⁴ Section 627.351(6)(b)3.d., F.S.

²⁵ Emergency assessments are not levied against medical malpractice and workers compensation policyholders.

²⁶ Citizens, *Annual Report of Aggregate Net Probable Maximum Losses, Financing Options, and Potential Assessments* at 5.

²⁷ PML is based on policies in-force as of December 31, 2013, using a computer-based simulation model, AIR CLASIC/2, Version 15.0, based on a weighted average of Standard Sea Surface Temperature (SSST) and Warm Sea Surface Temperature (WSST) Event Catalogs and include estimated loss adjustment expenses. Although combined PMLs and surplus are shown, assessments are triggered at an account level. FHCF coverage is combined for PLA/CLA and separate for the coastal account. PMLs are not additive; the combined value shown is not the sum of PLA/CLA and Coastal PMLs.

Table 2-B: Citizens 1 in 100 Year Probable Maximum Losses and Potential Assessments
(\$ in billions)

Citizens Accounts	1: 100 Year PML Loss	Surplus Recovery	FHCF Reimbursement	Reinsurance/Cat Bonds	Assessable Shortfall
PLA/CLA	\$5.406	\$3.704	\$1.702	\$0	\$0
Coastal	\$11.841	\$3.390	\$2.780	\$1.850	\$3.822
TOTAL	\$17.448	\$7.660	\$4.481	\$1.850	\$3.456

Table 2-C: Citizens 1 in 250 Year Probable Maximum Losses and Potential Assessments
(\$ in billions)

Citizens Accounts	1: 250 Year PML	Surplus Recovery	FHCF Reimbursement	Reinsurance/Cat Bonds	Assessable Shortfall
PLA/CLA	\$9.532	\$4.270	\$1.702	\$0	\$3.560
Coastal	\$19.165	\$3.390	\$2.780	\$1.850	\$11.145
TOTAL	\$28.303	\$7.660	\$4.481	\$1.850	\$14.311

Citizens Rates

Rates for Citizens coverage are required to be actuarially sound,²⁸ except that Citizens may not implement a rate increase that exceeds 10 percent for any single policy other than sinkhole coverage, excluding coverage changes and surcharges.²⁹ The 10 percent limitation on rate increases is referred to as the Citizens rate “glide path” to achieving actuarially sound rates.³⁰ The implementation of this increase ceases when Citizens has achieved actuarially sound rates. In addition to the overall glide path rate increase, Citizens can increase its rates to recover the additional reimbursement premium that it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the FHCF coverage.³¹

Citizens Clearinghouse

In 2013, the Legislature mandated the creation of the Citizens Property Insurance Corporation Policyholder Eligibility Clearinghouse Program (clearinghouse) for personal residential risks.³² The clearinghouse has two purposes:

- To determine if a new or renewal policy is eligible for Citizens coverage; and
- To enhance access of new Citizens applicants and existing Citizens policyholders to offers of coverage from authorized insurers.³³

²⁸ Section 627.351(6)(n)1., F.S.

²⁹ Section 627.351(6)(n)6., F.S.

³⁰ With the enactment of ch. 2007-1, L.O.F., from January 25, 2007, to January 1, 2010, Citizens rates were fixed by statute at the rates that were in effect on December 31, 2006. The Legislature also rescinded a Citizens rate increase that had taken effect January 1, 2007, and resulted in a statewide average rate increase of 12 percent for policies in the personal lines account and 21.4 percent for policies in the high risk account (since renamed the coastal account) (on file with Senate Banking and Insurance).

³¹ Section 215.555(5)(b), F.S.

³² Chapter 2013-60, L.O.F.

³³ Section 627.3518(2), F.S.

The clearinghouse facilitates the diversion of ineligible applicants and existing policyholders from the corporation into the voluntary insurance market. Citizens launched the personal residential clearinghouse for new applicants on January 27, 2014.³⁴

All applicants for Citizens personal lines residential coverage and all Citizens personal lines residential policies at renewal are submitted to the clearinghouse. The clearinghouse interacts with participating private-market insurers to match specific risks with the OIR approved rating and underwriting criteria of each participating insurer. The clearinghouse displays all quotes that have been received for each risk submitted. However, a Citizens quote will be displayed as ineligible if one or more participating insurers makes a comparable offer of coverage priced within 15 percent of Citizens' premium for new applicants³⁵ or for a renewal policy makes a comparable offer of coverage priced no more than Citizens current rate. If a risk is deemed ineligible for Citizens, the policyholder's agent will be unable to submit the application to Citizens but will be able to access the offering insurer's policy system to bind the coverage. While the same eligibility thresholds apply for new commercial policies,³⁶ there is no clearinghouse for commercial-residential and commercial non-residential new or renewal policies written by Citizens.

Citizens was also directed to develop appropriate procedures for developing a clearinghouse for commercial residential coverage that would divert ineligible applicants and existing Citizens policyholders into the private insurance market.³⁷ Citizens issued a report on December 30, 2013, detailing its compliance with statutory requirements.³⁸ The report indicates that admitted insurers currently writing commercial residential property in Florida are interested in participating in a commercial residential clearinghouse. Citizens also indicated that it has been contacted by prospective insurers targeting commercial residential lines and opined that there is significant interest in this product line. The lack of statutory authority to create a clearinghouse was identified as the primary obstacle to its creation.

Surplus Lines Insurance

Surplus lines insurance refers to a category of insurance for which there is no market available through standard insurance carriers in the admitted market (insurance companies authorized to transact insurance in Florida).³⁹ There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and

³⁴ Press Release, Citizens, *Citizens Statement on Property Insurance Clearinghouse Rollout* (Jan. 27, 2014), available at <https://www.citizensfla.com/shared/press/articles/141/01.27.2014.pdf> (last visited Mar. 28, 2014).

³⁵ Section 627.351(6)(c)5.a., F.S. See also Citizens, *The Property Insurance Clearinghouse Providing New Options for Florida Homeowners* (2014), available at <https://www.citizensfla.com/shared/clearinghouse/documents/ProvidingNewOptions.pdf> (last visited Mar. 28, 2014).

³⁶ Section 627.351(6)(c)5.b., F.S.

³⁷ Chapter 2013-60, s. 10, L.O.F., Section 627.3518(2), F.S.

³⁸ Citizens, *Property Insurance Clearinghouse Commercial Lines Report* (Dec. 31, 2014), available at <https://www.citizensfla.com/shared/press/legislation/78/12.30.2013.pdf> (last visited Mar. 28, 2014).

³⁹ Florida Department of Financial Services, Division of Consumer Services, *Surplus Lines Insurance: Insuring the Uninsurable*, available at

- Capacity risks, which are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code and thus do not obtain a certificate of authority from the OIR to transact insurance in Florida. Rather, surplus lines insurers are “unauthorized” or “nonadmitted” insurers, but are eligible to transact surplus lines insurance under the surplus lines law as “eligible surplus insurers.”⁴⁰ The OIR determines whether a surplus lines insurer is “eligible” based on statutory guidelines. Eligibility requirements reviewed by the OIR for surplus lines include:

- Eligibility is requested in writing for the insurer by the Florida Surplus Lines Service Office;
- Insurer was authorized for the prior 3 years in the state or country of its domicile to write the kinds of insurance the insurer wants to write in Florida (with limited exceptions);
- Insurer provides the OIR with its current annual financial statement;
- Insurer meets surplus requirements (delineated below); and
- Insurer has a good reputation relating to payment of claims and policyholder service.⁴¹

Generally, a surplus lines insurer must have and maintain a surplus of \$15 million or more in order to obtain and maintain eligibility. In addition, an insurer formed outside the U.S. must have and maintain in the U.S., a trust fund containing at least \$5.4 million.⁴² The OIR has no duty or responsibility to determine the actual financial condition or claims practice of surplus lines insurers.⁴³ A finding of eligibility by the OIR only means the surplus lines insurer *appears* to be financially sound and to have a satisfactory claims practice.

The OIR must withdraw the eligibility of a surplus lines insurer if the OIR has reason to believe the insurer is insolvent or is in unsound financial condition; does not make reasonable prompt payment of claims; or does not meet the statutory guidelines for eligibility (including maintenance of \$15 million in surplus). The OIR may withdraw the eligibility of a surplus lines insurer if the insurer willfully violates a statute or rule.⁴⁴

Division of Administrative Hearings (DOAH)

The DOAH is a state agency that employs full-time administrative law judges to conduct hearings in most cases in which the substantial interests of a person are determined by an agency and which involve a disputed issue of material fact.⁴⁵ When a state agency proposes to take some action that is adverse to a person, the affected person is normally entitled to request an administrative hearing to determine the matter.⁴⁶ Requests for hearings are initially made to the appropriate state agency. If the case does not involve disputed facts, the agency itself will

<http://www.myfloridacfo.com/division/consumers/UnderstandingCoverage/Guides/documents/SurplusLines.pdf> (last visited Mar. 31, 2014).

⁴⁰ Section 626.914(2), F.S.

⁴¹ Section 626.918, F.S.

⁴² Section 626.918(2)(d)1.a., F.S.

⁴³ Section 626.918(4), F.S.

⁴⁴ Section 626.919, F.S.

⁴⁵ See ss. 120.52, 120.569, and 120.65, F.S.

⁴⁶ DOAH, “Representing Yourself Before the Division of Administrative Hearings,” *available at* <http://www.doah.state.fl.us/ALJ/RepYourself.pdf> (last visited Mar. 31, 2014).

conduct a proceeding and subsequently render a decision. If the request for hearing indicates that the affected person disputes facts upon which the proposed action is based, the agency ordinarily refers the case to the DOAH for a hearing. The DOAH provides a hearing conducted by an independent and neutral administrative law judge who thereafter enters a Recommendation or Final Order, which is provided to the state agency and the parties in the case. In the case of a Recommended Order, the agency reviews the Order and issues a final decision, which usually adopts the judge's factual findings, but may under certain circumstances reject or modify certain legal conclusions of the judge or the recommended penalty, if any. If the final decision is adverse to the non-agency party, an appeal may be taken within a limited time to a District Court of Appeal.

Personal Lines Residential Required Deductible Offering

Currently, s. 627.701(7), F.S., requires that for personal lines residential insurance, the insurer must offer a deductible of \$500 applicable to losses from perils other than hurricanes. This offer must be made on a form approved by the OIR and must be made at least once every 3 years.

Uniform Mitigation Verification Inspection Form

Since 2003, insurers have been required to provide mitigation credits, discounts, other rate differentials, or reductions in deductibles (mitigation discounts) to reduce residential property insurance premiums for properties with mitigation features.⁴⁷ Section 627.711, F.S., requires insurers to clearly notify an applicant or policyholder of a personal lines residential property insurance policy of the availability and range of each premium discount, credit, other rate differential, or reduction in deductibles, for wind mitigation. The notice must be provided when the policy is issued and renewed.

Typically, policyholders are responsible for substantiating to their insurers that the insured property has mitigation features, usually by submitting a completed uniform mitigation verification inspection form to the insurer to substantiate mitigation features. Insurers must accept mitigation forms prepared by home inspectors, building code inspectors, contractors, engineers, and architects and may accept forms prepared by persons determined to be qualified by the insurer to prepare the form.

Insurers can require mitigation forms provided to the insurer by mitigation inspectors or a mitigation inspection company be independently verified for quality assurance purposes before accepting the mitigation form as valid. The insurer must pay for the independent verification.⁴⁸ At their expense, insurers can also independently verify, for quality assurance purposes, mitigation forms submitted by policyholders or insurance agents.

⁴⁷ Section 627.0629(1), F.S. Mitigation features are construction techniques used or items purchased and installed by a property owner to protect a structure against windstorm damage and loss. (e.g., hurricane shutters, hip roof, specified roof covering).

⁴⁸ Section 627.711(8), F.S.

Certified Wind Mitigation Inspector

Under current law, an insurer must accept a uniform mitigation verification form signed by an authorized mitigation inspector. Those who qualify as an authorized mitigation inspector include:⁴⁹

- A home inspector licensed under s. 468.8314, F.S., who has completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board which includes hurricane mitigation techniques and compliance with the uniform mitigation verification form and completion of a proficiency exam;
- A building code inspector certified under s. 468.607, F.S.;
- A general, building, or residential contractor licensed under s. 489.111, F.S.;
- A professional engineer licensed under s. 471.015, F.S.;
- A professional architect licensed under s. 481.213, F.S.; or
- Any other individual or entity recognized by the insurer as possessing the necessary qualifications to properly complete a uniform mitigation verification form.

A person who is authorized to sign a mitigation verification form must inspect the structures referenced by the form personally, not through employees or other persons, and must certify or attest to personal inspection of the structures referenced by the form.⁵⁰ However, licensed engineers and licensed contractors may authorize a direct employee, who is not an independent contractor and who possesses the requisite skill, knowledge, and experience, to conduct a mitigation verification inspection. Insurers shall have the right to request and obtain information regarding any authorized employee's qualifications prior to accepting a mitigation verification form.

An authorized mitigation inspector that signs a uniform mitigation form and a direct employee authorized to conduct mitigation verification inspections may not commit misconduct when performing an inspection.⁵¹ Misconduct occurs when an authorized mitigation inspector signs a uniform mitigation verification form that:

- Falsely indicates that he or she personally inspected the structures referenced by the form;
- Falsely indicates the existence of a feature which entitles an insured to a mitigation discount that the inspector knows does not exist or did not personally inspect;
- Contains erroneous information due to the gross negligence of the inspector; or
- Contains a pattern of demonstrably false information regarding the existence of mitigation features that could give an insured a false evaluation of the ability of the structure to withstand major damage from a hurricane endangering the safety of the insured's life and property.

The licensing board of an authorized mitigation inspector may commence disciplinary proceedings and impose administrative fines and other sanctions for such misconduct violations.⁵²

⁴⁹ Section 627.711(2)(a), F.S.

⁵⁰ Section 627.711(3), F.S.

⁵¹ Section 627.711(4), F.S.

⁵² Section 627.711(5), F.S.

In 2013, the Department of Business and Professional Regulation (DBPR) issued a declaratory statement regarding the prohibition against the offering of referral fees for home inspection referrals.⁵³ The statement concluded licensed home inspectors authorized to complete mitigation inspections are not prohibited under current law from paying referral fees to insurance agents and brokers who recommend their services. The DBPR declaratory statement clarifies that s. 468.8319(1)(h), F.S., only prohibits licensed home inspectors from paying referral fees to licensed real estate agents and licensed real estate brokers.

III. Effect of Proposed Changes:

Public Adjusters (Section 1, amends s. 626.854(18), F.S.)

The bill prohibits the execution of a power of attorney that vests the authority to choose the persons or entities that will perform repair work on a residential property insurance loss in a public adjuster, a public-adjuster apprentice, or any person acting on their behalf.

Coastal Barrier Resources System prohibition of coverage exemption (Section 2, amends s. 627.351(6)(a)5.b., F.S.)

In 2013, the Legislature made properties located within the Coastal Barrier Resources System to be ineligible for coverage by Citizens if a building permit for new construction or substantial improvement was applied for on or after July 1, 2014.⁵⁴ The bill postpones this date to July 1, 2015.

Commercial Residential Insurance in the Coastal Account (Section 2, amends s. 627.351(6)(b)2.a.(III), F.S.)

Effective July 1, 2014, Citizens may not offer new commercial residential multiperil insurance policies in the coastal account. Instead, Citizens will continue to offer commercial residential wind-only policies and separate commercial residential policies that exclude wind. Citizens may continue renewing commercial residential multi-peril policies within the coastal account that that is insured by Citizens on June 30, 2014.

Citizens Policyholder Surcharge (Section 2, amends s. 627.351(6)(b)3.i.(I), F.S.)

If the Citizens Board of Governors (board) determines that one or more of the three accounts (personal lines, commercial lines, or coastal) has a projected deficit, the board levies a Citizens policyholder surcharge against all policyholders of the corporation. Current law allows a policyholder surcharge of up to 15 percent of the premium to be levied to fund a deficit for each Citizens account. All Citizens policyholders are subject to the surcharges, regardless of which account is projected to have a deficit. For example, if the board projected a deficit for the coastal account requiring a 10 percent policyholder surcharge and a deficit for the personal lines account requiring a 2 percent surcharge, all Citizens policyholders would be charged a 12 percent

⁵³ *In re: Petition for Declaratory Statement, Don Meyler Inspections, Inc.*, Case No. DS 2013-39 (DBPR July 19, 2013), available at http://www.myfloridalicense.com/dbpr/pro/homein/documents/ds_04_2013-039.pdf (last visited Apr. 8, 2014).

⁵⁴ Chapter 2013-60, s. 7, L.O.F.

surcharge. Citizens' policyholders are subject to a maximum 45 percent surcharge consisting of up to 15 percent for each of the three accounts.

The bill increases the maximum Citizens policyholder surcharge for coastal account deficits to 20 percent of the premium and decreases the maximum surcharge for personal lines account deficits to 10 percent of the premium. The maximum surcharge liability of all Citizens policyholders remains unchanged at no more than 45 percent of the premium.

Competitive Procurement Protests (Section 2, amends ss. 627.351(6)(e)2.b.(II) and 627.351(6)(e)3., F.S.)

The bill removes the authority of the board to decide protests relating to competitive procurement and requires the board to contract with the DOAH to hear such protests instead. Citizens must reimburse the costs incurred by the DOAH related to hearing the protests. The bill grants the DOAH jurisdiction to hear the cases and issue recommended orders. The DOAH's rules and procedures apply to the proceedings; however, bond requirements do not. The board, as the "agency head," will consider the recommended orders and take final action on the protest. The board's final action is appealable to the First District Court of Appeal.

Surplus Lines Insurer Participation in Citizens Clearinghouse (Section 3, amends s. 627.3518, F.S.)

The bill defines "surplus lines insurer" as an unauthorized insurer that the OIR has made eligible to issue coverage under the Surplus Lines Law.⁵⁵

The bill authorizes surplus lines insurers to participate in the Citizens clearinghouse program beginning January 1, 2015. A surplus lines insurer must offer similar coverage to that provided by Citizens. Coverage may be offered by a surplus lines insurer only if the risk receives no coverage offers from authorized insurers. An offer of coverage from a surplus lines insurer will not affect whether a risk is eligible to be insured by Citizens.

The surplus lines insurer must provide prominent notice that:

- An applicant in the clearinghouse is not required to accept an offer of coverage from a surplus lines insurer;
- An offer of coverage from a surplus lines insurer does not affect the applicant's eligibility for coverage from Citizens;
- An applicant who accepts an offer of coverage from a surplus lines insurer may submit a new application for coverage to Citizens at any time;
- Surplus lines policies are not covered by the Florida Insurance Guaranty Association (FIGA); and
- Rates for surplus lines insurance are not subject to review by the OIR.

⁵⁵ Sections 626.913-626.937, F.S.

The notice must also include any other information required by the OIR. The notice must be signed by the policyholder and kept on file with the surplus lines insurer for as long as the policyholder remains insured by the surplus lines insurer.⁵⁶

A Citizens policyholder who accepts an offer of coverage from a surplus lines insurer and subsequently applies for coverage with Citizens within 36 months of being insured by Citizens will be considered a renewal policy. The rates on such policies will be rated as renewals and thus be subject to the 10 percent limit on annual rate increases.

To participate in the clearinghouse, the surplus lines insurer must be eligible to offer coverage under Florida's Surplus Lines Law and must maintain at least a \$50 million surplus on a company or pooled basis, be rated A- or higher by A.M. Best Company,⁵⁷ and have the ability to cover the insurer's 100-year probable maximum hurricane loss at least twice in a single hurricane season through its reserves, surplus, reinsurance and reinsurance equivalents.

Inclusion of Commercial Residential Risks within the Citizens Clearinghouse (Section 3, amends 627.3518(2), F.S.)

The bill requires Citizens to implement procedures for facilitating offers of coverage to commercial residential risks through the clearinghouse by October 1, 2015.

Reports Submitted by Citizens (Sections 2 and 5, amend ss. 627.351(6)(hh) and 627.35191, F.S., and Section 4, repeals s. 627.3519, F.S.)

Current law requires Citizens to report, for each calendar year, its loss ratios for residential non-catastrophic losses on a statewide average and county basis to the OIR. The bill changes the reporting date to March 1, rather than January 15, to provide Citizens sufficient time to complete the report (**Section 2**). The bill repeals the report required under s. 627.3519, F.S., as it is duplicative of the report requirements under s. 627.35191, F.S. (**Section 4**). The bill requires Citizens to provide a new report detailing its estimated borrowing capacity, claims-paying capacity, and estimated year-end balance to the Legislature and the Financial Services Commission in May of each year (**Section 5**).

Offer of Personal Lines Residential Property Insurance Deductible (Section 6, amends s. 627.701(7), F.S., effective January 1, 2015)

Under current law, prior to issuing a personal lines residential property insurance policy, the insurer must offer a \$500 deductible applicable to non-hurricane losses. The bill increases the minimum deductible that must be offered for non-hurricane losses to \$1,000 for all such policies issued on or after January 1, 2015. For policies issued before that date, the \$1,000 deductible

⁵⁶ In addition to the notice required by the bill, currently, the insured must be provided notice that surplus lines insurers' policy rates and forms are not approved by any Florida regulatory agency and that surplus lines insurers are not protected by the FIGA (s. 621636.924 F.S.); and personal residential property insured must be informed in writing that coverage may be available and less expensive from Citizens, but that Citizens assessments are higher and that Citizens coverage may be less than the property's existing coverage (s. 626.916(1)(e), F.S.)

⁵⁷ Specifically, the surplus lines insurer must be rated as superior, excellent, exceptional, or equally comparable financial strength by a rating agency acceptable by the OIR.

must also be offered before the first renewal of a policy on or after January 1, 2015. The insurer must continue providing notice of this deductible offering at least once every 3 years, as required under current law.

Mitigation Inspectors – Prohibition on Referral Fees (Section 7, amends s. 627.711, F.S.)

The bill prohibits an authorized mitigation inspector from paying any referral fees or other forms of compensation to an insurance agent, broker, or insurance agency employee that recommends an inspector's services to an insured. Additionally, the bill prohibits an insurance agent, broker, or insurance agency employee from accepting any referral fees or other forms of compensation from an authorized mitigation inspector.

Verification of Uniform Mitigation Forms (Section 7, amends s. 627.711, F.S.)

The bill permits an insurer to exempt a uniform mitigation form from the independent verification process if it is completed by an authorized mitigation inspector that possesses a quality assurance program approved by the insurer. The bill does not allow independent verification of mitigation discount forms submitted to Citizens if a quality assurance program approved by Citizens reviewed and verified the form when it was submitted. In addition, Citizens is not allowed to re-inspect a property to confirm mitigation features if the mitigation form was reviewed and verified by a quality assurance program approved by Citizens.

Effective Date (Section 8)

The effective date of the bill is July 1, 2014, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The inclusion of commercial residential policies within the Citizens clearinghouse would help enforce the 15 percent eligibility requirement for new Citizens applicants, and encourage private-market insurers to offer coverage to existing Citizens policyholders. Private market insurers are actively writing commercial residential policies that insure newer buildings with a replacement cost greater than \$10 million.⁵⁸ Citizens estimates that approximately up to 15 percent of its current commercial residential policies would be attractive to the private market, given Citizens' current rates for such risks and their characteristics such as location, age and building construction type. Commercial residential policies constitute approximately 20 percent of Citizens total risk, with a PML of \$4.2 billion.⁵⁹

Allowing surplus lines insurers to participate in the Citizens clearinghouse may serve to further depopulate Citizens. The bill requires a participating surplus lines insurer to maintain at least \$50 million in surplus and demonstrate the ability to cover two 1 in 100 PML events in a single hurricane season. If these financial protections prove insufficient to prevent an insolvency, claims of policyholders who accept an offer of coverage from a surplus lines insurer will not be covered by the Florida Insurance Guaranty Association.

Prohibiting Citizens from writing new commercial residential multi-peril policies in the coastal account and instead allowing Citizens to offer separate wind-only and all-other perils (AOP) policies may further depopulate commercial residential multi-peril policies in the coastal account. Testimony from Citizens representatives indicated a rate arbitrage issue exists, whereby the Citizens premium in the coastal account for multi-peril policies is less expensive than the Citizens premiums for a wind-only policies plus a separate AOP policy.⁶⁰ Citizens' rates for AOP coverage, if rated separately from wind, are approximately competitive with the private market. When wind and AOP are combined in a multi-peril product, the rate becomes non-competitive with the private market.

The reduction by 5 percent of the Citizens policyholder surcharge for deficits arising from the personal lines account and the increase by 5 percent of the Citizens policyholder surcharge for deficits arising from the coastal account, depending on the storm scenario, could result in every Citizens policyholder paying less, more, or the same amount when compared to current law of no more than 15 percent per account.

C. Government Sector Impact:

Citizens may incur expenses associated with implementing procedures to include commercial residential risks within the Citizens clearinghouse.

⁵⁸ Citizens, *Property Insurance Clearinghouse Commercial Lines Report* at 6.

⁵⁹ Citizens, *Property Insurance Clearinghouse Commercial Lines Report* at 4.

⁶⁰ Testimony by Christine Ashburn, Vice President, Communications, Legislative and External Affairs, Citizens, before the Senate Banking and Insurance Committee in Tallahassee, Fl. (Feb. 18, 2014). See also Letter from Barry Gilway, President/CEO and Executive Director, Citizens (Jan. 13, 2014), available at http://www.flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2519.pdf (last visited Mar. 31, 2014).

The bill requires Citizens to pay for all costs associated with any procurement protests heard by DOAH.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 626.854, 627.351, 627.3518, 627.35191, 627.701, and 627.711.

This bill repeals section 627.3519 of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism on April 7, 2014:

- Prohibits a public adjuster or public adjuster apprentice from accepting a power of attorney that authorizes him or her to choose the person or entity to perform repair work.
- Postpones the date that new construction or substantial improvement to a structure in the Coastal Barrier Resources System is ineligible for coverage by Citizens to July 1, 2015, from July 1, 2014.
- Deletes the bill provision that exempted properties located within counties for which Citizens provides windstorm coverage for more than 75 percent of the personal lines policies with windstorm coverage from the prohibition on coverage by Citizens in the Coastal Barrier Resources System.
- Deletes the bill provision that allowed Citizens policyholders who live in counties with stronger building codes to receive greater mitigation than currently allowed on the uniform mitigation verification form.
- Prohibits a mitigation inspector from offering compensation or other inducement and an insurance agency, agent, customer representative, or employee from accepting compensation or other inducement for referring a property owner to the inspector or inspection company.
- Allows an insurer to exempt from independent verification, a uniform mitigation verification form, completed by an authorized mitigation inspector that has a quality assurance program approved by the insurer.
- Provides that a uniform mitigation verification form provided to Citizens is not subject to re-inspection, if there have been no material changes to the structure, or

independent verification, if the form is completed by an authorized mitigation inspector that has a quality assurance program approved by Citizens.

B. Amendments:

None.

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



866720

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2014	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Richter) recommended the following:

Senate Amendment (with title amendment)

Before line 56

insert:

Section 1. Subsection (18) of section 626.854, Florida Statutes, is renumbered as subsection (19) and amended, and subsection (18) is added to that section, to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the



866720

11 unauthorized practice of law.

12 (18) A public adjuster, a public adjuster apprentice, or
13 any person acting on behalf of an adjuster or apprentice may not
14 enter into a contract or accept a power of attorney that vests
15 in the public adjuster, the public adjuster apprentice, or the
16 person acting on behalf of the adjuster or apprentice the
17 effective authority to choose the persons or entities that will
18 perform repair work.

19 (19)~~(18)~~ The provisions of Subsections (5)-(18) ~~(5)-(17)~~
20 apply only to residential property insurance policies and
21 condominium unit owner policies as described ~~defined~~ in s.
22 718.111(11).

23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete line 3

27 and insert:

28 626.854, F.S.; prohibiting a public adjuster or public
29 adjuster apprentice from choosing the persons or
30 entities that will perform repair work; amending s.
31 627.351, F.S.; providing exemptions from the



720422

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2014	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 185 - 196

and insert:

b. Any major structure as defined in s. 161.54(6)(a) for which a permit is applied on or after July 1, 2015 ~~2014~~, for new construction or substantial improvement as defined in s. 161.54~~(12)~~ is not eligible for coverage by the corporation if the structure is seaward of the coastal construction control line established pursuant to s. 161.053 or is within the Coastal



720422

11 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
12 3510.

13

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

15 And the title is amended as follows:

16 Delete line 6

17 and insert:

18 under certain circumstances; postponing the date that
19 new construction or substantial improvement is not
20 eligible for coverage by the corporation; deleting
21 reference to the



261452

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Commerce and Tourism (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 829 - 840

and insert:

Section 6. Present subsections (6) through (8) of section 627.711, Florida Statutes, are renumbered as subsections (7) through (9), respectively, and a new subsection (6) is added to that section, to read:

627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification inspection form.—



261452

11 (6) (a) An authorized mitigation inspector may not directly
12 or indirectly offer or deliver any compensation, inducement, or
13 reward to an insurance broker, an insurance agent, or an
14 employee of an insurance agency for the referral of the owner of
15 the inspected property to the inspector or the inspection
16 company. Section 455.227(1) (k) applies to applicable licensees
17 in violation of this paragraph.

18 (b) An insurance broker or insurance agent may not directly or
19 indirectly receive or accept any compensation, inducement, or
20 reward from an authorized mitigation inspector for the referral
21 of the owner of the inspected property to the inspector or the
22 inspection company. Section 626.6215(5) (d) applies to a
23 violation of this paragraph.

24
25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete lines 48 - 50

28 and insert:

29 627.744, F.S.; prohibiting a mitigation inspector from
30 offering or delivering compensation and an insurance
31 broker or agent from accepting compensation for
32 referring an owner to the inspector or inspection
33 company;



589074

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2014	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Richter) recommended the following:

1 **Senate Substitute for Amendment (261452) (with title**
2 **amendment)**

3
4 Delete lines 829 - 840
5 and insert:

6 Section 6. Present subsections (6) through (8) of section
7 627.711, Florida Statutes, are renumbered as subsections (7)
8 through (9), respectively, a new subsection (6) is added to that
9 section, and present subsection (8) of that section is amended,
10 to read:



589074

11 627.711 Notice of premium discounts for hurricane loss
12 mitigation; uniform mitigation verification inspection form.—

13 (6) (a) An authorized mitigation inspector may not directly
14 or indirectly offer or deliver any compensation, inducement, or
15 reward to an insurance agency, insurance agent, customer
16 representative, or an employee of an insurance agency for the
17 referral of the owner of the inspected property to the inspector
18 or the inspection company. Section 455.227(1)(k) applies to
19 applicable licensees in violation of this paragraph.

20 (b) An insurance agency, insurance agent, customer
21 representative, or an employee of an insurance agency may not
22 directly or indirectly receive or accept any compensation,
23 inducement, or reward from an authorized mitigation inspector
24 for the referral of the owner of the inspected property to the
25 inspector or the inspection company. Sections 626.621(2) and
26 626.6215(5)(d) apply to a violation of this paragraph.

27 (9) ~~(8)~~ At its expense, the insurer may require that a
28 uniform mitigation verification form provided by a policyholder,
29 a policyholder's agent, or an authorized mitigation inspector or
30 inspection company be independently verified by an inspector, an
31 inspection company, or an independent third-party quality
32 assurance provider that ~~which~~ possesses a quality assurance
33 program before accepting the uniform mitigation verification
34 form as valid. At its option, the insurer may exempt from
35 independent verification a uniform mitigation verification form
36 completed by an authorized mitigation inspector or inspection
37 company that possesses a quality assurance program approved by
38 the insurer. A uniform mitigation verification form provided by
39 a policyholder, a policyholder's agent, or an authorized



589074

40 mitigation inspector or inspection company to Citizens Property
41 Insurance Corporation is not subject to independent verification
42 and the property is not subject to reinspection by the
43 corporation, absent material changes to the structure during the
44 term stated on the form, if the form was signed by an authorized
45 mitigation inspector and submitted to, reviewed by, and verified
46 by a quality assurance program approved by the corporation
47 before submission of the form to the corporation.

48
49 ===== T I T L E A M E N D M E N T =====

50 And the title is amended as follows:

51 Delete lines 48 - 50

52 and insert:

53 627.711, F.S.; prohibiting a mitigation inspector from
54 offering or delivering compensation, and an insurance
55 agency, agent, customer representative, or employee
56 from accepting compensation for referring an owner to
57 the inspector or inspection company; authorizing an
58 insurer to exempt a uniform mitigation verification
59 form from independent verification under certain
60 circumstances; providing that the form provided to the
61 corporation is not subject to verification and the
62 property is not subject to reinspection under certain
63 circumstances;

By the Committee on Banking and Insurance

597-02477-14

20141672__

1 A bill to be entitled
 2 An act relating to property insurance; amending s.
 3 627.351, F.S.; providing exemptions from the
 4 restriction on obtaining coverage from Citizens
 5 Property Insurance Corporation for major structures
 6 under certain conditions; deleting reference to the
 7 Residential Property and Casualty Joint Underwriting
 8 Association with respect to issuing certain
 9 residential or commercial policies; requiring the
 10 corporation to cease offering new commercial
 11 residential policies providing multiperil coverage
 12 after a certain date and providing that the
 13 corporation continue offering commercial residential
 14 wind-only policies; authorizing the corporation to
 15 offer commercial residential policies excluding wind;
 16 providing exceptions; specifying the amount of the
 17 surcharge to be assessed against personal lines,
 18 commercial lines, and coastal accounts to cover a
 19 projected deficit; requiring the corporation's board
 20 to contract with the Division of Administrative
 21 Hearings to hear protests of the corporation's
 22 decisions regarding the purchase of commodities and
 23 contractual services and issue a recommended order;
 24 requiring the board to take final action in a public
 25 meeting; revising the date for submitting the annual
 26 loss ratio report for residential coverage; amending
 27 s. 627.3518, F.S.; defining the term "surplus lines
 28 insurer"; requiring the corporation to implement
 29 procedures for diverting ineligible applicants and

Page 1 of 30

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

597-02477-14

20141672__

30 existing policyholders for commercial residential
 31 coverage from the corporation by a certain date;
 32 deleting the requirement that the corporation report
 33 such procedures to the Legislature; authorizing
 34 eligible surplus lines insurers to participate in the
 35 corporation's clearinghouse program and providing
 36 criteria for such eligibility; conforming cross-
 37 references; providing that certain applicants who
 38 accept an offer from a surplus lines insurer are
 39 considered a renewal; repealing s. 627.3519, F.S.,
 40 relating to an annual report requirement relating to
 41 aggregate net probable maximum losses; amending s.
 42 627.35191, F.S.; requiring the corporation to annually
 43 provide certain estimates for the next 12-month period
 44 to the Legislature and the Financial Services
 45 Commission; amending s. 627.701, F.S.; increasing the
 46 amount of the deductible that an insurer must offer
 47 for residential property insurance; amending s.
 48 627.711, F.S.; authorizing the corporation to create
 49 an addendum to the uniform mitigation verification
 50 form for use by counties under certain circumstances;
 51 providing effective dates.

52
 53 Be It Enacted by the Legislature of the State of Florida:

54
 55
 56 Section 1. Paragraphs (a), (b), (e), and (hh) of subsection
 57 (6) of section 627.351, Florida Statutes, are amended to read:
 58 627.351 Insurance risk apportionment plans.-

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20141672__

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a) The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents and businesses of this state.

1. The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and ~~likewise threatens~~ the economic health of the state. The state, therefore, has a compelling public interest and a public purpose to assist in assuring that property in the state is insured ~~and that it is insured~~ at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid ~~the~~ negative effects on otherwise ~~resulting to~~ the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends, therefore, that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, ~~and that is~~ not a private insurance company. To that end, the corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing

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20141672__

service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the maximum financial resources to pay claims following a catastrophic hurricane, it is further the intent of the Legislature that the corporation continue to be an integral part of the state, ~~and~~ that the income of the corporation be exempt from federal income taxation, and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are entitled, but, in good faith, are unable to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies; and commercial lines residential coverage, which consists of the

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

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117 type of coverage provided by condominium association, apartment
 118 building, and similar policies.

119 3. With respect to coverage for personal lines residential
 120 structures:

121 a. Effective January 1, 2014, a structure that has a
 122 dwelling replacement cost of \$1 million or more, or a single
 123 condominium unit that has a combined dwelling and contents
 124 replacement cost of \$1 million or more is not eligible for
 125 coverage by the corporation. Such dwellings insured by the
 126 corporation on December 31, 2013, may continue to be covered by
 127 the corporation until the end of the policy term. The office
 128 shall approve the method used by the corporation for valuing the
 129 dwelling replacement costs under ~~cost for the purposes of~~ this
 130 subparagraph. If a policyholder is insured by the corporation
 131 before being determined to be ineligible pursuant to this
 132 subparagraph and such policyholder files a lawsuit challenging
 133 the determination, the policyholder may remain insured by the
 134 corporation until the conclusion of the litigation.

135 b. Effective January 1, 2015, a structure that has a
 136 dwelling replacement cost of \$900,000 or more, or a single
 137 condominium unit that has a combined dwelling and contents
 138 replacement cost of \$900,000 or more, is not eligible for
 139 coverage by the corporation. Such dwellings insured by the
 140 corporation on December 31, 2014, may continue to be covered by
 141 the corporation only until the end of the policy term.

142 c. Effective January 1, 2016, a structure that has a
 143 dwelling replacement cost of \$800,000 or more, or a single
 144 condominium unit that has a combined dwelling and contents
 145 replacement cost of \$800,000 or more, is not eligible for

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146 coverage by the corporation. Such dwellings insured by the
 147 corporation on December 31, 2015, may continue to be covered by
 148 the corporation until the end of the policy term.

149 d. Effective January 1, 2017, a structure that has a
 150 dwelling replacement cost of \$700,000 or more, or a single
 151 condominium unit that has a combined dwelling and contents
 152 replacement cost of \$700,000 or more, is not eligible for
 153 coverage by the corporation. Such dwellings insured by the
 154 corporation on December 31, 2016, may continue to be covered by
 155 the corporation until the end of the policy term.

156

157 The requirements of sub-subparagraphs b.-d. do not apply in
 158 counties where the office determines there is not a reasonable
 159 degree of competition. In such counties a personal lines
 160 residential structure that has a dwelling replacement cost of
 161 less than \$1 million, or a single condominium unit that has a
 162 combined dwelling and contents replacement cost of less than \$1
 163 million, is eligible for coverage by the corporation.

164 4. It is the intent of the Legislature that policyholders,
 165 applicants, and agents of the corporation receive service and
 166 treatment of the highest possible level but never less than that
 167 generally provided in the voluntary market. It is also intended
 168 that the corporation be held to service standards no less than
 169 those applied to insurers in the voluntary market by the office
 170 with respect to responsiveness, timeliness, customer courtesy,
 171 and overall dealings with policyholders, applicants, or agents
 172 of the corporation.

173 5.a. Effective January 1, 2009, a personal lines
 174 residential structure that is located in the "wind-borne debris

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 175 region," as defined in s. 1609.2, International Building Code
 176 (2006), and that has an insured value on the structure of
 177 \$750,000 or more is not eligible for coverage by the corporation
 178 unless the structure has opening protections as required under
 179 the Florida Building Code for a newly constructed residential
 180 structure in that area. A residential structure is deemed to
 181 comply with this subparagraph if it has shutters or opening
 182 protections on all openings and if such opening protections
 183 complied with the Florida Building Code at the time they were
 184 installed.

185 b. Any major structure as defined in s. 161.54(6)(a) for
 186 which a permit is applied on or after July 1, 2014, for new
 187 construction or substantial improvement as defined in s.
 188 161.54(12) is not eligible for coverage by the corporation if
 189 the structure is seaward of the coastal construction control
 190 line established pursuant to s. 161.053 or is within the Coastal
 191 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
 192 3510. The restrictions of this subparagraph imposed on major
 193 structures located within the Coastal Barrier Resources System
 194 do not apply in a county where the corporation provides
 195 windstorm coverage on more than 75 percent of personal lines
 196 residential policies.

197 (b)1. All insurers authorized to write one or more subject
 198 lines of business in this state are subject to assessment by the
 199 corporation and, for the purposes of this subsection, are
 200 referred to collectively as "assessable insurers." Insurers
 201 writing one or more subject lines of business in this state
 202 pursuant to part VIII of chapter 626 are not assessable
 203 insurers; however, but insureds who procure one or more subject

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 204 lines of business in this state pursuant to part VIII of chapter
 205 626 are subject to assessment by the corporation and are
 206 referred to collectively as "assessable insureds." An insurer's
 207 assessment liability begins on the first day of the calendar
 208 year following the year in which the insurer was issued a
 209 certificate of authority to transact insurance for subject lines
 210 of business in this state and terminates 1 year after the end of
 211 the first calendar year during which the insurer no longer holds
 212 a certificate of authority to transact insurance for subject
 213 lines of business in this state.

214 2.a. All revenues, assets, liabilities, losses, and
 215 expenses of the corporation shall be divided into three separate
 216 accounts as follows:

217 (I) A personal lines account for personal residential
 218 policies issued by the corporation, ~~or issued by the Residential~~
 219 ~~Property and Casualty Joint Underwriting Association and renewed~~
 220 ~~by the corporation,~~ which provides comprehensive, multiperil
 221 coverage on risks that are not located in areas eligible for
 222 coverage by the Florida Windstorm Underwriting Association as
 223 those areas were defined on January 1, 2002, and for policies
 224 that do not provide coverage for the peril of wind on risks that
 225 are located in such areas;

226 (II) A commercial lines account for commercial residential
 227 and commercial nonresidential policies issued by the
 228 corporation, ~~or issued by the Residential Property and Casualty~~
 229 ~~Joint Underwriting Association and renewed by the corporation,~~
 230 which provides coverage for basic property perils on risks that
 231 are not located in areas eligible for coverage by the Florida
 232 Windstorm Underwriting Association as those areas were defined

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233 on January 1, 2002, and for policies that do not provide
 234 coverage for the peril of wind on risks that are located in such
 235 areas; and

236 (III) A coastal account for personal residential policies
 237 and commercial residential and commercial nonresidential
 238 property policies issued by the corporation, ~~or transferred to~~
 239 ~~the corporation,~~ which provides coverage for the peril of wind
 240 on risks that are located in areas eligible for coverage by the
 241 Florida Windstorm Underwriting Association as those areas were
 242 defined on January 1, 2002. The corporation may offer policies
 243 that provide multiperil coverage and ~~the corporation~~ shall
 244 ~~continue to~~ offer policies that provide coverage only for the
 245 peril of wind for risks located in areas eligible for coverage
 246 in the coastal account. Effective July 1, 2014, the corporation
 247 shall cease offering new commercial residential policies
 248 providing multiperil coverage and shall instead continue to
 249 offer commercial residential wind-only policies, and may offer
 250 commercial residential policies excluding wind. The corporation
 251 may, however, continue to renew a commercial residential
 252 multiperil policy on a building that is insured by the
 253 corporation on June 30, 2014, under a multiperil policy. In
 254 issuing multiperil coverage, the corporation may use its
 255 approved policy forms and rates for the personal lines account.
 256 An applicant or insured who is eligible to purchase a multiperil
 257 policy from the corporation may purchase a multiperil policy
 258 from an authorized insurer without prejudice to the applicant's
 259 or insured's eligibility to prospectively purchase a policy that
 260 provides coverage only for the peril of wind from the
 261 corporation. An applicant or insured who is eligible for a

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262 corporation policy that provides coverage only for the peril of
 263 wind may elect to purchase or retain such policy and also
 264 purchase or retain coverage excluding wind from an authorized
 265 insurer without prejudice to the applicant's or insured's
 266 eligibility to prospectively purchase a policy that provides
 267 multiperil coverage from the corporation. It is the goal of the
 268 Legislature that there be an overall average savings of 10
 269 percent or more for a policyholder who currently has a wind-only
 270 policy with the corporation, and an ex-wind policy with a
 271 voluntary insurer or the corporation, and who obtains a
 272 multiperil policy from the corporation. It is the intent of the
 273 Legislature that the offer of multiperil coverage in the coastal
 274 account be made and implemented in a manner that does not
 275 adversely affect the tax-exempt status of the corporation or
 276 creditworthiness of or security for currently outstanding
 277 financing obligations or credit facilities of the coastal
 278 account, the personal lines account, or the commercial lines
 279 account. The coastal account must also include quota share
 280 primary insurance under subparagraph (c)2. The area eligible for
 281 coverage under the coastal account also includes the area within
 282 Port Canaveral, which is bordered on the south by the City of
 283 Cape Canaveral, bordered on the west by the Banana River, and
 284 bordered on the north by Federal Government property.

285 b. The three separate accounts must be maintained as long
 286 as financing obligations entered into by the Florida Windstorm
 287 Underwriting Association or Residential Property and Casualty
 288 Joint Underwriting Association are outstanding, in accordance
 289 with the terms of the corresponding financing documents. If the
 290 financing obligations are no longer outstanding, the corporation

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291 may use a single account for all revenues, assets, liabilities,
 292 losses, and expenses of the corporation. Consistent with this
 293 subparagraph and prudent investment policies that minimize the
 294 cost of carrying debt, the board shall exercise its best efforts
 295 to retire existing debt or obtain the approval of necessary
 296 parties to amend the terms of existing debt, so as to structure
 297 the most efficient plan for consolidating ~~to consolidate~~ the
 298 three separate accounts into a single account.

299 c. Creditors of the Residential Property and Casualty Joint
 300 Underwriting Association and the accounts specified in sub-sub-
 301 subparagraphs a.(I) and (II) may have a claim against, and
 302 recourse to, those accounts and no claim against, or recourse
 303 to, the account referred to in sub-sub-subparagraph a.(III).
 304 Creditors of the Florida Windstorm Underwriting Association have
 305 a claim against, and recourse to, the account referred to in
 306 sub-sub-subparagraph a.(III) and no claim against, or recourse
 307 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
 308 (II).

309 d. Revenues, assets, liabilities, losses, and expenses not
 310 attributable to particular accounts shall be prorated among the
 311 accounts.

312 e. The Legislature finds that the revenues of the
 313 corporation are revenues that are necessary to meet the
 314 requirements set forth in documents authorizing the issuance of
 315 bonds under this subsection.

316 f. The income of the corporation may not inure to the
 317 benefit of any private person.

318 3. With respect to a deficit in an account:

319 a. After accounting for the Citizens policyholder surcharge

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320 imposed under sub-subparagraph i., if the remaining projected
 321 deficit incurred in the coastal account in a particular calendar
 322 year:

323 (I) Is not greater than 2 percent of the aggregate
 324 statewide direct written premium for the subject lines of
 325 business for the prior calendar year, the entire deficit shall
 326 be recovered through regular assessments of assessable insurers
 327 under paragraph (q) and assessable insureds.

328 (II) Exceeds 2 percent of the aggregate statewide direct
 329 written premium for the subject lines of business for the prior
 330 calendar year, the corporation shall levy regular assessments on
 331 assessable insurers under paragraph (q) and on assessable
 332 insureds in an amount equal to the greater of 2 percent of the
 333 projected deficit or 2 percent of the aggregate statewide direct
 334 written premium for the subject lines of business for the prior
 335 calendar year. Any remaining projected deficit shall be
 336 recovered through emergency assessments under sub-subparagraph
 337 d.

338 b. Each assessable insurer's share of the amount being
 339 assessed under sub-subparagraph a. must be in the proportion
 340 that the assessable insurer's direct written premium for the
 341 subject lines of business for the year preceding the assessment
 342 bears to the aggregate statewide direct written premium for the
 343 subject lines of business for that year. The assessment
 344 percentage applicable to each assessable insured is the ratio of
 345 the amount being assessed under sub-subparagraph a. to the
 346 aggregate statewide direct written premium for the subject lines
 347 of business for the prior year. Assessments levied by the
 348 corporation on assessable insurers under sub-subparagraph a.

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349 must be paid as required by the corporation's plan of operation
 350 and paragraph (q). Assessments levied by the corporation on
 351 assessable insureds under sub-subparagraph a. shall be collected
 352 by the surplus lines agent at the time the surplus lines agent
 353 collects the surplus lines tax required by s. 626.932, and paid
 354 to the Florida Surplus Lines Service Office at the time the
 355 surplus lines agent pays the surplus lines tax to that office.
 356 Upon receipt of regular assessments from surplus lines agents,
 357 the Florida Surplus Lines Service Office shall transfer the
 358 assessments directly to the corporation as determined by the
 359 corporation.

360 c. After accounting for the Citizens policyholder surcharge
 361 imposed under sub-subparagraph i., the remaining projected
 362 deficits in the personal lines account and in the commercial
 363 lines account in a particular calendar year shall be recovered
 364 through emergency assessments under sub-subparagraph d.

365 d. Upon a determination by the board of governors that a
 366 projected deficit in an account exceeds the amount that is
 367 expected to be recovered through regular assessments under sub-
 368 subparagraph a., plus the amount that is expected to be
 369 recovered through surcharges under sub-subparagraph i., the
 370 board, after verification by the office, shall levy emergency
 371 assessments for as many years as necessary to cover the
 372 deficits, to be collected by assessable insurers and the
 373 corporation and collected from assessable insureds upon issuance
 374 or renewal of policies for subject lines of business, excluding
 375 National Flood Insurance policies. The amount collected in a
 376 particular year must be a uniform percentage of that year's
 377 direct written premium for subject lines of business and all

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378 accounts of the corporation, excluding National Flood Insurance
 379 Program policy premiums, as annually determined by the board and
 380 verified by the office. The office shall verify the arithmetic
 381 calculations involved in the board's determination within 30
 382 days after receipt of the information on which the determination
 383 was based. The office shall notify assessable insurers and the
 384 Florida Surplus Lines Service Office of the date on which
 385 assessable insurers shall begin to collect and assessable
 386 insureds shall begin to pay such assessment. The date must be at
 387 least ~~may be not less than~~ 90 days after the date the
 388 corporation levies emergency assessments pursuant to this sub-
 389 subparagraph. Notwithstanding any other provision of law, the
 390 corporation and each assessable insurer that writes subject
 391 lines of business shall collect emergency assessments from its
 392 policyholders without such obligation being affected by any
 393 credit, limitation, exemption, or deferment. Emergency
 394 assessments levied by the corporation on assessable insureds
 395 shall be collected by the surplus lines agent at the time the
 396 surplus lines agent collects the surplus lines tax required by
 397 s. 626.932 and paid to the Florida Surplus Lines Service Office
 398 at the time the surplus lines agent pays the surplus lines tax
 399 to that office. The emergency assessments collected shall be
 400 transferred directly to the corporation on a periodic basis as
 401 determined by the corporation and held by the corporation solely
 402 in the applicable account. The aggregate amount of emergency
 403 assessments levied for an account ~~under this sub-subparagraph~~ in
 404 any calendar year may be less than but may not exceed the
 405 greater of 10 percent of the amount needed to cover the deficit,
 406 plus interest, fees, commissions, required reserves, and other

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407 costs associated with financing the original deficit, or 10
 408 percent of the aggregate statewide direct written premium for
 409 subject lines of business and all accounts of the corporation
 410 for the prior year, plus interest, fees, commissions, required
 411 reserves, and other costs associated with financing the deficit.

412 e. The corporation may pledge the proceeds of assessments,
 413 projected recoveries from the Florida Hurricane Catastrophe
 414 Fund, other insurance and reinsurance recoverables, policyholder
 415 surcharges and other surcharges, and other funds available to
 416 the corporation as the source of revenue for and to secure bonds
 417 issued under paragraph (q), bonds or other indebtedness issued
 418 under subparagraph (c)3., or lines of credit or other financing
 419 mechanisms issued or created under this subsection, or to retire
 420 any other debt incurred as a result of deficits or events giving
 421 rise to deficits, or in any other way that the board determines
 422 will efficiently recover such deficits. The purpose of the lines
 423 of credit or other financing mechanisms is to provide additional
 424 resources to assist the corporation in covering claims and
 425 expenses attributable to a catastrophe. As used in this
 426 subsection, the term "assessments" includes regular assessments
 427 under sub-subparagraph a. or subparagraph (q)1. and emergency
 428 assessments under sub-subparagraph d. Emergency assessments
 429 collected under sub-subparagraph d. are not part of an insurer's
 430 rates, are not premium, and are not subject to premium tax,
 431 fees, or commissions; however, failure to pay the emergency
 432 assessment shall be treated as failure to pay premium. The
 433 emergency assessments ~~under sub-subparagraph d.~~ shall continue
 434 as long as any bonds issued or other indebtedness incurred with
 435 respect to a deficit for which the assessment was imposed remain

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436 outstanding, unless adequate provision has been made for the
 437 payment of such bonds or other indebtedness pursuant to the
 438 documents governing such bonds or indebtedness.

439 f. As used in this subsection for purposes of any deficit
 440 incurred on or after January 25, 2007, the term "subject lines
 441 of business" means insurance written by assessable insurers or
 442 procured by assessable insureds for all property and casualty
 443 lines of business in this state, but not including workers'
 444 compensation or medical malpractice. As used in this sub-
 445 subparagraph, the term "property and casualty lines of business"
 446 includes all lines of business identified on Form 2, Exhibit of
 447 Premiums and Losses, in the annual statement required of
 448 authorized insurers under s. 624.424 and any rule adopted under
 449 this section, except for those lines identified as accident and
 450 health insurance and except for policies written under the
 451 National Flood Insurance Program or the Federal Crop Insurance
 452 Program. For purposes of this sub-subparagraph, the term
 453 "workers' compensation" includes both workers' compensation
 454 insurance and excess workers' compensation insurance.

455 g. The Florida Surplus Lines Service Office shall determine
 456 annually the aggregate statewide written premium in subject
 457 lines of business procured by assessable insureds and report
 458 that information to the corporation in a form and at a time the
 459 corporation specifies to ensure that the corporation can meet
 460 the requirements of this subsection and the corporation's
 461 financing obligations.

462 h. The Florida Surplus Lines Service Office shall verify
 463 the proper application by surplus lines agents of assessment
 464 percentages for regular assessments and emergency assessments

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465 levied under this subparagraph on assessable insureds and assist
466 the corporation in ensuring the accurate, timely collection and
467 payment of assessments by surplus lines agents as required by
468 the corporation.

469 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
470 of governors that an account has a projected deficit, the board
471 shall levy a Citizens policyholder surcharge against all
472 policyholders of the corporation.

473 (I) The surcharge shall be levied as a uniform percentage
474 of the premium for all corporation policyholders for the policy
475 of up to 10 percent of the policy premium for deficits in the
476 personal lines account, up to 15 percent of the policy such
477 premium for deficits in the commercial lines account, and up to
478 20 percent of the policy premium for deficits in the coastal
479 account, which funds shall be used to offset the deficit.

480 (II) The surcharge is payable upon cancellation or
481 termination of the policy, upon renewal of the policy, or upon
482 issuance of a new policy by the corporation within the first 12
483 months after the date of the levy or the period of time
484 necessary to fully collect the surcharge amount.

485 (III) The corporation may not levy any regular assessments
486 under paragraph (q) pursuant to sub-subparagraph a. or sub-
487 subparagraph b. with respect to a particular year's deficit
488 until the corporation has first levied the full amount of the
489 surcharge authorized by this sub-subparagraph.

490 (IV) The surcharge is not considered premium and is not
491 subject to commissions, fees, or premium taxes. However, failure
492 to pay the surcharge shall be treated as failure to pay premium.

493 j. If the amount of any assessments or surcharges collected

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494 from corporation policyholders, assessable insurers or their
495 policyholders, or assessable insureds exceeds the amount of the
496 deficits, such excess amounts shall be remitted to and retained
497 by the corporation in a reserve to be used by the corporation,
498 as determined by the board of governors and approved by the
499 office, to pay claims or reduce any past, present, or future
500 plan-year deficits or to reduce outstanding debt.

501 (e) The corporation is subject to s. 287.057 for the
502 purchase of commodities and contractual services except as
503 otherwise provided in this paragraph. Services provided by
504 tradepersons or technical experts to assist a licensed adjuster
505 in the evaluation of individual claims are not subject to the
506 procurement requirements of this section. Additionally, the
507 procurement of financial services providers and underwriters
508 must be made pursuant to s. 627.3513. Contracts for goods or
509 services valued at or more than \$100,000 are subject to approval
510 by the board.

511 1. The corporation is an agency for purposes of s. 287.057,
512 except that, for purposes of s. 287.057(22), the corporation is
513 an eligible user.

514 a. The authority of the Department of Management Services
515 and the Chief Financial Officer under s. 287.057 extends to the
516 corporation as if the corporation were an agency.

517 b. The executive director of the corporation is the agency
518 head under s. 287.057, except for resolution of bid protests for
519 which the board would serve as the agency head.

520 2. The corporation must provide notice of a decision or
521 intended decision concerning a solicitation, contract award, or
522 exceptional purchase by electronic posting. Such notice must

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523 contain the following statement: "Failure to file a protest
524 within the time prescribed in this section constitutes a waiver
525 of proceedings."

526 a. A person adversely affected by the corporation's
527 decision or intended decision to award a contract pursuant to s.
528 287.057(1) or (3)(c) who elects to challenge the decision must
529 file a written notice of protest with the executive director of
530 the corporation within 72 hours after the corporation posts a
531 notice of its decision or intended decision. For a protest of
532 the terms, conditions, and specifications contained in a
533 solicitation, including ~~any~~ provisions governing the methods for
534 ranking bids, proposals, replies, awarding contracts, reserving
535 rights of further negotiation, or modifying or amending any
536 contract, the notice of protest must be filed in writing within
537 72 hours after ~~the~~ posting ~~of~~ the solicitation. Saturdays,
538 Sundays, and state holidays are excluded in the computation of
539 the 72-hour time period.

540 b. A formal written protest must be filed within 10 days
541 after the date the notice of protest is filed. The formal
542 written protest must state with particularity the facts and law
543 upon which the protest is based. Upon receipt of a formal
544 written protest that has been timely filed, the corporation must
545 stop the solicitation or contract award process until the
546 subject of the protest is resolved by final board action unless
547 the executive director sets forth in writing particular facts
548 and circumstances that require the continuance of the
549 solicitation or contract award process without delay in order to
550 avoid an immediate and serious danger to the public health,
551 safety, or welfare.

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552 (I) The corporation must provide an opportunity to resolve
553 the protest by mutual agreement between the parties within 7
554 business days after receipt of the formal written protest.

555 (II) If the subject of a protest is not resolved by mutual
556 agreement within 7 business days, the corporation's board must
557 transmit the protest to the Division of Administrative Hearings
558 and contract with the division to conduct a hearing to determine
559 the merits of the protest and to issue a recommended order ~~place~~
560 ~~the protest on the agenda and resolve it at its next regularly~~
561 ~~scheduled meeting. The contract must provide for the corporation~~
562 to reimburse the division for any costs incurred by the division
563 for court reporters, transcript preparation, travel, facility
564 rental, and other customary hearing costs in the manner set
565 forth in s. 120.65(9). The division has jurisdiction to
566 determine the facts and law concerning the protest and to issue
567 a recommended order. The division's rules and procedures apply
568 to these proceedings; the division's applicable bond
569 requirements do not apply. The protest must be heard by the
570 division ~~board~~ at a publicly noticed meeting in accordance with
571 procedures established by the division ~~board~~.

572 c. In a protest of an invitation-to-bid or request-for-
573 proposals procurement, submissions made after the bid or
574 proposal opening which amend or supplement the bid or proposal
575 may not be considered. In protesting an invitation-to-negotiate
576 procurement, submissions made after the corporation announces
577 its intent to award a contract, reject all replies, or withdraw
578 the solicitation that amends or supplements the reply may not be
579 considered. Unless otherwise provided by law, the burden of
580 proof rests with the party protesting the corporation's action.

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581 In a competitive-procurement protest, other than a rejection of
 582 all bids, proposals, or replies, the corporation's board must
 583 conduct a de novo proceeding to determine whether the
 584 corporation's proposed action is contrary to the corporation's
 585 governing statutes, the corporation's rules or policies, or the
 586 solicitation specifications. The standard of proof for the
 587 proceeding is whether the corporation's action was clearly
 588 erroneous, contrary to competition, arbitrary, or capricious. In
 589 any bid-protest proceeding contesting an intended corporation
 590 action to reject all bids, proposals, or replies, the standard
 591 of review by the board is whether the corporation's intended
 592 action is illegal, arbitrary, dishonest, or fraudulent.

593 d. Failure to file a notice of protest or failure to file a
 594 formal written protest constitutes a waiver of proceedings.

595 3. The board, acting as agency head, shall consider the
 596 recommended order of an administrative law judge in a public
 597 meeting and take final action on the protest. ~~Contract actions~~
 598 and decisions by the board under this paragraph are final. Any
 599 further legal remedy lies with the First District Court of
 600 Appeal must be made in the Circuit Court of Leon County.

601 (hh) The corporation ~~shall~~ must prepare a report for each
 602 calendar year outlining both the statewide average and county-
 603 specific details of the loss ratio attributable to losses that
 604 are not catastrophic losses for residential coverage provided by
 605 the corporation, which information must be presented to the
 606 office and available for public inspection on the Internet
 607 website of the corporation by March 1 ~~January 15th~~ of the
 608 following calendar year.

609 Section 2. Paragraph (e) is added to subsection (1) of

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610 section 627.3518, Florida Statutes, subsection (2) and paragraph
 611 (e) of subsection (4) of that section are amended, present
 612 subsections (5) through (10) of that section are redesignated as
 613 subsections (6) through (11), respectively, present subsection
 614 (11) is redesignated as subsection (13), new subsections (5) and
 615 (12) are added to that section, and present subsections (5)
 616 through (7) of that section are amended, to read:

617 627.3518 Citizens Property Insurance Corporation
 618 policyholder eligibility clearinghouse program.—The purpose of
 619 this section is to provide a framework for the corporation to
 620 implement a clearinghouse program by January 1, 2014.

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

622 (e) "Surplus lines insurer" means an unauthorized insurer
 623 that has been made eligible by the office to issue coverage
 624 under the Surplus Lines Law.

625 (2) In order to confirm eligibility with the corporation
 626 and to enhance the access of new applicants for coverage and
 627 existing policyholders of the corporation to offers of coverage
 628 from authorized insurers and surplus lines insurers, the
 629 corporation shall establish a program for personal residential
 630 risks in order to facilitate the diversion of ineligible
 631 applicants and existing policyholders ~~from the corporation~~ into
 632 the voluntary insurance market. The corporation shall also
 633 develop appropriate procedures for facilitating the diversion of
 634 ineligible applicants and existing policyholders for commercial
 635 residential coverage into the private insurance market and
 636 implement these procedures by October 1, 2015 ~~shall report such~~
 637 ~~procedures to the President of the Senate and the Speaker of the~~
 638 ~~House of Representatives by January 1, 2014.~~

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639 (4) Any authorized insurer may participate in the program;
 640 however, participation is not mandatory for any insurer.
 641 Insurers making offers of coverage to new applicants or renewal
 642 policyholders through the program:

643 (e) May participate through their single-designated
 644 managing general agent or broker; however, the provisions of
 645 paragraph (7) (a) ~~(6) (a)~~ regarding ownership, control, and use of
 646 the expirations continue to apply.

647 (5) Effective January 1, 2015, an eligible surplus lines
 648 insurer may make an offer of similar coverage on a risk
 649 submitted through the clearinghouse program if no offers of
 650 coverage were submitted by authorized insurers participating in
 651 the program and the office determines that the eligible surplus
 652 lines insurer:

653 (a) Maintains a surplus of \$50 million on a company or
 654 pooled basis;

655 (b) Is rated as having a superior, excellent, exceptional,
 656 or equally comparable financial strength by a rating agency
 657 acceptable to the office;

658 (c) Maintains reserves, surplus, reinsurance, and
 659 reinsurance equivalents to cover the eligible surplus lines
 660 insurer's 100-year probable maximum hurricane loss at least
 661 twice in a single hurricane season, and submits such reinsurance
 662 to the office for review for purposes of participation in the
 663 program; and

664 (d) Provides prominent notice to the policyholder:

665 1. That the policyholder does not have to accept an offer
 666 of coverage from a surplus lines insurer;

667 2. That an offer of coverage from a surplus lines insurer

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668 does not affect whether the policyholder is eligible for
 669 coverage from the corporation;

670 3. That a policyholder who accepts an offer of coverage
 671 from a surplus lines insurer may, at any time, submit a new
 672 application for coverage to the corporation;

673 4. That surplus lines policies are not covered by the
 674 Florida Insurance Guaranty Association;

675 5. That rates for surplus lines insurance are not subject
 676 to review by the office; and

677 6. Of any additional information required by the office.

678
 679 Such notice must be signed by the policyholder and kept on file
 680 with the surplus lines insurer for as long as the policyholder
 681 remains insured by the surplus lines insurer.

682 (6) (5) Notwithstanding s. 627.3517, an ~~any~~ applicant for
 683 new coverage from the corporation is not eligible for coverage
 684 from the corporation if provided an offer of coverage from an
 685 authorized insurer through the program at a premium that is at
 686 or below the eligibility threshold established in s.
 687 627.351(6) (c) 5.a. or b. Whenever an offer of coverage for a
 688 personal lines or commercial lines residential risk is received
 689 for a policyholder of the corporation at renewal from an
 690 authorized insurer through the program, if the offer is equal to
 691 or less than the corporation's renewal premium for comparable
 692 coverage, the risk is not eligible for coverage with the
 693 corporation. ~~If in the event~~ an offer of coverage for a new
 694 applicant is received from an authorized insurer through the
 695 program, and the premium offered exceeds the eligibility
 696 threshold contained in s. 627.351(6) (c) 5.a. or b., the applicant

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697 or insured may elect to accept such coverage, or may elect to
 698 accept or continue coverage with the corporation. ~~If in the~~
 699 ~~event~~ an offer of coverage for a personal lines or commercial
 700 lines residential risk is received from an authorized insurer at
 701 renewal through the program, ~~and if~~ the premium offered is more
 702 than the corporation's renewal premium for comparable coverage,
 703 the insured may elect to accept such coverage, ~~or may elect to~~
 704 accept or continue coverage with the corporation. Section
 705 627.351(6)(c)5.a.(I) or b.(I) does not apply to an offer of
 706 coverage from an authorized insurer obtained through the
 707 program. An applicant for personal lines residential coverage
 708 from the corporation who was declared ineligible for coverage at
 709 renewal by the corporation in the previous 36 months due to an
 710 offer of coverage pursuant to this subsection ~~is shall be~~
 711 considered a renewal under this section if the corporation
 712 determines that the authorized insurer making the offer of
 713 coverage pursuant to this subsection continues to insure the
 714 applicant and increased the rate on the policy in excess of the
 715 increase allowed for the corporation under s. 627.351(6)(n)6.
 716 (7)(6) Independent insurance agents submitting new
 717 applications for coverage or that are the agent of record on a
 718 renewal policy submitted to the program:
 719 (a) Are granted and must maintain ownership and the
 720 exclusive use of expirations, records, or other written or
 721 electronic information directly related to such applications or
 722 renewals written through the corporation or through an insurer
 723 participating in the program, notwithstanding s.
 724 627.351(6)(c)5.a.(I)(B) and (II)(B) and b.(I)(B) and (II)(B).
 725 Such ownership is granted for as long as the insured remains

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726 with the agency or until sold or surrendered in writing by the
 727 agent. Contracts with the corporation or required by the
 728 corporation must not amend, modify, interfere with, or limit
 729 such rights of ownership. Such expirations, records, or other
 730 written or electronic information may be used to review an
 731 application, issue a policy, or for any other purpose necessary
 732 for placing such business through the program.
 733 (b) May not be required to be appointed by any insurer
 734 participating in the program for policies written solely through
 735 the program, notwithstanding ~~the provisions of~~ s. 626.112.
 736 (c) May accept an appointment from an any insurer
 737 participating in the program.
 738 (d) May enter into ~~either~~ a standard or limited agency
 739 agreement with the insurer, at the insurer's option.
 740
 741 Applicants ineligible for coverage in accordance with subsection
 742 (6) ~~(5)~~ remain ineligible if their independent agent is
 743 unwilling or unable to enter into a standard or limited agency
 744 agreement with an insurer participating in the program.
 745 (8)(7) Exclusive agents submitting new applications for
 746 coverage or that are the agent of record on a renewal policy
 747 submitted to the program:
 748 (a) Must maintain ownership and the exclusive use of
 749 expirations, records, or other written or electronic information
 750 directly related to such applications or renewals written
 751 through the corporation or through an insurer participating in
 752 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
 753 (II)(B) and b.(I)(B) and (II)(B). Contracts with the corporation
 754 or required by the corporation must not amend, modify, interfere

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755 with, or limit such rights of ownership. Such expirations,
 756 records, or other written or electronic information may be used
 757 to review an application, issue a policy, or for any other
 758 purpose necessary for placing such business through the program.

759 (b) May not be required to be appointed by any insurer
 760 participating in the program for policies written solely through
 761 the program, notwithstanding ~~the provisions of~~ s. 626.112.

762 (c) Must only facilitate the placement of an offer of
 763 coverage from an insurer whose limited servicing agreement is
 764 approved by that exclusive agent's exclusive insurer.

765 (d) May enter into a limited servicing agreement with the
 766 insurer making an offer of coverage, and only after the
 767 exclusive agent's insurer has approved the limited servicing
 768 agreement terms. The exclusive agent's insurer must approve a
 769 limited service agreement for the program for an any insurer for
 770 which it has approved a service agreement for other purposes.

771 Applicants ineligible for coverage in accordance with subsection
 772 (6) ~~(5)~~ remain ineligible if their exclusive agent is unwilling
 773 or unable to enter into a standard or limited agency agreement
 774 with an insurer making an offer of coverage to that applicant.

775 (12) An applicant for coverage from the corporation who was
 776 a policyholder of the corporation within the previous 36 months
 777 and who subsequently accepted an offer of coverage from a
 778 surplus lines insurer is considered a renewal under this
 779 section.

780 Section 3. Section 627.3519, Florida Statutes, is repealed.
 781 Section 4. Section 627.35191, Florida Statutes, is amended
 782 to read:
 783

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784 627.35191 Required reports ~~Annual report of aggregate net~~
 785 ~~probable maximum losses, financing options, and potential~~
 786 ~~assessments.-~~

787 (1) By ~~No later than~~ February 1 of each year, the Florida
 788 Hurricane Catastrophe Fund and Citizens Property Insurance
 789 Corporation shall each submit a report to the Legislature and
 790 the Financial Services Commission identifying their respective
 791 aggregate net probable maximum losses, financing options, and
 792 potential assessments. The report issued by the fund and the
 793 corporation must include their respective 50-year, 100-year, and
 794 250-year probable maximum losses; analysis of all reasonable
 795 financing strategies for each such probable maximum loss,
 796 including the amount and term of debt instruments; specification
 797 of the percentage assessments that would be needed to support
 798 each of the financing strategies; and calculations of the
 799 aggregate assessment burden on Florida property and casualty
 800 policyholders for each of the probable maximum losses.

801 (2) In May of each year, Citizens Property Insurance
 802 Corporation shall also provide to the Legislature and the
 803 Financial Services Commission a statement of the estimated
 804 borrowing capacity of the corporation for the next 12-month
 805 period, the estimated claims-paying capacity of the corporation,
 806 and the corporation's estimated balance as of December 31 of the
 807 current calendar year. Such estimates must take into account
 808 that the corporation, the Florida Hurricane Catastrophe Fund,
 809 and the Florida Insurance Guaranty Association may all be
 810 concurrently issuing debt instruments following a catastrophic
 811 event.

812 Section 5. Effective January 1, 2015, subsection (7) of

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813 section 627.701, Florida Statutes, is amended to read:
 814 627.701 Liability of insureds; coinsurance; deductibles.—
 815 (7) ~~Before~~ ~~Prior to~~ issuing a personal lines residential
 816 property insurance policy on or after January 1, 2015 ~~April 1,~~
 817 ~~1997~~, or ~~before~~ ~~prior to~~ the first renewal of a residential
 818 property insurance policy on or after January 1, 2015 ~~April 1,~~
 819 ~~1997~~, the insurer must offer a deductible equal to \$1,000 ~~\$500~~
 820 applicable to losses from perils other than hurricane. The
 821 insurer must provide the policyholder with notice of the
 822 availability of the deductible specified in this subsection in a
 823 form approved by the office at least once every 3 years. The
 824 failure to provide such notice constitutes a violation of this
 825 code but does not affect the coverage provided under the policy.
 826 An insurer may require a higher deductible only as part of a
 827 deductible program lawfully in effect on June 1, 1996, or as
 828 part of a similar deductible program.
 829 Section 6. Subsection (9) is added to section 627.711,
 830 Florida Statutes, to read:
 831 627.711 Notice of premium discounts for hurricane loss
 832 mitigation; uniform mitigation verification inspection form.—
 833 (9) Citizens Property Insurance Corporation may create an
 834 addendum to the uniform mitigation verification form for use by
 835 a county when applying mitigation credits if that county has:
 836 (a) Implemented a building code that is more stringent than
 837 the highest code recognized on the uniform mitigation
 838 verification form; and
 839 (b) Completed a study verifying the use of the more
 840 stringent code.
 841 Section 7. Except as otherwise expressly provided in this

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

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842 act, this act shall take effect July 1, 2014.

Page 30 of 30

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



The Florida Senate

Committee Agenda Request

To: Senator Nancy Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: March 19, 2014

I respectfully request that **Senate Bill 1672**, relating to Property Insurance, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 10

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-7
Meeting Date

Topic Insurance

Bill Number 1672

Name Steve Geller

Amendment Barcode 866720
(if applicable)

Job Title Atty.

Address 100 W. Cypress Creek Rd Ste. 700

Phone 954-491-7120

FT. Lauderdale, FL 33309
Street City State Zip

E-mail Steve.Geller@gnmlaw.com

Speaking: For Against Information

Representing Florida Association of Public Insurance Adjusters (FAPIA)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/7/14
Meeting Date

Topic Citizens Property Insurance

Bill Number 1672
(if applicable)

Name Carolyn Johnson

Amendment Barcode 8667290
(if applicable)

Job Title Director of Policy

Address 136 S. Bronough St.

Phone _____

Street
Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing FL Chamber

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.

Form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

7 Apr 14
Meeting Date



Topic Insurance

Bill Number 1072
(if applicable)

Name Jay Neal

Amendment Barcode 589074
(if applicable)

Job Title Pres. & CEO

Address 515 E LAUDERDALE BLVD #120

Phone 984 366-2922

Street
LAUDERDALE FL 33301
City State Zip

E-mail jneal@floridainsurance.com.org

Speaking: For Against Information

Representing FAIR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/7/2014

Meeting Date

Topic _____

Bill Number 1672

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:

For

Against

Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 7, 2014
Meeting Date

Topic _____

Bill Number SB 1672
(if applicable)

Name Tim Meenan

Amendment Barcode _____
(if applicable)

Job Title _____

Address 310 W. College Ave.
Street
Tallahassee FL 32312
City State Zip

Phone 850 425-4008

E-mail Tim@meenanlawfirm.com

Speaking: For Against Information

Representing Geovera Insurance Co

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/7
Meeting Date

Topic _____

Bill Number SB 1672
(if applicable)

Name Gerald Wester

Amendment Barcode _____
(if applicable)

Job Title _____

Address 101 E College
Street

Phone 850 445 7250

Tallah F
City State Zip

E-mail _____

Speaking: For Against Information

Representing AIF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

7 Apr 14

Meeting Date

Topic Insurance

Bill Number 1070
(if applicable)

Name Andy Martinez

Amendment Barcode _____
(if applicable)

Job Title _____

Address 575 E Las Olas #120

Phone 954 366-2922

Street

Ft Lauderdale FL 33301

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing FAIR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/7/14
Meeting Date

Topic Film Incentives

Bill Number RD 1672
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Director of Policy

Address 136 S. Bronough

Phone 850/521-1200

^{Street}
Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing FL Chamber

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 Commerce and Tourism

BILL: SB 618

INTRODUCER: Senators Simmons and Soto

SUBJECT: Professional Sports Franchises

DATE: April 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	Hrdlicka	CM	Favorable
2.			CA	
3.			AFT	
4.			AP	

I. Summary:

SB 618 adds Major League Soccer to the list of leagues eligible for certification under the Professional Sports Franchise program. The bill increases the total number of facilities that may be certified under the program to 10, and reserves the 2 new facility certifications for Major League Soccer franchises. The two additional certifications will permit distributions from sales tax revenue, totaling up to \$4 million per year and up to \$120 million for up to 30 years.

Under current law, an applicant may only receive one certification. The bill revises this prohibition to specify that an applicant may not receive more than one certification per facility or franchise. This revision permits an applicant to receive multiple certifications, so long as a different facility or franchise is the basis for each certification.

II. Present Situation:

Professional Sports in Florida

Florida currently has 10 major professional sports teams. The oldest major professional sports team in the state is the Miami Dolphins football franchise of the National Football League. The Dolphins franchise began in 1966 as an expansion team as part of the now-defunct American Football League. The newest major professional sports team in the state is the Orlando Lions (Orlando City Soccer Club) in Major League Soccer (MLS). The club will become the MLS's 21st franchise in 2015.¹ Below is a summary table of information on major professional sports franchises in Florida:

¹ MLS, *Orlando City Soccer Club*, available at: <http://orlandocitysoccer.com/mls/> (last visited April 3, 2014).

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Sun Life Stadium	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Tampa Bay Times Forum	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field	1990, occupied by Rays since 1998	Pinellas
Orlando City Soccer Club/ "Lions"	Soccer	MLS	2015	Orlando City Stadium	2015-16 (est.)	Orange

In addition to the 10 major professional sports teams, Florida is also home to 33 Minor League franchises in various sports, three Arena Football League teams, and two NASCAR sanctioned tracks. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.

Major League Soccer in Florida

Florida has previously been the home to two now-defunct MLS franchises, the Tampa Bay Mutiny and the Miami Fusion F.C. The Tampa Bay franchise began as one of MLS's original teams in 1996 before declining attendance and failure to find a local owner led to the team's closing down in 2001.² The Miami Fusion F.C. began in 1998, playing their games in Ft. Lauderdale's Lockhart Stadium before also closing down along with Tampa Bay in 2001 as part of MLS league contraction.³

In 2013, Major League Soccer added the Orlando City Soccer Club as the league's 21st expansion team.⁴ The team will begin play in the league in 2015. The city of Orlando is building

² MLS, *Tampa Bay Mutiny*, available at: <http://www.mlssoccer.com/history/club/tampabay> (last visited on April 3, 2014).

³ MLS, *Miami Fusion F.C.*, available at: <http://www.mlssoccer.com/history/club/miami> (last visited on April 3, 2014).

⁴ MLS Soccer.com, *Major League Soccer names Orlando City SC as 21st franchise, set for 2015 debut*, available at: <http://www.mlssoccer.com/news/article/2013/11/19/major-league-soccer-names-orlando-city-21st-franchise-set-2015-debut> (last visited April 3, 2014).

a soccer-specific stadium, which is expected to complete construction as early as mid-2015 or early-2016.⁵ In February 2014, the league announced that David Beckham exercised an option for an expansion team and will seek to build that team in Miami.⁶ The details about the new team and when and where it will play are not yet known.

Professional Sports Franchise Program

Section 288.1162, F.S., the Professional Sports Franchise program, provides the procedure by which professional sports franchises in Florida may be certified to receive state funding for the purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

The DEO is responsible for screening and certifying applicants for state funding. Applicants qualifying as new professional sports franchises must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location. The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.

For both new and retained franchises, the DEO must confirm and verify that:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located;
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise;
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise;
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually;
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the facility will generate \$2 million annually;
- The city or county where the facility is located has certified by resolution after a public hearing that the application serves a public purpose; and
- The applicant has demonstrated that it has provided or is capable of providing financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the facility.

⁵ Mark Schlueb, Orlando Sentinel, *Orlando approves soccer stadium construction deal*, March 31, 2014, available at: http://articles.orlandosentinel.com/2014-03-31/news/os-orlando-mls-soccer-stadium-20140331_1_orlando-city-lions-brett-lashbrook-new-stadium (last visited April 3, 2014).

⁶ MLS Soccer.com, *David Beckham exercises MLS expansion option on future Miami franchise*, available at: <http://www.mlssoccer.com/news/article/2014/02/05/david-beckham-exercises-mls-expansion-option-future-miami-franchise> (last visited April 3, 2014).

Any applicant who meets the above mentioned criteria as verified by the DEO is eligible to receive monthly payments from the state of \$166,667 for not more than 30 years,⁷ for an annual payment totaling \$2,000,004. The Department of Revenue disburses the payments.

Further, payments may only be used for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.

No applicant or facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by the DEO before any funds were disbursed under s. 212.20(6)(d), F.S.

As of January 8, 2013, there were eight certified new or retained professional sports franchise facilities in Florida. The facilities and the payment distribution for each are listed below:

Facility name	Certified entity	Franchise	First Payment	Final Payment	Total payments as of January 2014
Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins ⁸	06/1994	06/2023	\$41,166,749
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/1994	05/2024	\$39,333,412
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/1995	06/2025	\$37,166,741
Tampa Bay Times Forum	Tampa Bay Sports Authority	Tampa Bay Lightning	09/1995	08/2025	\$36,833,407
BB&T Center	Broward County	Florida Panthers	08/1996	07/2026	\$35,000,070
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/1997	12/2026	\$34,166,729
American Airlines Arena	BPL, LTD	Miami Heat	03/1998	03/2028	\$31,666,730
Amway Center	City of Orlando	Orlando Magic	02/2008	01/2038	\$12,000,024

(Information from the Department of Economic Opportunity and Department of Revenue)

⁷ Section 212.20(6)(d)6.b., F.S.

⁸ The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

III. Effect of Proposed Changes:

Section 1 amends s. 288.1162, F.S., the Professional Sports Franchise program, to permit two additional certifications for Major League Soccer. The bill amends the definition of “league” to include Major league Soccer, and increases the maximum number of facilities that may be certified under this program to 10 from 8. The two additional facility certifications are reserved for Major League Soccer franchises.

Under current law, an applicant may only receive one certification. The bill revises this prohibition to specify that an applicant may not receive more than one certification per facility or franchise. This revision permits an applicant to receive multiple certifications, so long as a different facility or franchise is the basis for each certification.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill permits a distribution of sales tax revenue to two applicants certified under the Professional Sports Franchises programs for Major League Soccer franchises, which would decrease General Revenue by \$4 million on a recurring basis.

B. Private Sector Impact:

The bill will allow two applicants certified under the Professional Sports Franchise program for Major League Soccer franchises to each receive funding of up to \$2 million per year for up to 30 years, for a total distribution of \$60 million, to support the construction or renovation of such a facility. The two additional certifications will permit distributions from sales tax revenue, totaling up to \$4 million per year and up to \$120 million for up to 30 years.

A currently certified applicant under s. 288.1162, F.S., may be eligible to receive an additional certification if it applies for a certification for a different franchise or facility.

C. Government Sector Impact:

The DEO reported administrative costs of the bill would be absorbed within current resources.⁹

The Department of Revenue reported the bill would have no impact on the agency.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 288.1162 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.

⁹ DEO, *Agency Bill Analysis: SB 618* (February 6, 2014).

¹⁰ Department of Revenue, *Agency Bill Analysis: SB 618* (January 23, 2014).

By Senator Simmons

10-00594-14

2014618__

1 A bill to be entitled
 2 An act relating to professional sports franchises;
 3 amending s. 288.1162, F.S.; redefining the term
 4 "league" to include Major League Soccer; providing
 5 that a previously certified applicant is not eligible
 6 for an additional certification under certain
 7 circumstances; requiring the Department of Economic
 8 Opportunity to reserve two facility certifications for
 9 new Major League Soccer franchises; providing an
 10 effective date.

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

13
 14 Section 1. Subsection (3), paragraphs (c) and (h) of
 15 subsection (4), and subsection (6) of section 288.1162, Florida
 16 Statutes, are amended to read:

17 288.1162 Professional sports franchises; duties.—

18 (3) As used in this section, the term:

19 (a) "League" means Major League Soccer, the National League
 20 or the American League of Major League Baseball, the National
 21 Basketball Association, the National Football League, or the
 22 National Hockey League.

23 (b)(a) "New professional sports franchise" means a
 24 professional sports franchise that was not based in this state
 25 before April 1, 1987.

26 (c)(b) "Retained professional sports franchise" means a
 27 professional sports franchise that has had a league-authorized
 28 location in this state on or before December 31, 1976, and has
 29 continuously remained at that location, and has never been

Page 1 of 3

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

10-00594-14

2014618__

30 located at a facility that has been previously certified under
 31 any provision of this section.

32 (4) Before certifying an applicant as a facility for a new
 33 or retained professional sports franchise, the department must
 34 determine that:

35 (c) The applicant has a verified copy of the approval from
 36 the governing authority of the league in which the new
 37 professional sports franchise exists authorizing the location of
 38 the professional sports franchise in this state after April 1,
 39 1987, or in the case of a retained professional sports
 40 franchise, verified evidence that it has had a league-authorized
 41 location in this state on or before December 31, 1976. ~~As used~~
 42 ~~in this section, the term "league" means the National League or~~
 43 ~~the American League of Major League Baseball, the National~~
 44 ~~Basketball Association, the National Football League, or the~~
 45 ~~National Hockey League.~~

46 (h) An applicant previously certified under ~~any provision~~
 47 ~~of~~ this section who has received funding under such
 48 certification is not eligible for an additional certification
 49 for a franchise or facility that has already served as the basis
 50 for a previous certification.

51 (6) (a) The department shall notify the Department of
 52 Revenue of any facility certified as a facility for a new or
 53 retained professional sports franchise.

54 (b) The department may not shall certify ~~no~~ more than 10
 55 ~~eight~~ facilities as facilities for a new professional sports
 56 franchise or as facilities for a retained professional sports
 57 franchise, including in the total any facilities certified by
 58 the former Department of Commerce before July 1, 1996. The

Page 2 of 3

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

10-00594-14

2014618__

59 department shall reserve two facility certifications for new
60 professional sports franchises in Major League Soccer. The
61 department may make no more than one certification for any
62 facility.

63 Section 2. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Nancy Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 21, 2014

I respectfully request that **Senate Bill 618**, relating to Professional Sports Franchises, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons".

Senator David Simmons
Florida Senate, District 10

THE FLORIDA SENATE

APPEARANCE RECORD

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

9/7/14
Meeting Date

Topic _____

Bill Number 618
(if applicable)

Name ROBERT STUART

Amendment Barcode _____
(if applicable)

Job Title _____

Address 301 E PINE ST
Street
ORLANDO 32804
City State Zip

Phone 407-843-8880

E-mail _____

Speaking: For Against Information

Representing ORLANDO CITY SOCCER CLUB

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 17 14

Meeting Date

Topic Professional Sports

Bill Number SB 618
(if applicable)

Name Kathy Russell

Amendment Barcode _____
(if applicable)

Job Title Dir of Gov Relations

Address 400 S Orange Ave

Phone (407) 383 - 2075

Street

Orlando

FL

32801

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing City of Orlando

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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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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



4/7/2014

Meeting Date

Topic _____

Bill Number 618

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/7/2014
Meeting Date

Topic PROFESSIONAL SPORTS FRANCHISES

Bill Number SB 618
(if applicable)

Name GREG TURBEVILLE

Amendment Barcode _____
(if applicable)

Job Title BALLARD PARTNERS

Address 403 E. PARK AVE
Street

Phone (850) 577-0444

TLH FL 32301
City State Zip

E-mail greg@ballardfl.com

Speaking: ^{WAIVE} For Against Information

Representing MIAMI BECKHAM UNITED

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 Commerce and Tourism

BILL: CS/SB 952

INTRODUCER: Commerce and Tourism Committee and Senator Simpson

SUBJECT: Workers' Compensation

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Siples</u>	<u>Hrdlicka</u>	<u>CM</u>	Fav/CS
3.	_____	_____	<u>GO</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 952 revises provisions relating to the regulation of workers' compensation retrospective rating plans by the Office of Insurance Regulation (OIR). Currently, under such a plan, the final workers' compensation premium paid by the employer is based on the actual loss experience of the employer during the policy, plus negotiated expenses and charges. If the employer controls the amount of claims, it pays lower premiums. The bill authorizes retrospective rating plans to contain a provision that allows the employer and insurer to negotiate the premium when the employer has multistate exposure, an estimated annual standard premium in Florida of \$175,000 or more, and an annual estimated countrywide standard premium of \$1 million or more. The bill exempts these retrospective rating plans from s. 627.072(1), F.S., which specifies the factors to be used to determine workers' compensation rates. Retrospective rating plans and associated forms must be filed by a rating organization and approved by the OIR. However, an employer's premium negotiated under a retrospective rating plan is not subject to statutory provisions regarding rates and rating organizations.

The bill may reduce workers' compensation premiums for employers participating in such plans.

The bill has no fiscal impact on the OIR.

II. Present Situation:

Florida law requires every workers' compensation insurer to file its rates and classifications that the insurer proposes to use with the Office of Insurance Regulation (OIR).¹ Section 627.072, F.S., prescribes factors used in the determination of rates.² Every insurer must file every manual of classifications, rules, and rates, and every rating plan that it proposes to use with the OIR.³ Rate filings for workers' compensation are subject to approval by the OIR before they become effective. The standard for approving insurance rates in Florida and most states is that the rate may not be excessive, inadequate, or unfairly discriminatory.⁴

Current Florida law and the rating plans approved by OIR allow for insurers to compete in the market by varying or adjusting premiums, including retrospective (retro) rating plans that adjust the premium at the end of the policy period to reflect the actual loss experience of the employer. In a retro rating plan, the insurer and employer agree that the final premium paid will be based upon losses actually incurred during the policy period. The insurer and employer negotiate on certain expenses, charges, taxes, and assessments, based upon minimum and maximum premiums. Retrospective rating has been a component of workers' compensation rating for over 50 years in Florida and nationwide. The National Council on Compensation Insurance (NCCI) has filed actuarially sound rating plans.⁵

In 1991, the NCCI filed the Large Risk Alternative Rating Option (LRARO) in Florida. The LRARO was described as providing greater flexibility of negotiation between an insurer and employer for risks with over \$1,000,000 in standard premium. The Department of Insurance (predecessor of the OIR) disapproved the use of the LRARO on the basis that it did not comply with s. 627.091(1), F.S., and that the LRARO was not a rating plan but an agreement to use any factors acceptable to both parties.⁶ Subsequently, in 1993, an insurer filed its own version of the LRARO and the Department of Insurance disapproved it. The rejection of the plan was primarily on the basis that the use of the LRARO would not allow agency oversight as to the determination of premiums since it proposed to allow the insurer and prospective insureds to agree unilaterally on the components to be used in the rating process.⁷ The insurer appealed the disapproval to the Division of Administrative Hearings (DOAH) and DOAH found that the Department of Insurance was justified in disapproving the plan.

¹ Section 627.091(4), F.S., allows an insurer to satisfy this obligation by becoming a member of a licensed rating organization, which makes such filings on its behalf. The law expressly provides that an insurer is not required to be a member of any rating organization, but all workers' compensation insurers in Florida have chosen to do so. Currently, all workers' compensation insurers are members of the National Council on Compensation Insurance.

² These factors include such considerations as past and prospective loss experience within and outside the state; conflagration and catastrophe hazards; a reasonable margin for underwriting profit and contingencies; and all other relevant factors, including judgment factors, within and outside the state.

³ Section 627.091(1), F.S.

⁴ Section 627.062, F.S.

⁵ OIR, *2014 Agency Legislative Bill Analysis, Senate Bill 952* (Feb. 27, 2014) (on file with the Senate Commerce and Tourism Committee).

⁶ See *Liberty Mutual Insurance Company, et. al., v. State of Florida, Department of Insurance*, Case No. 94-0892 (Fla. DOAH 1994).

⁷ *Id.*

Currently, the LRARO plans are available in a majority of states. However, Alaska, Arkansas, Florida, and Nebraska do not allow its use.⁸ The NCCI retrospective rating plan rule, which does not apply in Florida, provides that an insured is eligible for the LRARO if the estimated standard premium individually, or in any combination with any other commercial casualty lines of insurance, exceeds an annual standard premium eligibility threshold of \$500,000 for the term of a retrospective rating plan. The following table provides examples of states with different annual standard premium eligibility thresholds for LRARO.⁹

LRARO Premium Eligibility Threshold by State	
State	Annual Standard Premium Eligibility Threshold
Arizona	\$250,000
Kansas	\$1,000,000
Minnesota	\$250,000
Nevada	\$250,000
New Hampshire	\$250,000
North Carolina	\$250,000

III. Effect of Proposed Changes:

Section 1 amends s. 627.072, F.S., to allow an insurer and employer to negotiate the retrospective plan rating factors that can be used for calculating the premium when the employer has multistate exposure, an estimated annual standard premium in Florida of \$175,000 or more, and an annual estimated countrywide standard premium of \$1 million or more for workers’ compensation. These retrospective rating plans are exempt from s. 627.072(1), F.S., which specifies the factors to be used in determining workers’ compensation rates. The bill requires such retrospective rating plans and associated forms to be filed by the rating organization (NCCI) and approved by the OIR. However, an employer’s negotiated premium is not subject to Part 1 of ch. 627, F.S., also known at the “Rating Law.”

Section 2 amends s. 627.281, F.S., to conform a cross reference.

Section 3 provides that the act takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁸ E-mail from Lori Lovgren, NCCI (Mar. 4, 2014) (on file with Senate Committee on Banking and Insurance).

⁹ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill would allow insurers and larger employers greater flexibility in negotiating retrospective rating plans by allowing the parties to determine the rating factors used to calculate premiums. This change may result in a reduction in premiums for such employers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.072 and 627.281.

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

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

CS by Commerce and Tourism Committee on April 7, 2014:

- Clarifies that an employer eligible to participate in a retrospective rating plan must have an estimated annual standard premium of \$175,000 or more in Florida.

- Exempts the provisions within a retrospective rating plan that allow for a negotiated premium from s. 627.072(1), F.S., which specifies factors to be used when determining workers' compensation rates.
- Requires retrospective rating plans and associated forms to be filed by a rating organization and approved by the OIR.
- Provides that an employer's premium negotiated under an approved retrospective rating plan is not subject to Part I of ch. 672, F.S., the "Rating Law."

B. Amendments:

None.



754784

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/07/2014	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Abruzzo) recommended the following:

Senate Amendment (with title amendment)

Before line 11

insert:

Section 1. Subsection (1) of section 624.46226, Florida Statutes, is amended to read:

624.46226 Public housing authorities self-insurance funds; exemption for taxation and assessments.—

(1) Notwithstanding any other provision of law, any two or more public housing authorities in the state as defined in



754784

11 chapter 421 may form a self-insurance fund for the purpose of
12 pooling and spreading liabilities of its members as to any one
13 or combination of securing the payment of benefits under chapter
14 440, surety risk, health risk, casualty risk, or real or
15 personal property risk of every kind and every interest in such
16 person or property against loss or damage from any hazard or
17 cause and against any loss consequential to such loss or damage,
18 provided the self-insurance fund that is created:

19 (a) Has annual normal premiums in excess of \$5 million.

20 (b) Uses a qualified actuary to determine rates using
21 accepted actuarial principles and annually submits to the office
22 a certification by the actuary that the rates are actuarially
23 sound and are not inadequate, as defined in s. 627.062.

24 (c) Uses a qualified actuary to establish reserves for loss
25 and loss adjustment expenses and annually submits to the office
26 a certification by the actuary that the loss and loss adjustment
27 expense reserves are adequate. If the actuary determines that
28 reserves are not adequate, the fund shall file with the office a
29 remedial plan for increasing the reserves or otherwise
30 addressing the financial condition of the fund, subject to a
31 determination by the office that the fund will operate on an
32 actuarially sound basis and the fund does not pose a significant
33 risk of insolvency.

34 (d) Maintains a continuing program of excess insurance
35 coverage and reserve evaluation to protect the financial
36 stability of the fund in an amount and manner determined by a
37 qualified and independent actuary. At a minimum, this program
38 must:

39 1. Purchase excess insurance from authorized insurance



754784

40 carriers or eligible surplus lines insurers.

41 2. Retain a per-loss occurrence that does not exceed
42 \$350,000.

43 (e) Submits to the office annually an audited fiscal year-
44 end financial statement by an independent certified public
45 accountant within 6 months after the end of the fiscal year.

46 (f) Has a governing body which is comprised entirely of
47 commissioners of public housing authorities that are members of
48 the public housing authority self-insurance fund or persons
49 appointed by the commissioners of public housing authorities
50 that are members of the public housing authority self-insurance
51 fund.

52 (g) Uses knowledgeable persons or business entities to
53 administer or service the fund in the areas of claims
54 administration, claims adjusting, underwriting, risk management,
55 loss control, policy administration, financial audit, and legal
56 areas. Such persons must meet all applicable requirements of law
57 for state licensure and must have at least 5 years' experience
58 with commercial self-insurance funds formed under s. 624.462,
59 self-insurance funds formed under s. 624.4622, or domestic
60 insurers.

61 (h) Submits to the office copies of contracts used for its
62 members that clearly establish the liability of each member for
63 the obligations of the fund.

64 (i) Annually submits to the office a certification by the
65 governing body of the fund that, to the best of its knowledge,
66 the requirements of this section are met.

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



754784

69 And the title is amended as follows:

70 Delete line 2

71 and insert:

72 An act relating to insurance; amending s. 624.46226,
73 F.S.; authorizing additional coverage through a self-
74 insurance fund created by certain public housing
75 authorities; amending s.



161156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2014	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Simpson) recommended the following:

Senate Amendment

Delete lines 20 - 21
and insert:
\$175,000 or more and an estimated annual countrywide standard premium of \$1 million or more for workers' compensation. Provisions within a retrospective rating plan authorizing negotiated premiums are exempt from subsection (1). Such plans and associated forms must be filed by a rating organization and approved by the office. However, a premium negotiated between



11 the employer and the insurer pursuant to an approved
12 retrospective rating plan is not subject to this part.

By Senator Simpson

18-00328A-14

2014952__

1 A bill to be entitled
 2 An act relating to workers' compensation; amending s.
 3 627.072, F.S.; authorizing employers to negotiate the
 4 retrospectively rated premium with insurers under
 5 certain conditions; amending s. 627.281, F.S.;
 6 conforming a cross-reference; providing an effective
 7 date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Present subsections (2) through (4) of section
 12 627.072, Florida Statutes, are renumbered as subsections (3)
 13 through (5), respectively, and a new subsection (2) is added to
 14 that section, to read:
 15 627.072 Making and use of rates.-
 16 (2) A retrospective rating plan may contain a provision
 17 that allows for negotiation of a premium between the employer
 18 and the insurer for employers having exposure in more than one
 19 state and an estimated annual standard premium in this state of
 20 \$175,000 and an estimated annual countrywide standard premium of
 21 \$1 million or more for workers' compensation.
 22 Section 2. Subsection (2) of section 627.281, Florida
 23 Statutes, is amended to read:
 24 627.281 Appeal from rating organization; workers'
 25 compensation and employer's liability insurance filings.-
 26 (2) If such appeal is based upon the failure of the rating
 27 organization to make a filing on behalf of such member or
 28 subscriber which is based on a system of expense provisions
 29 which differs, in accordance with the right granted in s.

Page 1 of 2

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

18-00328A-14

2014952__

30 627.072 (3) ~~s. 627.072(2)~~, from the system of expense provisions
 31 included in a filing made by the rating organization, the office
 32 shall, if it grants the appeal, order the rating organization to
 33 make the requested filing for use by the appellant. In deciding
 34 such appeal, the office shall apply the applicable standards set
 35 forth in ss. 627.062 and 627.072.
 36 Section 3. This act shall take effect July 1, 2014.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR WILTON SIMPSON

18th District

COMMITTEES:

Community Affairs, *Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

March 12, 2014

Senator Nancy C. Detert, Chair
Senate Committee on Commerce and Tourism
310 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Senator Detert,

Please place Senate Bill 952 relating to worker's compensation, on the next Committee on
Commerce and Tourism agenda.

Please contact my office with any questions.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 17/2014

Meeting Date

Topic _____

Bill Number 952

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

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 Commerce and Tourism

BILL: SPB 7128

INTRODUCER: For consideration by the Commerce and Tourism Committee

SUBJECT: Entertainment Industry

DATE: April 4, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hrdlicka</u>	<u>Hrdlicka</u>		<u>Pre-meeting</u>

I. Summary:

SPB 7128 restructures Florida's approach to the entertainment industry in the state.

The bill transfers the Department of Economic Opportunity's Office of Film and Entertainment, including the Commissioner of Film and Entertainment and the Florida Film and Entertainment Advisory Council, to Enterprise Florida, Inc. (EFI). The office is established as the Division of Film and Entertainment within EFI and maintains its current responsibilities, with the exception of administering the entertainment industry economic development programs, which remains the responsibility of the department.

The bill makes several changes to the Entertainment Industry Financial Incentive Program, including:

- Extending the incentive program an additional 4 years and provides an additional \$50 million in tax credits for each fiscal year beginning Fiscal Year 2014-15 through 2019-20, for a total of \$300 million in available tax credits.
- Requiring a production to provide proof of a cash match from each county in which principal photography or project production occurred.
- Repealing the tax credit bonus for underutilized regions. Instead, the bill creates a set aside of 20 percent of the tax credits in the general production queue for underutilized counties. Any funds not certified after 10 months into the fiscal year become available for certification for other applications in the queue.
- Amending the tax credit bonus for wages paid to Florida students and recent graduates to include wages paid to state residents that are participating in the Road to Independence Program, have developmental disabilities, or are veterans.
- Creating a tax credit bonus of 5 percent for productions that complete a capital investment of at least \$2 million before the completion of the qualified production.
- Repealing the tax credit bonuses for "off-season" certified productions, for productions that conduct principal photography at a qualified production facility, and for family-friendly certified theatrical or direct-to-video movies and video games.

II. Present Situation:

The Office of Film and Entertainment

The Office of Film and Entertainment (OFE) within the Department of Economic Opportunity (DEO) develops, markets, promotes, and provides services to Florida's entertainment industry, such as serving as a liaison between the industry and government entities and facilitating access to filming locations.¹ The OFE gathers statistical information related to the state's entertainment industry, provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities, and administers field offices outside the state, and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a 5-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development.² The OFE's mission is to build, support, and market the entertainment industry in Florida.

The head of the OFE is the Commissioner of Film and Entertainment. The commissioner is hired by the executive director of the DEO, after a national search by the DEO for a qualified person to fill the position. For Fiscal Year 2013-14, the OFE has an operating budget of approximately \$673,000 and five full-time-equivalent (FTE) positions (two of which are vacant). The OFE's budget supports a field office in Los Angeles.

The OFE is assisted by the Florida Film and Entertainment Advisory Council (advisory council), which is composed of 17 members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.³ In addition, Enterprise Florida, Inc., Workforce Florida, Inc., and the Florida Tourism Industry Marketing Corporation (commonly referred to as "VISIT Florida") each have a representative that serves as an ex officio nonvoting member of the advisory council. The advisory council provides the OFE and the DEO with industry insight and assists in the creation of the 5-year strategic plan.

Additionally, there are over 60 local film offices that have been established across the state, organized predominately by county and municipal governments, local chambers of commerce, economic development councils, convention and visitors bureaus, and tourist development councils.⁴

¹ Section 288.1251, F.S. See also OFE website, available at <http://www.filminflorida.com/about/vm.asp> (last visited 4/3/2014).

² The OFE's Film and Entertainment Industry Strategic Plan for Economic Development is available at http://www.filminflorida.com/about/OFE_Plan_V11.pdf (last visited 4/3/2014).

³ Section 288.1252, F.S.

⁴ For a list of Florida film commissions, see the OFE website, available at http://www.filminflorida.com/lr/local_film_commissions.asp (last visited 4/3/2014).

Entertainment Industry Financial Incentive Program⁵

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program (incentive program).⁶ The incentive program's dual purposes are to:

- Promote Florida as a site for filming, creating, or producing movies, television series, commercials, digital media and other types of entertainment productions; and
- Sustain and develop the state's entertainment workforce, studios, and other related infrastructure.

The incentive program is administered by the OFE, subject to the policies and oversight of the DEO. Currently the incentive program is a 6-year program, which began July 1, 2010, and sunsets June 30, 2016. The incentive program provides tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits may be applied against the corporate income tax or sales and use taxes. Additionally these tax credits may be transferred or sold one time.⁷

Over the 6 year period, there are a total of \$296 million in available credits. Annual limitations for tax credits are set at:

- \$53.5 million in Fiscal Year 2010-11;
- \$74.5 million in Fiscal Year 2011-12; and
- \$42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.⁸

The law provides that if the total tax credits applied for in a fiscal year is greater than the amount available for that year, then the excess credits are to be treated as if they had been applied for in the next fiscal year. All of the tax credits have already been awarded for all 6 years.⁹

Eligibility and Application

Generally, a production company that plans to engage in a production in Florida can apply to the OFE prior to beginning production for a certification of tax credits based upon estimated qualified expenditures planned for the production. A qualified production must meet the requirements in s. 288.1254, F.S., plus two additional criteria:

- Depending on the type of production and period of time in the incentive program, most of the production cast and below-the-line production crew¹⁰ are Florida residents, or are students enrolled full-time in a film- and entertainment-related course of study at a Florida university or college.
- The production does not contain obscene content, as defined in s. 847.001(10), F.S.¹¹

⁵ Information about the incentive program is also available on OFE's website, available at <http://filminflorida.com/ifi/incentives.asp> (last visited 4/3/2014).

⁶ Section 288.1254, F.S. See ch. 2003-81, L.O.F. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.

⁷ Also, tax credits may be relinquished to the DOR for 90 percent of the amount of the relinquished tax credit.

⁸ Section 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, ch. 2012-32, L.O.F.

⁹ See OFE, Fiscal Year 2012-2013 Annual Report, discussed below under The OFE Annual Report for Fiscal Year 2012-13.

¹⁰ "Below-the-line production crew" excludes actors, directors, producers, and writers.

¹¹ Pursuant to this section, "'obscene' means the status of material which: (a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest; (b) Depicts or describes, in a patently

Queues

Priority for tax credit certifications is made on a first-come, first-served basis within the appropriate “queue.”¹² There are three queues of eligible productions: general production, commercial and music video, and independent and emerging media production. As percentage of funding:

- 94 percent of the state incentive funding is dedicated to the general production queue;
- 3 percent is dedicated to the commercial and music video queue; and
- 3 percent is dedicated to the independent and emerging media production queue.

Further, under the general production queue, no more than 45 percent of the tax credits can be awarded to television series. First priority in the general production queue for tax credits not yet certified is given to high-impact television series and high-impact digital media projects, in alternating order, depending on the type of the first application received. OFE may certify a project out of order (ex: two high-impact television series productions in a row) if an application by the next appropriate type of production is not received within 5 business days.¹³

Characteristics of Production Queues

	General Production	Commercial & Music Video	Independent and Emerging Media Production Queue
Minimum amount of qualified expenditures	\$625,000	\$100,000 per commercial or video <u>and</u> exceeds \$500,000 combined per FY year	At least \$100,000, but not more than \$625,000
Amount of basic incentive	20% of qualified expenditures, up to \$8 million	20% of qualified expenditures, up to \$500,000	20% of qualified expenditures, up to \$125,000

In addition to the amount of basic incentives, there are additional tax credits available for general production queue projects (also referred to as “bonuses”):

- 5 percent additional tax credit for feature films, independent films, or television series or pilots that are “off-season certified,” including those that are not able to complete 75 percent of their principal photography due to a hurricane or tropical storm. Off-season certified means that the production films 75 percent or more of its principal photography from June 1 to November 30.

offensive way, sexual conduct as specifically defined herein; and (c) Taken as a whole, lacks serious literary, artistic, political, or scientific value. A mother’s breastfeeding of her baby is not under any circumstance ‘obscene.’”

¹² Section 288.1254(4), F.S.

¹³ This rotating schedule was created in 2012. ch. 2012-32, L.O.F.

- 5 percent additional tax credit for a production that incurs at least 65 percent of its principal photography days in an underutilized region. An “underutilized region” is one with a regional tax credit ratio for a fiscal year that is lower than its regional population ratio that year.¹⁴
- 15 percent additional tax credit for productions that employ students enrolled full-time in a film and entertainment-related or digital media-related course of study or recent graduates of such a course of study. The course of study must have occurred at an institution of higher education in Florida. This additional 15 percent may be applied to any qualified expenditures related to wages, salaries, or other compensation paid to such students or graduates.
- 5 percent additional tax credit for productions which conduct at least 50 percent of their principal photography at a qualified production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.
- 5 percent additional tax credit for qualified digital media projects or digital animation components of productions which have at least 50 percent of their qualified expenditures related to a qualified digital media production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.

Further, family-friendly certified theatrical or direct-to-video movies and video games are eligible for an additional tax credit of 5 percent of its actual qualified expenditures. The determination for “family-friendly” is made by the OFE, with the advice of the advisory council. A family friendly production is one that:

- Has cross-generational appeal;
- Is considered suitable for viewing by children aged 5 years or older;
- Is appropriate in theme, content and language for a broad family audience;
- Responsibly resolves issues raised in the film; and
- Does not include any act of smoking, sex, nudity, or vulgar or profane language.

A qualified production is limited to a total tax credit of 30 percent of its actual qualified expenditures.

Current law defines “qualified expenditures” as production expenditures incurred by a qualified production in Florida for:¹⁵

- Goods purchased or leased from, or services provided by, a vendor or supplier in Florida that is registered with the Department of State or the Department of Revenue (DOR) and is doing business in Florida. Eligible production goods and services include:
 - Sound stages, back lots, production editing, digital effects, sound recordings, sets, and set construction;
 - Entertainment-related rental equipment, including cameras and grip or electrical equipment;
 - Newly purchased computer software and hardware, up to \$300,000; and
 - Meals, travel, and accommodations.
- Salary, wages, or other compensation paid to Florida residents, up to a maximum of \$400,000 per resident.

¹⁴ “Underutilized region” is defined in s. 288.1254(1)(p), F.S.

¹⁵ See s. 288.1254(1)(i), F.S.

Additionally, for a qualified production involving an event, such as an awards show, the term “qualified expenditures” excludes expenditures solely associated with the event itself and not directly required by the production. The term also excludes expenditures prior to certification, with the exception of those incurred for a commercial, a music video, or the pickup of additional episodes of a television series within a single season.

Award of Credits

After production ends and all certified expenditures are made in Florida, the production company must have an independent certified public accountant licensed in Florida conduct a compliance audit. The OFE is required to review the audit and report to the DEO the final verified amount of actual qualified expenditures. The DEO then must review and approve the final tax credit award, and notify the DOR. Tax credit awards are subject to the limitations discussed above.

Additionally, after production the company must make an irrevocable election to apply the tax credits to the corporate income taxes or sales and use taxes or a stated combination of both. This decision is binding on any distributee, successor, transferee, or purchaser. Tax credits that are unused in any year may be carried forward to the next for a maximum of 5 years.

The production must also include information, such as a logo at the end of the credits, that indicates that the production occurred in Florida in order to be eligible for the tax credits.

Section 288.1254(9), F.S., provides audit authority to DOR related to the tax credits, and for the revocation or forfeiture of tax credits under certain circumstances. Fraudulent applications for tax credits may also result in penalties and other costs in addition to repayment of the tax credits.

Sales Tax Exemption Certificate for a Qualified Production Company

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.¹⁶ Qualified production companies are exempt from paying sales tax for the following:

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term “activity or service” includes photography, casting, location scouting, and designing sets).¹⁷
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.¹⁸
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.¹⁹
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes.*²⁰

¹⁶ Section 288.1258, F.S. See also DOR, Film in Florida Sales Tax Exemption, available at http://dor.myflorida.com/dor/taxes/film_in_florida.html (last visited 4/3/2014).

¹⁷ Section 212.031(1)(a)9., F.S.

¹⁸ Section 212.06(1)(b), F.S. The term “qualified motion picture” is defined in the statute.

¹⁹ Section 212.08(5)(f), F.S.

²⁰ Section 212.08(12), F.S.

The estimated cost of these exemptions is \$36.2 million for Fiscal Year 2013-14.²¹

The OFE Annual Report for Fiscal Year 2012-13²²

The OFE is directed to submit an annual report each November 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives, that outlines the incentive program's return on the state's investment and economic benefits to the state; the estimate of FTEs for each production that received tax credits; and the geographic distribution of the credits in Florida. The report is also required to include a report on the OFE's expenditures under s. 288.1253, F.S., and information describing the relationship between tax exemptions and incentives to industry growth.²³

The OFE's annual report for Fiscal Year 2012-13 reviewed the incentive program for the first 3 years of the 6-year program. As of November 1, 2013:

- 617 applications were received and processed;
- Overall, 297 projects have been certified for the 6 years; outcomes for these projects include the following estimates:
 - Over \$1.5 billion in qualified expenditures in Florida;
 - 190,681 positions with over \$930 million in wages paid;²⁴ and
 - 256,244 lodging/room nights.
- Certified productions include 69 motion pictures, 51 digital media productions, 128 television productions, television series pilots, telenovelas, award shows, and 49 commercials.
- 206 certified projects completed production in Fiscal Year 2012-13; outcomes for these projects include (includes unverified data):
 - 14,623 production days;
 - Over \$604 million in qualified expenditures in Florida;
 - 84,617 positions with over \$353.8 million in wages paid;
 - 100,631 lodging/room nights; and
 - Almost \$131 million in final tax credits awarded.

Projected outcomes are based on information supplied with the applications. These outcomes are subject to change as some projects may withdraw or additional projects become certified.

The OFE's annual report states that in 2012 the Florida Office of Economic and Demographic Research conducted an analysis of the economic impact of the incentive program which found an

²¹ Florida Revenue Estimating Conference, 2013 Florida Tax Handbook.

²² OFE, Fiscal Year 2013-2013 Annual Report (November 1, 2013), available at http://www.filminflorida.com/ifi/PDFs/annualReports/Office%20of%20Film%20and%20Entertainment%20Annual%20Report%20FY2012-2013_Final%20Combined%20Draft.pdf (last visited 4/3/2014).

²³ Sections 288.1254(10), 288.1253, and 288.1258(5), F.S.

²⁴ Positions are individual positions, not FTEs. Positions may be permanent or temporary. Production cast, crew, extras, and stand-ins, etc., may work for multiple productions and fill multiple positions. The OFE was directed in the 2011 Regular Session to report positions as estimates of FTEs, but according to the annual report the OFE is still developing methodology to report the data. See ch. 2011-76, L.O.F.

increase in state gross domestic product of \$15 to \$1 of tax credit awarded and a return of state tax revenue of \$2 for every \$5 of tax credit awarded.

The annual report also includes a calculation by the OFE on the return on investment for the sales tax exemptions to be “75.6:1”; the OFE also calculated a “combined” return on investment for both the sales tax exemptions and the incentive programs, which resulted in \$1.32 in expenditures by qualified productions for every \$1 of investment from the state from both programs.

III. Effect of Proposed Changes:

SPB 7128 restructures Florida’s approach to the entertainment industry in the state.

Division of Film and Entertainment

The bill transfers and renames the Office of Film and Entertainment as the Division of Film and Entertainment (division) of Enterprise Florida, Inc. The entertainment industry economic development programs administered by the DEO will function similar to the other economic development programs administered by the DEO. Generally, Enterprise Florida, Inc., markets the state to businesses, including working with regional offices to provide assistance and information on location decisions, workforce needs, and economic development programs. The DEO is responsible for administering the economic development programs. (**Section 2**, transferring and renumbering s. 288.1251, F.S., as s. 288.924, F.S., and amending that statute; **Section 8**, amending s. 288.92, F.S.)

The division will maintain the OFE’s current responsibilities, except with respect to administration of the entertainment industry economic development programs. The Florida Film and Entertainment Advisory Council is also transferred to EFI and will maintain an advisory role to the division. (**Section 2**, transferring and renumbering s. 288.1251, F.S., as s. 288.924, F.S., and amending that statute; and **Section 3**, transferring and renumbering s. 288.1252, F.S., as s. 288.9242, F.S., and amending that statute.)

Sections 1, 4, and 7, amend ss. 288.125, 288.1253, and 288.1258, F.S., to reflect the transfer of the OFE to Enterprise Florida, Inc. **Section 4** also transfers and renumbers s. 288.1253, F.S., as s. 288.9241, F.S. (dealing with allowable travel, entertainment, and incidental expenditures and reimbursement of the division).

Entertainment Industry Financial Incentive Program

Section 5 amends s. 288.1254, F.S., related to the Entertainment Industry Financial Incentive Program.

Eligibility and Application

The bill increases the requirements for a qualified production related to the amount of state residents that make up a production’s cast and crew. For a production, the cast and crew must be at least 70 percent state residents (current law is 60 percent); for a digital media production, the cast and crew must be at least 80 percent state residents (current law is 75 percent).

The bill amends the definition of “high-impact television series” to include telenovelas that have qualified expenditures of more than \$4.5 million, at least 45 principal photography days in the state, cast and crews that are at least 90 percent state residents, and have at least 90 percent of production occurring in the state.

The bill requires a production to include in its application documentation related to the planned aggregate nonqualifying expenditures the production will make in the state and proof of financing for the production. Under current law, a production has 90 days from the date it submits the application to provide proof of financing. The bill requires such proof to be submitted at the same time as the application. Additionally, an applicant applying to the independent and emerging media queue will now be required to submit proof of financing.

An applicant must also include in its application documentation related to proof of local financial commitment. An applicant must submit proof that each county in which the applicant will engage in principal photography or project production has made a commitment of a cash match equal to 10 percent of the total amount of tax credits applied for by the applicant. If at least 70 percent of the production occurs in an underutilized county, then the cash match must only be 5 percent. An “underutilized county” is one in which less than \$500,000 in qualified expenditures occurred in the last 2 fiscal years.

Applications received by the DEO after all tax credits allocated for the fiscal year have been certified may be accepted until the DEO receives the application that causes the amount of tax credit eligibility requested to exceed 125 percent of the tax credits allocated for the fiscal year. Applications received requesting tax credit eligibility over the fiscal year allocation shall be assigned a queue number. Any applications in the queue on June 30th each year will be deemed denied. The DEO may deny an application if there are no additional tax credits available for certification.

If the DEO determines that an application meets the requirements of the incentive program, then it will certify the application for tax credits in an amount reduced by either 10 or 5 percent, depending on the amount of local financial commitment required. The bill specifies that the DEO may only certify the amount of tax credits allocated in a fiscal year. However, the bill provides an exception for applications by high-impact television series that have an executed contract or order for season renewal. The DEO is permitted to certify such a qualified production for one additional ordered season per future fiscal year in which the production would occur.

Upon certification, the production is required to provide the DEO and the division with information related to the production’s needs for cast, crew, contractors, and vendors. The production must also provide a single point of contact. The division will publish this information online and include relevant information such as the starting date of the production and its location. The DEO and division may adopt procedures for a production to post such information itself within a week of certification.

Current law permits the DEO to withdraw the eligibility of a production for tax credits if the production does not continue on a reasonable basis or if the production does not provide proof of financing. The bill clarifies when the DEO may deny a certified production. The DEO may deny

a certified production upon finding any circumstance that affects the reasonable schedule or timely completion of the production, including a break in production or loss of financing. The certified production must notify the DEO within 5 days after any circumstance affecting the timely completion of the production. However, a certified production that has lost financing may avoid denial by the DEO if it provides the DEO with proof of replacement financing within 10 days of the original loss.

The DEO is required to verify that a certified production received the required local financial commitment before the DEO can approve the final tax credit award. If the certified production did not meet the requirement, then the DEO must deny the total tax credit award amount.

General Production Queue

The bill substantially amends several of the additional tax credits (bonuses) for the queue:

- The bill repeals the tax credit bonus for underutilized regions. Instead, the bill creates a set aside of 20 percent of the tax credits in the general production queue for underutilized counties. An “underutilized county” is one in which less than \$500,000 in qualified expenditures occurred in the last 2 fiscal years. Any funds not certified after 10 months into the fiscal year become available for certification for other applications in the queue.
- The bill amends the tax credit bonus for productions that employ students and recent graduates to include wages paid to state residents that are participating in the Road to Independence Program, have developmental disabilities, or are veterans.
- The bill creates a tax credit bonus of 5 percent for productions that complete a permanent capital investment of at least \$2 million before the completion of the qualified production. This additional 5 percent may be applied to any qualified expenditures.
- The bill repeals the tax credit bonus for “off-season” certified productions.
- The bill repeals the tax credit bonus for productions that conduct principal photography at a qualified production facility or a qualified digital media production facility.
- The bill repeals the tax credit bonus for family-friendly certified theatrical or direct-to-video movies and video games.

The bill also repeals the limitation on tax credits awarded to television series. The bill clarifies that first priority in the general production queue for tax credits not yet certified is given to high-impact television series and high-impact digital media projects, and thereafter is determined on a first-come, first-served basis.

Due to these changes, a qualified production is limited to a total tax credit of 25 percent of its actual qualified expenditures.

Allocation of Tax Credits

The bill provides for the availability of additional tax credits in Fiscal Years 2014-15 and 2015-16 and extends the incentive program an additional 4 years. The bill provides for an additional \$50 million in tax credits in each Fiscal Year 2014-15 and 2015-16, and for \$50 million in tax credits in each Fiscal Year 2016-17, 2017-18, 2018-19, and 2019-20.

The bill provides an additional \$300 million in tax credits, for a total of \$596 million in credits for the 10 year incentive program. The bill again specifies that the additional credits provided are not available for certification prior to the fiscal year in which they are allocated.

The incentive program expires July 1, 2020.

Sections 9, 10, and 11 amend ss. 288.212.08(5)(q), 220.1899(3), and 477.0135(5), F.S., to correct cross-references and make conforming changes.

Section 12 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill provides a total of \$300 million in additional tax credits for the incentive program. The bill provides for an additional \$50 million in tax credits for each Fiscal Year 2014-15 and 2015-16, and for \$50 million in tax credits for each Fiscal Year 2016-17, 2017-18, 2018-19, and 2019-20. The credits are not permitted to be certified prior to the fiscal year in which they are allocated, except for applications for additional ordered season renewals for high-impact television series.

The Revenue Estimating Conference has not yet adopted a fiscal impact for this bill.

B. Private Sector Impact:

Indeterminate, but expected to be positive.

C. Government Sector Impact:

For Fiscal Year 2013-14, the OFE has an operating budget of approximately \$673,000 and five full-time-equivalent (FTE) positions (two of which are vacant).²⁵ Of the five FTE positions in the OFE, three of those positions and one OPS position are dedicated to

²⁵ The five FTEs include the Commissioner and a position at a field office in Los Angeles.

administration of the incentive program.²⁶ The DEO states that the current three FTEs dedicated to administration of the incentive program is sufficient to implement the bill, but the department would need an additional OPS position at a cost of \$30,000 annually.

The DEO estimates that EFI would require \$265,000 annually to implement the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 212.08, 220.1899, 288.125, 288.1254, 288.1258, 288.92, and 477.0135.

This bill amends, transfers, and renumbers the following sections of the Florida Statutes: 288.1251, 288.1252, and 288.1253.

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.

²⁶ DEO, 2014 Legislative Bill Analysis: SB 1640 (3/12/2014).



764962

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/07/2014	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Detert) recommended the following:

Senate Amendment

Delete line 917
and insert:

e. A qualified production determined by the department to be family-friendly, based on review of the script and review of the final release version, is eligible for an additional tax credit equal to 5 percent of its actual qualified expenditures. The department must consult with the Division of Film and Entertainment of Enterprise Florida, Inc., to make this



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11 determination. A family-friendly production is one that has
12 cross-generational appeal; would be considered suitable for
13 viewing by children age 5 or older; is appropriate in theme,
14 content, and language for a broad family audience; embodies a
15 responsible resolution of issues; and does not exhibit or imply
16 any act of smoking, sex, nudity, or vulgar or profane language.
17 f.g. A qualified production is not eligible for tax credits

FOR CONSIDERATION By the Committee on Commerce and Tourism

577-03678-14

20147128__

1 A bill to be entitled
 2 An act relating to the entertainment industry;
 3 amending s. 288.125, F.S.; specifying the application
 4 of the term "entertainment industry"; transferring,
 5 renumbering, and amending s. 288.1251, F.S.; renaming
 6 the Office of Film and Entertainment within the
 7 Department of Economic Opportunity as the Division of
 8 Film and Entertainment and housing the division within
 9 Enterprise Florida, Inc.; requiring Enterprise
 10 Florida, Inc., to conduct a national search for a film
 11 commissioner; requiring the president of Enterprise
 12 Florida, Inc., to hire the film commissioner; revising
 13 the requirements of the division's 5-year plan;
 14 transferring, renumbering, and amending s. 288.1252,
 15 F.S.; revising the powers and duties of the Florida
 16 Film and Entertainment Advisory Council; conforming
 17 provisions to changes made by the act; transferring,
 18 renumbering, and amending s. 288.1253, F.S.;

19 conforming provisions to changes made by the act;
 20 amending s. 288.1254, F.S.; redefining and deleting
 21 terms; requiring the department, rather than the
 22 Office of Film and Entertainment, to be responsible
 23 for applications for the entertainment industry
 24 financial incentive program; revising provisions
 25 relating to the application process, tax credit
 26 eligibility, election and distribution of tax credits,
 27 annual allocation of tax credits, forfeiture of tax
 28 credits, and annual report; extending the repeal date;
 29 conforming provisions to changes made by the act;

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30 specifying a date on which the applications on file
 31 with the department and not yet certified are deemed
 32 denied; amending s. 288.1258, F.S.; conforming
 33 provisions to changes made by the act; requiring the
 34 department to develop a standardized application form
 35 in cooperation with the division and other agencies;
 36 amending s. 288.92, F.S.; requiring Enterprise
 37 Florida, Inc., to have a division relating to film and
 38 entertainment; amending ss. 212.08, 220.1899, and
 39 477.0135, F.S.; conforming cross-references and
 40 provisions to changes made by the act; providing an
 41 effective date.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. Section 288.125, Florida Statutes, is amended to
 46 read:

47 288.125 Definition of "entertainment industry".—For the
 48 purposes of ss. 288.1254, 288.1258, 288.924, and 288.9241 ~~ss.~~
 49 ~~288.1251-288.1258~~, the term "entertainment industry" means those
 50 persons or entities engaged in the operation of motion picture
 51 or television studios or recording studios; those persons or
 52 entities engaged in the preproduction, production, or
 53 postproduction of motion pictures, made-for-television movies,
 54 television programming, digital media projects, commercial
 55 advertising, music videos, or sound recordings; and those
 56 persons or entities providing products or services directly
 57 related to the preproduction, production, or postproduction of
 58 motion pictures, made-for-television movies, television

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59 programming, digital media projects, commercial advertising,
60 music videos, or sound recordings, including, but not limited
61 to, the broadcast industry.

62 Section 2. Section 288.1251, Florida Statutes, is
63 transferred, renumbered as section 288.924, Florida Statutes,
64 and amended to read:

65 288.924 ~~288.1251~~ Promotion and development of entertainment
66 industry; Division Office of Film and Entertainment; creation;
67 purpose; powers and duties.—

68 (1) CREATION.—

69 ~~(a) The Division of Film and Entertainment is~~ There is
70 hereby created within Enterprise Florida, Inc., the department
71 the Office of Film and Entertainment for the purpose of
72 developing, marketing, promoting, and providing services to the
73 state's entertainment industry. The division shall serve as a
74 liaison between the entertainment industry and other state and
75 local governmental agencies, local film commissions, and labor
76 organizations.

77 ~~(2) (b) COMMISSIONER.—Enterprise Florida, Inc., The~~
78 ~~department~~ shall conduct a national search for a qualified
79 person to fill the position of Commissioner of Film and
80 Entertainment when the position is vacant. The president of
81 Enterprise Florida, Inc., executive director of the department
82 has the responsibility to hire the film commissioner.
83 Qualifications for the film commissioner include, but are not
84 limited to, the following:

85 ~~(a) 1-~~ A working knowledge of the equipment, personnel,
86 financial, and day-to-day production operations of the
87 industries to be served by the division Office of Film and

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88 ~~Entertainment;~~

89 ~~(b) 2-~~ Marketing and promotion experience related to the
90 film and entertainment industries to be served;

91 ~~(c) 3-~~ Experience working with a variety of individuals
92 representing large and small entertainment-related businesses,
93 industry associations, local community entertainment industry
94 liaisons, and labor organizations; and

95 ~~(d) 4-~~ Experience working with a variety of state and local
96 governmental agencies.

97 ~~(3) (2) POWERS AND DUTIES.—~~

98 (a) The Division Office of Film and Entertainment, in
99 performance of its duties, shall develop and+

100 1. In consultation with the Florida Film and Entertainment
101 Advisory Council, update a 5-year the strategic plan every 5
102 years to guide the activities of the division Office of Film and
103 Entertainment in the areas of entertainment industry
104 development, marketing, promotion, liaison services, field
105 office administration, and information. The plan shall+
106 a- be annual in construction and ongoing in nature.

107 1. At a minimum, the plan must discuss the following:

108 ~~a.b. Include recommendations relating to~~ The organizational
109 structure of the division, including any field offices outside
110 the state.

111 b. The coordination of the division with local or regional
112 offices maintained by counties and regions of the state, local
113 film commissions, and labor organizations, and the coordination
114 of such entities with each other to facilitate a working
115 relationship office.

116 c. Strategies to identify, solicit, and recruit

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117 entertainment production opportunities for the state, including
 118 implementation of programs for rural and urban areas designed to
 119 develop and promote the state's entertainment industry.
 120 d.e. Include An annual budget projection for the division
 121 office for each year of the plan.
 122 d. Include an operational model for the office to use in
 123 implementing programs for rural and urban areas designed to:
 124 (I) develop and promote the state's entertainment industry.
 125 (II) Have the office serve as a liaison between the
 126 entertainment industry and other state and local governmental
 127 agencies, local film commissions, and labor organizations.
 128 (III) Gather statistical information related to the state's
 129 entertainment industry.
 130 e.(IV) Provision of Provide information and service to
 131 businesses, communities, organizations, and individuals engaged
 132 in entertainment industry activities.
 133 (V) Administer field offices outside the state and
 134 coordinate with regional offices maintained by counties and
 135 regions of the state, as described in sub-sub-subparagraph (II),
 136 as necessary.
 137 f.e. Include Performance standards and measurable outcomes
 138 for the programs to be implemented by the division office.
 139 2. The plan shall be annually reviewed and approved by the
 140 board of directors of Enterprise Florida, Inc.
 141 f. Include an assessment of, and make recommendations on,
 142 the feasibility of creating an alternative public-private
 143 partnership for the purpose of contracting with such a
 144 partnership for the administration of the state's entertainment
 145 industry promotion, development, marketing, and service

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146 ~~programs.~~
 147 2. Develop, market, and facilitate a working relationship
 148 between state agencies and local governments in cooperation with
 149 local film commission offices for out-of-state and indigenous
 150 entertainment industry production entities.
 151 3. Implement a structured methodology prescribed for
 152 coordinating activities of local offices with each other and the
 153 commissioner's office.
 154 (b) The division shall also:
 155 1.4. Represent the state's indigenous entertainment
 156 industry to key decisionmakers within the national and
 157 international entertainment industry, and to state and local
 158 officials.
 159 2.5. Prepare an inventory and analysis of the state's
 160 entertainment industry, including, but not limited to,
 161 information on crew, related businesses, support services, job
 162 creation, talent, and economic impact and coordinate with local
 163 offices to develop an information tool for common use.
 164 6. Identify, solicit, and recruit entertainment production
 165 opportunities for the state.
 166 3.7. Assist rural communities and other small communities
 167 in the state in developing the expertise and capacity necessary
 168 for such communities to develop, market, promote, and provide
 169 services to the state's entertainment industry.
 170 (c)(b) The division Office of Film and Entertainment, in
 171 the performance of its duties, may:
 172 1. Conduct or contract for specific promotion and marketing
 173 functions, including, but not limited to, production of a
 174 statewide directory, production and maintenance of an Internet

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175 website, establishment and maintenance of a toll-free telephone
 176 number, organization of trade show participation, and
 177 appropriate cooperative marketing opportunities.

178 2. Conduct its affairs, carry on its operations, establish
 179 offices, and exercise the powers granted by this act in any
 180 state, territory, district, or possession of the United States.

181 3. Carry out any program of information, special events, or
 182 publicity designed to attract entertainment industry to Florida.

183 4. Develop relationships and leverage resources with other
 184 public and private organizations or groups in their efforts to
 185 publicize to the entertainment industry in this state, other
 186 states, and other countries the depth of Florida's entertainment
 187 industry talent, crew, production companies, production
 188 equipment resources, related businesses, and support services,
 189 including the establishment of and expenditure for a program of
 190 cooperative advertising with these public and private
 191 organizations and groups in accordance with the provisions of
 192 chapter 120.

193 5. Provide and arrange for reasonable and necessary
 194 promotional items and services for such persons as the division
 195 office deems proper in connection with the performance of the
 196 promotional and other duties of the division office.

197 6. Prepare an ~~annual~~ economic impact analysis on
 198 entertainment industry-related activities in the state.

199 7. Request or accept any grant, payment, or gift of funds
 200 or property made by this state, the United States, or any
 201 department or agency thereof, or by any individual, firm,
 202 corporation, municipality, county, or organization, for any or
 203 all of the purposes of the ~~Office of Film and Entertainment's~~ 5-

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204 year strategic plan or those permitted activities enumerated in
 205 this paragraph. ~~Such funds shall be deposited in the Grants and~~
 206 ~~Donations Trust Fund of the Executive Office of the Governor for~~
 207 ~~use by the Office of Film and Entertainment in carrying out its~~
 208 ~~responsibilities and duties as delineated in law. The division~~
 209 ~~office~~ may expend such funds in accordance with the terms and
 210 conditions of any such grant, payment, or gift in the pursuit of
 211 its administration or in support of fulfilling its duties and
 212 responsibilities. The division office shall separately account
 213 for the public funds and the private funds ~~deposited into the~~
 214 ~~trust fund.~~

215 Section 3. Section 288.1252, Florida Statutes, is
 216 transferred, renumbered as section 288.9242, Florida Statutes,
 217 and amended to read:

218 288.9242 ~~288.1252~~ Florida Film and Entertainment Advisory
 219 Council; ~~creation~~ purpose; membership; powers and duties.-

220 ~~(1) CREATION. There is created within the department, for~~
 221 ~~administrative purposes only, the Florida Film and Entertainment~~
 222 ~~Advisory Council.~~

223 (1)(2) PURPOSE.-The purpose of the Florida Film and
 224 Entertainment Advisory Council is to serve as an advisory body
 225 to the Division of Film and Entertainment department and to the
 226 ~~Office of Film and Entertainment~~ to provide ~~these offices with~~
 227 industry insight and expertise related to developing, marketing,
 228 and promoting, ~~and providing service to~~ the state's
 229 entertainment industry.

230 (2)(3) MEMBERSHIP.-

231 (a) The council shall consist of 17 members, 7 to be
 232 appointed by the Governor, 5 to be appointed by the President of

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233 the Senate, and 5 to be appointed by the Speaker of the House of
 234 Representatives.

235 (b) When making appointments to the council, the Governor,
 236 the President of the Senate, and the Speaker of the House of
 237 Representatives shall appoint persons who are residents of the
 238 state and who are highly knowledgeable of, active in, and
 239 recognized leaders in Florida's motion picture, television,
 240 video, sound recording, or other entertainment industries. These
 241 persons shall include, but not be limited to, representatives of
 242 local film commissions, representatives of entertainment
 243 associations, a representative of the broadcast industry,
 244 representatives of labor organizations in the entertainment
 245 industry, and board chairs, presidents, chief executive
 246 officers, chief operating officers, or persons of comparable
 247 executive position or stature of leading or otherwise important
 248 entertainment industry businesses and offices. Council members
 249 shall be appointed in such a manner as to equitably represent
 250 the broadest spectrum of the entertainment industry and
 251 geographic areas of the state.

252 (c) Council members shall serve for 4-year terms.

253 (d) Subsequent appointments shall be made by the official
 254 who appointed the council member whose expired term is to be
 255 filled.

256 (e) ~~A representative of Enterprise Florida, Inc.,~~ A
 257 representative of Workforce Florida, Inc., and a representative
 258 of VISIT Florida shall serve as ex officio, nonvoting members of
 259 the council, and shall be in addition to the 17 appointed
 260 members of the council.

261 (f) Absence from three consecutive meetings shall result in

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262 automatic removal from the council.

263 (g) A vacancy on the council shall be filled for the
 264 remainder of the unexpired term by the official who appointed
 265 the vacating member.

266 (h) No more than one member of the council may be an
 267 employee of any one company, organization, or association.

268 (i) Any member shall be eligible for reappointment but may
 269 not serve more than two consecutive terms.

270 ~~(3)-(4)~~ MEETINGS; ORGANIZATION.—

271 (a) The council shall meet no less frequently than once
 272 each quarter of the calendar year, but may meet more often as
 273 set by the council.

274 (b) The council shall annually elect from its appointed
 275 membership one member to serve as chair of the council and one
 276 member to serve as vice chair. The Division of Film and
 277 Entertainment Office of Film and Entertainment shall provide
 278 staff assistance to the council, which shall include, but not be
 279 limited to, keeping records of the proceedings of the council,
 280 and serving as custodian of all books, documents, and papers
 281 filed with the council.

282 (c) A majority of the members of the council shall
 283 constitute a quorum.

284 (d) Members of the council shall serve without
 285 compensation, but shall be entitled to reimbursement for per
 286 diem and travel expenses in accordance with s. 112.061 while in
 287 performance of their duties.

288 ~~(4)-(5)~~ POWERS AND DUTIES.—The Florida Film and
 289 Entertainment Advisory Council shall have all the powers
 290 necessary or convenient to carry out and effectuate the purposes

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291 and provisions of this act, including, but not limited to, the
292 power to:

293 (a) Adopt bylaws for the governance of its affairs and the
294 conduct of its business.

295 (b) Advise the Division of Film and Entertainment ~~and~~
296 ~~consult with the Office of Film and Entertainment~~ on the
297 content, development, and implementation of the 5-year strategic
298 plan ~~to guide the activities of the office.~~

299 (c) ~~Review the Commissioner of Film and Entertainment's~~
300 ~~administration of the programs related to the strategic plan,~~
301 ~~and Advise the Division of Film and Entertainment commissioner~~
302 ~~on its the programs and any changes that might be made to better~~
303 ~~meet the strategic plan.~~

304 (d) Consider and study the needs of the entertainment
305 industry for the purpose of advising the Division of Film and
306 Entertainment film commissioner and the department.

307 (e) ~~Identify and make recommendations on state agency and~~
308 ~~local government actions that may have an impact on the~~
309 ~~entertainment industry or that may appear to industry~~
310 ~~representatives as an official state or local action affecting~~
311 ~~production in the state, and advise the Division of Film and~~
312 Entertainment of such actions.

313 (f) Consider all matters submitted to it by the Division of
314 Film and Entertainment film commissioner and the department.

315 ~~(g) Advise and consult with the film commissioner and the~~
316 ~~department, at their request or upon its own initiative,~~
317 ~~regarding the promulgation, administration, and enforcement of~~
318 ~~all laws and rules relating to the entertainment industry.~~

319 (g)(h) Suggest policies and practices ~~for the conduct of~~

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320 ~~business by the Office of Film and Entertainment or by the~~
321 ~~department that will improve interaction with internal~~
322 ~~operations affecting the entertainment industry and will enhance~~
323 ~~the economic development in initiatives of the state for the~~
324 ~~industry.~~

325 ~~(i) Appear on its own behalf before boards, commissions,~~
326 ~~departments, or other agencies of municipal, county, or state~~
327 ~~government, or the Federal Government.~~

328 Section 4. Section 288.1253, Florida Statutes, is
329 transferred, renumbered as section 288.9241, Florida Statutes,
330 and amended to read:

331 288.9241 ~~288.1253~~ Travel and entertainment expenses.—

332 (1) As used in this section, the term "travel expenses"
333 means the actual, necessary, and reasonable costs of
334 transportation, meals, lodging, and incidental expenses normally
335 incurred by an employee of the Division Office of Film and
336 Entertainment, which costs are defined and prescribed by rules
337 adopted by the department, subject to approval by the Chief
338 Financial Officer.

339 (2) Notwithstanding ~~the provisions of~~ s. 112.061, the
340 department shall adopt rules by which the Division of Film and
341 Entertainment ~~it~~ may make expenditures by reimbursement to: the
342 Governor, the Lieutenant Governor, security staff of the
343 Governor or Lieutenant Governor, the Commissioner of Film and
344 Entertainment, or staff of the Division Office of Film and
345 Entertainment for travel expenses or entertainment expenses
346 incurred by such individuals solely and exclusively in
347 connection with the performance of the statutory duties of the
348 division Office of Film and Entertainment. The rules are subject

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349 to approval by the Chief Financial Officer before adoption. The
 350 rules shall require the submission of paid receipts, or other
 351 proof of expenditure prescribed by the Chief Financial Officer,
 352 with any claim for reimbursement.

353 (3) The Division Office of Film and Entertainment shall
 354 include in the annual report for the entertainment industry
 355 financial incentive program required under s. 288.1254(10) a
 356 report of the division's office's expenditures for the previous
 357 fiscal year. The report must consist of a summary of all travel,
 358 entertainment, and incidental expenses incurred within the
 359 United States and all travel, entertainment, and incidental
 360 expenses incurred outside the United States, as well as a
 361 summary of all successful projects that developed from such
 362 travel.

363 (4) The Division Office of Film and Entertainment and its
 364 employees and representatives, when authorized, may accept and
 365 use complimentary travel, accommodations, meeting space, meals,
 366 equipment, transportation, and any other goods or services
 367 necessary for or beneficial to the performance of the division's
 368 office's duties and purposes, so long as such acceptance or use
 369 is not in conflict with part III of chapter 112. The department
 370 shall, by rule, develop internal controls to ensure that such
 371 goods or services accepted or used pursuant to this subsection
 372 are limited to those that will assist solely and exclusively in
 373 the furtherance of the division's office's goals and are in
 374 compliance with part III of chapter 112.

375 (5) Any claim submitted under this section is not required
 376 to be sworn to before a notary public or other officer
 377 authorized to administer oaths, but any claim authorized or

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378 required to be made under any provision of this section shall
 379 contain a statement that the expenses were actually incurred as
 380 necessary travel or entertainment expenses in the performance of
 381 official duties of the Division Office of Film and Entertainment
 382 and shall be verified by written declaration that it is true and
 383 correct as to every material matter. Any person who willfully
 384 makes and subscribes to any claim which he or she does not
 385 believe to be true and correct as to every material matter or
 386 who willfully aids or assists in, procures, or counsels or
 387 advises with respect to, the preparation or presentation of a
 388 claim pursuant to this section that is fraudulent or false as to
 389 any material matter, whether such falsity or fraud is with the
 390 knowledge or consent of the person authorized or required to
 391 present the claim, commits a misdemeanor of the second degree,
 392 punishable as provided in s. 775.082 or s. 775.083. Whoever
 393 receives a reimbursement by means of a false claim is civilly
 394 liable, in the amount of the overpayment, for the reimbursement
 395 of the public fund from which the claim was paid.

396 Section 5. Section 288.1254, Florida Statutes, is amended
 397 to read:

398 288.1254 Entertainment industry financial incentive
 399 program.—

400 (1) DEFINITIONS.—As used in this section, the term:

401 (a) "Certified production" means a qualified production
 402 that has tax credits allocated to it by the department based on
 403 the production's estimated qualified expenditures, up to the
 404 production's maximum certified amount of tax credits, by the
 405 department. The term does not include a production if its first
 406 day of principal photography or project start date in this state

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407 occurs before the production is certified by the department,
 408 unless the production spans more than 1 fiscal year, was a
 409 certified production on its first day of principal photography
 410 or project start date in this state, and submits an application
 411 for continuing the same production for the subsequent fiscal
 412 year.

413 (b) "Digital media project" means a production of
 414 interactive entertainment that is produced for distribution in
 415 commercial or educational markets. The term includes a video
 416 game or production intended for Internet or wireless
 417 distribution, an interactive website, digital animation, and
 418 visual effects, including, but not limited to, three-dimensional
 419 movie productions and movie conversions. The term does not
 420 include a production that contains content that is obscene as
 421 defined in s. 847.001.

422 (c) "High-impact digital media project" means a digital
 423 media project that has qualified expenditures greater than \$4.5
 424 million.

425 (d) "High-impact television series" means:

426 1. A production created to run multiple production seasons
 427 which has and having an estimated order of at least seven
 428 episodes per season and qualified expenditures of at least
 429 \$625,000 per episode; or

430 2. A telenovela that has qualified expenditures of more
 431 than \$4.5 million; a minimum of 45 principal photography days
 432 filmed in this state; a production cast, including background
 433 actors, and crew of which at least 90 percent are legal
 434 residents of this state; and at least 90 percent of its
 435 production occurring in this state.

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436 ~~(e) "Off-season certified production" means a feature film,~~
 437 ~~independent film, or television series or pilot that films 75~~
 438 ~~percent or more of its principal photography days from June 1~~
 439 ~~through November 30.~~

440 ~~(e) (f)~~ "Principal photography" means the filming of major
 441 or significant components of the qualified production which
 442 involve lead actors.

443 ~~(f) (g)~~ "Production" means a theatrical, ~~or~~ direct-to-video,
 444 or direct-to-internet motion picture; a made-for-television
 445 motion picture; visual effects or digital animation sequences
 446 produced in conjunction with a motion picture; a commercial; a
 447 music video; an industrial or educational film; an infomercial;
 448 a documentary film; a television pilot program; a presentation
 449 for a television pilot program; a television series, including,
 450 but not limited to, a drama, a reality show, a comedy, a soap
 451 opera, a telenovela, a game show, an awards show, or a
 452 miniseries production; a direct-to-internet television series;
 453 or a digital media project by the entertainment industry. One
 454 season of a television series is considered one production. The
 455 term does not include a weather or market program; a sporting
 456 event or a sporting event broadcast; a gala; a production that
 457 solicits funds; a home shopping program; a political program; a
 458 political documentary; political advertising; a gambling-related
 459 project or production; a concert production; a local, regional,
 460 or Internet-distributed-only news show or current-events show; a
 461 sports news or sports recap show; a pornographic production; or
 462 any production deemed obscene under chapter 847. A production
 463 may be produced on or by film, tape, or otherwise by means of a
 464 motion picture camera; electronic camera or device; tape device;

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465 computer; any combination of the foregoing; or any other means,
466 method, or device.

467 (g)~~(h)~~ "Production expenditures" means the costs of
468 tangible and intangible property used for, and services
469 performed primarily and customarily in, production, including
470 preproduction and postproduction, but excluding costs for
471 development, marketing, and distribution. The term includes, but
472 is not limited to:

473 1. Wages, salaries, or other compensation paid to legal
474 residents of this state, including amounts paid through payroll
475 service companies, for technical and production crews,
476 directors, producers, and performers.

477 2. Net expenditures for sound stages, backlots, production
478 editing, digital effects, sound recordings, sets, and set
479 construction.

480 3. Net expenditures for rental equipment, including, but
481 not limited to, cameras and grip or electrical equipment.

482 4. Up to \$300,000 of the costs of newly purchased computer
483 software and hardware unique to the project, including servers,
484 data processing, and visualization technologies, which are
485 located in and used exclusively in the state for the production
486 of digital media.

487 5. Expenditures for meals, travel, and accommodations. For
488 purposes of this paragraph, the term "net expenditures" means
489 the actual amount of money a qualified production spent for
490 equipment or other tangible personal property, after subtracting
491 any consideration received for reselling or transferring the
492 item after the qualified production ends, if applicable.

493 (h)~~(i)~~ "Qualified expenditures" means production

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494 expenditures incurred in this state by a qualified production
495 for:

496 1. Goods purchased or leased from, or services, including,
497 but not limited to, insurance costs and bonding, payroll
498 services, and legal fees, which are provided by, a vendor or
499 supplier in this state that is registered with the Department of
500 State or the Department of Revenue, has a physical location in
501 this state, and employs one or more legal residents of this
502 state. This does not include rebilled goods or services provided
503 by an in-state company from out-of-state vendors or suppliers.
504 When services provided by the vendor or supplier include
505 personal services or labor, only personal services or labor
506 provided by residents of this state, evidenced by the required
507 documentation of residency in this state, qualify.

508 2. Payments to legal residents of this state in the form of
509 salary, wages, or other compensation up to a maximum of \$400,000
510 per resident unless otherwise specified in subsection (4). A
511 completed declaration of residency in this state must accompany
512 the documentation submitted to the department office for
513 reimbursement.

514 For a qualified production involving an event, such as an awards
515 show, the term does not include expenditures solely associated
516 with the event itself and not directly required by the
517 production. The term does not include expenditures incurred
518 before certification, with the exception of those incurred for a
519 commercial, a music video, or the pickup of additional episodes
520 of a high-impact television series within a single season. Under
521 no circumstances may the qualified production include in the
522

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523 calculation for qualified expenditures the original purchase
524 price for equipment or other tangible property that is later
525 sold or transferred by the qualified production for
526 consideration. In such cases, the qualified expenditure is the
527 net of the original purchase price minus the consideration
528 received upon sale or transfer.

529 ~~(i)-(j)~~ "Qualified production" means a production in this
530 state meeting the requirements of this section. The term does
531 not include a production:

532 1. In which, ~~for the first 2 years of the incentive~~
533 ~~program, less than 50 percent, and thereafter, less than 70~~ 60
534 percent, of the positions that make up its production cast and
535 below-the-line production crew, or, in the case of digital media
536 projects, less than 80 75 percent of such positions, are filled
537 by legal residents of this state, whose residency is
538 demonstrated by a valid Florida driver ~~driver's~~ license or other
539 state-issued identification confirming residency, or students
540 enrolled full-time in a film-and-entertainment-related course of
541 study at an institution of higher education in this state; or

542 2. That contains obscene content as defined in s.
543 847.001(10).

544 ~~(j)-(k)~~ "Qualified production company" means a corporation,
545 limited liability company, partnership, or other legal entity
546 engaged in one or more productions in this state.

547 ~~(l)~~ "Qualified digital media production facility" means a
548 ~~building or series of buildings and their improvements in which~~
549 ~~data processing, visualization, and sound synchronization~~
550 ~~technologies are regularly applied for the production of~~
551 ~~qualified digital media projects or the digital animation~~

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552 ~~components of qualified productions.~~

553 ~~(m) "Qualified production facility" means a building or~~
554 ~~complex of buildings and their improvements and associated~~
555 ~~backlot facilities in which regular filming activity for film or~~
556 ~~television has occurred for a period of no less than 1 year and~~
557 ~~which contain at least one sound stage of at least 7,800 square~~
558 ~~feet.~~

559 ~~(n) "Regional population ratio" means the ratio of the~~
560 ~~population of a region to the population of this state. The~~
561 ~~regional population ratio applicable to a given fiscal year is~~
562 ~~the regional population ratio calculated by the Office of Film~~
563 ~~and Entertainment using the latest official estimates of~~
564 ~~population certified under s. 186.901, available on the first~~
565 ~~day of that fiscal year.~~

566 ~~(o) "Regional tax credit ratio" means a ratio the numerator~~
567 ~~of which is the sum of tax credits awarded to productions in a~~
568 ~~region to date plus the tax credits certified, but not yet~~
569 ~~awarded, to productions currently in that region and the~~
570 ~~denominator of which is the sum of all tax credits awarded in~~
571 ~~the state to date plus all tax credits certified, but not yet~~
572 ~~awarded, to productions currently in the state. The regional tax~~
573 ~~credit ratio applicable to a given year is the regional tax~~
574 ~~credit ratio calculated by the Office of Film and Entertainment~~
575 ~~using credit award and certification information available on~~
576 ~~the first day of that fiscal year.~~

577 ~~(p) "Underutilized region" for a given state fiscal year~~
578 ~~means a region with a regional tax credit ratio applicable to~~
579 ~~that fiscal year that is lower than its regional population~~
580 ~~ratio applicable to that fiscal year. The following regions are~~

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581 established for purposes of making this determination:

582 1. ~~North Region, consisting of Alachua, Baker, Bay,~~
 583 ~~Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,~~
 584 ~~Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,~~
 585 ~~Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,~~
 586 ~~Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,~~
 587 ~~Union, Wakulla, Walton, and Washington Counties.~~

588 2. ~~Central East Region, consisting of Brevard, Flagler,~~
 589 ~~Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.~~
 590 ~~Lucie, and Volusia Counties.~~

591 3. ~~Central West Region, consisting of Citrus, Hernando,~~
 592 ~~Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,~~
 593 ~~and Sumter Counties.~~

594 4. ~~Southwest Region, consisting of Charlotte, Collier,~~
 595 ~~DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.~~

596 5. ~~Southeast Region, consisting of Broward, Martin, Miami-~~
 597 ~~Dade, Monroe, and Palm Beach Counties.~~

598 (k)(g) "Interactive website" means a website or group of
 599 websites that includes interactive and downloadable content, and
 600 creates 25 new Florida full-time equivalent positions operating
 601 from a principal place of business located within Florida. An
 602 interactive website or group of websites must provide
 603 documentation that those jobs were created to the department
 604 ~~before Office of Film and Entertainment prior to~~ the award of
 605 tax credits. Each subsequent program application must provide
 606 proof that 25 Florida full-time equivalent positions are
 607 maintained.

608 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
 609 industry financial incentive program is created ~~within the~~

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610 ~~Office of Film and Entertainment.~~ The purpose of this program is
 611 to encourage the use of this state as a site for entertainment
 612 production, for filming, and for the digital production of
 613 entertainment films, and to develop and sustain the workforce
 614 and infrastructure for film, digital media, and entertainment
 615 production.

616 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

617 (a) *Program application.*—A qualified production company
 618 producing a qualified production in this state may submit a
 619 program application to the department Office of Film and
 620 ~~Entertainment~~ for the purpose of determining qualification for
 621 an award of tax credits authorized by this section no earlier
 622 than 150 ~~180~~ days before the first day of principal photography
 623 or project start date in this state. The applicant shall provide
 624 the department Office of Film and Entertainment with information
 625 required to determine whether the production is a qualified
 626 production and to determine the qualified expenditures and other
 627 information necessary for the department office to determine
 628 eligibility for the tax credit.

629 (b) *Required documentation.*—The department Office of Film
 630 ~~and Entertainment~~ shall develop an application form for
 631 qualifying an applicant as a qualified production. The form must
 632 include, but need not be limited to, production-related
 633 information concerning employment of residents in this state, a
 634 detailed budget of planned qualified expenditures and aggregate
 635 nonqualified expenditures in this state, proof of financing for
 636 the production, proof of local financial commitment, and the
 637 applicant's signed affirmation that the information on the form
 638 has been verified and is correct. The Division Office of Film

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639 and Entertainment of Enterprise Florida, Inc., and local film
640 commissions shall distribute the form.

641 (c) ~~Application process.~~—The ~~department Office of Film and~~
642 ~~Entertainment~~ shall establish a process by which an application
643 is accepted and reviewed and by which tax credit eligibility and
644 award amount are determined. The ~~department may consult with the~~
645 ~~Division Office~~ of Film and Entertainment of Enterprise Florida,
646 Inc., or may request assistance from a duly appointed local film
647 commission in determining compliance with this section.

648 1. Applications may be accepted until, and shall include,
649 the application that causes the amount of tax credit eligibility
650 requested to exceed 125 percent of tax credits allocated for the
651 fiscal year under paragraph (7)(a). Applications received after
652 all tax credits allocated for the fiscal year have been
653 certified shall be assigned a queue number that is determined by
654 the date and time the application was received by the
655 department. Applications in the queue are deemed denied on June
656 30 of each year.

657 2. A ~~certified~~ high-impact television series may submit an
658 initial application for no more than two successive seasons,
659 notwithstanding the fact that the second season has successive
660 seasons have not been ordered. The ~~successive season's~~ qualified
661 expenditure amounts for the second season shall be based on the
662 current season's estimated qualified expenditures. Upon the
663 completion of production of each season, a high-impact
664 television series may submit an application for no more than one
665 additional season. To be certified for credits, the applicant
666 must provide proof that the additional season has been ordered
667 as part of the application for the additional season.

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668 3. An applicant must submit proof of financial commitment
669 by each county in which the applicant will engage in principal
670 photography or project production. The financial commitment must
671 be a cash match equal to 10 percent of the total amount of
672 credit applied for by the applicant. If at least 70 percent of
673 the production occurs within a county designated as an
674 underutilized county at the time that the production is
675 certified, the cash match must equal 5 percent of the total
676 amount of credit applied for by the applicant. The term
677 "underutilized county" means a county in which less than
678 \$500,000 in qualified expenditures were made in the last 2
679 fiscal years.

680 (d) ~~Certification.~~—

681 1. The ~~department Office of Film and Entertainment~~ shall
682 review the application within 15 business days after receipt.
683 Upon the department's ~~its~~ determination, in consultation with
684 the Division of Film and Entertainment of Enterprise Florida,
685 Inc., that the application contains all the information required
686 by this subsection and meets the criteria set out in this
687 section, the ~~department Office of Film and Entertainment~~ shall
688 deny ~~qualify the applicant and recommend to the department that~~
689 the applicant be certified for the maximum tax credit award
690 amount. ~~Within 5 business days after receipt of the~~
691 recommendation, the department shall reject the application
692 recommendation or certify the maximum recommended tax credit
693 award in an amount reduced by 5 percent or 10 percent, as
694 required in subparagraph (c)3., if any funds are available, to
695 the applicant and to the executive director of the Department of
696 Revenue.

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697 2. In a fiscal year, the department may certify only the
 698 amount of tax credits allocated for that fiscal year, as
 699 provided under subsection (7). However, the department may
 700 certify a high-impact television series for additional tax
 701 credits allocated in a future fiscal year if the high-impact
 702 television series has an executed contract or order for season
 703 renewal effective for the future fiscal year from which tax
 704 credits would be allocated. The department may certify one
 705 additional ordered season per future fiscal year in which the
 706 qualified production would occur.

707 (e) Employment.—Upon certification by the department, the
 708 production must provide the department and the Division of Film
 709 and Entertainment of Enterprise Florida, Inc., with a single
 710 point of contact and information related to the production's
 711 needs for cast, crew, contractors, and vendors. The division
 712 shall publish this information online, including the type of
 713 production, the projected start date of the production, the
 714 locations in this state for such production, and the e-mail or
 715 other contact information for the production's point of contact.
 716 The department, in consultation with the division, may adopt
 717 procedures for a production to post such information itself
 718 within 7 days after certification.

719 (f)(e) Grounds for denial.—

720 1. The department Office of Film and Entertainment shall
 721 deny an application if it determines that the application is not
 722 complete, ~~or~~ the production or application does not meet the
 723 requirements of this section, or there are no additional credits
 724 for certification as provided under paragraph (c). ~~Within 90~~
 725 days after submitting a program application, except with respect

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726 ~~to applications in the independent and emerging media queue, a~~
 727 ~~production must provide proof of project financing to the Office~~
 728 ~~of Film and Entertainment, otherwise the project is deemed~~
 729 ~~denied and withdrawn. A project that has been denied withdrawn~~
 730 ~~may submit a new application upon providing the Office of Film~~
 731 ~~and Entertainment proof of financing.~~

732 2. The department shall deny a certified production upon
 733 any circumstance affecting the reasonable schedule or timely
 734 completion of the certified production, including a break in
 735 production, change in the production schedule, or loss of
 736 financing for the production. A certified production must notify
 737 the department within 5 days after any circumstance affecting
 738 its timely completion. A certified production may not be denied
 739 if it provides the department with proof of replacement
 740 financing within 10 days after the loss of financing for the
 741 production. To keep a reasonable schedule, the certified
 742 production must begin principal photography or the production
 743 project in this state no more than 45 calendar days before or
 744 after the principal photography or project start date provided
 745 in the production's program application.

746 ~~(g)(f) Verification of actual qualified expenditures.—~~

747 1. The department, in consultation with the Division of
 748 Film and Entertainment, Office of Film and Entertainment shall
 749 develop a process to verify the actual qualified expenditures of
 750 a certified production. The process must require:

751 a. A certified production to submit, within 180 days ~~in a~~
 752 timely manner after production ends in this state and after
 753 making all of its qualified expenditures in this state, data
 754 substantiating each qualified expenditure, including

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755 documentation on the net expenditure on equipment and other
756 tangible personal property by the qualified production, to an
757 independent certified public accountant licensed in this state;

758 b. Such accountant to conduct a compliance audit, at the
759 certified production's expense, to substantiate each qualified
760 expenditure and submit the results as a report, along with the
761 required substantiating data, to the department Office of Film
762 ~~and Entertainment~~; and

763 c. The ~~department Office of Film and Entertainment~~ to
764 review the accountant's submittal and verify report to the
765 ~~department~~ the final ~~verified~~ amount of actual qualified
766 expenditures made by the certified production.

767 2. The department shall verify that the qualified
768 production received the local financial commitment required
769 under paragraph (c). If the qualified production did not meet
770 this requirement, the department shall deny the total tax credit
771 award amount.

772 3.2- The department shall determine and approve the final
773 tax credit award amount to each certified applicant based on the
774 final verified amount of actual qualified expenditures and
775 evidence that the qualified production met the requirements of
776 this section. The department shall notify the executive director
777 of the Department of Revenue in writing that the certified
778 production has met the requirements of the incentive program and
779 of the final amount of the tax credit award. The final tax
780 credit award amount may not exceed the maximum tax credit award
781 amount certified under paragraph (d).

782 (h)(g) Promoting Florida.-The department Office of Film and
783 ~~Entertainment~~ shall ensure that, as a condition of receiving a

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784 tax credit under this section, marketing materials promoting
785 this state as a tourist destination or film and entertainment
786 production destination are included, when appropriate, at no
787 cost to the state, which must, at a minimum, include placement
788 of a "Filmed in Florida" or "Produced in Florida" logo in the
789 opening titles and end credits. The placement of a "Filmed in
790 Florida" or "Produced in Florida" logo on all packaging material
791 and hard media is also required, unless such placement is
792 prohibited by licensing or other contractual obligations. The
793 size and placement of such logo shall be commensurate to other
794 logos used. If no logos are used, the statement "Filmed in
795 Florida using Florida's Entertainment Industry Financial
796 Incentive," or a similar statement approved by the Division
797 Office of Film and Entertainment of Enterprise Florida, Inc.,
798 shall be used. The Division Office of Film and Entertainment of
799 Enterprise Florida, Inc., shall provide a logo and supply it for
800 the purposes specified in this paragraph. A 30-second "Visit
801 Florida" promotional video must also be included on all optical
802 disc formats of a film, unless such placement is prohibited by
803 licensing or other contractual obligations. The 30-second
804 promotional video shall be approved and provided by the Florida
805 Tourism Industry Marketing Corporation in consultation with the
806 Division Commissioner of Film and Entertainment of Enterprise
807 Florida, Inc.

808 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
809 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
810 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
811 ACQUISITIONS.-

812 (a) *Priority for tax credit award.-The priority of a*

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813 qualified production for tax credit awards must be determined on
814 a first-come, first-served basis within its appropriate queue.
815 Each qualified production must be placed into the appropriate
816 queue and is subject to the requirements of that queue.

817 (b) *Tax credit eligibility.*—

818 1. General production queue.—Ninety-four percent of tax
819 credits authorized pursuant to subsection (7) ~~(6)~~ in any state
820 fiscal year must be dedicated to the general production queue.
821 The general production queue consists of all qualified
822 productions other than those eligible for the commercial and
823 music video queue or the independent and emerging media
824 production queue. A qualified production that demonstrates a
825 minimum of \$625,000 in qualified expenditures is eligible for
826 tax credits equal to 20 percent of its actual qualified
827 expenditures, up to a maximum of \$8 million. A qualified
828 production that incurs qualified expenditures during multiple
829 state fiscal years may combine those expenditures to satisfy the
830 \$625,000 minimum threshold.

831 a. For the first 10 months of each fiscal year, 20 percent
832 of the credits in the general production queue shall be set
833 aside for qualified productions in underutilized counties. A
834 qualified production eligible for these funds is a production
835 for which at least 70 percent of its principal photography days
836 occur within an underutilized county designated as an
837 underutilized county at the time that the production is
838 certified. The term “underutilized county” means a county in
839 which less than \$500,000 in qualified expenditures were made in
840 the last 2 fiscal years. Any funds not yet certified from this
841 set-aside at the end of the 10-month period may be certified to

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842 ~~qualified productions pursuant to this section An off-season~~
843 ~~certified production that is a feature film, independent film,~~
844 ~~or television series or pilot is eligible for an additional 5~~
845 ~~percent tax credit on actual qualified expenditures. An off-~~
846 ~~season certified production that does not complete 75 percent of~~
847 ~~principal photography due to a disruption caused by a hurricane~~
848 ~~or tropical storm may not be disqualified from eligibility for~~
849 ~~the additional 5 percent credit as a result of the disruption.~~

850 ~~b. If more than 45 percent of the sum of total tax credits~~
851 ~~initially certified and awarded after April 1, 2012, total tax~~
852 ~~credits initially certified after April 1, 2012, but not yet~~
853 ~~awarded, and total tax credits available for certification after~~
854 ~~April 1, 2012, but not yet certified has been awarded for high-~~
855 ~~impact television series, then no high-impact television series~~
856 ~~is eligible for tax credits under this subparagraph. Tax credits~~
857 ~~initially certified for a high-impact television series after~~
858 ~~April 1, 2012, may not be awarded if the award will cause the~~
859 ~~percentage threshold in this sub-subparagraph to be exceeded.~~
860 ~~This sub-subparagraph does not prohibit the award of tax credits~~
861 ~~certified before April 1, 2012, for high-impact television~~
862 ~~series.~~

863 ~~b.e.~~ Subject to sub-subparagraph b., First priority in the
864 queue for tax credit awards not yet certified shall be given to
865 high-impact television series and high-impact digital media
866 projects. For the purposes of determining priority between a
867 high-impact television series and a high-impact digital media
868 project, the first position must go to the first application
869 received. Thereafter, priority shall be determined by
870 ~~alternating between a high-impact television series and a high-~~

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871 ~~impact digital media project on a first-come, first-served~~
 872 ~~basis. However, if the Office of Film and Entertainment receives~~
 873 ~~an application for a high-impact television series or high-~~
 874 ~~impact digital media project that would be certified but for the~~
 875 ~~alternating priority, the office may certify the project as~~
 876 ~~being in the priority position if an application that would~~
 877 ~~normally be the priority position is not received within 5~~
 878 ~~business days.~~

879 ~~d. A qualified production for which at least 67 percent of~~
 880 ~~its principal photography days occur within a region designated~~
 881 ~~as an underutilized region at the time that the production is~~
 882 ~~certified is eligible for an additional 5 percent tax credit.~~

883 ~~c.e.~~ A qualified production is eligible for an additional
 884 15 percent tax credit on qualified expenditures that are wages,
 885 salaries, or other compensation paid to the following
 886 individuals employed by the qualified production: ~~that employs~~
 887 students enrolled full-time in a film and entertainment-related
 888 or digital media-related course of study at an institution of
 889 higher education in this state, individuals participating in the
 890 Road-to-Independence Program under s. 409.1451, individuals with
 891 developmental disabilities as defined under s. 393.063 residing
 892 in this state, veterans residing in this state, and individuals
 893 ~~is eligible for an additional 15 percent tax credit on qualified~~
 894 ~~expenditures that are wages, salaries, or other compensation~~
 895 ~~paid to such students. The additional 15 percent tax credit is~~
 896 ~~also applicable to persons hired within 12 months after~~
 897 ~~graduating from a film and entertainment-related or digital~~
 898 ~~media-related course of study at an institution of higher~~
 899 ~~education in this state. The additional 15 percent tax credit~~

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900 ~~applies to qualified expenditures that are wages, salaries, or~~
 901 ~~other compensation paid to such recent graduates for 1 year~~
 902 ~~after the date of hiring.~~

903 ~~f. A qualified production for which 50 percent or more of~~
 904 ~~its principal photography occurs at a qualified production~~
 905 ~~facility, or a qualified digital media project or the digital~~
 906 ~~animation component of a qualified production for which 50~~
 907 ~~percent or more of the project's or component's qualified~~
 908 ~~expenditures are related to a qualified digital media production~~
 909 ~~facility, is eligible for an additional 5 percent tax credit on~~
 910 ~~actual qualified expenditures for production activity at that~~
 911 ~~facility.~~

912 ~~d. A qualified production that completes a capital~~
 913 ~~investment of at least \$2 million before the completion of the~~
 914 ~~qualified production is eligible for an additional 5 percent tax~~
 915 ~~credit. The capital investment must be permanent and must remain~~
 916 ~~in this state after the production ends in this state.~~

917 ~~e.g.~~ A qualified production is not eligible for tax credits
 918 provided under this paragraph totaling more than 25 percent ~~30~~
 919 percent of its actual qualified expenses.

920 2. Commercial and music video queue.—Three percent of tax
 921 credits authorized pursuant to subsection (7) ~~(6)~~ in any state
 922 fiscal year must be dedicated to the commercial and music video
 923 queue. A qualified production company that produces national or
 924 regional commercials or music videos may be eligible for a tax
 925 credit award if it demonstrates a minimum of \$100,000 in
 926 qualified expenditures per national or regional commercial or
 927 music video and exceeds a combined threshold of \$500,000 after
 928 combining actual qualified expenditures from qualified

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929 commercials and music videos during a single state fiscal year.
 930 After a qualified production company that produces commercials,
 931 music videos, or both reaches the threshold of \$500,000, it is
 932 eligible to apply for certification for a tax credit award. The
 933 maximum credit award shall be equal to 20 percent of its actual
 934 qualified expenditures up to a maximum of \$500,000. If there is
 935 a surplus at the end of a fiscal year after the department
 936 ~~Office of Film and Entertainment~~ certifies and determines the
 937 tax credits for all qualified commercial and video projects,
 938 such surplus tax credits shall be carried forward to the
 939 following fiscal year and are available to any eligible
 940 qualified productions under the general production queue.

941 3. Independent and emerging media production queue.—Three
 942 percent of tax credits authorized pursuant to subsection (7) ~~(6)~~
 943 in any state fiscal year must be dedicated to the independent
 944 and emerging media production queue. This queue is intended to
 945 encourage independent film and emerging media production in this
 946 state. Any qualified production, excluding commercials,
 947 infomercials, or music videos, which demonstrates at least
 948 \$100,000, but not more than \$625,000, in total qualified
 949 expenditures is eligible for tax credits equal to 20 percent of
 950 its actual qualified expenditures. If a surplus exists at the
 951 end of a fiscal year after the department ~~Office of Film and~~
 952 ~~Entertainment~~ certifies and determines the tax credits for all
 953 qualified independent and emerging media production projects,
 954 such surplus tax credits shall be carried forward to the
 955 following fiscal year and are available to any eligible
 956 qualified productions under the general production queue.

957 ~~4. Family-friendly productions. A certified theatrical or~~

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958 ~~direct-to-video motion picture production or video game~~
 959 ~~determined by the Commissioner of Film and Entertainment, with~~
 960 ~~the advice of the Florida Film and Entertainment Advisory~~
 961 ~~Council, to be family-friendly, based on review of the script~~
 962 ~~and review of the final release version, is eligible for an~~
 963 ~~additional tax credit equal to 5 percent of its actual qualified~~
 964 ~~expenditures. Family-friendly productions are those that have~~
 965 ~~cross-generational appeal; would be considered suitable for~~
 966 ~~viewing by children age 5 or older; are appropriate in theme,~~
 967 ~~content, and language for a broad family audience; embody a~~
 968 ~~responsible resolution of issues; and do not exhibit or imply~~
 969 ~~any act of smoking, sex, nudity, or vulgar or profane language.~~

970 ~~(c) Withdrawal of tax credit eligibility. A qualified or~~
 971 ~~certified production must continue on a reasonable schedule,~~
 972 ~~which includes beginning principal photography or the production~~
 973 ~~project in this state no more than 45 calendar days before or~~
 974 ~~after the principal photography or project start date provided~~
 975 ~~in the production's program application. The department shall~~
 976 ~~withdraw the eligibility of a qualified or certified production~~
 977 ~~that does not continue on a reasonable schedule.~~

978 ~~(c)(d) Election and distribution of tax credits.—~~

979 1. A certified production company receiving a tax credit
 980 award under this section shall, at the time the credit is
 981 awarded by the department after production is completed and all
 982 requirements to receive a credit award have been met, make an
 983 irrevocable election to apply the credit against taxes due under
 984 chapter 220, against state taxes collected or accrued under
 985 chapter 212, or against a stated combination of the two taxes.
 986 The election is binding upon any distributee, successor,

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987 transferee, or purchaser. The department shall notify the
988 Department of Revenue of any election made pursuant to this
989 paragraph.

990 2. A qualified production company is eligible for tax
991 credits against its sales and use tax liabilities and corporate
992 income tax liabilities as provided in this section. However, tax
993 credits awarded under this section may not be claimed against
994 sales and use tax liabilities or corporate income tax
995 liabilities for any tax period beginning before July 1, 2011,
996 regardless of when the credits are applied for or awarded.

997 (d) ~~(e)~~ *Tax credit carryforward.*—If the certified production
998 company cannot use the entire tax credit in the taxable year or
999 reporting period in which the credit is awarded, any excess
1000 amount may be carried forward to a succeeding taxable year or
1001 reporting period. A tax credit applied against taxes imposed
1002 under chapter 212 or may be carried forward for a maximum of 5
1003 ~~years after the date the credit is awarded. A tax credit applied~~
1004 ~~against taxes imposed under~~ chapter 220 may be carried forward
1005 for a maximum of 5 years after the date the credit is awarded,
1006 after which the credit expires and may not be used.

1007 (e) ~~(f)~~ *Consolidated returns.*—A certified production company
1008 that files a Florida consolidated return as a member of an
1009 affiliated group under s. 220.131(1) may be allowed the credit
1010 on a consolidated return basis up to the amount of the tax
1011 imposed upon the consolidated group under chapter 220.

1012 (f) ~~(g)~~ *Partnership and noncorporate distributions.*—A
1013 qualified production company that is not a corporation as
1014 defined in s. 220.03 may elect to distribute tax credits awarded
1015 under this section to its partners or members in proportion to

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1016 their respective distributive income or loss in the taxable year
1017 in which the tax credits were awarded.

1018 (g) ~~(h)~~ *Mergers or acquisitions.*—Tax credits available under
1019 this section to a certified production company may succeed to a
1020 surviving or acquiring entity subject to the same conditions and
1021 limitations as described in this section; however, they may not
1022 be transferred again by the surviving or acquiring entity.

1023 (5) TRANSFER OF TAX CREDITS.—

1024 (a) *Authorization.*—Upon application to ~~the Office of Film~~
1025 ~~and Entertainment~~ and approval by the department, a certified
1026 production company, or a partner or member that has received a
1027 distribution under paragraph (4) (f) ~~(4) (g)~~, may elect to
1028 transfer, in whole or in part, any unused credit amount granted
1029 under this section. An election to transfer any unused tax
1030 credit amount under chapter 212 or chapter 220 must be made no
1031 later than 5 years after the date the credit is awarded, after
1032 which period the credit expires and may not be used. The
1033 department shall notify the Department of Revenue of the
1034 election and transfer.

1035 (b) *Number of transfers permitted.*—A certified production
1036 company that elects to apply a credit amount against taxes
1037 remitted under chapter 212 is permitted a one-time transfer of
1038 unused credits to one transferee. A certified production company
1039 that elects to apply a credit amount against taxes due under
1040 chapter 220 is permitted a one-time transfer of unused credits
1041 to no more than four transferees, and such transfers must occur
1042 in the same taxable year.

1043 (c) *Transferee rights and limitations.*—The transferee is
1044 subject to the same rights and limitations as the certified

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1045 production company awarded the tax credit, except that the
 1046 initial transferee shall be permitted a one-time transfer of
 1047 unused credits to no more than two subsequent transferees, and
 1048 such transfers must occur in the same taxable year as the
 1049 credits were received by the initial transferee, after which the
 1050 subsequent transferees may not sell or otherwise transfer the
 1051 tax credit.

1052 (6) RELINQUISHMENT OF TAX CREDITS.—

1053 (a) Beginning July 1, 2011, a certified production company,
 1054 or any person who has acquired a tax credit from a certified
 1055 production company pursuant to subsections (4) and (5), may
 1056 elect to relinquish the tax credit to the Department of Revenue
 1057 in exchange for 90 percent of the amount of the relinquished tax
 1058 credit.

1059 (b) The Department of Revenue may approve payments to
 1060 persons relinquishing tax credits pursuant to this subsection.

1061 (c) Subject to legislative appropriation, the Department of
 1062 Revenue shall request the Chief Financial Officer to issue
 1063 warrants to persons relinquishing tax credits. Payments under
 1064 this subsection shall be made from the funds from which the
 1065 proceeds from the taxes against which the tax credits could have
 1066 been applied pursuant to the irrevocable election made by the
 1067 certified production company under subsection (4) are deposited.

1068 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

1069 (a) The aggregate amount of the tax credits that may be
 1070 certified pursuant to paragraph (3)(d) may not exceed:

- 1071 1. For fiscal year 2010-2011, \$53.5 million.
- 1072 2. For fiscal year 2011-2012, \$74.5 million.
- 1073 3. For fiscal years 2012-2013, 2013-2014, 2014-2015, and

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1074 2015-2016, \$42 million per fiscal year.

1075 4. Beginning July 1, 2014, for fiscal years 2014-2015 and
 1076 2015-2016, an additional \$50 million per fiscal year.

1077 5. Beginning July 1, 2016, for fiscal years 2016-2017,
 1078 2017-2018, 2018-2019, and 2019-2020, \$50 million per fiscal
 1079 year.

1080 (b) Any portion of the maximum amount of tax credits
 1081 established per fiscal year in paragraph (a) that is not
 1082 certified as of the end of a fiscal year shall be carried
 1083 forward and made available for certification during the
 1084 following 2 fiscal years in addition to the amounts available
 1085 for certification under paragraph (a) for those fiscal years.

1086 (c) Upon approval of the final tax credit award amount
 1087 pursuant to subparagraph (3)(g)2. ~~(3)(f)2.~~, an amount equal to
 1088 the difference between the maximum tax credit award amount
 1089 previously certified under paragraph (3)(d) and the approved
 1090 final tax credit award amount shall immediately be available for
 1091 recertification during the current and following fiscal years in
 1092 addition to the amounts available for certification under
 1093 paragraph (a) for those fiscal years.

1094 (d) Amounts available on and after July 1, 2014, for
 1095 certification may not be certified before the fiscal year in
 1096 which the amounts are listed in paragraph (a), except as
 1097 provided in subparagraph (3)(d)2. ~~If, during a fiscal year, the~~
 1098 ~~total amount of credits applied for, pursuant to paragraph~~
 1099 ~~(3)(a), exceeds the amount of credits available for~~
 1100 ~~certification in that fiscal year, such excess shall be treated~~
 1101 ~~as having been applied for on the first day of the next fiscal~~
 1102 ~~year in which credits remain available for certification.~~

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1103 (8) RULES, POLICIES, AND PROCEDURES.—

1104 (a) The department may adopt rules pursuant to ss.
1105 120.536(1) and 120.54 and develop policies and procedures to
1106 implement and administer this section, including, but not
1107 limited to, rules specifying requirements for the application
1108 and approval process, records required for substantiation for
1109 tax credits, procedures for making the election in paragraph
1110 (4) (c) ~~(4) (d)~~, the manner and form of documentation required to
1111 claim tax credits awarded or transferred under this section, and
1112 marketing requirements for tax credit recipients.

1113 (b) The Department of Revenue may adopt rules pursuant to
1114 ss. 120.536(1) and 120.54 to administer this section, including
1115 rules governing the examination and audit procedures required to
1116 administer this section and the manner and form of documentation
1117 required to claim tax credits awarded, transferred, or
1118 relinquished under this section.

1119 (9) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
1120 CREDITS; FRAUDULENT CLAIMS.—

1121 (a) *Audit authority.*—The Department of Revenue may conduct
1122 examinations and audits as provided in s. 213.34 to verify that
1123 tax credits under this section are received, transferred, and
1124 applied according to the requirements of this section. If the
1125 Department of Revenue determines that tax credits are not
1126 received, transferred, or applied as required by this section,
1127 it may, in addition to the remedies provided in this subsection,
1128 pursue recovery of such funds pursuant to the laws and rules
1129 governing the assessment of taxes.

1130 (b) *Revocation of tax credits.*—The department may revoke or
1131 modify any written decision qualifying, certifying, or otherwise

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1132 granting eligibility for tax credits under this section if it is
1133 discovered that the tax credit applicant submitted any false
1134 statement, representation, or certification in any application,
1135 record, report, plan, or other document filed in an attempt to
1136 receive tax credits under this section. The department shall
1137 immediately notify the Department of Revenue of any revoked or
1138 modified orders affecting previously granted tax credits.
1139 Additionally, the applicant must notify the Department of
1140 Revenue of any change in its tax credit claimed.

1141 (c) *Forfeiture of tax credits.*—A determination by the
1142 Department of Revenue, as a result of an audit pursuant to
1143 paragraph (a) or from information received from the department
1144 or the Division Office of Film and Entertainment of Enterprise
1145 Florida, Inc., that an applicant received tax credits pursuant
1146 to this section to which the applicant was not entitled is
1147 grounds for forfeiture of previously claimed and received tax
1148 credits. The applicant is responsible for returning forfeited
1149 tax credits to the Department of Revenue, and such funds shall
1150 be paid into the General Revenue Fund of the state. Tax credits
1151 purchased in good faith are not subject to forfeiture unless the
1152 transferee submitted fraudulent information in the purchase or
1153 failed to meet the requirements in subsection (5).

1154 (d) *Fraudulent claims.*—Any applicant that submits
1155 fraudulent information under this section is liable for
1156 reimbursement of the reasonable costs and fees associated with
1157 the review, processing, investigation, and prosecution of the
1158 fraudulent claim. An applicant that obtains a credit payment
1159 under this section through a claim that is fraudulent is liable
1160 for reimbursement of the credit amount plus a penalty in an

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1161 amount double the credit amount. The penalty is in addition to
 1162 any criminal penalty to which the applicant is liable for the
 1163 same acts. The applicant is also liable for costs and fees
 1164 incurred by the state in investigating and prosecuting the
 1165 fraudulent claim.

1166 (10) ANNUAL REPORT.—Each November 1, the department Office
 1167 ~~of Film and Entertainment~~ shall submit an annual report for the
 1168 previous fiscal year to the Governor, the President of the
 1169 Senate, and the Speaker of the House of Representatives which
 1170 outlines the incentive program's return on investment and
 1171 economic benefits to the state. The report must also include an
 1172 estimate of the full-time equivalent positions created by each
 1173 production that received tax credits under this section and
 1174 information relating to the distribution of productions
 1175 receiving credits by geographic region and type of production.
 1176 The report must also include the expenditures report required
 1177 under s. 288.9241 ~~s. 288.1253(3)~~ and the information describing
 1178 the relationship between tax exemptions and incentives to
 1179 industry growth required under s. 288.1258(5). The department
 1180 may work with the Division of Film and Entertainment of
 1181 Enterprise Florida, Inc., to develop the annual report.

1182 (11) REPEAL.—This section is repealed July 1, 2020 ~~July 1,~~
 1183 ~~2016~~, except that:

1184 (a) Tax credits certified under paragraph (3) (d) before
 1185 July 1, 2020 ~~July 1, 2016~~, may be awarded under paragraph (3) (g)
 1186 ~~(3) (f)~~ on or after July 1, 2020 ~~July 1, 2016~~, if the other
 1187 requirements of this section are met.

1188 (b) Tax credits carried forward under paragraph (4) (d)
 1189 ~~(4) (e)~~ remain valid for the period specified.

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1190 (c) Subsections (5), (8), and (9) shall remain in effect
 1191 until July 1, 2025 ~~July 1, 2021~~.

1192 Section 6. Beginning July 1, 2014, applications on file
 1193 with the Department of Economic Opportunity to receive a tax
 1194 credit through the entertainment industry financial incentive
 1195 program under s. 288.1254, Florida Statutes, which are not yet
 1196 certified are deemed denied.

1197 Section 7. Section 288.1258, Florida Statutes, is amended
 1198 to read:

1199 288.1258 Entertainment industry qualified production
 1200 companies; application procedure; categories; duties of the
 1201 Department of Revenue; records and reports.—

1202 (1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—

1203 (a) Any production company engaged in this state in the
 1204 production of motion pictures, made-for-TV motion pictures,
 1205 television series, commercial advertising, music videos, or
 1206 sound recordings may submit an application to the Department of
 1207 Revenue to be approved by the department Office of Film and
 1208 Entertainment as a qualified production company for the purpose
 1209 of receiving a sales and use tax certificate of exemption from
 1210 the Department of Revenue.

1211 (b) As used in ~~For the purposes of~~ this section, the term
 1212 "qualified production company" means any production company that
 1213 has submitted a properly completed application to the Department
 1214 of Revenue and that is subsequently qualified by the department
 1215 Office of Film and Entertainment.

1216 (2) APPLICATION PROCEDURE.—

1217 (a) The Department of Revenue will review all submitted
 1218 applications for the required information. Within 10 working

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1219 days after the receipt of a properly completed application, the
 1220 Department of Revenue will forward the completed application to
 1221 the ~~department Office of Film and Entertainment~~ for approval.

1222 (b)1. The ~~department Office of Film and Entertainment~~ shall
 1223 establish a process by which an entertainment industry
 1224 production company may be approved by the ~~department office~~ as a
 1225 qualified production company and may receive a certificate of
 1226 exemption from the Department of Revenue for the sales and use
 1227 tax exemptions under ss. 212.031, 212.06, and 212.08.

1228 2. Upon determination by the ~~department Office of Film and~~
 1229 ~~Entertainment~~ that a production company meets the established
 1230 approval criteria and qualifies for exemption, the ~~department~~
 1231 ~~Office of Film and Entertainment~~ shall return the approved
 1232 application or application renewal or extension to the
 1233 Department of Revenue, which shall issue a certificate of
 1234 exemption.

1235 3. The ~~department Office of Film and Entertainment~~ shall
 1236 deny an application or application for renewal or extension from
 1237 a production company if it determines that the production
 1238 company does not meet the established approval criteria.

1239 (c) The ~~department Office of Film and Entertainment~~ shall
 1240 develop, with the cooperation of the Department of Revenue, the
 1241 Division of Film and Entertainment of Enterprise Florida, Inc.,
 1242 and local government entertainment industry promotion agencies,
 1243 a standardized application form for use in approving qualified
 1244 production companies.

1245 1. The application form shall include, but not be limited
 1246 to, production-related information on employment, proposed
 1247 budgets, planned purchases of items exempted from sales and use

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1248 taxes under ss. 212.031, 212.06, and 212.08, a signed
 1249 affirmation from the applicant that any items purchased for
 1250 which the applicant is seeking a tax exemption are intended for
 1251 use exclusively as an integral part of entertainment industry
 1252 preproduction, production, or postproduction activities engaged
 1253 in primarily in this state, and a signed affirmation from the
 1254 ~~department Office of Film and Entertainment~~ that the information
 1255 on the application form has been verified and is correct. In
 1256 lieu of information on projected employment, proposed budgets,
 1257 or planned purchases of exempted items, a production company
 1258 seeking a 1-year certificate of exemption may submit summary
 1259 historical data on employment, production budgets, and purchases
 1260 of exempted items related to production activities in this
 1261 state. Any information gathered from production companies for
 1262 the purposes of this section shall be considered confidential
 1263 taxpayer information and shall be disclosed only as provided in
 1264 s. 213.053.

1265 2. The application form may be distributed to applicants by
 1266 the ~~department, the Division Office~~ of Film and Entertainment of
 1267 Enterprise Florida, Inc., or local film commissions.

1268 (d) All applications, renewals, and extensions for
 1269 designation as a qualified production company shall be processed
 1270 by the ~~department Office of Film and Entertainment~~.

1271 (e) ~~If in the event that~~ the Department of Revenue
 1272 determines that a production company no longer qualifies for a
 1273 certificate of exemption, or has used a certificate of exemption
 1274 for purposes other than those authorized by this section and
 1275 chapter 212, the Department of Revenue shall revoke the
 1276 certificate of exemption of that production company, and any

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 1277 sales or use taxes exempted on items purchased or leased by the
 1278 production company during the time such company did not qualify
 1279 for a certificate of exemption or improperly used a certificate
 1280 of exemption shall become immediately due to the Department of
 1281 Revenue, along with interest and penalty as provided by s.
 1282 212.12. In addition to the other penalties imposed by law, any
 1283 person who knowingly and willfully falsifies an application, or
 1284 uses a certificate of exemption for purposes other than those
 1285 authorized by this section and chapter 212, commits a felony of
 1286 the third degree, punishable as provided in ss. 775.082,
 1287 775.083, and 775.084.

1288 (3) CATEGORIES.—

1289 (a)1. A production company may be qualified for designation
 1290 as a qualified production company for a period of 1 year if the
 1291 company has operated a business in Florida at a permanent
 1292 address for a period of 12 consecutive months. Such a qualified
 1293 production company shall receive a single 1-year certificate of
 1294 exemption from the Department of Revenue for the sales and use
 1295 tax exemptions under ss. 212.031, 212.06, and 212.08, which
 1296 certificate shall expire 1 year after issuance or upon the
 1297 cessation of business operations in the state, at which time the
 1298 certificate shall be surrendered to the Department of Revenue.

1299 2. The ~~department Office of Film and Entertainment~~ shall
 1300 develop a method by which a qualified production company may
 1301 annually renew a 1-year certificate of exemption for a period of
 1302 up to 5 years without requiring the production company to
 1303 resubmit a new application during that 5-year period.

1304 3. Any qualified production company may submit a new
 1305 application for a 1-year certificate of exemption upon the

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 1306 expiration of that company's certificate of exemption.
 1307 (b)1. A production company may be qualified for designation
 1308 as a qualified production company for a period of 90 days. Such
 1309 production company shall receive a single 90-day certificate of
 1310 exemption from the Department of Revenue for the sales and use
 1311 tax exemptions under ss. 212.031, 212.06, and 212.08, which
 1312 certificate shall expire 90 days after issuance, with extensions
 1313 contingent upon approval of the department Office of Film and
 1314 ~~Entertainment~~. The certificate shall be surrendered to the
 1315 Department of Revenue upon its expiration.

1316 2. Any production company may submit a new application for
 1317 a 90-day certificate of exemption upon the expiration of that
 1318 company's certificate of exemption.

1319 (4) DUTIES OF THE DEPARTMENT OF REVENUE.—

1320 (a) The Department of Revenue shall review the initial
 1321 application and notify the applicant of any omissions and
 1322 request additional information if needed. An application shall
 1323 be complete upon receipt of all requested information. The
 1324 Department of Revenue shall forward all complete applications to
 1325 the department Office of Film and Entertainment within 10
 1326 working days.

1327 (b) The Department of Revenue shall issue a numbered
 1328 certificate of exemption to a qualified production company
 1329 within 5 working days of the receipt of an approved application,
 1330 application renewal, or application extension from the
 1331 department Office of Film and Entertainment.

1332 (c) The Department of Revenue may adopt promulgate such
 1333 rules and shall prescribe and publish such forms as may be
 1334 necessary to effectuate the purposes of this section or any of

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1335 the sales tax exemptions which are reasonably related to the
1336 provisions of this section.

1337 (d) The Department of Revenue ~~may be authorized to~~
1338 establish audit procedures in accordance with the provisions of
1339 ss. 212.12, 212.13, and 213.34 which relate to the sales tax
1340 exemption provisions of this section.

1341 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO
1342 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department
1343 ~~Office of Film and Entertainment~~ shall keep annual records from
1344 the information provided on taxpayer applications for tax
1345 exemption certificates ~~beginning January 1, 2001~~. These records
1346 also must reflect a ratio of the annual amount of sales and use
1347 tax exemptions under this section, plus the incentives awarded
1348 pursuant to s. 288.1254 to the estimated amount of funds
1349 expended by certified productions. In addition, the department
1350 ~~office~~ shall maintain data showing annual growth in Florida-
1351 based entertainment industry companies and entertainment
1352 industry employment and wages. The employment information must
1353 include an estimate of the full-time equivalent positions
1354 created by each production that received tax credits pursuant to
1355 s. 288.1254. The department Office of Film and Entertainment
1356 shall include this information in the annual report for the
1357 entertainment industry financial incentive program required
1358 under s. 288.1254(10).

1359 Section 8. Subsection (1) of section 288.92, Florida
1360 Statutes, is amended to read:

1361 288.92 Divisions of Enterprise Florida, Inc.—

1362 (1) Enterprise Florida, Inc., may create and dissolve
1363 divisions as necessary to carry out its mission. Each division

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1364 shall have distinct responsibilities and complementary missions.

1365 At a minimum, Enterprise Florida, Inc., shall have divisions
1366 related to the following areas:

1367 (a) International Trade and Business Development;

1368 (b) Business Retention and Recruitment;

1369 (c) Tourism Marketing;

1370 (d) Minority Business Development; ~~and~~

1371 (e) Sports Industry Development; and

1372 (f) Film and Entertainment.

1373 Section 9. Paragraph (q) of subsection (5) of section
1374 212.08, Florida Statutes, is amended to read:

1375 212.08 Sales, rental, use, consumption, distribution, and
1376 storage tax; specified exemptions.—The sale at retail, the
1377 rental, the use, the consumption, the distribution, and the
1378 storage to be used or consumed in this state of the following
1379 are hereby specifically exempt from the tax imposed by this
1380 chapter.

1381 (5) EXEMPTIONS; ACCOUNT OF USE.—

1382 (q) *Entertainment industry tax credit; authorization;*
1383 *eligibility for credits*.—The credits against the state sales tax
1384 authorized pursuant to s. 288.1254 shall be deducted from any
1385 sales and use tax remitted by the dealer to the department by
1386 electronic funds transfer and may only be deducted on a sales
1387 and use tax return initiated through electronic data
1388 interchange. The dealer shall separately state the credit on the
1389 electronic return. The net amount of tax due and payable must be
1390 remitted by electronic funds transfer. If the credit for the
1391 qualified expenditures is larger than the amount owed on the
1392 sales and use tax return that is eligible for the credit, the

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1393 unused amount of the credit may be carried forward to a
1394 succeeding reporting period as provided in s. 288.1254(4) (d) ~~s.~~
1395 ~~288.1254(4) (e)~~. A dealer may only obtain a credit using the
1396 method described in this subparagraph. A dealer is not
1397 authorized to obtain a credit by applying for a refund.

1398 Section 10. Subsection (3) of section 220.1899, Florida
1399 Statutes, is amended to read:

1400 220.1899 Entertainment industry tax credit.—

1401 (3) To the extent that the amount of a tax credit exceeds
1402 the amount due on a return, the balance of the credit may be
1403 carried forward to a succeeding taxable year pursuant to s.
1404 288.1254(4) (d) ~~s. 288.1254(4) (e)~~.

1405 Section 11. Subsection (5) of section 477.0135, Florida
1406 Statutes, is amended to read:

1407 477.0135 Exemptions.—

1408 (5) A license is not required of any individual providing
1409 makeup, special effects, or cosmetology services to an actor,
1410 stunt person, musician, extra, or other talent during a
1411 production recognized by the Department of Economic Opportunity
1412 ~~the Office of Film and Entertainment~~ as a qualified production
1413 as defined in s. 288.1254(1). Such services are not required to
1414 be performed in a licensed salon. Individuals exempt under this
1415 subsection may not provide such services to the general public.

1416 Section 12. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 4/2/14

Topic JESS MCCARTY Bill Number SB 7128
~~SB~~ (if applicable)

Name ~~Ben Boats~~ Amendment Barcode _____ (if applicable)

Job Title _____ Phone 305-979-7110
~~888-224-3427~~

Address 111 NW 1st St E-mail _____
104 W. Jefferson
Street

City Miami State _____ Zip 33128

Speaking: For Against Information

Representing Miami Dade City

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/7/2014

Meeting Date

Topic _____

Bill Number 7128

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/07/2014
Meeting Date

Topic SB 7128 Bill Number SB 7128
(if applicable)

Name Leah Sokolowsky Amendment Barcode _____
(if applicable)

Job Title President

Address 13805 58 Street North Suite 2-200 Phone (954) 461-9345
Street
Clearwater, FL 33760 E-mail info@filmflorida.org
City State Zip

Speaking: For Against Information

Representing Film Florida

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/7/14

Meeting Date

Topic Film & Entertainment

Bill Number STB 7128 (if applicable)

Name DAVIN SUGGS

Amendment Barcode (if applicable)

Job Title SR. LEGISLATIVE ADVISOR

Address 100 S. MONROE ST

Phone 850.320.2635

Street

Tallahassee

FL

32308

City

State

Zip

E-mail dsuggs@fl-counties.com

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

Representing FL Association of Counties

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 7, 2014
Meeting Date

Topic Entertainment Industry Film Incentive Bill Number 7128
(if applicable)

Name Carolyn Johnson Amendment Barcode _____
(if applicable)

Job Title Director of Policy

Address 136 S. Bronough St.
Street
Tallahassee FL 32301
City State Zip

Phone 850/521-1200

E-mail Cjohnson@flchamber.com

Speaking: For Against Information

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/7/14
Meeting Date

Topic Film Incentive Legislation

Bill Number 7128
(if applicable)

Name CHRIS RAWLINS

Amendment Barcode _____
(if applicable)

Job Title Chair - COMPASS

Address 403 Shamrock Road
Street

Phone 904/806-6369

St. Augustine, Florida 32086
City State Zip

E-mail _____

Speaking: For Against Information

Representing CONGRESS OF MOTION PICTURE ASSOCIATIONS

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:
Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and
Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

SENATOR JEREMY RING
29th District

April 7, 2014

Senator Nancy C. Detert
416 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairwoman Detert,

I am requesting to be excused from the Senate Commerce and Tourism meeting scheduled for April 7th due to my flight being delayed on my return to Tallahassee.

Thank you in advance for considering this request to be excused from the Commerce and Tourism Committee on April 7th due to this conflict. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

CC: Jennifer Hrdlicka, Staff Director

A handwritten signature in cursive script that reads "Nancy C. Detert".

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Gaming, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR GARRETT RICHTER
President Pro Tempore
23rd District

April 7, 2014

The Honorable Nancy Detert, Chair
Committee on Commerce and Tourism
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Madam Chair:

I respectfully ask to be excused from the Commerce and Tourism Committee Meeting scheduled for Monday, April 7, 2014.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett S. Richter".

Garrett S. Richter

cc: Jennifer Hrdlicka, Staff Director
Patty Blackburn

A handwritten signature in black ink, appearing to read "Nancy Detert".

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

