

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Montford, Chair
Senator Gainer, Vice Chair

MEETING DATE: Monday, January 29, 2018

TIME: 4:00—6:00 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Montford, Chair; Senator Gainer, Vice Chair; Senators Gibson, Hutson, Passidomo, Rodriguez, Stargel, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 396 Banking and Insurance / Hukill (Similar H 811)	Motor Vehicle Insurance Coverage for Windshield Glass; Authorizing a motor vehicle insurance policy providing comprehensive or combined additional coverage to require an inspection of the damaged windshield of a covered motor vehicle before the windshield repair or replacement is authorized by the insurer; requiring that such inspections be performed by certain adjusters and within a specified timeframe, or the right to an inspection is waived, etc. BI 12/05/2017 Not Considered BI 01/10/2018 Not Considered BI 01/16/2018 Fav/CS CM 01/29/2018 Fav/CS RC	Fav/CS Yeas 7 Nays 1
2	CS/SB 416 Banking and Insurance / Thurston (Similar CS/CS/H 455)	Governance of Banks and Trust Companies; Revising requirements relating to the financial institution experience of certain proposed directors and officers of a proposed bank or trust company; revising the residency requirement for certain directors of a bank or trust company; revising instances during which a bank may not own certain stock, obligations, and other securities, etc. BI 01/10/2018 Not Considered BI 01/16/2018 Fav/CS CM 01/29/2018 Favorable RC	Favorable Yeas 8 Nays 0
3	SB 640 Rouson (Similar H 747, Compare CS/H 239, CS/S 386)	Consumer Finance Loans; Establishing the Access to Responsible Credit Pilot Program within the Office of Financial Regulation; prohibiting a person from certain actions relating to program loans unless the person obtains a pilot program license from the office; providing that only one pilot program license is required for a person to make program loans, etc. BI 01/16/2018 Favorable CM 01/29/2018 Favorable RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, January 29, 2018, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 756 Grimsley (Similar CS/H 533)	Unfair Insurance Trade Practices; Authorizing insurers to refuse to insure or refuse to continue to insure an applicant or insured for failing to purchase certain noninsurance motor vehicle services, etc. BI 01/16/2018 Favorable CM 01/29/2018 Favorable RC	Favorable Yeas 8 Nays 0
5	SB 766 Bean (Similar H 6045)	Tax on Aircraft Sales or Leases; Exempting all aircraft sales or leases, rather than the sales or leases of certain aircraft, from the sales and use tax; defining the term "aircraft", etc. CM 01/29/2018 Fav/CS AFT AP	Fav/CS Yeas 6 Nays 2
6	SB 920 Bradley (Similar CS/H 857)	Deferred Presentment Transactions; Specifying the maximum face amount of checks which may be taken for deferred presentment installment transactions, exclusive of fees; providing an exception to a prohibition against a deferred presentment provider's or its affiliate's presentment of a drawer's check before the end of the deferment period, etc. BI 01/16/2018 Favorable CM 01/29/2018 Fav/CS RC	Fav/CS Yeas 7 Nays 1
7	SB 1224 Bradley (Similar H 961)	Beverage Law; Authorizing a malt beverage distributor to give branded glassware to vendors licensed to sell malt beverages for on-premises consumption; requiring that the glassware bear certain branding; prohibiting a vendor from selling the branded glassware or returning it to a distributor for cash, credit, or replacement, etc. RI 01/23/2018 Favorable RI 01/24/2018 CM 01/29/2018 Favorable AP	Favorable Yeas 8 Nays 0
8	SB 1450 Steube (Similar CS/H 1231)	Sales Tax Refund for Eligible Job Training Organizations; Providing a specified sales tax refund to eligible businesses providing job training and employment services to certain individuals; requiring that the refund be used exclusively for specified purposes; providing requirements for eligible businesses applying for refunds with the Department of Revenue, etc. CM 01/29/2018 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, January 29, 2018, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 1574 Taddeo (Similar CS/H 813)	Unarmed Security Licenses; Authorizing security officer training classes to be offered in-person or online through certain secure websites, etc. CM 01/22/2018 Temporarily Postponed CM 01/29/2018 Fav/CS RI RC	Fav/CS Yeas 8 Nays 0
10	SB 1714 Perry (Similar CS/CS/H 3)	Economic Development and Tourism Promotion Accountability; Authorizing the Auditor General to audit certain accounts and records; prohibiting a tourism promotion agency from expending funds that directly benefit only one business entity; authorizing the Governor or Chief Financial Officer to cease distributing certain tax revenues to certain noncompliant tourism promotion agencies; requiring the governing board of a county to review certain proposed contracts and certifications relating to potential conflicts of interest and mitigation plans, etc. CM 01/29/2018 Fav/CS ATD AP RC	Fav/CS Yeas 8 Nays 0
11	SB 1646 Montford (Similar H 1103, Compare H 1193, S 1496)	Regional Rural Development Grants; Providing that regional rural development grants may be used to hire regional economic development organization professional staff; authorizing the use of matching grant funds to provide technical assistance to certain entities; requiring that contracts or agreements involving the expenditure of grant funds be placed on a certain website for a specified time period; requiring that a plain language version of certain contracts or agreements be placed on a certain website; providing that improving access to and availability of broadband Internet service may be included in a project that is eligible for rural infrastructure grant funds, etc. CM 01/29/2018 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/CS/SB 396

INTRODUCER: Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Hukill and others

SUBJECT: Motor Vehicle Insurance Coverage for Windshield Glass

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 396 prohibits motor vehicle repair shops and their employees from offering an inducement to a customer in exchange for making an insurance claim for motor vehicle glass replacement or repair. This prohibition also applies to individuals who are not employees of the repair shop, but are compensated for their solicitation of insurance claims.

II. Present Situation:

Automobile Insurance

A consumer who purchases the minimum insurance coverage required by law, or personal injury protection coverage, does not have first-party insurance coverage for the repair or replacement of a windshield. Conversely, a consumer who purchases comprehensive coverage, which generally pays for damages to the insured automobile caused by events other than a collision, has insurance coverage if his or her windshield is damaged or broken.¹ Lenders often require

¹ See, Florida Department of Financial Services, *Automobile Insurance A Toolkit for Consumers*, <https://www.myfloridacfo.com/division/consumers/UnderstandingCoverage/Guides/documents/AutoToolkit.pdf> (last visited Jan. 30, 2018).

borrowers to purchase comprehensive coverage, so consumers who owe money on their vehicles will often qualify for windshield repair or replacement without having to pay a deductible.²

A “deductible” is the amount the insured must pay before the insurance company pays any amount on an insurance claim. Section 627.7288, F.S. states:

The deductible provisions of any policy of motor vehicle insurance, delivered or issued in this state by an authorized insurer, providing comprehensive coverage or combined additional coverage shall not be applicable to damage to the windshield of any motor vehicle covered under such policy.^{3, 4}

Windshield Replacement and Repair

Florida law does not have specific requirements applicable to insurance claims made as a result of a damaged windshield. The claims are handled according to the terms of the insurance policy. Current law does not prohibit an insurer from requiring an inspection of a damaged windshield before it authorizes its repair as a term of the insurance policy.

Many Florida insurers set up a network of providers that will provide windshield repair or replacement services at negotiated rates. If the insured uses one of these “in-network” providers, an insured’s windshield is repaired or replaced at no cost to the insured. Some glass shops do not participate in the insurer’s provider network. To claim benefits from an insured’s automobile insurer, the “out-of-network” shop often obtains an assignment of benefits from the insured. Florida law allows an insured to assign the benefits (payment) of his or her insurance policy to a third party, in this case, the out-of-network glass shop. The assignee glass shop can negotiate with the insurer or file a lawsuit against the insurance company if the two sides do not agree on the claim amount.⁵

Windshield Litigation

According to the Department of Financial Services,⁶ the number of auto glass lawsuits has increased in recent years:

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017 YTD
Auto Glass Lawsuits	397	571	271	709	351	478	1,389	4,331	9,018	12,817	19,695	19,513

² Florida Department of Financial Services, *Automobile Insurance A Toolkit for Consumers*, <https://www.myfloridacfo.com/division/consumers/UnderstandingCoverage/Guides/documents/AutoToolkit.pdf> (last visited Jan. 30, 2018).

³ Language similar to s. 627.7288, F.S., has been part of Florida law since 1979. *See* Ch. 79-241, Laws of Florida.

⁴ At least seven other states have provisions prohibiting insurers from requiring a deductible for windshield claims or allow insureds to purchase a policy with no deductible for windshield claims.

⁵ Dale Parker and Brendan McKay, *Florida Auto Glass Claims: A Cracked System*, Trial Advocate Quarterly Fall 2016 (Westlaw Citation: 35 No. 4 Trial Advoc. Q. 20).

⁶ Data provided by the Department of Financial Services for calendar years 2006- September 30, 2017 (on file with the Senate Committee on Banking and Insurance).

Section 627.428, F.S., allows the insured or the assignee to obtain attorney fees from the insurer if the insured or assignee obtains a judgment against an insurer.⁷ The statute does not allow an insurer that prevails in a case involving an insured or assignee to recover attorney fees.⁸ The purpose of the statute is to “discourage contesting of valid claims of insureds against insurance companies . . . and to reimburse successful insureds reasonably for their outlays for attorney’s fees when they are compelled to defend or to sue to enforce their contracts.”⁹

Some insurers argue that the increase in litigation is caused by the ability of some vendors to execute an assignment of benefits and recover attorney fees under s. 627.428, F.S. They allege that some vendors obtain an assignment of benefits from the insured and inflate the cost of the claim when they bill the insurance company.¹⁰ Insurers also believe that many windshield claims brought by assignees are fraudulent.¹¹ In such cases, the insurer must determine whether to pay what it believes to be an inflated or fraudulent claim or pay its own attorneys to litigate the case and risk having to pay the other side’s attorney fees if it does not prevail.¹²

Some auto glass vendors argue that litigation is necessary because insurers enter into agreements with preferred vendors and will not pay the “prevailing competitive price” for windshield repair or replacement. Instead, some vendors contend, insurers will only pay the price they pay to the preferred vendors and that litigation is necessary to force the insurers to pay the “prevailing competitive price” pursuant to the insurance policy language.¹³

Inducements

Some auto glass repair and replacement shops currently offer “rewards” for service, such as a prepaid gift card, if a consumer files a qualified insurance claim for his or her windshield replacement.¹⁴

Several industries bar incentives or inducements in exchange for an act that would earn the inducer additional income. For example:

- Healthcare providers are prohibited from offering a kickback to any person in exchange for patient referrals (s. 456.054, F.S.);

⁷ The Florida Supreme Court has recognized the right of assignees to obtain attorney fees under s. 627.428, F.S. (and its predecessor statute) since at least 1972. *See All Ways Reliable Building Maintenance, Inc. v. Moore*, 261 So.2d 131 (Fla. 1972). The First District Court of Appeal has recognized the right since at least 1961. *See Travelers Insurance Co. v. Tallahassee Bank and Trust Co.*, 133 So.2d 463 (Fla. 1st DCA 1961).

⁸ Insurers can recover attorney fees in some cases by using offers of judgment and proposals for settlements. *See* s. 768.79, F.S., and Fla.R.Civ.P. 1.442.

⁹ *Roberts v. Carter*, 350 So.2d 78, 79 (Fla. 1977).

¹⁰ One provider offers cash rebates and restaurant gift cards to customers “with qualifying insurance” for windshield repair or replacement. *See* <http://www.auto-glassamerica.com> (last visited Jan. 30, 2018).

¹¹ *Government Employees Insurance Co. v. Clear Vision Windshield Repair, L.L.C.*, 2017 WL 1196438 (M.D. Florida March 29, 2017).

¹² Florida Justice Reform Institute, White Paper: *Restoring Balance in Insurance Litigation* (2015)(on file with the Senate Committee on Banking and Insurance).

¹³ *See VIP Auto Glass, Inc. v. Geico General Insurance Co.*, 2017 WL 3712918 (M.D. Florida March 17, 2017) at p. 1. (discussing a class action lawsuit against Geico by VIP Auto Glass).

¹⁴ *See, e.g.*: <https://www.americanautoglass.biz/auto-glass-replacement.html>, and <https://expressautoglass.biz/windshield-replacement-gift-card.php> (last visited Jan. 30, 2018).

- Athlete agents may not offer anything of value to a student athlete to induce him or her to enter into an agreement of representation (s. 468.456(1)(f), F.S.);
- Public adjusters are subject to prosecution for an unfair and deceptive insurance practice if he or she offers an inducement to an insured in exchange for the insured's submission of an insurance claim (s. 626.854(7)(a)2., F.S.); and
- Insurance agents are barred from offering inducements in many settings, including offering a rebate to induce a consumer to enter into an insurance contract, or offering a reduced fee for provision of title insurance.¹⁵

III. Effect of Proposed Changes:

The bill provides that a motor vehicle repair shop may not provide an inducement in the form of a rebate, gift, gift card, cash, coupon, or any other thing of value, in exchange for making an insurance claim for motor vehicle glass replacement or repair. An employee of the motor vehicle repair shop and a nonemployee who is compensated for soliciting insurance claims based on the repair of a motor vehicle glass replacement or repair are both also prohibited from offering such inducements.

Section 2 provides an effective date of July 1, 2018.

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:

Motor vehicle repair shops will be prohibited from providing certain inducements to consumers; this may negatively affect their businesses.

¹⁵ Section 626.9541, F.S.

C. **Government Sector Impact:**

The Department of Agriculture and Consumer Services may see a rise in prosecutions for violations of this provision.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 559.920 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 January 29, 2018:

The CS prohibits motor vehicle repair shops, regulated under part IX of ch. 559, F.S., from offering specific inducements to a customer in exchange for making an insurance claim for a motor vehicle glass replacement or repair.

CS by Banking and Insurance on January 16, 2018:

The CS requires the insurance company to conduct the inspection within 24 hours. The inspection must be performed by an adjuster licensed in Florida who is an employee of the insurer. The insurer may not require an inspection where:

- Windshield damage has demonstrably impacted the structural integrity of the vehicle; or
- Continued use of the vehicle would be a violation of law prohibiting the operation of unsafe vehicles.

B. **Amendments:**

None.



668688

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2018	.	
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The Committee on Commerce and Tourism (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 559.920, Florida Statutes, is amended to
read:

559.920 Unlawful acts and practices.—It shall be a
violation of this act for any motor vehicle repair shop or
employee thereof to:

(1) Engage or attempt to engage in repair work for



668688

11 compensation of any type without first being registered with or
12 having submitted an affidavit of exemption to the department;

13 (2) Make or charge for repairs which have not been
14 expressly or impliedly authorized by the customer;

15 (3) Misrepresent that repairs have been made to a motor
16 vehicle;

17 (4) Misrepresent that certain parts and repairs are
18 necessary to repair a vehicle;

19 (5) Misrepresent that the vehicle being inspected or
20 diagnosed is in a dangerous condition or that the customer's
21 continued use of the vehicle may be harmful or cause great
22 damage to the vehicle;

23 (6) Fraudulently alter any customer contract, estimate,
24 invoice, or other document;

25 (7) Fraudulently misuse any customer's credit card;

26 (8) Make or authorize in any manner or by any means
27 whatever any written or oral statement which is untrue,
28 deceptive or misleading, and which is known, or which by the
29 exercise of reasonable care should be known, to be untrue,
30 deceptive or misleading;

31 (9) Make false promises of a character likely to influence,
32 persuade, or induce a customer to authorize the repair, service,
33 or maintenance of a motor vehicle;

34 (10) Substitute used, rebuilt, salvaged, or straightened
35 parts for new replacement parts without notice to the motor
36 vehicle owner and to her or his insurer if the cost of repair is
37 to be paid pursuant to an insurance policy and the identity of
38 the insurer or its claims adjuster is disclosed to the motor
39 vehicle repair shop;



668688

(11) Cause or allow a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;

(12) Fail or refuse to give to a customer a copy of any document requiring the customer's signature upon completion or cancellation of the repair work;

(13) Willfully depart from or disregard accepted practices and professional standards;

(14) Have repair work subcontracted without the knowledge or consent of the customer unless the motor vehicle repair shop or employee thereof demonstrates that the customer could not reasonably have been notified;

(15) Conduct the business of motor vehicle repair in a location other than that stated on the registration certificate;

(16) Rebuild or restore a rebuilt vehicle without the knowledge of the owner in such a manner that it does not conform to the original vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year; ~~or~~

(17) Offer to a customer a rebate, gift, gift card, cash, coupon, or any other thing of value in exchange for making an insurance claim for motor vehicle glass replacement or repair, including an offer made through a nonemployee who is compensated for the solicitation of insurance claims; or

(18) ~~(17)~~ Perform any other act that is a violation of this part or that constitutes fraud or misrepresentation.

Section 2. This act shall take effect July 1, 2018.

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



668688

69 And the title is amended as follows:

70 Delete everything before the enacting clause
71 and insert:

72 A bill to be entitled

73 An act relating to the repair of motor vehicles;
74 amending s. 559.920, F.S.; prohibiting motor vehicle
75 repair shops or their employees from offering anything
76 of value to a customer in exchange for making an
77 insurance claim for motor vehicle glass replacement or
78 repair, including offers made through certain persons;
79 providing an effective date.



896414

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2018	.	
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The Committee on Commerce and Tourism (Gibson) recommended the following:

Senate Substitute for Amendment (668688) (with title amendment)

Between lines 36 and 37
insert:

(3) The insurer may not require that a particular vendor repair or replace the windshield.

(4) The insurer may not, unless expressly requested by the insured, recommend or suggest a particular vendor to repair or replace the windshield.



896414

11
12 ===== T I T L E A M E N D M E N T =====
13 And the title is amended as follows:
14 Delete line 13
15 and insert:
16 circumstances; prohibiting certain acts by insurers
17 relating to vendors; providing an effective date.



903774

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 559.920, Florida Statutes, is amended to
read:

559.920 Unlawful acts and practices.—It shall be a
violation of this act for any motor vehicle repair shop or
employee thereof to:

(1) Engage or attempt to engage in repair work for



903774

11 compensation of any type without first being registered with or
12 having submitted an affidavit of exemption to the department;

13 (2) Make or charge for repairs which have not been
14 expressly or impliedly authorized by the customer;

15 (3) Misrepresent that repairs have been made to a motor
16 vehicle;

17 (4) Misrepresent that certain parts and repairs are
18 necessary to repair a vehicle;

19 (5) Misrepresent that the vehicle being inspected or
20 diagnosed is in a dangerous condition or that the customer's
21 continued use of the vehicle may be harmful or cause great
22 damage to the vehicle;

23 (6) Fraudulently alter any customer contract, estimate,
24 invoice, or other document;

25 (7) Fraudulently misuse any customer's credit card;

26 (8) Make or authorize in any manner or by any means
27 whatever any written or oral statement which is untrue,
28 deceptive or misleading, and which is known, or which by the
29 exercise of reasonable care should be known, to be untrue,
30 deceptive or misleading;

31 (9) Make false promises of a character likely to influence,
32 persuade, or induce a customer to authorize the repair, service,
33 or maintenance of a motor vehicle;

34 (10) Substitute used, rebuilt, salvaged, or straightened
35 parts for new replacement parts without notice to the motor
36 vehicle owner and to her or his insurer if the cost of repair is
37 to be paid pursuant to an insurance policy and the identity of
38 the insurer or its claims adjuster is disclosed to the motor
39 vehicle repair shop;



903774

(11) Cause or allow a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;

(12) Fail or refuse to give to a customer a copy of any document requiring the customer's signature upon completion or cancellation of the repair work;

(13) Willfully depart from or disregard accepted practices and professional standards;

(14) Have repair work subcontracted without the knowledge or consent of the customer unless the motor vehicle repair shop or employee thereof demonstrates that the customer could not reasonably have been notified;

(15) Conduct the business of motor vehicle repair in a location other than that stated on the registration certificate;

(16) Rebuild or restore a rebuilt vehicle without the knowledge of the owner in such a manner that it does not conform to the original vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year; ~~or~~

(17) Offer to a customer a rebate, gift, gift card, cash, coupon, or any other thing of value in exchange for making an insurance claim for motor vehicle glass replacement or repair, including an offer made through a nonemployee who is compensated for the solicitation of insurance claims; or

(18) ~~(17)~~ Perform any other act that is a violation of this part or that constitutes fraud or misrepresentation.

Section 2. This act shall take effect July 1, 2018.

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



903774

69 And the title is amended as follows:

70 Delete everything before the enacting clause
71 and insert:

72 A bill to be entitled

73 An act relating to motor vehicle insurance coverage
74 for windshield glass; amending s. 559.920, F.S.;
75 prohibiting motor vehicle repair shops or their
76 employees from offering anything of value to a
77 customer in exchange for making an insurance claim for
78 motor vehicle glass replacement or repair, including
79 offers made through certain persons; providing an
80 effective date.

By the Committee on Banking and Insurance; and Senators Hukill,
Young, and Hutson

597-02154-18

2018396c1

A bill to be entitled

An act relating to motor vehicle insurance coverage for windshield glass; amending s. 627.7288, F.S.; authorizing a motor vehicle insurance policy providing comprehensive or combined additional coverage to require an inspection of the damaged windshield of a covered motor vehicle before the windshield repair or replacement is authorized by the insurer; requiring that such inspections be performed by certain adjusters and within a specified timeframe, or the right to an inspection is waived; prohibiting insurers from requiring inspections under certain circumstances; providing an effective date.

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

Section 1. Section 627.7288, Florida Statutes, is amended to read:

627.7288 Comprehensive coverage; ~~deductible not to apply to~~ motor vehicle windshield glass.—

(1) The deductible provisions of any policy of motor vehicle insurance, delivered or issued in this state by an authorized insurer, providing comprehensive coverage or combined additional coverage are shall not be applicable to damage to the windshield of any motor vehicle covered under such policy.

(2) A policy under this section may require an inspection of the damaged windshield of a covered motor vehicle before the windshield repair or replacement is authorized by the insurer.
An inspection required by an insurer must be performed by an

Page 1 of 2

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

597-02154-18

2018396c1

adjuster licensed in this state who is an employee of the insured's insurer and must be performed within 24 hours after notice of the claim, or the right to an inspection is waived. However, an insurer may not require an inspection in any case where windshield damage has demonstrably impacted the structural integrity of the vehicle or where continued use of the vehicle would be a violation of s. 316.610.

Section 2. This act shall take effect July 1, 2018.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Appropriations Subcommittee on the
Environment and Natural Resources, *Vice Chair*
Regulated Industries, *Vice Chair*
Agriculture
Environmental Preservation and Conservation
Health Policy
Transportation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
14th District

January 16, 2018

The Honorable Bill Montford
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 396; Motor Vehicle Insurance Coverage for Windshield Glass

Dear Chairman Montford:

Senate Bill 396, relating to Motor Vehicle Insurance Coverage for Windshield Glass, has been referred to the Senate Committee on Commerce and Tourism. I respectfully request that SB 396 be placed on the committee agenda at your earliest possible convenience.

Should you need any additional information, please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

Dorothy L. Hukill
State Senator, District 14

Cc: Todd McKay, Staff Director, Senate Committee on Commerce and Tourism
Gabriela Denton, Administrative Assistant, Senate Committee on Commerce and Tourism

REPLY TO:

- ☐ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- ☐ 434 Delannoy Avenue, Suite 204, Cocoa, Florida 32922 (321) 634-3549
- ☐ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

APPEARANCE RECORD

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

396

Meeting Date

Bill Number (if applicable)

Topic SB 396 Amendment 668688

896414
Amendment Barcode (if applicable)

Name William V Kolb Jr

Job Title

Address 11021-1 St John's Industrial Pkwy S

Phone 904 654 7445

Jacksonville FL 32246

City State Zip

Email ~~William~~ William K Ameripro
auto g/ass
1 Com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☒ No

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

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

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1.29.17

Meeting Date

396

Bill Number (if applicable)

668688

Amendment Barcode (if applicable)

Topic auto pass

Name Anthony Kalish

Job Title lobbyist

Address 101 E College Ave #002

Street

Tallahassee FL 32301

City

State

Zip

Phone 222-9075

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ATF

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18

Meeting Date

394

Bill Number (if applicable)

608688

Amendment Barcode (if applicable)

Topic Auto Glass

Name Candyn Johnson

Job Title Policy Director

Address Bes Brough St

Street

Tallahassee

City

FL

State

32301

Zip

Phone 521-1200

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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1-29-17

Meeting Date

396

Bill Number (if applicable)

668688

Amendment Barcode (if applicable)

Topic

AUTO GLASS

Name

MICHAEL FRANKLIN

Job Title

ADMINISTRATIVE DIRECTOR

Address

2150 LEON RD.

Street

JACKSONVILLE, FL

City

State

32246

Zip

Phone

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

AMERIPRO AUTO GLASS, LLC

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

APPEARANCE RECORD

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

11/29/18

Meeting Date

Bill Number (if applicable)

668688

Amendment Barcode (if applicable)

Topic Auto Glass

Name Ulises Ibarra

Job Title Owner

Address 11842 Dunster Ln

Street

Phone 941-251-7817

Parrish

City

FL 34219

State

Zip

Email Ulises@Qcartrights.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

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01/29/2018

Meeting Date

396

Bill Number (if applicable)

668688

Amendment Barcode (if applicable)

Topic Marketing Incentive

Name Sarah Chismar

Job Title Administrator

Address 14042 Summer Breeze Dr E

Street

Jacksonville

City

FL

State

32218

Zip

Phone 904-510-3451

Email sarahc@ameriproautoglass.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing AmeriPro Auto Glass, LLC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

Meeting Date _____

Bill Number (if applicable) _____

Topic Auto Glass396 668688
Amendment Barcode (if applicable)Name Shannon RobinsonJob Title Business OwnerAddress 524 SE 31st AvePhone 337-780-2006

Street

OcalaFL34471

City

State

Zip

Email ShannonRobinson@centurylink.netSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Windshield's DirectAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

1-27-18

Meeting Date

396

Bill Number (if applicable)

668628

Amendment Barcode (if applicable)

Topic AUTOGUASS

Name ROB ROBINSON

Job Title OWNER

Address 524 SE 31ST AVE
Street

Phone 352-415-9463

OCALA FL 34471
City State Zip

Email _____

Speaking: ☒ For ☒ Against ☐ Information

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

Representing newshields direct

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 416

INTRODUCER: Banking and Insurance Committee and Senator Thurston

SUBJECT: Governance of Banks and Trust Companies

DATE: January 26, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	Harmsen	McKay	CM	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 416 amends the Financial Institution Codes to expand the pool of eligible individuals who may qualify to serve as a director, president, or chief executive officer of a new or existing bank or trust company that is subject to regulation by the Office of Financial Regulation (OFR). Further, the bill clarifies and revises the limitations on corporate investments.

For existing and new state-chartered banks and trust companies, the bill extends the period, from 3 to 5 years, during which certain officers and directors must have achieved at least 1 year of direct financial institution experience. Under current law, at least two of the proposed directors, who are not also proposed officers, must have the requisite experience within the 3 years prior to the date of the application for charter. Likewise, for existing state-chartered banks or trust companies, the president, chief executive officer, or any other person with an equivalent rank, must have had at least 1 year of direct experience within the last 3 years.

The bill requires that at least a majority, rather than three-fifths, of the directors of a state-chartered bank or trust company must have resided in this state for at least 1 year preceding their election and must continue their residency in Florida for the duration of their time in office. This change will align the residency requirement for Florida state-chartered banks with the residency requirement for national banks.

Lastly, the bill amends current law to clarify an ambiguity in the interpretation of investment limits relating to corporate obligations or corporate bonds. The bill clarifies that:

- The types of entities for which the limitation on investments in corporations applies are subsidiary corporations and affiliates.
- The limitation on investments in corporations applies to an aggregate of any combination of stocks, obligations, and other securities of subsidiary corporations and affiliates.
- The aggregate of such investments may not exceed 10 percent of the total assets of the bank.

The bill has no fiscal impact on the Office of Financial Regulation.

II. Present Situation:

The United States has a dual banking system, under which banks may be chartered by state or federal regulators.¹ State-chartered banks have both a state regulator and a federal regulator; the Office of Financial Regulation (OFR) is the state regulator of banks chartered in Florida. The primary federal regulator for state banks that are members of the Federal Reserve System is the Board of Governors of the Federal Reserve System; the primary federal regulator for non-member state banks is the Federal Deposit Insurance Corporation.² National banks are chartered by the Office of the Comptroller of the Currency under the National Bank Act.³

Regulation of State-Chartered Financial Institutions in Florida

The OFR regulates state-chartered depository and non-depository financial institutions and financial service companies. One of the OFR's primary goals is to provide for and promote the safety and soundness of financial institutions while preserving the integrity of Florida's markets and financial service industries.⁴ As of June 30, 2017, the Division of Financial Institutions within the OFR licensed 195 financial institutions.⁵

Florida law provides the OFR with regulatory authority over entities regulated under the Financial Institutions Codes (codes). The codes include:

- Ch. 655, F.S., relating to financial institutions generally;
- Ch. 657, F.S., relating to credit unions;
- Ch. 658, F.S., relating to banks and trust companies;
- Ch. 660, F.S., relating to trust business;
- Ch. 663, F.S., relating to international banking;
- Ch. 665, F.S., relating to associations; and
- Ch. 667, F.S., relating to savings banks.⁶

¹ Julie Stackhouse, Federal Reserve Bank of St. Louis, Why America's Dual Banking System Matters (Sept. 19, 2017), <https://www.stlouisfed.org/on-the-economy/2017/september/americas-dual-banking-system-matters> (last visited Jan. 26, 2018).

² 12 U.S.C. § 1813(q).

³ 12 U.S.C. § 38; 12 U.S.C. § 1813(q).

⁴ Section 655.001, F.S.

⁵ Office of Financial Regulation, *Fast Facts*, p. 4 (5th ed. Dec. 2017), <https://www.flofr.com/StaticPages/documents/FastFacts.pdf> (last visited Jan. 26, 2018). The OFR regulated 95 banks, 66 credit unions, 21 international bank offices, and 13 trusts.

⁶ Section 655.005(1)(k), F.S.

Qualifications of Officers and Directors

New or De Novo State-Chartered Bank or Trust Company

Section 658.19, F.S., governs the organization of state-chartered banks and trust companies. An applicant must submit financial, business, and reasonably required biographical information for each proposed director, executive officer, and, if applicable, each trust officer. The OFR must approve the application if it finds the proposed bank's or trust company's officers and directors.^{7,8}

- Evince sufficient financial experience, ability, standing, and reputation;
- Have sufficient business experience, ability, standing and reputation to indicate reasonable promise of successful operation of the bank or trust company;
- Have not have been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, F.S., relating to the control of money laundering and terrorist financing, and ch. 896, F.S., relating to offenses against financial institutions;

At least two of the proposed directors who are not also proposed officers must have had at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the 3 years before the application date. If the applicant demonstrates that at least one of the proposed directors has *very substantial experience* as an executive officer, director, or regulator of a financial institution more than 3 years before the date of the application, the office may modify the requirement and permit only one director to have direct financial institution experience within the last 3 years. The proposed president or chief executive officer must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 3 years.⁹

Existing State-Chartered Bank or Trust Company

A state-chartered bank or trust company must have at least five directors and at least a majority of the directors must be citizens of the United States.¹⁰ At least three-fifths of the directors must have resided in this state for at least 1 year preceding their election and must continue their residency in Florida for the duration of their time in office.¹¹

A state-chartered bank or trust company with total assets of less than \$150 million must have at least one director who is not also an officer of the bank or trust company with at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the preceding 3 years.¹² A bank or trust company with more than \$150 million in total assets requires at least two directors, who are not also officers of the bank or trust company, to have at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the last 3 years. The president, chief executive officer, or other person who has

⁷ Section 658.21, F.S.

⁸ Office of Financial Regulation, Division of Financial Institutions, *Guide to Organizing a New State Bank in Florida* (Dec. 7, 2010), available at: <https://www.flofr.com/PDFs/guide.pdf> (last visited Jan. 26, 2018).

⁹ Section 658.21(4), F.S.

¹⁰ Section 658.33, F.S.

¹¹ Section 658.33(2), F.S.

¹² *Id.*

equivalent rank must have at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 3 years.¹³

Nationally Chartered Bank or Trust Company

The Office of the Comptroller of Currency (Comptroller) has different requirements relating to the directors or officers of a nationally chartered bank or trust company. Every director must be a citizen of the United States. At least a majority of the directors must have resided in the state, territory, or district in which the association is located, or within 100 miles of the location of the office of the association, for at least 1 year immediately preceding their election, and must be residents of the state or within 100-mile territory of the location of the association during their term of office. However, the Comptroller has the discretion to waive the residency and citizenship requirements as they apply to not more than a minority of the total number of directors.¹⁴

Permissible Investments

A bank or trust company may invest its funds, subject to the limits of s. 658.67, F.S. These limits state that a bank or trust company may only invest:

- Up to 25 percent of its capital accounts in corporate obligations of any one corporation that is not its own affiliate or subsidiary; and
- Up to an aggregate of 10 percent of its total assets in the stock, obligations, or other securities of subsidiary corporations or other corporations or entities.

These investment requirements are subject to two exceptions: 1) such investments may not exceed any limitation or prohibition of federal law; and 2) during a bank's first 3 years of existence, such investments may not exceed 5 percent of its total assets.¹⁵

The Financial Services Commission by rule, or the OFR by order, may further limit any type of investment made pursuant to this subsection if it finds that such investment would constitute an unsafe or unsound practice.¹⁶ The OFR must consider the size and condition of the financial institution, the gravity of the violation, and the prior conduct of the person or institution involved when determining whether an investment is an unsafe or unsound practice.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 658.21, F.S., to require a proposed president or chief executive officer to have at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the 5 years, rather than 3 years, preceding the application for a bank or trust company's state charter.

¹³ Section 658.33(5), F.S.

¹⁴ See 12 U.S.C. s. 72 and 12 C.F.R. s. 5.20.

¹⁵ Section 658.67(6), F.S.

¹⁶ See s. 655.005(1), F.S. An unsafe or unsound practice is any practice or conduct found by the OFR to be contrary to generally accepted standards applicable to a financial institution, or a violation of any prior agreement in writing or order of a state or federal regulatory agency, which practice, conduct, or violation creates the likelihood of loss, insolvency, or dissipation of assets or otherwise prejudices the interest of the financial institution or its depositors or members.

¹⁷ *Id.*

The bill applies the updated experience timeframe to two of the proposed directors listed on the bank or trust's application, who are not also its proposed officers. However, the OFR may apply this requirement to only one proposed director if at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution more than 5 years, versus 3, before the date of the application.

Section 2 amends s. 658.33, F.S., to require that at least a majority, rather than three-fifths, of the applicant bank or trust company's directors have resided in Florida for at least 1 year preceding their election to the bank's or trust's board of directors and must continue their residency in Florida for the duration of their time in office. This change will align the residency requirement for Florida state-chartered banks with the residency requirement of national banks.

Section 3 amends s. 658.67, F.S., to revise the limits on a bank or trust's investments in corporate obligations or corporate bonds. The bill clarifies that a bank may invest:

- In subsidiary corporations and affiliates, unless otherwise prohibited by federal law;
- Only up to 10 percent of its total assets; and
- Only up to 5 percent of its total assets during the first 3 years of the bank's existence.

Section 4 provides the act will take effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill would expand the pool of eligible individuals who may qualify to serve as an officer or director of a proposed or existing state chartered bank or trust company.

C. Government Sector Impact:

The bill has no fiscal impact on the Office of Financial Regulation.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 658.21, 658.33, and 658.67.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Banking and Insurance on January 16, 2018:

The CS clarifies investment limitations relating to corporate obligations or corporate bonds and provides technical changes.

B. Amendments:

None.

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

¹⁸ Office of Financial Regulation, *2018 Analysis of SB 416* (Oct. 17, 2017). On file with Banking and Insurance Committee.

By the Committee on Banking and Insurance; and Senator Thurston

597-02155-18

2018416c1

A bill to be entitled

An act relating to governance of banks and trust companies; amending s. 658.21, F.S.; revising requirements relating to the financial institution experience of certain proposed directors and officers of a proposed bank or trust company; amending s. 658.33, F.S.; revising the residency requirement for certain directors of a bank or trust company; revising requirements relating to the financial institution experience of certain officers of a bank or trust company; amending s. 658.67, F.S.; revising instances during which a bank may not own certain stock, obligations, and other securities; providing an effective date.

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

Section 1. Subsection (4) of section 658.21, Florida Statutes, is amended to read:

658.21 Approval of application; findings required.—The office shall approve the application if it finds that:

(4) The proposed officers have sufficient financial institution experience, ability, standing, and reputation and the proposed directors have sufficient business experience, ability, standing, and reputation to indicate reasonable promise of successful operation, and none of the proposed officers or directors has been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, relating to the control of money laundering and terrorist financing; chapter

Page 1 of 4

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

597-02155-18

2018416c1

896, relating to offenses related to financial institutions; or similar state or federal law. At least two of the proposed directors who are not also proposed officers must have had at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the 5 ~~3~~ years before the date of the application. However, if the applicant demonstrates that at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution more than 5 ~~3~~ years before the date of the application, the office may modify the requirement and allow the applicant to have only one director who has ~~to have~~ direct financial institution experience within the last 5 ~~3~~ years. The proposed president or chief executive officer must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 5 ~~3~~ years.

Section 2. Subsections (2) and (5) of section 658.33, Florida Statutes, are amended to read:

658.33 Directors, number, qualifications; officers.—

(2) Not less than a majority of the directors must, during their whole term of service, be citizens of the United States, and at least a majority ~~three-fifths~~ of the directors must have resided in this state for at least 1 year preceding their election and must be residents therein during their continuance in office. In the case of a bank or trust company with total assets of less than \$150 million, at least one, and in the case of a bank or trust company with total assets of \$150 million or more, two of the directors who are not also officers of the bank or trust company must have had at least 1 year of direct

Page 2 of 4

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

597-02155-18

2018416c1

experience as an executive officer, regulator, or director of a financial institution within the last 5 3 years.

(5) The president, chief executive officer, or any other person, regardless of title, who has equivalent rank or leads the overall operations of a bank or trust company must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 5 3 years. This requirement may be waived by the office after considering the overall experience and expertise of the proposed officer and the condition of the bank or trust company, as reflected in the most recent regulatory examination report and other available data.

Section 3. Subsection (6) of section 658.67, Florida Statutes, is amended to read:

658.67 Investment powers and limitations.—A bank may invest its funds, and a trust company may invest its corporate funds, subject to the following definitions, restrictions, and limitations:

(6) INVESTMENTS IN CORPORATIONS AND OTHER ENTITIES.—~~Except as limited or prohibited by federal law, Up to an aggregate of 10 percent of the total assets of a bank may invest be invested in the stock, obligations, and or other securities of subsidiary corporations and affiliates. The aggregate of such investments may not exceed 10 percent of the total assets of the bank. or other corporations or entities, except as limited or prohibited by federal law, and except that~~ During the first 3 years of existence of a bank, such investments are limited to 5 percent of the total assets of the bank. The commission by rule, or the office by order, may further limit any type of investment made

597-02155-18

2018416c1

pursuant to this subsection if it finds that such investment would constitute an unsafe or unsound practice.

Section 4. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Education
Judiciary
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR PERRY E. THURSTON, JR.

Democratic Caucus Rules Chair
33rd District

January 23, 2018

The Honorable Bill Montford
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bill Montford,

Please be advised that I am writing this letter with regards to my bill, SB 416: Governance of Banks and Trust Companies. It has been referred to the Senate Commerce and Tourism Committee. I am respectfully requesting that you place the bill on your committee's calendar for the next committee agenda at your earliest possible convenience.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions.

Respectfully,

Perry E. Thurston, Jr.

Perry E. Thurston, Jr., District 33

CC: George Gainer, Vice Chair
Todd McKay, Staff Director
Gabriela Denton, Administrative Assistant

REPLY TO:

- ☐ 2151 NW 6th Street, Fort Lauderdale, Florida 33311 (954) 321-2705 FAX: (888) 284-6086
- ☐ 208 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

APPEARANCE RECORD

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

1.29.2018

Meeting Date

416

Bill Number (if applicable)

Topic Governance of Bank + Trust Companies

Amendment Barcode (if applicable)

Name Katie CrofootJob Title Asst. VP of Gov't RelationsAddress 1001 Thomasville RdPhone 950.224.2265

Street

TallahasseeFL32303

City

State

Zip

Email Kcrofoot@hondabank.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Bankers AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 640

INTRODUCER: Senator Rouson

SUBJECT: Consumer Finance Loans

DATE: January 26, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2. <u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 640 establishes the Access to Responsible Credit Pilot Program. The intent of the program is to provide greater access to small dollar consumer loans and assist consumers in building their credit. The Office of Financial Regulation (OFR) is responsible for regulating this program. The pilot program would operate under the following terms and conditions:

- A program licensee may make loans of at least \$300 and no more than \$10,000, at a maximum fixed interest rate of 36 percent per annum.
- A program licensee may also charge the borrower an origination fee of 6 percent of the principal amount of the program loan exclusive of the origination fee, or \$75, whichever is less.
- The borrower has a right to rescind the program loan and return the principal amount by the end of the next business day.
- A program loan must have a minimum term of 120 days and a maximum term of 60 months and may not impose a prepayment penalty.
- A program licensee must underwrite each program loan to determine the borrower's ability and willingness to repay. A program licensee must not make a program loan if the borrower's monthly debt service, including the program loan, exceeds 35 percent of the borrower's gross monthly income.
- The OFR is required to examine licensees at least once every 24 months.
- A program licensee may use a referral partner to perform marketing, servicing, and other services on behalf of the program licensee. The compensation for a referral partner is capped at \$60 per program loan, on average, assessed annually, and \$2 for each payment received by the referral partner on behalf of the program licensee.
- In order to participate in the pilot program, a person must be licensed as a consumer finance lender with the OFR under ch. 516, F.S., and must submit a pilot program application and \$1,000 fee plus \$30 per branch office.

Currently, the Florida Consumer Finance Act (act) sets forth licensing requirements for consumer finance lenders and the terms and conditions under which a consumer finance loan is allowed in Florida. The act sets forth maximum interest rates for consumer finance loans, which are loans of money, credit, goods, or a provision of a line of credit of \$25,000 or less. The allowable interest rates on such loans are tiered, based on the principal amount, as follows:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal from \$3,001 to \$4,000; and
- 18 percent per year on that part of principal from \$4,001 to \$25,000.

II. Present Situation:

Federal Truth in Lending Act (TILA)

The purpose of TILA¹ is to promote the informed use of credit through “a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available.”² Regulation Z, which implements TILA, requires the calculation and disclosure of the Annual Percentage Rate (APR) for consumer loans.³ Finance charges include interest, any charges, or fees payable by the consumer and imposed by the financial institution as an incident to or as a condition of an extension of consumer credit. Regulation Z includes examples, applicable both to open-end and closed-end credit transactions, of what must, must not, or need not be included in the calculation and disclosure of the finance charge.⁴

State Regulation of Consumer Lending

The Office of Financial Regulation (OFR) regulates state-chartered financial institutions, securities brokers, investment advisers, mortgage loan originators, deferred presentment providers or payday loan lenders, consumer finance companies, title loan lenders, debt collectors, and other financial service entities.⁵ The Division of Financial Institutions of the OFR charters and regulates entities that engage in financial institution business in Florida in accordance with the Florida Financial Institutions Codes (codes).⁶ The OFR may examine, investigate, and take disciplinary actions against such state-chartered financial institutions for violation of the codes.⁷

Consumer Finance Loans

The Florida Consumer Finance Act (ch. 516, F.S.) sets forth licensing requirements for consumer finance lenders and the terms and conditions under which a consumer loan is authorized in

¹ 15 U.S.C. s. 1601 et seq., as implemented by Regulation Z, 12 C.F.R. part 226.

² 15 U.S.C. s. 1601(a).

³ 15 U.S.C. s. 1604-1606.

⁴ 12 C.F.R. s. 1026.4.

⁵ See generally, Florida Office of Financial Regulation, *About OFR*, <https://www.flofr.com/StaticPages/AboutOFR.htm> (last visited Jan. 26, 2018).

⁶ Florida Office of Financial Regulation, *Welcome to the Division of Financial Institutions*, <https://www.flofr.com/StaticPages/DivisionOfFinancialInstitutions.htm> (last visited Jan. 26, 2018). The “codes” consist of chs. 655, 657, 658, 660, 663, 665, and 667, F.S.

⁷ These entities are also subject to laws and regulation of various federal entities. For example, the Federal Deposit Insurance Corporation (FDIC) supervises state-chartered banks that are not members of the Federal Reserve System and state-chartered savings associations. The FDIC also insures deposits in banks and savings associations in the event of bank failure. The Federal Reserve Board supervises state-chartered banks that are members of the Federal Reserve System.

Florida. The act sets forth maximum interest rates for consumer finance loans, which are “loan[s] of money, credit, goods, or a provision of a line of credit, in an amount or to a value of \$25,000 or less at an interest rate greater than 18 percent per annum.”⁸ The maximum allowable interest rates on consumer finance loans are tiered, based on the principal amount that falls within each tier of the loan, as provided below:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal between \$3,001 to \$4,000; and
- 18 percent per year on that part of principal between \$4,001 to \$25,000.⁹

These principal amounts are the same as the financed amounts determined by the TILA and Regulation Z.¹⁰ The APR for all loans under the act may equal, but cannot exceed, the APR for the loan as required to be computed and disclosed by the TILA and Regulation Z.¹¹ Lenders are required to provide written disclosures to consumers that include the APR under Regulation Z. Besides the applicable interest rates described above, the act allows consumer finance lenders to charge borrowers the following charges and fees:¹²

- Up to \$25 for investigating the credit and character of the borrower;
- A \$25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans and appraisals of real property offered as security;
- Intangible personal property tax, if secured by a loan note on real property;
- Documentary excise tax and lawful fees;
- Insurance premiums;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for recovering the collateral property;
- Delinquency charges of up to \$15 for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed; and
- A dishonored check charge of up to \$20.

Lastly, the act requires all consumer finance loans to be repaid in equal monthly installments, except for repayment on lines of credit.¹³

California Small Dollar Loan Pilot Programs

Based on a business model developed by California-based Progreso Financiero (Progress Financial, which also operates under the name Opportun), the California State Assembly enacted the Affordable Credit Building Opportunities Pilot Program in 2010.¹⁴ The pilot program covers consumer loans of \$250-\$2,500. The goal was to increase consumers’ access to capital by encouraging development of a more robust small dollar loan market in California. In 2015, California enacted legislation to revise provisions relating to the small-dollar loan pilot program.¹⁵ The new pilot program covers consumer loans of \$300-\$2,500 and allows the use of

⁸ Section 516.01(2), F.S.

⁹ Section 516.031(1), F.S.

¹⁰ Section 516.031(2), F.S.

¹¹ *Id.*

¹² Section 516.031(3), F.S.

¹³ Section 516.36, F.S.

¹⁴ See http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200920100SB1146 (last visited January 26, 2018).

¹⁵ See http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB235 (last visited January 26, 2018).

“finders” to connect borrowers with lenders. Finders cannot provide advice or counseling to borrowers. They can distribute lenders’ marketing materials, provide information about loan terms and conditions, help borrowers with loan applications and obtain borrowers’ signatures on documents, and other functions. Their fees are capped at \$65 per loan plus \$2 for each payment received by a finder. The fees are paid by lenders, cannot be based on the principal amount of loans, and cannot be passed on to borrowers. According to the California Senate staff analysis, the proponents view the use of finders as a means to lower costs of customer acquisition, which is the largest cost of maintaining a small dollar loan program.¹⁶

The California pilot program legislation also required the state’s Department of Business Oversight (DBO) to post a report summarizing findings of the pilot program. In June 2015, the California DBO’s report noted the following findings from 2011-2014:

- *Lender participation*: At the end of 2014, six lenders and six finders participated in the program.
- *Loan applications*: Borrower applications increased by 58.5 percent after the state revised the pilot program.
- *Dollar amounts*: Smaller loans (\$300-\$499) decreased by 42.3 percent, while larger loans (\$500-\$999) increased by 106 percent.
- *Interest rates*: Smaller loans generally carried an APR of 40-50 percent. Mid-range loans generally carried an APR of 35-50 percent. Larger loans (\$1,500-\$2,499) saw a more even APR distribution.
- *Delinquency rates*: In 2014, 22.5 percent were delinquent for 7 days to 29 days, 7.3 percent were delinquent for 30 days to 59 days, and 3.9 percent were delinquent for 60 days or more.
- *Credit scores*: The share of multiple-loan borrowers who obtained higher credit scores on subsequent loans averaged 61 percent annually over the 4-year period.
- *Loan term*: In 2014, of the 164,300 loans made, 50.9 percent were for 360 days or more. The ratios for other terms: 120 days to 179 days, essentially 0 percent (only two loans); 180 days to 269 days, 20.2 percent; and 270 days to 359 days, 28.8 percent.
- *Loan purpose*: Of the 164,300 loans made in 2014, borrowers took out 45 percent (74,026) to build or repair credit.

The California DBO noted that while the revised pilot program did increase lender participation from its inception in 2010, the total number of participating lenders remains less than 10. Additionally, the revisions did not significantly affect the amount of lending activity conducted by the individual companies.¹⁷

III. Effect of Proposed Changes:

Access to Responsible Credit Pilot Program

Section 1 of the bill establishes the Access to Responsible Credit Pilot Program (program). The program would allow consumers to enter into a program loan with a principal amount of at least

¹⁶ *Id.*

¹⁷ California Department of Business Oversight, Report of Activity under Small Dollar Loan Pilot Programs (Jun. 2015), at http://www.dbo.ca.gov/Licensees/Finance_Lenders/pdf/Pilot%20Program%20Report%202015%20Final.pdf. (last visited January 26, 2018).

\$300 and up to a maximum of \$10,000 at an interest rate not to exceed 36 percent per annum. Under current law, licensed consumer finance lenders may make loans in this amount at a maximum rate of 30 percent, with no minimum or maximum loan term.

Definitions

Section 2 creates s. 516.41, F.S., which provides definitions for the following terms: consumer reporting agency, credit score, data furnisher, pilot program or program, pilot program license, program branch office, program licensee, program loan, referral partner, and refinance program loan.

Regulation of Program Licensees (Lenders) and Referral Partners

Program Licensees

Section 3 requires persons seeking to participate as a lender under the program to file a digital application with the OFR. Applicants must be licensed to make consumer finance loans under ch. 516, F.S., not be the subject of any insolvency proceedings or an enforcement action by the OFR or any financial regulatory agency in Florida, or have a deficiency at the time of the person's application. Applicants are required to pay a \$1,000 nonrefundable application fee to and file an application with the OFR. The biennial renewal fee is \$1,000. The OFR may adopt application forms for the program by rule.

Each branch office of a program licensee must be licensed. The program licensee must submit an application and an initial nonrefundable fee of \$30 per program branch office. The biennial renewal fee for each branch office is \$30.

The bill requires applicants to be accepted as a "data furnisher" with a consumer-reporting agency¹⁸ before the OFR may approve an applicant as a program licensee.

Referral Partners

Section 5 of the bill allows a program licensee to engage in arrangements with referral partners. All such arrangements must be in writing; provide that the referral partner agrees to comply with s. 516.44, F.S., and allow the OFR access to the referral partner's books and records related to the referral partner's operations under the agreement with the program licensee.

A referral partner may engage in the following activities:

- Advertise on behalf of the program licensee;
- Provide written factual information about the pilot program and discuss the program information with a prospective borrower in general terms;
- Notify the prospective borrower of information needed to complete an application under the program;

¹⁸ The bill defines "consumer reporting agency" as the same definition in federal Fair Credit Reporting Act: "Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports."

- Enter information provided by a prospective borrower on a preprinted or electronic application form or in a preformatted computer database;
- Assemble credit applications and other materials obtained in the course of a credit application transaction for submission to the program licensee;
- Contact the program licensee to determine the status of a program loan application;
- Communicate to a borrower a response that is returned by the program licensee's automated underwriting system;
- Obtain a borrower's signature on documents prepared by the program licensee and deliver final copies of the documents to the borrower;
- Disburse program loan proceeds to a borrower if this method of disbursement is acceptable to the borrower;
- Receive a program loan payment from the borrower if this method of payment is acceptable to the borrower; and
- Operate an electronic access point through which a prospective borrower may directly access the website of the program licensee to apply for a program loan.

Any program payments received by a referral partner must be applied to the program loan and be deemed received by the program licensee at the time the referral partner receives the payment. When payment is made, a referral partner must give a receipt to the borrower that includes specific information. Additionally, the bill holds a borrower harmless if a referral partner fails to transmit, or delays transmission of, a payment to the program licensee. A referral partner must maintain records related to disbursements and payments for 2 years.

Referral partners are required to provide certain communications and disclosures to program loan applicants related to identifying information of the program licensee and referral partner. The bill requires a referral partner to make a good faith effort to assist the applicant in making direct contact with the program licensee in cases where a referral partner is not permitted to answer questions about the loan program.

The bill allows a program licensee to compensate a referral partner pursuant to a written agreement and mutually agreed upon compensation schedule. Compensation paid to a referral partner may not be passed on to a borrower. Additionally, the compensation must meet the following requirements:

- Compensation may not be paid to a referral partner until the program loan is consummated.
- Compensation may not be paid to a referral partner based upon the principal amount of the program loan.
- The total compensation paid to a referral partner over the life of a program loan may not exceed the sum of the origination fee and interest charges paid by the borrower in connection with that program loan.
- Subject to certain limitations, the total compensation paid by a program licensee to a referral partner may not exceed \$60 per program loan, on average, and \$2 per payment that is received by the referral partner on behalf of the program licensee.

The bill prohibits a referral partner from engaging in the following activities:

- Providing counseling or advice to a borrower or prospective borrower;

- Providing to a borrower or prospective borrower loan-related marketing material that has not been approved by the program licensee;
- Negotiating a loan term between a program licensee and a prospective borrower;
- Offering information pertaining to a single prospective borrower to more than one program licensee, except where a program licensee has provided notification of its denial of a program loan to the borrower; and
- Requiring a borrower to pay any fees other than those permitted under the bill.

The program licensee is responsible for violations of ch. 516, F.S., that are committed by a referral partner.

Terms and Conditions of the Small Dollar Loans

Section 4 requires a program licensee to comply with certain conditions in making program loans, including the following:

- A program loan must be unsecured.
- A program loan must have a minimum term of 120 days and a maximum term of 60 months and may not impose a prepayment penalty.
- A program loan must be repayable by the borrower in substantially equal periodic installments made every 2 weeks, semimonthly or monthly.
- A program loan must include a borrower's right to rescind the program loan by notifying the program licensee of the borrower's intent to rescind the program loan and return the principal advanced by the end of the business day after the program loan was consummated.
- A program loan must apply an interest rate which must be fixed for the term of the loan and be calculated on a simple-interest basis through the application of a daily periodic rate to the actual unpaid principal balance each day. The maximum per annum interest rate depends on the size of the loan, as follows:
 - For loans up to and including \$3,000, the maximum annual interest rate is 36 percent.
 - For loans over \$3,000, and up to and including \$4,000, the maximum annual interest rate is 30 percent.
 - For loans over \$4,000 and up to and including \$10,000, the maximum interest rate is 24 percent.
- A program licensee must provide a receipt for payments made.

Loans made under the pilot program are permitted to charge a higher annual interest rate than loans made by a traditional consumer finance lender who is licensed under ch. 516, F.S.

When refinancing a program loan, the principal amount may not include more than 60 days' unpaid interest accrued on the previous program loan. Additionally, a program licensee is prohibited from refinancing a program loan unless the borrower is current on the outstanding program loan at the time the borrower submits an application to refinance.

The bill prohibits a program licensee from refinancing a program loan unless all of the following conditions are met:

- The principal amount payable does not include more than 60 days of unpaid interest accrued on the previous program loan;

- For program loans with an original term of less than 25 months, the borrower has repaid at least 60 percent of the outstanding principal remaining on the existing program loan;
- For program loans with an original term of greater than 25 months but no more than 60 months, the borrower has made current payments for at least 9 months on the program loan; and
- The borrower is current on his or her outstanding program loan.

Program Loan Underwriting

A program licensee must underwrite each program loan to determine the borrower's willingness and ability to repay the program loan. A program licensee may not make a loan if it determines that a borrower's total monthly debt service payments, including the program loan and all outstanding forms of credit that can be independently verified by the program licensee, exceed 35 percent of the borrower's gross monthly income.

The program licensee is required to seek information and documentation pertaining to all of a borrower's outstanding debt obligations during the loan application and underwriting process, including loans that are self-reported by the borrower but not available through independent verification. The program licensee shall verify such information using a credit report from at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis or through other available electronic debt verification services. The program licensee is not required to consider loans made to a borrower by friends or family in determining the borrower's debt-to-income ratio.

The program licensee is required to verify the borrower's income in determining the debt-to-income ratio using information from:

- Electronic means or services that provide reliable evidence of the borrower's actual income; or
- Internal Revenue Service Form W-2, tax returns, payroll receipts, bank statements, or other third-party documents that provide reasonably reliable evidence of the borrower's actual income.

Interest Rate Reduction

The program licensee must reduce the rate on each subsequent loan to the same borrower by at least one-twelfth of 1 percent per month if all of these conditions are met:

- The subsequent program loan is originated no more than 180 days after the prior program loan is fully repaid;
- The borrower was never more than 15 days delinquent on the prior program loan; and
- The prior program loan was outstanding for at least one-half of its original term before its repayment.

The bill prohibits a program licensee from inducing or permitting any person from becoming obligated to the program licensee under more than one program loan at the same time with the program licensee.

Fees

The bill allows a program licensee to contract for and receive an origination fee, which may not exceed 6 percent of the principal amount, exclusive of the origination fee, or \$75, whichever is less. A program licensee may not charge a borrower an origination fee more than twice in any 12-month period.

The bill caps the fee for insufficient funds at \$20, and any delinquency charge is capped at \$15 for each calendar month for payments in default for at least 10 days. In attempting to collect a delinquent payment, a program licensee or its wholly owned subsidiary must attempt to collect the payment for 30 days before selling or assigning the unpaid debt to an independent party for collection.

Consumer Disclosures

The bill requires a program licensee to provide the following written disclosures to a borrower:

- The amount, date, and maturity date of the program loan.
- The name and address of the borrower and of the program licensee.
- The interest rate charged.
- The monthly installment payment amount.
- The delinquency charge amount.
- A specified statement relating to a borrower's ability to reduce the interest amount by repaying the loan early.
- A statement describing the borrower's right of rescission.

The bill allows a program licensee to provide the disclosures in a mobile or other electronic application if the program licensee complies with certain parameters. Additionally the bill allows the disclosures to be completed in any language the loan is negotiated in.

Before disbursing program proceeds to a borrower, a program licensee must direct a borrower to consumer credit counseling services promoted by the OFR or provide a credit education program or materials to the borrower at no cost to the borrower. The borrower is not required to participate in the program.

The bill prohibits a program licensee from requiring a borrower to waive any right, penalty, remedy, forum, or procedure. Further, the lender may not require a borrower to agree to the application of laws other than those of Florida or require a borrower to agree to resolve disputes in a jurisdiction outside of Florida. Any waiver, other than a prohibited waiver, must be knowing, voluntary, in writing, and not expressly made as a condition of doing business with the program licensee. A waiver that is required as a condition of doing business with the program licensee is presumed involuntary, unconscionable, against public policy, and unenforceable. The program licensee has the burden of proving that a waiver of any rights, penalties, forums, or procedures was knowing, voluntary, and not expressly made a condition of the contract with the borrower.

Examination of Program Licensees

Section 6 requires the OFR to examine program licensees at least once every 24 months. Costs of examination are borne by the program licensee. A program licensee who violates any applicable provision of ch. 516, F.S., is subject to disciplinary action. A program licensee is also liable for violations of the program's regulations committed by one of its referral partners.

Reporting Requirements

Program Licensee

Section 4 of the bill requires a program licensee to report a borrower's payment performance to at least one consumer-reporting agency that compiles and maintains files on consumers on a nationwide basis. In addition, as part of the credit reporting requirements, a licensee must provide the borrower with the name(s) of the credit reporting agency or agencies to which it will report the borrower's payment history.

Section 5 requires the program licensee to provide certain information to the OFR within 15 days after entering into a contract with a referral partner. Such information includes the referral partner's identifying information, and a provision that allows the OFR to request any other information. The program licensee must conduct due diligence with respect to the referral partner and confirm to the OFR that the referral partner has not filed a bankruptcy or reorganization petition and is not currently subject to an administrative or judicial license suspension or revocation proceeding. The program licensee must confirm to the OFR that the referral partner or an affiliated party has not been convicted of a felony and is not subject to a felony indictment. Finally, the program licensee must confirm to OFR that it does not suspect that the referral partner has committed a criminal act and that there has not been notification that the referral partner is under criminal investigation. The referral partner must report changes in this information to the program licensee.

OFR Program Report

Section 7 requires a program licensee to file, on or before March 15 of each year, a report with the OFR in a manner prescribed by rule.

The bill directs the OFR to post a report on its website by January 1, 2021, summarizing the results of the program. The report must include the following information:

- The period covered.
- The number of entities that applied and were accepted for program participation.
- The reasons for program rejection.
- The number of program loan applications received by participating program licensees.
- The number and total amount of program loans made.
- The distribution of loan lengths, interest rates, and principal amounts upon origination.
- The number of borrowers who obtained more than one program loan.
- The distribution of the number of program loans per borrower.
- Of the number of borrowers who obtained more than one program loan, the percentage of borrowers whose credit scores increased between successive loans.
- The average size of the increased credit score.

- The income distribution of borrowers upon program loan origination, including the number of borrowers who obtained a program loan and who resided in a low-income or moderate-income census tract at the time of loan application.
- The number of borrowers who obtained program loans for the following purposes, based on borrower responses:
 - Pay medical expenses.
 - Pay for vehicle repair or a vehicle purchase.
 - Pay bills.
 - Consolidate debt.
 - Build or repair credit history.
 - Pay other expenses.
- The number of borrowers who self-report that they had a bank account at the time of their loan application and the number of borrowers who self-report that they did not have a bank account at the time of their loan application.

The report must include the following information specific to refinanced program loans:

- The number and percentage of borrowers who applied for a refinance program loan.
- Of the borrowers who applied for a refinance program loan, the number and percentage of borrowers who obtained a refinance program loan.
- The number and type of referral partners used by program licensees.
- The number and percentage of borrowers who obtained one or more program loans where delinquency charges were assessed.
- The total amount of delinquency charges assessed.
- The average delinquency charge assessed by dollar amount and as a percentage of the principal amount loaned.

In addition, the report must address the performance of program loans as reflected by the following information:

- The number and percentage of borrowers who experienced at least one delinquency lasting between 7 to 29 days, 30 to 59 days, and 60 days or more.
- The distribution of principal loan amounts corresponding to those delinquencies.
- The number and types of documented violations of ss. 516.40-516.47, F.S., by referral partners and program licensees.
- The number of times the OFR disqualified a referral partner from performing services, barred a referral partner from performing services at a specific location, terminated a written agreement between a referral partner and a program licensee, or imposed an administrative penalty.
- The number and nature of complaints received about a program licensee or referral partner.
- Recommendations for improving the program, and whether the program should be reenacted after January 1, 2022.

Section 8 provides that ss. 516.40-516.47, F.S., are subject to repeal on December 31, 2023, unless reenacted or superseded by another enacted law before that date.

Section 9 provides the act shall take effect October 1, 2018.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

Persons that want to participate in the Access to Responsible Credit Pilot Loan Program (program) are required to obtain a consumer finance license as well as a program license. The bill provides for a \$1,000 application fee and \$1,000 biennial renewal fee for program licensees in addition to a \$30 branch application and \$30 renewal fee. Furthermore, the bill provides for a \$30 referral partner fee for each referral partner filed with the OFR. The bill also provides rulemaking authority to establish costs for examinations of program licensees..

B. Private Sector Impact:

Indeterminate at this time. The number of lenders, referral partners, and borrowers who would participate in this pilot program is unknown at this time. The intent of the program is to provide greater access to small dollar consumer loans. The maximum annual interest rates for such loans under the bill is increased by 6 percent over the maximum interest rates currently authorized for consumer finance loans under ch. 516, F.S. The bill requires a reduction of the interest rate on subsequent loans under the pilot program of at least one-twelfth of 1 percent on subsequent loans if certain conditions are met.

C. Government Sector Impact:

The OFR will be required to take on additional duties to implement and maintain the pilot, including processing of licenses and related documents; investigations of complaints; and, if necessary, prosecution for non-compliance or fraud.

As of December 31, 2016, the state of California had a total of 14 program licensees. Assuming a comparable number of businesses apply to become a program licensee, the OFR estimates that it would need less than one full-time equivalent resource to handle the additional duties and responsibilities proposed in this bill. The OFR proposes to closely monitor and track the added duties and responsibilities and use current OPS funding if it determines an additional resource is required. Subsequent to that determination, the OFR may request additional funding in future fiscal years for an added full-time equivalent

position(s). The OFR would also incur insignificant costs associated with rulemaking which can be absorbed within its current budget.

The bill will require configuration and other updates to the OFR's Regulatory Enforcement and Licensing (REAL) internal system and website. The bill will also require the OFR to create electronic forms for applications and reporting. The bill would require the OFR to post on its website a report that includes extensive information regarding the pilot program. Implementing such changes would cost the agency an estimated \$150,000.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear whether the receipt of loan payments by a referral partner might subject a referral partner to provisions related to debt collectors under part VI of ch. 559, F.S., "Consumer Collection Practices."

The OFR registers and regulates consumer collection agencies and their employee debt collectors.²⁰ These entities must operate pursuant to both the federal Fair Debt Collection Practices Act and state law.²¹ A debt collector is any person who uses an instrumentality of commerce in the business of debt collection, or who regularly attempts, directly or indirectly, to collect or collects a debt owed or due to another. A debt collector may attempt to collect a debt, or obligation of a consumer to pay money, before it has been reduced to judgment by a court.²²

An officer or employee of the creditor on behalf of whom the debt is being collected is not considered a debt collector.²³ Additionally, a licensed consumer finance company and any of its wholly owned subsidiaries and affiliates are exempt from registration as a consumer collection agency.²⁴

Additionally, s. 559.72, F.S., governs the practices of *any person* during the collection of debts, prohibiting, among other behaviors, the simulation of an attorney, law enforcement agent, or government representative; disclosure of specific information to third parties; use of threats, violence, or obscene or abusive language; and communication with a debtor outside of particular hours.

¹⁹ Office of Financial Regulation, *Bill Analysis of SB 640*, December 7, 2017 (on file with the Committee).

²⁰ Section 559.554, F.S.; Office of Financial Regulation, *Consumer Collection Agencies*, <https://www.flofr.com/StaticPages/ConsumerCollectionAgencies.htm> (last visited Jan. 26, 2018).

²¹ See, s. 559.552, F.S.

²² Section 559.55(6), F.S.

²³ Section 559.55(7), F.S.

²⁴ Section 559.553(3), F.S.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 516.40, 516.41, 516.42, 516.43, 516.44, 516.45 and 516.46.

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

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

None.

B. Amendments:

None.

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

By Senator Rouson

19-00837-18

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1 A bill to be entitled
 2 An act relating to consumer finance loans; creating s.
 3 516.40, F.S.; establishing the Access to Responsible
 4 Credit Pilot Program within the Office of Financial
 5 Regulation; providing legislative findings and intent;
 6 creating s. 516.41, F.S.; defining terms; creating s.
 7 516.42, F.S.; prohibiting a person from certain
 8 actions relating to program loans unless the person
 9 obtains a pilot program license from the office;
 10 providing criteria for participation in the pilot
 11 program; specifying application requirements and fees;
 12 providing for construction; specifying a renewal fee;
 13 providing that only one pilot program license is
 14 required for a person to make program loans; requiring
 15 licensure of branch offices of a program licensee;
 16 specifying application requirements and fees for a
 17 program branch office license; requiring program
 18 branch office licenses to be renewed biennially and
 19 specifying a branch office renewal fee; creating s.
 20 516.43, F.S.; providing requirements, limitations, and
 21 prohibitions relating to program loans and the
 22 refinancing of program loans; authorizing licensees to
 23 provide certain documents in the language in which the
 24 loan was negotiated; requiring a program licensee to
 25 pay for certain translation costs incurred by the
 26 office; requiring a program licensee to provide
 27 specified disclosures; authorizing a program licensee
 28 to contract for and receive a specified origination
 29 fee from a borrower on a program loan; specifying

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

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30 methods for collecting the origination fee; specifying
 31 limitations on the amount and frequency of the
 32 origination fee; authorizing a program licensee to
 33 collect specified insufficient funds fees and
 34 delinquency charges; providing that program licensees
 35 or their wholly owned subsidiaries may not sell or
 36 assign unpaid debts to independent third parties for
 37 collection purposes unless the debt has been
 38 delinquent for a specified timeframe; requiring
 39 program licensees to direct borrowers to certain
 40 credit counseling services or provide certain credit
 41 education to borrowers before disbursing program loan
 42 proceeds; requiring program licensees to report
 43 borrowers' payment performance to at least one
 44 specified consumer reporting agency; defining the term
 45 "consumer reporting agency that compiles and maintains
 46 files on consumers on a nationwide basis"; prohibiting
 47 the office from approving a person for the program
 48 before the person is accepted as a data furnisher by a
 49 consumer reporting agency; requiring program licensees
 50 to provide borrowers with the names of consumer
 51 reporting agencies that payment histories are reported
 52 to; requiring a program licensee to underwrite each
 53 program loan; prohibiting a program licensee from
 54 making a program loan under certain circumstances;
 55 providing underwriting procedures and requirements;
 56 prohibiting a program licensee from requiring certain
 57 waivers from a borrower or from certain acts against a
 58 borrower who refuses certain waivers; providing

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59 applicability and construction; creating s. 516.44,
 60 F.S.; requiring arrangements between a program
 61 licensee and a referral partner to be specified in a
 62 written agreement; providing requirements for such
 63 agreement; specifying authorized services of referral
 64 partners; providing requirements for a referral
 65 partner who accepts program loan payments from a
 66 borrower; providing construction; prohibiting referral
 67 partners from performing specified activities;
 68 requiring a referral partner to provide a specified
 69 notice to an applicant for a program loan and certain
 70 assistance to the applicant under certain
 71 circumstances; specifying requirements, limitations,
 72 and prohibitions for the compensation of a referral
 73 partner by a program licensee; requiring a program
 74 licensee to provide, within a certain timeframe, a
 75 specified notice to the office after entering into a
 76 contract with a referral partner; requiring a referral
 77 partner to provide, within a specified timeframe,
 78 written notice to the program licensee of changes to
 79 certain information; providing that program licensees
 80 are responsible for the acts of referral partners
 81 which are in violation of ch. 516, F.S.; requiring a
 82 program licensee to pay a specified fee to the office
 83 to file a referral partner notice; requiring the
 84 Financial Services Commission to adopt rules; creating
 85 s. 516.45, F.S.; requiring the office, beginning on a
 86 specified date, to examine program licensees at
 87 specified intervals; providing an exception; requiring

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88 program licensees to pay the cost of examinations;
 89 authorizing the office to maintain an action for
 90 recovery of such cost; authorizing a method to
 91 determine the cost of examinations; providing a
 92 limitation to the scope of investigations or
 93 examinations; providing that a program licensee is
 94 subject to certain disciplinary actions for certain
 95 violations; authorizing the office to take certain
 96 disciplinary actions; creating s. 516.46, F.S.;
 97 requiring a program licensee, beginning on a certain
 98 date, to file a specified annual report with the
 99 office; requiring the office to post, by a certain
 100 date, a report to its website summarizing the use of
 101 the program; specifying information to be contained in
 102 the office's report; providing for conditional future
 103 repeal of the program; providing an effective date.

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

106
 107 Section 1. Section 516.40, Florida Statutes, is created to
 108 read:

109 516.40 Access to Responsible Credit Pilot Program.—
 110 (1) There is established within the Office of Financial
 111 Regulation the Access to Responsible Credit Pilot Program.
 112 (2) The Legislature finds that demand for responsible
 113 consumer finance loans in principal amounts of at least \$300 and
 114 no more than \$10,000 exceeds the supply of these loans. As a
 115 first step toward addressing this gap, the Access to Responsible
 116 Credit Pilot Program would allow more Floridians to obtain

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responsible consumer finance loans of at least \$300 and no more than \$10,000. The pilot program is also intended to assist consumers in building their credit and has additional consumer protections for these loans which exceed current protections under general law.

Section 2. Section 516.41, Florida Statutes, is created to read:

516.41 Definitions for ss. 516.40-516.46.—As used in ss. 516.40-516.46, the term:

(1) "Consumer reporting agency" has the same meaning as in s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).

(2) "Credit score" has the same meaning as in s. 609(f)(2)(A) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681g(f)(2)(A).

(3) "Data furnisher" has the same meaning as the term "furnisher" in 12 C.F.R. s. 1022.41(c).

(4) "Pilot program" or "program" means the Access to Responsible Credit Pilot Program.

(5) "Pilot program license" means a license issued under ss. 516.40-516.46 authorizing a program licensee to make and collect program loans.

(6) "Program branch office" means a location, other than a program licensee's or referral partner's principal place of business:

(a) The address of which appears on business cards, stationery, or advertising used by the program licensee in connection with business conducted under this chapter;

(b) At which the program licensee's name, advertising or

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promotional materials, or signage suggests that program loans are originated, negotiated, funded, or serviced; or

(c) At which program loans are originated, negotiated, funded, or serviced by a program licensee.

(7) "Program licensee" means a person who is licensed to make and collect program loans under this chapter and who is approved by the office to participate in the program.

(8) "Program loan" means a consumer finance loan with a principal amount of at least \$300 and no more than \$10,000 originated pursuant to ss. 516.40-516.44, excluding the amount of the origination fee authorized under s. 516.43(3).

(9) "Referral partner" means an entity that, at the referral partner's physical location for business or through other means, performs one or more of the services authorized in s. 516.44(2) on behalf of a program licensee. A referral partner is not a credit service organization as defined in s. 817.7001 or a loan broker as defined in s. 687.14.

(10) "Refinance program loan" means a program loan that extends additional principal to a borrower and replaces and revises an existing program loan contract with the borrower. A refinance program loan does not include an extension, a deferral, or a rewrite of the program loan.

Section 3. Section 516.42, Florida Statutes, is created to read:

516.42 Requirements for program participation; program application requirements; fees.—

(1) A person may not advertise, offer, or make a program loan or impose any charges or fees pursuant to s. 516.43 unless the person first obtains a pilot program license from the

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office.

(2) (a) In order to participate in the program, a person must meet the following criteria:

1. Be licensed to make consumer finance loans under s. 516.05.

2. Not be the subject of any insolvency proceeding.

3. Not be subject to the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or any other action within the authority of the office or other financial regulatory agency in this state.

4. Not have a deficiency at the time of the person's application.

5. Pay a nonrefundable application fee of \$1,000 to the office at the time of making the application, pursuant to rule of the commission.

(b) A program applicant shall file with the office a digital application, in a form and manner prescribed by commission rule, which contains all of the following information with respect to the applicant:

1. The legal business name and any other name the applicant operates under.

2. The applicant's main address.

3. The telephone number and e-mail address of the applicant.

4. The address of any program branch office.

5. The name, title, address, telephone number, and e-mail address of the contact person for the applicant.

6. The applicant's license number, if the applicant is

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licensed under this chapter.

7. A statement as to whether the applicant intends to use the services of one or more referral partners under s. 516.44.

8. A statement that the applicant has been accepted as a data furnisher by a consumer reporting agency and will report to a consumer reporting agency the payment performance of each borrower on all loans made under the program.

9. The signature and certification of an authorized person of the applicant.

(3) A person who desires to participate in the program but who is not licensed to make consumer finance loans pursuant to s. 516.05 must concurrently submit the following digital applications to the office, in the form and manner specified in this chapter:

(a) An application and fee pursuant to s. 516.03 for licensure to make consumer finance loans; and

(b) An application and fee for admission to the program in accordance with subsection (2).

(4) Except as otherwise provided in ss. 516.40-516.46, a program licensee is subject to all of the laws and rules governing consumer finance loans under this chapter.

(5) A program licensee shall pay a nonrefundable biennial renewal fee of \$1,000 pursuant to commission rule.

(6) Notwithstanding s. 516.05(3), only one pilot program license is required for a person to make program loans under ss. 516.40-516.46, regardless of whether the program licensee offers program loans to prospective borrowers at its own physical business locations, through referral partners, or through an electronic access point through which a prospective borrower may

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233 directly access the website of the program licensee.

234 (7) Each branch office of a program licensee must be
 235 licensed under this section.

236 (8) The office shall issue a program branch office license
 237 to a program licensee after the office determines that the
 238 program licensee submitted a completed electronic application
 239 for a program branch office license in a form prescribed by
 240 commission rule and paid an initial nonrefundable program branch
 241 office license fee of \$30 per branch office as prescribed by
 242 rule of the commission. Application fees may not be prorated for
 243 partial years of licensure. The program branch office license
 244 must be issued in the name of the program licensee that
 245 maintains the branch office. An application is considered
 246 received for purposes of s. 120.60 upon receipt of a completed
 247 application form and the required fees. The application for a
 248 program branch office license must contain the following
 249 information:

250 (a) The legal business name and any other name the
 251 applicant operates under.

252 (b) The applicant's main address.

253 (c) The applicant's telephone number and e-mail address.

254 (d) The address of each program branch office.

255 (e) The name, title, address, telephone number, and e-mail
 256 address of the contact person for the applicant.

257 (f) The applicant's license number, if the applicant is
 258 licensed under this chapter.

259 (g) The signature and certification of an authorized person
 260 of the applicant.

261 (9) A program branch office license must be renewed

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262 biennially at the time of program license renewal under
 263 subsection (5). A nonrefundable branch renewal fee of \$30 per
 264 program branch office, by commission rule, must be submitted at
 265 the time of renewal.

266 Section 4. Section 516.43, Florida Statutes, is created to
 267 read:

268 516.43 Requirements for program loans.—

269 (1) GENERAL REQUIREMENTS.—A program licensee shall comply
 270 with each of the following requirements in making program loans:

271 (a) A program loan must be unsecured.

272 (b) A program loan must have a minimum term of 120 days and
 273 a maximum term of 60 months, but it may not impose a prepayment
 274 penalty.

275 (c) A program loan must be repayable by the borrower in
 276 substantially equal periodic installments, except that the final
 277 payment may be less than the amount of the prior installments.
 278 Installments may be due every 2 weeks, semimonthly, or monthly.

279 (d) A program loan must include a borrower's right to
 280 rescind the program loan by notifying the program licensee of
 281 the borrower's intent to rescind the program loan and return the
 282 principal advanced by the end of the business day after the day
 283 the program loan is consummated.

284 (e) Notwithstanding s. 516.031, the maximum annual interest
 285 rate that may be charged on a program loan to the borrower on
 286 that portion of the unpaid principal balance of the program
 287 loan:

288 1. Up to and including \$3,000 is 36 percent.

289 2. Over \$3,000, and up to and including \$4,000, is 30
 290 percent.

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291 3. Over \$4,000, and up to and including \$10,000, is 24
 292 percent.

293
 294 The original principal amount of the program loan is equal to
 295 the amount financed as defined by the federal Truth in Lending
 296 Act and Regulation Z of the federal Consumer Financial
 297 Protection Bureau. In determining compliance with the statutory
 298 maximum interest rates in this paragraph, the computations used
 299 must be simple interest, through the application of a daily
 300 periodic rate to the actual unpaid principal balance each day,
 301 and may not be add-on interest or any other computations.

302 (f) If two or more interest rates are applied to the
 303 principal amount of a program loan, the licensee may charge,
 304 contract for, and receive interest at that single annual
 305 percentage rate that, if applied according to the actuarial
 306 method to each of the scheduled periodic balances of principal,
 307 would produce at maturity the same total amount of interest as
 308 would result from the application of the two or more rates
 309 otherwise permitted, based upon the assumption that all payments
 310 are made as agreed.

311 (g) The program licensee must reduce the rate on each
 312 subsequent program loan to the same borrower by a minimum of
 313 one-twelfth of 1 percent per month, if all of the following
 314 conditions are met:

315 1. The subsequent program loan is originated no more than
 316 180 days after the prior program loan is fully repaid.

317 2. The borrower was never more than 15 days delinquent on
 318 the prior program loan.

319 3. The prior program loan was outstanding for at least one-

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320 half of its original term before its repayment.

321 (h) A program licensee may not induce or permit any person
 322 to become obligated to the program licensee, directly or
 323 contingently, or both, under more than one program loan at the
 324 same time with the program licensee.

325 (i) A program licensee may not refinance a program loan
 326 unless all of the following conditions are met at the time the
 327 borrower submits an application to refinance:

328 1. The principal amount payable does not include more than
 329 60 days of unpaid interest accrued on the previous program loan
 330 in accordance with s. 516.031(5);

331 2. For program loans with an original term of less than 25
 332 months, the borrower has repaid at least 60 percent of the
 333 outstanding principal remaining on his or her existing program
 334 loan;

335 3. For program loans with an original term of greater than
 336 25 months but no more than 60 months, the borrower has made
 337 current payments for at least 9 months on his or her program
 338 loan;

339 4. The borrower is current on his or her outstanding
 340 program loan; and

341 5. The program licensee has underwritten the new program
 342 loan in accordance with subsection (7).

343 (j) In lieu of the provisions of s. 687.08, a program
 344 licensee or, if applicable, its approved referral partner shall
 345 make available to the borrower by either electronic or physical
 346 means a plain and complete receipt of payment at the time that a
 347 payment is made by the borrower. For audit purposes, a program
 348 licensee shall maintain an electronic record for each receipt

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made available to a borrower, which must include a copy of the receipt and the date and time that the receipt was generated. Each receipt of payment must show all of the following:

1. The name of the borrower.
2. The name of the referral partner, if applicable.
3. The total payment amount received.
4. The date of payment.
5. The program loan balance before and after application of the payment.
6. The amount of the payment that was applied to the principal, interest, and fees.
7. The type of payment made by the borrower.
8. The following statement, prominently displayed in a type size equal to or greater than the type size used to display the other items on the receipt: "If you have any questions about your loan now or in the future, you should direct those questions to ...(name of program licensee)... by ...(at least two different ways in which a borrower may contact the program licensee)...."

(2) WRITTEN DISCLOSURES.—

(a) Notwithstanding s. 516.15(1), the loan contract and all written disclosures and statements may be provided in English or in the language in which the loan is negotiated. A program licensee shall pay for any translation costs incurred by the office.

(b) A program licensee shall provide those disclosures required of all licensees in s. 516.15.

(3) ORIGATION FEES.—

(a) Notwithstanding s. 516.031, a program licensee may

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contract for and receive an origination fee from a borrower on a program loan. The program licensee may either deduct the origination fee from the principal amount of the loan disbursed to the borrower or capitalize the origination fee into the principal balance of the loan. The origination fee is fully earned and nonrefundable immediately upon the making of the program loan and may not exceed the lesser of 6 percent of the principal amount of the program loan made to the borrower, exclusive of the origination fee, or \$75.

(b) A program licensee may not charge a borrower an origination fee more than twice in any 12-month period.

(4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—

Notwithstanding s. 516.031, a program licensee approved by the office to participate in the program may:

(a) Require payment from a borrower of no more than \$20 for fees incurred by the program licensee from a dishonored payment due to insufficient funds of the borrower.

(b) Notwithstanding s. 516.031(3)(a)9., contract for and receive a delinquency charge of up to \$15 for each calendar month for each payment in default for at least 10 days, if the charge is agreed upon in writing between the parties before it is imposed.

The program licensee, or any wholly owned subsidiary of the program licensee, may not sell or assign an unpaid debt to an independent third party for collection purposes unless the debt has been delinquent for at least 30 days.

(5) CREDIT EDUCATION.—Before disbursement of program loan proceeds to the borrower, the program licensee must:

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(a) Direct the borrower to the consumer credit counseling services offered by an independent third party; or

(b) Provide a credit education program or materials to the borrower. A borrower is not required to participate in any of these education programs or seminars. A credit education program or seminar offered pursuant to this subsection must be provided at no cost to the borrower.

(6) CREDIT REPORTING.—

(a) The program licensee shall report each borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. As used in this section, the term "consumer reporting agency that compiles and maintains files on consumers on a nationwide basis" has the same meaning as in s. 603(p) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).

(b) The office may not approve a person for the program before the person has been accepted as a data furnisher by a consumer reporting agency.

(c) The program licensee shall provide each borrower with the name or names of the consumer reporting agency or agencies to which it will report the borrower's payment history.

(7) PROGRAM LOAN UNDERWRITING.—

(a) The program licensee shall underwrite each program loan to determine a borrower's ability and willingness to repay the program loan pursuant to the program loan terms. The program licensee may not make a program loan if it determines that the borrower's total monthly debt service payments at the time of origination, including the program loan for which the borrower is being considered and all outstanding forms of credit that can

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be independently verified by the program licensee, exceed 35 percent of the borrower's gross monthly income.

(b)1. The program licensee shall seek information and documentation pertaining to all of a borrower's outstanding debt obligations during the loan application and underwriting process, including loans that are self-reported by the borrower but not available through independent verification. The program licensee shall verify such information using a credit report from at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis or through other available electronic debt verification services that provide reliable evidence of a borrower's outstanding debt obligations.

2. The program licensee is not required to consider loans made to a borrower by friends or family in determining the borrower's debt-to-income ratio.

(c) The program licensee shall also verify the borrower's income in determining the debt-to-income ratio using information from:

1. Electronic means or services that provide reliable evidence of the borrower's actual income; or

2. Internal Revenue Service Form W-2, tax returns, payroll receipts, bank statements, or other third-party documents that provide reasonably reliable evidence of the borrower's actual income.

(8) PROVISIONS ON WAIVERS.—

(a) A program licensee may not require, as a condition of providing the program loan, that the borrower:

1. Waive any right, penalty, remedy, forum, or procedure

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provided for in any law applicable to the program loan, including the right to file and pursue a civil action or file a complaint with or otherwise communicate with the office, any court, or other governmental entity.

2. Agree to the application of laws other than those of this state.

3. Agree to resolve disputes in a jurisdiction outside of this state.

(b) A waiver that is required as a condition of doing business with the program licensee is presumed involuntary, unconscionable, against public policy, and unenforceable.

(c) A program licensee may not refuse to do business with or discriminate against a borrower or an applicant on the basis of the borrower's or applicant's refusal to waive any right, penalty, remedy, forum, or procedure, including the right to file and pursue a civil action or complaint with, or otherwise notify, the office, a court, or any other governmental entity. The exercise of a person's right to refuse to waive any right, penalty, remedy, forum, or procedure, including a rejection of a contract requiring a waiver, does not affect any otherwise legal terms of a contract or an agreement.

(d) This subsection does not apply to any agreement to waive any right, penalty, remedy, forum, or procedure, including any agreement to arbitrate a claim or dispute, after a claim or dispute has arisen. This subsection does not affect the enforceability or validity of any other provision of the contract.

Section 5. Section 516.44, Florida Statutes, is created to read:

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516.44 Referral partners.—

(1) REFERRAL PARTNER AGREEMENT.—All arrangements between a program licensee and a referral partner must be specified in a written referral partner agreement between the parties. The agreement must contain a provision that the referral partner agrees to comply with this section and all rules adopted under this section regarding the activities of referral partners, and that the office has access to the referral partner's books and records pertaining to the referral partner's operations under the agreement with the program licensee in accordance with s. 516.45(4) and the office may examine the referral partner pursuant to s. 516.45.

(2) AUTHORIZED SERVICES.—A program licensee may use the services of one or more referral partners as provided in this section. A referral partner may perform one or more of the following services for a program licensee:

(a) Distributing, circulating, using, or publishing printed brochures, flyers, fact sheets, or other written materials relating to program loans that the program licensee may make or negotiate. The written materials must be reviewed and approved in writing by the program licensee before being distributed, circulated, used, or published.

(b) Providing written factual information about program loan terms, conditions, or qualification requirements to a prospective borrower which has been prepared by the program licensee or reviewed and approved in writing by the program licensee. A referral partner may discuss the information with a prospective borrower in general terms.

(c) Notifying a prospective borrower of the information

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needed in order to complete a program loan application.

(d) Entering information provided by the prospective borrower on a preprinted or an electronic application form or in a preformatted computer database.

(e) Assembling credit applications and other materials obtained in the course of a credit application transaction for submission to the program licensee.

(f) Contacting the program licensee to determine the status of a program loan application.

(g) Communicating a response that is returned by the program licensee's automated underwriting system to a borrower or a prospective borrower.

(h) Obtaining a borrower's signature on documents prepared by the program licensee and delivering final copies of the documents to the borrower.

(i) Disbursing program loan proceeds to a borrower if this method of disbursement is acceptable to the borrower, subject to the requirements of subsection (3). A loan disbursement made by a referral partner under this paragraph is deemed to be made by the program licensee on the date that the funds are disbursed or otherwise made available by the referral partner to the borrower.

(j) Receiving a program loan payment from the borrower if this method of payment is acceptable to the borrower, subject to the requirements of subsection (3).

(k) Operating an electronic access point through which a prospective borrower may directly access the website of the program licensee to apply for a program loan.

(3) RECEIPT OR DISBURSEMENT OF PROGRAM LOAN PAYMENTS.—

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(a) A loan payment made by a borrower to a referral partner under paragraph (2)(j) must be applied to the borrower's program loan and is deemed received by the program licensee as of the date the payment is received by the referral partner.

(b) A referral partner that receives loan payments must deliver or cause to be delivered to the borrower a plain and complete receipt showing all of the information specified in s. 516.43(1)(j) at the time that the payment is made by the borrower.

(c) A borrower who submits a loan payment to a referral partner under this subsection is not liable for a failure or delay by the referral partner in transmitting the payment to the program licensee.

(d) A referral partner that disburses or receives loan payments pursuant to paragraph (2)(i) or paragraph (2)(j) must maintain records of all disbursements made and loan payments received for a period of at least 2 years.

(4) PROHIBITED ACTIVITIES.—A referral partner may not engage in any of the following activities:

(a) Providing counseling or advice to a borrower or prospective borrower with respect to any loan term.

(b) Providing loan-related marketing material that has not previously been approved by the program licensee to a borrower or a prospective borrower.

(c) Negotiating a loan term between a program licensee and a prospective borrower.

(d) Offering information pertaining to a single prospective borrower to more than one program licensee. However, if a program licensee has declined to offer a program loan to a

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581 prospective borrower and has so notified the prospective
 582 borrower in writing, the referral partner may then offer
 583 information pertaining to that borrower to another program
 584 licensee with whom it has a referral partner agreement.

585 (e) Requiring a borrower to pay any fees or charges other
 586 than those permitted under ss. 516.40-516.46 to the referral
 587 partner or to any other person in connection with a program
 588 loan.

589 (5) DISCLOSURE NOTICE AND COMMUNICATION.—

590 (a) At the time the referral partner receives or processes
 591 an application for a program loan, the referral partner shall
 592 provide the following statement to the applicant on behalf of
 593 the program licensee, in no smaller than 10-point type, and
 594 shall request that the applicant acknowledge receipt of the
 595 statement in writing:

596
 597 Your loan application has been referred to us by
 598 ...(name of referral partner).... We may pay a fee to
 599 ...(name of referral partner)... for the successful
 600 referral of your loan application. If you are approved
 601 for the loan, ...(name of program licensee)... will
 602 become your lender. If you have any questions about
 603 your loan, now or in the future, you should direct
 604 those questions to ...(name of program licensee)... by
 605 ...(insert at least two different ways in which a
 606 borrower may contact the program licensee).... If you
 607 wish to report a complaint about ...(name of referral
 608 partner)... or ...(name of program licensee)...
 609 regarding this loan transaction, you may contact the

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610 Division of Consumer Finance of the Office of
 611 Financial Regulation at 850-487-9687 or
 612 <http://www.flofr.com>.
 613

614 (b) If the loan applicant has questions about the program
 615 loan which the referral partner is not permitted to answer, the
 616 referral partner must make a good faith effort to assist the
 617 applicant in making direct contact with the program licensee
 618 before the program loan is consummated.

619 (6) COMPENSATION.—

620 (a) The program licensee may compensate a referral partner
 621 in accordance with a written agreement and a compensation
 622 schedule that is mutually agreed to by the program licensee and
 623 the referral partner, subject to the requirements in paragraph
 624 (b).

625 (b) The compensation of a referral partner by a program
 626 licensee is subject to all of the following requirements:

627 1. Compensation may not be paid to a referral partner in
 628 connection with a loan application unless the program loan is
 629 consummated.

630 2. Compensation may not be paid to a referral partner based
 631 upon the principal amount of the program loan.

632 3. Compensation may not be directly or indirectly passed on
 633 to a borrower through a fee or other compensation, or a portion
 634 of a fee or other compensation, charged to a borrower.

635 4. Subject to the limitations specified in subparagraphs
 636 1., 2., and 3., the total compensation paid by a program
 637 licensee to a referral partner for the services specified in
 638 subsection (2) may not exceed the sum of:

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- 639 a. Sixty dollars per program loan, on average, assessed
 640 annually, whether paid at the time of consummation, through
 641 installments, or in a manner otherwise agreed upon by the
 642 program licensee and the referral partner; and
- 643 b. Two dollars per payment received by the referral partner
 644 on behalf of the program licensee for the duration of a program
 645 loan, if the referral partner receives borrower loan payments on
 646 the program licensee's behalf in accordance with subsection (3).
- 647 5. The referral partner's location for services and other
 648 information required by subsection (7) must be reported to the
 649 office.
- 650 (c) A program licensee or a referral partner may not pass
 651 on to a borrower, whether directly or indirectly, any additional
 652 cost or other charge for compensation paid to a referral partner
 653 under this program.
- 654 (7) NOTICE TO OFFICE.—A program licensee that uses the
 655 service of a referral partner must notify the office, in a form
 656 and manner prescribed by the commission, within 15 days after
 657 entering into a contract with a referral partner regarding all
 658 of the following:
- 659 (a) The name, business address, and licensing details of
 660 the referral partner and all locations at which the referral
 661 partner will perform services under this section.
- 662 (b) The name and contact information for an employee of the
 663 referral partner who is knowledgeable about, and has the
 664 authority to execute, the referral partner agreement.
- 665 (c) The name and contact information of one or more
 666 employees of the referral partner who are responsible for that
 667 referral partner's referring activities on behalf of the program

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

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- 668 licensee.
- 669 (d) A statement by the program licensee that it has
 670 conducted due diligence with respect to the referral partner and
 671 has confirmed that none of the following applies:
- 672 1. The filing of a petition under the United States
 673 Bankruptcy Code for bankruptcy or reorganization by the referral
 674 partner.
- 675 2. The commencement of an administrative or judicial
 676 license suspension or revocation proceeding, or the denial of a
 677 license request or renewal, by any state, the District of
 678 Columbia, any United States territory, or any foreign country in
 679 which the referral partner operates, plans to operate, or is
 680 licensed to operate.
- 681 3. A felony indictment involving the referral partner or an
 682 affiliated party.
- 683 4. A felony conviction, guilty plea, or plea of nolo
 684 contendere, regardless of adjudication, of the referral partner
 685 or an affiliated party.
- 686 5. Any suspected criminal act perpetrated in this state
 687 relating to activities regulated under this chapter by the
 688 referral partner.
- 689 6. Notification by a law enforcement or prosecutorial
 690 agency that the referral partner is under criminal investigation
 691 which includes, but is not limited to, subpoenas to produce
 692 records or testimony and warrants issued by a court of competent
 693 jurisdiction which authorize the search and seizure of any
 694 records relating to a business activity regulated under this
 695 chapter.

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As used in this paragraph, the term "affiliated party" means a director, an officer, a responsible person, an employee, or a foreign affiliate of a referral partner; or a person who has a controlling interest in a referral partner.

(e) Any other information requested by the office subject to the limitations specified in s. 516.45(4).

(8) NOTICE OF CHANGES.—A referral partner must provide the program licensee with written notice, sent by registered mail, within 30 days after any changes are made to the information specified in paragraphs (7)(a)-(c) or within 30 days after the occurrence or knowledge of any of the events specified in paragraph (7)(d), whichever is later.

(9) RESPONSIBILITY FOR ACTS OF A REFERRAL PARTNER.—A program licensee is responsible for any act of its referral partner if the act is a violation of this chapter.

(10) REFERRAL PARTNER FEE.—The program licensee shall pay to the office at the time it files a referral partner notice with the office a one-time, nonrefundable fee of \$30 for each referral partner, as prescribed by commission rule.

Section 6. Section 516.45, Florida Statutes, is created to read:

516.45 Examinations; disciplinary actions.—

(1) Notwithstanding any other law, commencing on January 1, 2019, the office shall examine each program licensee that is accepted into the program in accordance with this chapter at least once every 24 months.

(2) Notwithstanding subsection (1), the office may waive one or more branch office examinations if the office finds that such examinations are not necessary for the protection of the

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public due to the centralized operations of the program licensee or other factors acceptable to the office.

(3) The examined program licensee shall pay for the cost of an examination to the office, pursuant to commission rule, and the office may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of the examination, the office may use the estimated average hourly cost for all persons performing examinations of program licensees or other persons subject to ss. 516.40-516.46 for the fiscal year.

(4) The scope of any investigation or examination of a program licensee or referral partner must be limited to those books, accounts, records, documents, materials, and matters reasonably necessary to determine compliance with this chapter.

(5) A program licensee who violates any applicable provision of this chapter is subject to disciplinary action pursuant to s. 516.07(2). Any such disciplinary action is subject to s. 120.60. A program licensee is also subject to disciplinary action for a violation of s. 516.44 committed by any of its referral partners.

(6) The office may take any of the following actions against a referral partner who violates s. 516.44:

(a) Disqualify the referral partner from performing services under this chapter;

(b) Bar the referral partner from performing services at one or more specific locations of the referral partner;

(c) Terminate a written agreement between a referral partner and a program licensee;

(d) Impose an administrative fine not to exceed \$1,000 for

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each such act of the referral partner; and

(e) Prohibit program licensees from using the referral partner, if the office deems it to be in the public interest.

Section 7. Section 516.46, Florida Statutes, is created to read:

516.46 Annual reports; reports by the office.—

(1) Beginning in 2020, on or before March 15 of each year, a program licensee shall file a report with the office on each of the items specified in subsection (2), on a form and in a manner as prescribed by commission rule, which contains aggregated or anonymized data without reference to any borrower's nonpublic personal information or any proprietary or trade secret information of the program licensee.

(2) On or before January 1, 2021, the office shall post a report on its website summarizing the use of the program based on the information contained in reports filed by each program licensee under subsection (1). The report must state the information in the aggregate so as not to identify data by specific program licensee and must specify the period to which the report corresponds. The report must include, but not be limited to, the following for that period:

(a) The number of entities that applied to participate in the program.

(b) The number of entities accepted to participate in the program.

(c) The office's reasons for rejecting applications for participation, if applicable. This information must be provided in a manner that does not identify the entity or entities rejected.

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(d) The number of program loan applications received by program licensees participating in the program, the number of program loans made under the program, the total amount loaned, the distribution of loan lengths upon origination, and the distribution of interest rates and principal amounts upon origination among those program loans.

(e) The number of borrowers who obtained more than one program loan and the distribution of the number of program loans per borrower.

(f) Of the borrowers who obtained more than one program loan, the percentage of those borrowers whose credit scores increased between successive loans, based on information from at least one major credit bureau, and the average size of the increase.

(g) The income distribution of borrowers upon program loan origination, including the number of borrowers who obtained at least one program loan and who resided in a low-income or moderate-income census tract at the time of their loan applications.

(h) The number of borrowers who obtained program loans for the following purposes, based on borrower responses at the time of their loan applications indicating the primary purpose for which the program loan was obtained:

1. Pay medical expenses.

2. Pay for vehicle repair or a vehicle purchase.

3. Pay bills.

4. Consolidate debt.

5. Build or repair credit history.

6. Pay other expenses.

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813 (i) The number of borrowers who self-report that they had a
 814 bank account at the time of their loan application and the
 815 number of borrowers who self-report that they did not have a
 816 bank account at the time of their loan application.

817 (j) With respect to refinance program loans, the report
 818 must specifically include the following information:

819 1. The number and percentage of borrowers who applied for a
 820 refinance program loan.

821 2. Of those borrowers who applied for a refinance program
 822 loan, the number and percentage of borrowers who obtained a
 823 refinance program loan.

824 (k) The number and type of referral partners used by
 825 program licensees.

826 (l) The number and percentage of borrowers who obtained one
 827 or more program loans on which delinquency charges were
 828 assessed, the total amount of delinquency charges assessed, and
 829 the average delinquency charge assessed by dollar amount and as
 830 a percentage of the principal amount loaned.

831 (m) The performance of program loans under the program as
 832 reflected by all of the following:

833 1. The number and percentage of borrowers who experienced
 834 at least one delinquency lasting between 7 and 29 days, and the
 835 distribution of principal loan amounts corresponding to those
 836 delinquencies.

837 2. The number and percentage of borrowers who experienced
 838 at least one delinquency lasting between 30 and 59 days, and the
 839 distribution of principal loan amounts corresponding to those
 840 delinquencies.

841 3. The number and percentage of borrowers who experienced

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842 at least one delinquency lasting 60 days or more, and the
 843 distribution of principal loan amounts corresponding to those
 844 delinquencies.

845 (n) The number and types of violations of ss. 516.40-516.46
 846 by referral partners which were documented by the office.

847 (o) The number and types of violations of ss. 516.40-516.46
 848 by program licensees which were documented by the office.

849 (p) The number of times that the office disqualified a
 850 referral partner from performing services, barred a referral
 851 partner from performing services at one or more specific
 852 locations of the referral partner, terminated a written
 853 agreement between a referral partner and a program licensee, or
 854 imposed an administrative penalty.

855 (q) The number of complaints received by the office about a
 856 program licensee or a referral partner and the nature of those
 857 complaints.

858 Section 8. Sections 516.40-516.46, Florida Statutes, are
 859 repealed on December 31, 2023, unless reenacted or superseded by
 860 another law enacted by the Legislature before that date.

861 Section 9. This act shall take effect October 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 17, 2018

I respectfully request that **Senate Bill #640**, relating to Consumer Finance Loans, be placed on the:

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

A handwritten signature in green ink, reading "Darryl Rouson", is written over a horizontal line.

Senator Darryl Rouson
Florida Senate, District 19

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18
Meeting Date

SB 640
Bill Number (if applicable)

Topic Consumer Finance Loans

Amendment Barcode (if applicable)

Name Dorone Barker

Job Title Associate State Director

Address 200 W. College Ave
Street

Phone 850 228 6387

Jacksonville FL 32201
City State Zip

Email dbarker@aarpp.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing AARP FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18
Meeting Date

640
Bill Number (if applicable)

Topic Consumer Finance

Amendment Barcode (if applicable)

Name Alicia Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

Tallahassee FL 32303

City State Zip

Email alivickers@flacp.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL Alliance for Consumer Protection

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18

Meeting Date

SB640

Bill Number (if applicable)

Topic SB640 - Consumer Finance Law

Amendment Barcode (if applicable)

Name JAMES GUTIERREZ

Job Title FOUNDER & CEO, INSIGHT

Address

Street

Phone 650-303-6993

City

State

Zip

Email James@Insight.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Insight

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 756

INTRODUCER: Senator Grimsley

SUBJECT: Unfair Insurance Trade Practices

DATE: January 26, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	Favorable
2.	Little	McKay	CM	Favorable
3.			RC	

I. Summary:

SB 756 creates an exemption from the Unfair Insurance Trade Practices Act. Under the bill, an insurer is not prohibited from refusing to insure a person for failure to purchase motor vehicle services from a membership organization that has more than one million members in Florida and is affiliated with an admitted insurer.

II. Present Situation:

The Unfair Insurance Trade Practices Act¹ (Act) regulates trade practices relating to insurance by prohibiting all practices, which constitute unfair methods of competition, or unfair or deceptive acts or practices.² The prohibited practices are set forth primarily³ in s. 626.9541, F.S., examples of which include false advertising, unfair discrimination in issuing coverage or calculating rates, unfair claim settlement practices, and unlawful inducement to purchase insurance by providing securities or unlawful rebates.

Current law prohibits an insurer from refusing to insure an individual or risk solely because the insured or applicant fails to purchase noninsurance services or commodities, including automobile services.⁴ Motor vehicle services are described in s. 624.124, F.S., which allows any

¹ Sections 626.951–626.99, F.S.

² Section 626.951, F.S.

³ Examples of other practices prohibited by the Act include but are not limited to coercing a person to use a particular insurer as a condition of lending money or credit (s. 626.9551, F.S.), failing to allow Holocaust victims to make insurance claims irrespective of a statute of limitations under a reasonable standard of proof and failing to diligently and expeditiously investigate all such claims (s. 626.9543, F.S.), increasing motor vehicle insurance rates or refusing to issue such coverage because of certain minor traffic violations (s. 626.9702, F.S.), refusing to issue a life insurance or disability insurance policy or issuing such policy at a rate higher than permitted by statute because the policyholder has a severe disability or sickle-cell trait. (ss. 626.9705, 626.9706, and 626.9707, F.S.).

⁴ Section 626.9541(1)(x)4., F.S.

person to sell the following motor vehicle related services without being deemed an insurer and without being subject to the Florida Insurance Code:

- Towing service.
- Procuring from an insurer group coverage for bail and arrest bonds or for accidental death and dismemberment.
- Emergency service.
- Procuring prepaid legal services, or providing reimbursement for legal services, except that this is not an exemption from the legal expense insurance requirements of ch. 642, F.S.
- Offering assistance in locating or recovering stolen or missing motor vehicles.
- Paying emergency living and transportation expenses of the owner of a damaged motor vehicle.

The Act is enforced by the Department of Financial Services (DFS) and Office of Insurance Regulation (OIR), which, within their respective regulatory jurisdictions, have authority to examine and investigate every person involved in the business of insurance to determine compliance.⁵ Each non-willful violation of the act is subject to a fine of \$5,000, up to an aggregate of \$20,000. Each willful violation is subject to a fine of \$40,000, up to an aggregate of \$200,000.⁶ Certain prohibited actions are subject to higher fines.⁷

The OIR and DFS each have authority to conduct a hearing in accordance with ch. 120, F.S., when there is reason to believe that a person has engaged, or is engaging in, an unfair or deceptive trade practice prohibited by s. 626.9541, F.S., or s. 626.9551, F.S., or is engaging in the business of insurance without a license.⁸ Upon a final order that a person has engaged in an unfair or deceptive act, or that a person is unlawfully transacting insurance, the OIR or DFS must enter a cease and desist order.⁹ The OIR and DFS may also suspend or revoke a certificate of authority, license, or eligibility for a certificate of authority or license if the violator knew, or reasonably should have known, he or she violated the Act.¹⁰

III. Effect of Proposed Changes:

The bill creates an exemption from the Unfair Insurance Trade Practices Act that will allow an insurer to refuse to insure a person who fails to purchase motor vehicle services from a membership organization that, since January 1, 2018, has more than one million members in this state and is affiliated with an admitted insurer.

The bill takes effect on July 1, 2018.

⁵ Section 626.9561, F.S.

⁶ Section 626.9521(2), F.S.

⁷ See s. 626.9521(3), F.S.

⁸ Section 626.9571, F.S.

⁹ Section 626.9581, F.S.

¹⁰ Section 626.9601, F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill allows insurers to sell motor vehicle insurance only to persons who purchase motor vehicle services from a membership organization that, since January 1, 2018, has more than one million members in this state and is affiliated with an admitted insurer. This may result in more motor vehicle insurance companies that require policyholders to purchase motor vehicle services from an affiliated membership organization.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.9541 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Grimsley

26-00813A-18

2018756__

A bill to be entitled

An act relating to unfair insurance trade practices; amending s. 626.9541, F.S.; authorizing insurers to refuse to insure or refuse to continue to insure an applicant or insured for failing to purchase certain noninsurance motor vehicle services; providing an effective date.

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

Section 1. Paragraph (x) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(x) *Refusal to insure*.—In addition to other provisions of this code, the refusal to insure, or continue to insure, any individual or risk solely because of:

1. Race, color, creed, marital status, sex, or national origin;

2. The residence, age, or lawful occupation of the individual or the location of the risk, unless there is a reasonable relationship between the residence, age, or lawful occupation of the individual or the location of the risk and the coverage issued or to be issued;

3. The insured's or applicant's failure to agree to place collateral business with any insurer, unless the coverage

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26-00813A-18

2018756__

applied for would provide liability coverage which is excess over that provided in policies maintained on property or motor vehicles;

4. The insured's or applicant's failure to purchase noninsurance services or commodities, including motor vehicle automobile services as defined in s. 624.124 except for motor vehicle services purchased from a membership organization that, since January 1, 2018, has more than 1 million members in this state and is affiliated with an admitted insurer;

5. The fact that the insured or applicant is a public official; or

6. The fact that the insured or applicant had been previously refused insurance coverage by any insurer, when such refusal to insure or continue to insure for this reason occurs with such frequency as to indicate a general business practice.

Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 17, 2018

I respectfully request that **Senate Bill #756**, relating to Unfair Insurance Trade Practices, be placed on the:

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

A handwritten signature in black ink that reads "Denise Grimsley". The signature is written in a cursive style with a large, looped "D" at the beginning.

Senator Denise Grimsley
Florida Senate, District 26

cc: Todd McKay, Staff Director
Gabriela Denton, Administrative Assistant

APPEARANCE RECORD

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

1-29-18

Meeting Date

756

Bill Number (if applicable)

Topic

SB 756

Amendment Barcode (if applicable)

Name

Monte STEVENS

Job Title

Address

123 S. ADAMS ST.

Phone

671 4401

Street

City

TALLAH

State

FL

Zip

32301

Email

Stevens@sostrategy.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

AAA

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 766

INTRODUCER: Commerce and Tourism Committee and Senator Bean

SUBJECT: Tax on Aircraft Sales or Leases

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Swift	McKay	CM	Fav/CS
2.			AFT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 766 exempts the sale or lease of all aircraft from the state sales and use tax. The Revenue Estimating Conference has not yet determined the fiscal impact of this bill.

The bill provides an effective date of July 1, 2018.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a six percent state sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services.¹ In addition to the six percent state sales tax, Florida law authorizes counties to levy a discretionary sales surtax.² Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale.

Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or

¹ Chapter 212, F.S.

² Sections 212.054 and 212.055, F.S.

uses under specified circumstances. There are currently more than 250 different exemptions, exclusions, deductions, and credits from sales and use tax.³

Aircraft Sales and Use Tax Exemption

Two categories of aircraft are exempt from tax. Aircraft with a maximum certified takeoff weight of more than 15,000 pounds⁴ and used by a common carrier⁵ and qualified aircraft are exempt from sales and use tax. The term “qualified aircraft” means any aircraft having a maximum certified takeoff weight of less than 10,000 pounds and equipped with twin turbofan engines that meet Stage IV noise requirements. The qualified aircraft must be used by a business operating as an on-demand air carrier under Federal Aviation Administration Regulation Title 14, chapter I, part 135, Code of Federal Regulations, that owns or leases and operates a fleet of at least 25 of such aircraft in this state.⁶

III. Effect of Proposed Changes:

CS/SB 766 exempts the sale or lease of all aircraft from the state sales and use tax. The Revenue Estimating Conference has not yet determined the fiscal impact of this bill.

The bill provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, section 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, these

³ Legislative Office of Economic and Demographic Research, *Florida Tax Handbook*, (2017), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (last visited Jan. 26, 2018).

⁴ An example of an airplane with a maximum takeoff weight of 15,000 pounds is the King Air 350i. The King Air seats a maximum of 11 passengers, is 46 feet and eight inches long, and 14 feet and four inches tall.

Beechcraftm, *King Air 350i*, <http://beechcraft.txtav.com/en/king-air-350i/#Specs> (last visited January 26, 2018).

⁵ A “common carrier” means an airline operating under Federal Aviation Administration regulations contained in Title 14, chapter I, part 121 or part 129 of the Code of Federal Regulation.

⁶ Section 212.02, F.S.

requirements do not apply to laws that have an insignificant fiscal impact on local governments, which for Fiscal Year 2018-2019, is \$2.1 million or less.^{7,8,9}

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08(7)(ss) of the Florida Statutes.

⁷ FLA. CONST. art. VII, s. 18(d).

⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 26, 2018).

⁹ Based on the Demographic Estimating Conference's population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 26, 2018).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Commerce and Tourism Committee on January 29, 2018:

The committee substitute makes technical changes to clarify the title of the bill.

B. Amendments:

None.

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



410870

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
	.	
	.	
	.	

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

Senate Amendment

In title, delete line 2
and insert:
An act relating to the tax exemption on aircraft sales
or

By Senator Bean

4-00730-18

2018766__

A bill to be entitled

An act relating to the tax on aircraft sales or leases; amending s. 212.08, F.S.; exempting all aircraft sales or leases, rather than the sales or leases of certain aircraft, from the sales and use tax; defining the term "aircraft"; deleting the definition of the term "common carrier" to conform to changes made by the act; providing an effective date.

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

Section 1. Paragraph (ss) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department

Page 1 of 2

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

4-00730-18

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or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ss) Aircraft sales or leases.—The sale or lease of a ~~qualified aircraft or an aircraft of more than 15,000 pounds maximum certified takeoff weight for use by a common carrier~~ is exempt from the tax imposed by this chapter. As used in this paragraph, the term "aircraft" means a manned vehicle capable of flight which is designed to transport persons or property ~~"common carrier" means an airline operating under Federal Aviation Administration regulations contained in Title 14, chapter I, part 121 or part 129 of the Code of Federal Regulations.~~

Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: November 20, 2017

I respectfully request that **Senate Bill # 766**, relating to Tax on Aircraft Sales or Leases, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean". The signature is written in a cursive style.

Senator Aaron Bean
Florida Senate, District 4

APPEARANCE RECORD

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

01/29/2018

Meeting Date

766

Bill Number (if applicable)

Topic Tax on Aircrafts Sales & Lease

Amendment Barcode (if applicable)

Name Derrick D. McGhee

Job Title V.P. of Govt Relations - Johnson & Blanton

Address 537 East Park Avenue

Street

Phone (850) 321-6489

Tallahassee

City

FL

State

32301

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Airports Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/29/18

Meeting Date

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

SB 766

Bill Number (if applicable)

Topic Tax on Aircraft sales

Amendment Barcode (if applicable)

Name Steven Popilek

Job Title Board Member Florida Aviation Business Association (FABA)

Address 2858 65th way N.

Phone 727-403-2334

Street

St. Petersburg FL 33716

City

State

Zip

Email steven.popilek@technicare.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Aviation Business Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18

Meeting Date

SB 766

Bill Number (if applicable)

Topic Tax on Aircraft Sales

Amendment Barcode (if applicable)

Name Jeff Ramsden

Job Title President, SFBAA

Address 1100 Lee Wagener Blvd Ste 320

Phone 954-359-0208

Street

Ft. Lauderdale

FL

33315

City

State

Zip

Email jr@ramjetaviation.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing South Florida Business Aviation Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
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 920

INTRODUCER: Commerce and Tourism Committee and Senators Bradley and Braynon

SUBJECT: Deferred Presentment Transactions

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 920 authorizes deferred presentment installment transactions under Florida law. A deferred presentment installment transaction must be fully amortizing (the balance due will be entirely paid after the last payment is made) and repayable in consecutive installments, which must be as equal as mathematically practicable. The term of a deferred presentment installment transaction may not be less than 60 days or more than 90 days and the time between installment payments must be at least 13 days but not greater than 1 calendar month.

The maximum face amount of a check taken for a deferred presentment installment transaction may not exceed \$1,000, exclusive of fees. The maximum fees that may be charged on a deferred presentment installment transaction are 8 percent of the outstanding transaction balance on a biweekly basis. Fees for a deferred presentment installment transaction are calculated using simple interest. Prepayment penalties are prohibited. The bill retains current law in s. 560.404(19), F.S., prohibiting a provider from entering into a deferred presentment transaction with any person who has an outstanding deferred presentment transaction or whose previous transaction has been terminated for less than 24 hours.

If the drawer timely informs the provider in writing or in person that the drawer cannot redeem or pay in full in cash the amount due and owing, the provider must provide a grace period for payment of a scheduled installment.

The bill takes effect July 1, 2019.

II. Present Situation:

Deferred Presentment

A deferred presentment transaction means providing currency or a payment instrument in exchange for a drawer's check and agreeing to hold the check for a number of days before depositing, presenting, or redeeming the payment instrument.¹ The transactions are commonly referred to as "payday loans." These transactions are governed by part IV of ch. 560, F.S. The only persons who may engage in deferred presentment transactions are financial institutions as defined in s. 655.005, F.S.,² and money services businesses licensed under part II³ or part III⁴ of ch. 560, F.S.

Florida law contains provisions designed to prevent consumers from being caught in a "debt trap" wherein the consumer has to continuously enter into lending transactions to pay off the principal and fees from previous transactions. The face amount of a check taken for deferred presentment may not exceed \$500, exclusive of fees.⁵ Fees generally may not exceed 10 percent of payment provided to the drawer, except that an additional verification fee not to exceed \$5 may also be charged.⁶ The term of a deferred presentment agreement may not be less than 7 days or greater than 31 days.⁷ A deferred presentment provider may not enter into a deferred presentment transaction with a drawer (customer) who has an outstanding deferred presentment transaction with any provider or within 24 hours of the termination of a previous transaction.⁸ A deferred presentment provider also may not engage in the rollover of a deferred presentment agreement and may not redeem, extend, or otherwise consolidate a deferred presentment agreement with the proceeds of another deferred presentment transaction made by it or an affiliate.⁹

If the drawer, at the end of the deferment period, informs the deferred presentment provider in person that the drawer cannot redeem or pay in full in cash the amount due, the drawer must be given a grace period that extends the term of the agreement for 60 additional days. As a

¹ See s. 560.402, F.S.

² Section 655.005(1)(i), F.S., defines a "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

³ A "money transmitter" is licensed under part II of ch. 560, F.S., and is defined as a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. Money transmitters may engage in check cashing under part III of ch. 560, F.S. See s. 560.103(23), F.S.,

⁴ A "check casher" is licensed under part III of ch. 560, F.S. and is defined as a person who sells currency in exchange for payment instruments received, except travelers checks. Section 560.1030, F.S.

⁵ Section 560.404(5), F.S.

⁶ Section 560.404(6), F.S.

⁷ Section 560.404(8), F.S.

⁸ Section 560.404(19), F.S.

⁹ Section 560.404(18), F.S.

condition of receiving the grace period, the drawer must make an appointment with a consumer credit counseling agency within 7 days after the end of the deferment period and complete counseling by the end of the grace period.¹⁰

The deferred presentment agreement may not include a hold harmless clause, a confession of judgment clause, an assignment of or order for payment of wages or other compensation for services, or a provision in which the drawer waives any claim or defense arising out of the agreement or any provision of part IV, ch. 560, F.S.¹¹ The deferred presentment provider must comply with state and federal disclosure requirements.¹²

As of June 30, 2017, there were 923 licensed locations in Florida that engage in deferred presentment transactions.¹³ Between July 2016 and June 2017, approximately 7.7 million deferred presentment transactions were conducted in Florida, representing a total advance amount of \$3.09 billion with total advance fees of \$306 million. The average transaction from July 2016 to June 2017 was \$400.77 and the average transaction fee was 9.9 percent of the advance plus an average verification fee of \$3.09. Of all consumers who entered into a deferred presentment transaction from July 2016 to June 2017, 31.8 percent engaged in 1 to 3 transactions, 30.7 percent engaged in 4 to 9 transactions, and 37.6 percent engaged in 10 or more transactions. The loan loss rate is 1.8 percent of total transactions representing an advance amount of approximately \$50.4 million. Grace periods were used for approximately 0.71 percent of transactions from July 2016 to June 2017.

Bureau of Consumer Financial Protection Rule Governing Payday, Vehicle Title, and Certain High-Cost Installment Loans

On October 5, 2017, the Bureau of Consumer Financial Protection (CFPB) finalized a rule governing certain consumer credit products.¹⁴ The CFPB has stated that the rule is aimed at stopping payday debt traps by requiring lenders to determine upfront whether consumers have the ability to repay their loans.¹⁵ The key provisions of the rule are as follows:¹⁶

The Lender Must Determine the Consumer's Ability to Repay

It is an unfair and abusive practice for a lender to make covered short-term or longer-term balloon-payment loans,¹⁷ including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay the loans according to their terms. The ability-to-repay standard requires a reasonable determination by the lender that the consumer would be able to make loan payments and also meet the consumer's basic living expenses and

¹⁰ Section 560.404(22), F.S.

¹¹ Section 560.404(10), F.S.

¹² Section 560.404(13) and (20), F.S.

¹³ Office of Financial Regulation, Florida Trends in Deferred Presentment – State of Florida Deferred Presentment Program Through June 2017 (June 2017)(On file with the Senate Committee on Banking and Insurance).

¹⁴ 82 FR 54472.

¹⁵ Bureau of Consumer Financial Protection, *CFPB Finalizes Rule to Stop Payday Debt Traps* (October 5, 2017) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps> (last accessed January 26, 2018).

¹⁶ The summary of key provisions of the CFPB rule is taken from 82 FR 54472 at pgs. 1-9, unless otherwise indicated.

¹⁷ A balloon payment loan is a larger than usual one-time payment at the end of the loan term.

other major financial obligations without needing to re-borrow over the ensuing 30 days. The lender must:

- Verify the consumer's net monthly income using a reliable record of income payment, unless a reliable record is not reasonably available;
- Verify the consumer's monthly debt obligations using a national consumer report and a consumer report from a registered information system as defined by the rule;
- Verify the consumer's monthly housing costs using a national consumer report if possible, or otherwise rely on the consumer's written statement of monthly housing expenses;
- Forecast a reasonable amount for basic living expenses, other than debt obligations and housing costs; and
- Determine the consumer's ability to repay the loan based on the lender's projections of the consumer's residual income or debt-to-income ratio.

The rule also prohibits lenders from making a covered loan to a consumer who has already taken out three covered short-term or longer-term balloon-payment loans within 30 days of each other, for 30 days after the third loan is no longer outstanding.

The rule exempts certain loans from the underwriting criteria prescribed in the rule if they have specific consumer protections. Under the exemption, a lender may make up to three covered short-term loans in short succession, provided that the first loan has a principal amount no larger than \$500, the second loan has a principal amount at least one-third smaller than the principal amount on the first loan, and the third loan has a principal amount at least two-thirds smaller than the principal amount on the first loan. A lender may not make a covered short-term loan under the exemption if it would result in the consumer having more than six covered short-term loans during a consecutive 12-month period, or being in debt for more than 90 days on covered short-term loans during a consecutive 12-month period.

Payment Practices

The rule makes it an unfair and abusive practice for a lender to attempt to withdraw payment from consumers' accounts after two consecutive failed payments, unless the consumer provides a new, specific authorization to do so. This applies to the same loans as the ability-to-repay requirement, and also applies to specified high-cost longer-term loans. Lenders must provide notices to consumers when the prohibition has been triggered and follow certain procedures in obtaining new authorizations.

Lenders must also provide written notice, depending on means of delivery, a certain number of days before its first attempt to withdraw payment for a covered loan from a consumer's checking, savings, or prepaid account. Notice is also required before the lender attempts to withdraw a payment in a different amount than the regularly scheduled payment amount, on a date other than the regularly scheduled payment date, by a different payment channel than the prior payment, or to re-initiate a returned prior transfer. The notice must contain specified information about the upcoming payment attempt and, if applicable, alert the consumer to unusual payment attempts. The notice may be provided electronically with the consumer's consent.

Lender Reporting and Compliance Requirements

Lenders are required to furnish registered information systems with certain information concerning loans covered by the rule. Information must be submitted at loan consummation, during the period that the loan is outstanding, and when the loan ceases to be outstanding. The registered information systems will provide consumer reports that include a reasonably comprehensive record of a consumer's recent and current use of loans addressed by the rule. Before making such loans, a lender must obtain and consider a consumer report from a registered information system.

Lenders must also develop and follow written policies and procedures that are reasonably designed to ensure compliance with the rule. Lenders must retain the loan agreement, documentation obtained for any covered loan, and electronic records regarding origination calculations and determinations, the type of loan, and the loan terms.

Implementation of the Rule

The CFPB rule provides minimum consumer protections and allows state and local jurisdictions to adopt further regulatory measures to protect consumers. Lender compliance with the rule is required on August 19, 2019. Many Florida deferred presentment transactions are affected by the rule because they are for 45 days or less and do not qualify for one of the rule's exceptions. Thus deferred presentment transaction providers are required to comply with the underwriting requirements of the rule or conform their business practices to meet the exception to underwriting.

III. Effect of Proposed Changes:

The bill authorizes deferred presentment installment transactions under Florida law. Deferred presentment transactions will be exempt from the underwriting requirement of the CFPB rule because such loans will be for a term longer than 30 days, and will not be a longer-term balloon payment loan because the bill requires installment payment to be as equal as mathematically practicable. Provisions of the CFPB rule relating to payment practices, lender reporting, and compliance will apply to deferred presentment installment transaction lenders that provide loans with a term longer than 45 days, with a cost of credit exceeding 36 percent per annum, and that have a leveraged payment mechanism.

Section 1 amends s. 560.402, F.S., to define a "deferred presentment installment transaction" to mean "a deferred presentment transaction that is repayable in installments" and an "outstanding transaction balance" to mean "the amount received by the drawer from the deferred presentment provider that is due and owing, exclusive of the fees allowed under this party, in a deferred presentment transaction."

Section 2 amends s. 560.404, F.S., to authorize deferred presentment installment transactions under Florida law.

The maximum face amount of a check taken for a deferred presentment installment transaction may not exceed \$1,000, exclusive of fees. The term of a deferred presentment installment transaction may not be less than 60 days or more than 90 days. The bill retains current law in

s. 560.404(19), F.S., which prohibits a provider from entering into a deferred presentment transaction with any person who has an outstanding deferred presentment transaction or whose previous transaction has been terminated for less than 24 hours.

The maximum fees that may be charged by a provider or its affiliate on a deferred presentment installment transaction are 8 percent of the outstanding transaction balance on a biweekly basis. Fees for a deferred presentment installment transaction are calculated using simple interest. Prepayment penalties are prohibited.

A deferred presentment installment transaction must be fully amortizing (the balance due will be entirely paid after the last payment is made) and repayable in consecutive and as equal as mathematically practicable installments. The time between installment payments must be at least 13 days but not greater than 1 calendar month. The provider of a deferred presentment installment transaction may accept additional checks bearing the date that the check is given to the provider if the deferred presentment agreement includes the deferment period applicable to each check.¹⁸

The provider must provide a grace period for payment of a scheduled installment if the drawer informs the deferred presentment installment transaction provider in writing or in person by noon of the business day before a scheduled payment. The bill clarifies that “by noon” means 12:00 p.m. of the same time zone in which the deferred presentment agreement was entered into. The grace period postpones the due date of an installment until after the last scheduled installment payment, at an interval that is no less than the intervals between the originally scheduled payments. Thus, for a deferred presentment installment transaction in which payments are due once every 2 weeks, the grace period must be at least 2 weeks after the final installment payment is due.

The bill amends the notice that must be prominently posted by the provider and included in the deferred presentment agreement. The bill requires the notice to detail the availability of the single grace period for a deferred presentment installment transaction.

The bill authorizes the Financial Services Commission to impose a fee of up to \$1 for each full or partial 30-day period that a balance is scheduled to be outstanding for a deferred presentment installment transaction.

Section 3 amends s. 560.405, F.S., to allow a deferred presentment provider to present a check before the end of a deferment transaction if the check is for a missed scheduled payment for a deferred presentment installment transaction. The bill also makes a technical change to clarify that the drawer (customer) may redeem the check used in the deferred presentment transaction by paying the outstanding transaction balance and earned fees.

Section 4 reenacts s. 560.111, F.S., for the purpose of incorporating the amendments made by the bill to ss. 560.404 and 560.405, F.S. Section 560.111, F.S., makes willful violations of those sections a third degree felony.

¹⁸ The bill subjects these checks to the limitations in subsection 560.404(5), F.S., of the bill, which provides that neither the face value of a check nor the outstanding transaction balance may exceed \$1,000, exclusive of the fees.

Section 5 provides an effective date of July 1, 2019.

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 allows the deferred presentment transaction database fee to vary with the term of the loan, thus increasing the total possible database fee from \$1 to \$3.

B. Private Sector Impact:

The bill will generally raise the fees that customers must pay to engage in a deferred presentment transaction. The Office of Financial Regulation (OFR) provided a comparison between a payday loan under SB 920 of \$1,000 with a 60-day term and two current payday loan transactions totaling \$1,000:¹⁹

Loan Comparison	Current Loan 1	Current Loan 2	Current Loan Total	SB 920 Loan
Loan Amount	\$500.00	\$500.00	\$1,000.00	\$1,000.00
Fees	\$55.00	\$55.00	\$110.00	\$214.68
Term (days)	30	30	60	60
Payments	1	1	2	4
Payment Amount	\$555.00	\$555.00	\$555.00	\$216.96
Total Payment	\$555.00	\$555.00	\$1,110.00	\$1,216.96

There are circumstances where the new loan would result in lower fees than a current payday loan. For instance, if the drawer (customer) redeems the check on a SB 920 loan after 14 days, only 8 percent fees would be owing and due, whereas a redemption after 14 days of a current payday loan would still require the payment of 10 percent in fees.

Many payday lenders assert that the CFPB rule imposes additional costs and administrative burdens that will result in reducing the availability of deferred presentment

¹⁹ Office of Financial Regulation, *2018 Agency Legislative Bill Analysis for Senate Bill 920* (December 28, 2017) (On file with the Senate Committee on Banking and Insurance).

transactions. Some consumer advocates assert that the CFPB rule provides necessary safeguards to prevent consumers from being caught in debt traps.

C. Government Sector Impact:

Office of Financial Regulation²⁰

The OFR assesses each deferred present provider a \$1 transaction fee for each deferred presentment transaction to maintain an Internet database that records all deferred presentment transactions in the state. Deferred presentment providers and the OFR use the database to verify whether any deferred presentment transactions are outstanding for a particular person. The database is required by s. 560.404(23), F.S. The OFR anticipates imposing a \$2 fee for deferred presentment installment transactions with a 60-day term and a \$3 fee for transactions with a 90-day term. Because the impact of the bill on the number of transactions is unknown, the impact of the bill on these revenues is indeterminate. The OFR received \$7,657,486 in revenue related to the \$1 transaction fee during Fiscal Year 2016-2017.

The OFR contracts with a third-party vendor that maintains a database that records all deferred presentment transactions in the state, the cost of which is directly related to the number of deferred presentment transactions and database fees collected. For Fiscal Year 2016-2017, the OFR paid its third-party vendor \$2,656,269 for hosting, maintaining, and operating the database. The bill may increase or decrease this cost if the statutory authorization of deferred presentment installment transactions increases or decreases the number of deferred presentment transactions.

The bill would require modifications to the database, which the OFR would obtain through a procurement requiring a legislative budget appropriation and between 18 to 24 months to implement. The actual cost would not be known until bids are received from vendors pursuant to the procurement process.

The OFR believes that the provisions of the bill would require the office, through the Financial Services Commission, to amend a number of administrative rules. The cost incurred by the OFR for the rulemaking filings can be absorbed within the current budget of the Division of Consumer Finance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁰ Office of Financial Regulation, *2018 Agency Legislative Bill Analysis for Senate Bill 920* (December 28, 2017) (On file with the Senate Committee on Banking and Insurance).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 560.402, 560.404, 560.405, and 560.111.

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 January 29, 2018:

The bill is amended to:

- Define “outstanding transaction balance” as the amount received by the drawer from the deferred presentment provider that is due and owing in a deferred presentment transaction, exclusive of allowable fees;
- Provide that the deferred presentment provider for a deferred presentment installment transaction may accept additional checks bearing the date that the check was given to the provider if the deferred presentment agreement includes the deferment period applicable to each check;
- Require the deferred presentment provider to access the current database until the OFR is able to implement a database that includes deferred presentment installment contracts;
- Allow the drawer to inform the deferred presentment provider in writing or in person if the drawer cannot redeem or pay in full in cash;
- Clarify that the term “by noon” means 12:00 p.m. of the same time zone in which the deferred presentment installment transaction agreement was entered into;
- Provide that the Financial Services Commission may impose a fee of up to \$1 per full or partial 30-day period that a balance is scheduled to be outstanding for a deferred presentment installment transaction, rather than \$1 per transaction;
- Provide that the bill takes effect on July 1, 2019; and
- Make additional technical and conforming changes throughout the bill.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (3) through (5) and (6) of
section 560.402, Florida Statutes, are renumbered as subsections
(4) through (6) and (8), respectively, present subsection (7) is
amended, and new subsections (3) and (7) are added to that
section, to read:

560.402 Definitions.—For the purposes of this part, the



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term:

(3) "Deferred presentment installment transaction" means a deferred presentment transaction that is repayable in installments.

(7) "Outstanding transaction balance" means the amount received by the drawer from the deferred presentment provider that is due and owing, exclusive of the fees allowed under this part, in a deferred presentment transaction.

~~(9)~~ ~~(7)~~ "Termination of a deferred presentment agreement" means that all checks ~~the check~~ that are ~~is~~ the basis for the agreement are ~~is~~ redeemed by the drawer by payment in full in cash, or are ~~is~~ deposited and the deferred presentment provider has evidence that such checks have ~~check has~~ cleared.

Verification of sufficient funds in the drawer's account by the deferred presentment provider is not sufficient evidence to deem that the deferred presentment ~~deposit~~ transaction is terminated.

Section 2. Subsections (5), (6), (8), (12), (13), (14), (19), (20), (21), and (22) and present subsections (23) and (24) of section 560.404, Florida Statutes, are amended, and new subsection (23) and subsection (26) are added to that section, to read:

560.404 Requirements for deferred presentment transactions.—

(5) The face amount of a check taken for deferred presentment transactions not repayable in installments may not exceed \$500, exclusive of the fees allowed under this part. For a deferred presentment installment transaction, neither the face amount of a check nor the outstanding transaction balance may exceed \$1,000, exclusive of the fees allowed under this part.



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(6) (a) A deferred presentment provider or its affiliate may not charge fees that exceed 10 percent of the currency or payment instrument provided for a deferred presentment transaction not repayable in installments. A deferred presentment provider or its affiliate may not charge fees on any deferred presentment installment transaction which exceed 8 percent of the outstanding transaction balance on a biweekly basis.

(b) Notwithstanding paragraph (a) However, a verification fee may be charged as provided in s. 560.309(8). The fees in paragraph (a) The 10-percent fee may not be applied to the verification fee.

(c) Fees are earned at the time of origination for a deferred presentment transaction scheduled to be paid off in 31 days or less; however, fees for a deferred presentment installment transaction are earned using a simple interest calculation. A deferred presentment provider may charge only those fees specifically authorized in this section. Prepayment penalties are prohibited.

(8) A deferred presentment agreement may not be for a term longer than 31 days or fewer less than 7 days, except for a deferred presentment installment transaction, which may not be for a term longer than 90 days or fewer than 60 days.

(12) The deferred presentment agreement and the drawer's initial check must bear the same date, and the number of days of the deferment period must shall be calculated from that date. For deferred presentment installment transactions, the deferred presentment provider may accept additional checks, subject to the limitations in subsection (5), each bearing the date that



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the check was given to the provider, and the deferred presentment agreement must include the deferment period applicable to each check. The deferred presentment provider and the drawer may not alter or delete the date on any written agreement or check held by the deferred presentment provider.

(13) For each deferred presentment transaction, the deferred presentment provider must comply with the disclosure requirements of 12 C.F.R. part 226, relating to the federal Truth-in-Lending Act, and Regulation Z of the Bureau of Consumer Financial Protection ~~Board of Governors of the Federal Reserve Board~~. A copy of the disclosure must be provided to the drawer at the time the deferred presentment transaction is initiated.

(14) A deferred presentment provider or its affiliate may not accept or hold an undated check or a check dated on a date other than the date on which the deferred presentment provider agreed to hold the check and signed the deferred presentment transaction agreement, except when a customer provides a new payment instrument reflecting the new outstanding transaction balance and anticipated fees upon making a payment on a deferred presentment installment transaction.

(19) A deferred presentment provider may not enter into a deferred presentment transaction with a drawer who has an outstanding deferred presentment transaction with that provider or with any other deferred presentment provider, or with a person whose previous deferred presentment transaction with that provider or with any other provider has been terminated for less than 24 hours. The deferred presentment provider must verify such information as follows:

(a) The deferred presentment provider must ~~shall~~ maintain a



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common database and ~~shall~~ verify whether the provider or an affiliate has an outstanding deferred presentment transaction with a particular person or has terminated a transaction with that person within the previous 24 hours. If a provider has not established a database, the provider may rely upon the written verification of the drawer as provided in subsection (20).

(b) The deferred presentment provider must ~~shall~~ access the office's database established pursuant to subsection (24) ~~(23)~~ and ~~shall~~ verify whether any other deferred presentment provider has an outstanding deferred presentment transaction with a particular person or has terminated a transaction with that person within the previous 24 hours. Before the office has implemented a database to include deferred presentment installment transactions ~~If a provider has not established a database,~~ the deferred presentment provider must access the office's current database pursuant to this paragraph and may rely upon the written verification of the drawer as provided in subsection (20).

(20) A deferred presentment provider must ~~shall~~ provide the following notice in a prominent place on each deferred presentment agreement in at least 14-point type in substantially the following form and ~~must~~ obtain the signature of the drawer where indicated:

NOTICE

1. STATE LAW PROHIBITS YOU FROM HAVING MORE THAN ONE DEFERRED PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE LAW ALSO PROHIBITS YOU FROM ENTERING INTO A DEFERRED



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PRESENTMENT AGREEMENT WITHIN 24 HOURS AFTER
TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT
AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE
SEVERE FINANCIAL HARDSHIP FOR YOU AND YOUR FAMILY.

YOU MUST SIGN THE FOLLOWING STATEMENT:

I DO NOT HAVE AN OUTSTANDING DEFERRED PRESENTMENT
AGREEMENT WITH ANY DEFERRED PRESENTMENT PROVIDER AT
THIS TIME. I HAVE NOT TERMINATED A DEFERRED
PRESENTMENT AGREEMENT WITHIN THE PAST 24 HOURS.

(Signature of Drawer)

2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A
CHECK WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY
AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT MAY BE
PURSUED AGAINST YOU.

3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER
(THIS BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR
DEFERRED PRESENTMENT TRANSACTION. THIS MEANS THAT YOU
CANNOT BE ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE
IN ORDER TO FURTHER DELAY THE DEPOSIT OR PRESENTMENT
OF YOUR CHECK FOR PAYMENT.

4. FOR DEFERRED PRESENTMENT TRANSACTIONS NOT REPAYABLE
IN INSTALLMENTS: IF YOU INFORM THE PROVIDER IN PERSON
THAT YOU CANNOT COVER THE CHECK OR PAY IN FULL THE
AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT,



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YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF
THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE
ORIGINAL TERMINATION DATE, WITHOUT ANY ADDITIONAL
CHARGE. THE DEFERRED PRESENTMENT PROVIDER MUST ~~SHALL~~
REQUIRE THAT YOU, AS A CONDITION OF OBTAINING THE
GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING
PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL
BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO
AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN
APPROVED BY THAT AGENCY. IF YOU DO NOT COMPLY WITH AND
ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY, WE
MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
THE DEBT AT THE END OF THE 60-DAY GRACE PERIOD.

5. FOR DEFERRED PRESENTMENT INSTALLMENT TRANSACTIONS:
IF YOU INFORM THE PROVIDER IN WRITING OR IN PERSON BY
NOON [TIME ZONE] OF THE BUSINESS DAY BEFORE A
SCHEDULED PAYMENT THAT YOU CANNOT PAY IN FULL THE
SCHEDULED AMOUNT DUE AND OWING, YOU MAY DEFER THE
SCHEDULED PAYMENT, WITHOUT ANY ADDITIONAL FEES OR
CHARGES, AND THE PROVIDER MAY NOT DEFAULT THE ACCOUNT
AND ACCELERATE THE FULL BALANCE. YOU MAY REQUEST ONLY
ONE DEFERRED PAYMENT PER LOAN. THE DEFERRED PAYMENT
WILL BE ADDED AFTER THE LAST SCHEDULED PAYMENT AND IS
DUE AT AN INTERVAL NO SHORTER THAN THE INTERVALS
BETWEEN THE ORIGINALLY SCHEDULED PAYMENTS.

(21) The deferred presentment provider may not deposit or



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present the drawer's check if the drawer informs the provider in writing or in person that the drawer cannot redeem or pay in full in cash the amount due and owing the deferred presentment provider, unless the drawer fails to comply with subsection (22) or subsection (23), as applicable. No additional fees or penalties may be imposed on the drawer by virtue of any misrepresentation made by the drawer as to the sufficiency of funds in the drawer's account. Additional fees may not be added to the amounts due and owing to the deferred presentment provider.

(22) For deferred presentment transactions not repayable in installments, if, by the end of the deferment period, the drawer informs the deferred presentment provider in writing or in person that the drawer cannot redeem or pay in full in cash the amount due and owing the deferred presentment provider, the deferred presentment provider must ~~shall~~ provide a grace period extending the term of the agreement for an additional 60 days after the original termination date, without any additional charge.

(a) The provider must ~~shall~~ require, ~~that~~ as a condition of providing a grace period, that the drawer make an appointment with a consumer credit counseling agency within 7 days after the end of the deferment period and complete the counseling by the end of the grace period. The drawer may agree to, comply with, and adhere to a repayment plan approved by the counseling agency. If the drawer agrees to comply with and adhere to a repayment plan approved by the counseling agency, the provider must also comply with and adhere to that repayment plan. The deferred presentment provider may not deposit or present the



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drawer's check for payment before the end of the 60-day grace period unless the drawer fails to comply with such conditions or the drawer fails to notify the provider of such compliance.

Before each deferred presentment transaction, the provider may verbally advise the drawer of the availability of the grace period consistent with the written notice in subsection (20), and may not discourage the drawer from using the grace period.

(b) At the commencement of the grace period, the deferred presentment provider must ~~shall~~ provide the drawer:

1. Verbal notice of the availability of the grace period consistent with the written notice in subsection (20).

2. A list of approved consumer credit counseling agencies prepared by the office. The office list must ~~shall~~ include nonprofit consumer credit counseling agencies affiliated with the National Foundation for Credit Counseling which provide credit counseling services to state residents in person, by telephone, or through the Internet. The office list must include phone numbers for the agencies, the counties served by the agencies, and indicate the agencies that provide telephone counseling and those that provide Internet counseling. The office must ~~shall~~ update the list at least once each year.

3. The following notice in at least 14-point type in substantially the following form:

AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING
THE TERM OF YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN
ADDITIONAL 60 DAYS, UNTIL [DATE], WITHOUT ANY
ADDITIONAL FEES, YOU MUST COMPLETE CONSUMER CREDIT
COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST



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243 THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY
244 ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT
245 PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY BE IN
246 PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU
247 MUST NOTIFY US WITHIN 7 DAYS, BY [DATE], THAT YOU HAVE
248 MADE AN APPOINTMENT WITH A CONSUMER CREDIT COUNSELING
249 AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 DAYS, BY
250 [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT
251 COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE
252 AGENCY. IF YOU FAIL TO PROVIDE THE 7-DAY OR 60-DAY
253 NOTICE, OR IF YOU HAVE NOT MADE THE APPOINTMENT OR
254 COMPLETED THE COUNSELING WITHIN THE TIME REQUIRED, WE
255 MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
256 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
257 THE DEBT.

258
259 (c) If a drawer completes an approved payment plan, the
260 deferred presentment provider must ~~shall~~ pay one-half of the
261 drawer's fee for the deferred presentment agreement to the
262 consumer credit counseling agency.

263 (23) For deferred presentment installment transactions, if
264 a drawer informs the deferred presentment provider in writing or
265 in person by noon of the business day before a scheduled payment
266 that the drawer cannot pay in full the scheduled payment amount
267 due and owing the provider, the deferred presentment provider
268 must provide the drawer the opportunity to defer the scheduled
269 payment, at no additional fee or charge, until after the last
270 scheduled payment. The phrase "by noon" means 12:00 p.m. of the
271 same time zone in which the deferred presentment agreement was



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entered into. Only one deferred payment is permitted for each deferred presentment installment transaction. The deferred payment must be due at an interval after the last scheduled payment which is no shorter than the intervals between the originally scheduled payments.

(24) (a) ~~(23)~~ The office must ~~shall~~ implement a common database with real-time access through an Internet connection for deferred presentment providers, as provided in this subsection. The database must be accessible to the office and the deferred presentment providers in order to verify whether any deferred presentment transactions are outstanding for a particular person. Deferred presentment providers must ~~shall~~ submit such data before entering into each deferred presentment transaction in such format as required by rule, including the drawer's name, social security number or employment authorization alien number, address, driver license number, amount of the transaction, date of transaction, the date that the transaction is closed, and such additional information as is required by rule.

(b) For data that must be submitted by a deferred presentment provider, the commission may by rule impose a fee of up to \$1 per transaction for deferred presentment transactions not repayable in installments, and the commission may impose a fee of up to \$1 for each full or partial 30-day period that a balance is scheduled to be outstanding for a deferred presentment installment transaction ~~for data that must be submitted by a deferred presentment provider.~~

(c) A deferred presentment provider may rely on the information contained in the database as accurate and is not



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subject to any administrative penalty or civil liability due to relying on inaccurate information contained in the database.

(d) A deferred presentment provider must notify the office, in a manner as prescribed by rule, within 15 business days after ceasing operations or no longer holding a license under part II or part III of this chapter. Such notification must include a reconciliation of all open transactions. If the provider fails to provide notice, the office must ~~shall~~ take action to administratively release all open and pending transactions in the database after the office becomes aware of the closure.

(e) This section does not affect the rights of the provider to enforce the contractual provisions of the deferred presentment agreements through any civil action allowed by law.

(f) The commission may adopt rules to administer this subsection and to ensure that the database is used by deferred presentment providers in accordance with this section.

~~(25)-(24)~~ A deferred presentment provider may not accept more than one check or authorization to initiate more than one automated clearinghouse transaction to collect on a deferred presentment transaction for a single deferred presentment transaction, except for deferred presentment installment transactions in which such checks or authorizations represent multiple scheduled payments.

(26) A deferred presentment installment transaction must be fully amortizing and repayable in consecutive installments as nearly equal as mathematically practicable according to a payment schedule agreed upon by the parties with no fewer than 13 days and not more than 1 calendar month between payments, except that the first installment may be longer than the



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remaining installments by not more than 15 days, and the first installment payment may be larger than the remaining installment payments by the amount of charges applicable to the extra days. In calculating charges under this subsection, when the first installment is longer than the remaining installments, the amount of the charges applicable to the extra days may not exceed those that would accrue under a simple interest calculation based on the rate allowed under subsection (6).

Section 3. Subsections (1), (3), and (4) of section 560.405, Florida Statutes, are amended to read:

560.405 Deposit; redemption.—

(1) The deferred presentment provider or its affiliate may not present the drawer's check before the end of the deferment period, except for a missed scheduled payment for a deferred presentment installment transaction that has not been otherwise deferred pursuant to s. 560.404(23), as reflected and described in the deferred presentment transaction agreement.

(3) Notwithstanding subsection (1), in lieu of presentment, a deferred presentment provider may allow the check to be redeemed at any time upon payment of the outstanding transaction balance and earned fees ~~face amount of the drawer's check~~.

However, payment may not be made in the form of a personal check. Upon redemption, the deferred presentment provider must ~~shall~~ return the drawer's check and provide a signed, dated receipt showing that the drawer's check has been redeemed.

(4) A drawer may not be required to redeem his or her check in full before the agreed-upon date; however, the drawer may choose to redeem the check before the agreed-upon presentment date.



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Section 4. For the purpose of incorporating the amendments made by this act to sections 560.404 and 560.405, Florida Statutes, in references thereto, subsection (5) of section 560.111, Florida Statutes, is reenacted to read:

560.111 Prohibited acts.—

(5) Any person who willfully violates any provision of s. 560.403, s. 560.404, or s. 560.405 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. This act shall take effect July 1, 2019.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to deferred presentment transactions;
amending s. 560.402, F.S.; providing and revising
definitions; amending s. 560.404, F.S.; specifying the
maximum face amount of checks that may be taken for
deferred presentment installment transactions,
exclusive of fees; specifying the maximum rate and
frequency of fees that deferred presentment providers
or their affiliates may charge on deferred presentment
installment transactions; specifying when fees are
earned for certain deferred presentment transactions;
specifying the calculation of fees earned for deferred
presentment installment transactions; prohibiting
prepayment penalties; specifying the minimum and



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maximum terms of a deferred presentment installment transaction; specifying dates that checks must bear; authorizing providers of deferred presentment installment transactions to accept additional checks subject to certain limitations; requiring the deferred presentment agreement to include the deferment period applicable to each check; correcting a reference to federal law; providing an exception to a prohibition against the acceptance or holding of undated checks or checks with certain dates by a deferred presentment provider or its affiliate; conforming a cross-reference; providing a verification process that may be relied upon under certain conditions; revising a notice in deferred presentment agreements; authorizing a drawer to inform a provider in writing that the drawer cannot redeem or pay in full the amount due and owing to the provider; providing an exception to a prohibition, under certain circumstances, against a deferred presentment provider's deposit or presentment of a drawer's check; requiring a provider of a deferred presentment installment transaction to allow a drawer to defer one scheduled payment under certain circumstances; providing requirements for the deferred payment; specifying the frequency a certain fee may be imposed by Financial Services Commission rule for data on certain transactions submitted by deferred presentment providers to a certain database; providing an exception to a limitation on a deferred presentment provider's acceptance of a certain check or



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authorization; specifying requirements for
amortization, installment repayments, and the
calculation of charges for deferred presentment
installment transactions; conforming provisions to
changes made by the act; amending s. 560.405, F.S.;
providing an exception to a prohibition against a
deferred presentment provider's or its affiliate's
presentment of a drawer's check before the end of the
deferment period; revising a condition under which a
deferred presentment provider may allow the check to
be redeemed in lieu of presentment; revising a
prohibition against requiring a drawer to redeem his
or her check before the agreed-upon date; reenacting
s. 560.111(5), F.S., relating to prohibited acts, to
incorporate the amendments made to ss. 560.404 and
560.405, F.S., in references thereto; providing an
effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (478870) (with title amendment)

Delete lines 40 - 283
and insert:

(6) (a) A deferred presentment provider or its affiliate may not directly or indirectly charge, collect, or receive interest, fees, or other charges exceeding 30 percent per annum on the principal amount, inclusive of ancillary products or services incidental to or included in the deferred presentment



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transaction or deferred presentment installment transaction ~~that~~
~~exceed 10 percent of the currency or payment instrument~~
~~provided. However, a verification fee may be charged as provided~~
~~in s. 560.309(8). The 10 percent fee may not be applied to the~~
~~verification fee.~~

(b) Fees are earned at the time of origination for a
deferred presentment transaction scheduled to be paid off in 31
days or less; however, fees for a deferred presentment
installment transaction are earned using a simple interest
calculation. A deferred presentment provider may charge only the
interest, those fees, and other charges specifically authorized
in this section. Prepayment penalties are prohibited.

(8) A deferred presentment agreement may not be for a term
longer than 31 days or fewer less than 7 days, except for a
deferred presentment installment transaction, which may not be
for a term longer than 90 days or fewer than 60 days.

(12) The deferred presentment agreement and the drawer's
initial check must bear the same date, and the number of days of
the deferment period must shall be calculated from that date.
For deferred presentment installment transactions, the deferred
presentment provider may accept additional checks, subject to
the limitations in subsection (5), each bearing the date that
the check was given to the provider, and the deferred
presentment agreement must include the deferment period
applicable to each check. The deferred presentment provider and
the drawer may not alter or delete the date on any written
agreement or check held by the deferred presentment provider.

(13) For each deferred presentment transaction, the
deferred presentment provider must comply with the disclosure



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requirements of 12 C.F.R. part 226, relating to the federal Truth-in-Lending Act, and Regulation Z of the Bureau of Consumer Financial Protection Board of Governors of the Federal Reserve Board. A copy of the disclosure must be provided to the drawer at the time the deferred presentment transaction is initiated.

(14) A deferred presentment provider or its affiliate may not accept or hold an undated check or a check dated on a date other than the date on which the deferred presentment provider agreed to hold the check and signed the deferred presentment transaction agreement, except when a customer provides a new payment instrument reflecting the new outstanding transaction balance and anticipated fees upon making a payment on a deferred presentment installment transaction.

(19) A deferred presentment provider may not enter into a deferred presentment transaction or a deferred presentment installment transaction with a drawer if the drawer or any other person in the drawer's household ~~who~~ has an outstanding deferred presentment transaction or an outstanding deferred presentment installment transaction with that provider or with any other deferred presentment provider. A deferred presentment provider may not enter into a deferred presentment transaction or a deferred presentment installment transaction with a drawer if the previous deferred presentment transaction or previous deferred presentment installment transaction of a drawer or any other person in the drawer's household terminated in the previous 24 hours. As used in this section, the term "household" means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling, ~~or~~



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69 ~~with a person whose previous deferred presentment transaction~~
70 ~~with that provider or with any other provider has been~~
71 ~~terminated for less than 24 hours.~~ The deferred presentment
72 provider must verify such information as follows:

73 (a) The deferred presentment provider must ~~shall~~ maintain a
74 common database and ~~shall~~ verify whether the provider or an
75 affiliate has an outstanding deferred presentment transaction
76 with any drawer in a particular household person or has
77 terminated a transaction with any drawer in that household
78 ~~person~~ within the previous 24 hours. If a provider has not
79 established a database, the provider may rely upon the written
80 verification of the drawer as provided in subsection (20).

81 (b) The deferred presentment provider must ~~shall~~ access the
82 office's database established pursuant to subsection (24) ~~(23)~~
83 and ~~shall~~ verify whether any other deferred presentment provider
84 has an outstanding deferred presentment transaction with any
85 drawer in a particular household person or has terminated a
86 transaction with any drawer in that household person within the
87 previous 24 hours. Before the office has implemented a database
88 to include deferred presentment installment transactions ~~If a~~
89 ~~provider has not established a database,~~ the deferred
90 presentment provider must access the office's current database
91 pursuant to this paragraph and may rely upon the written
92 verification of the drawer as provided in subsection (20).

93 (20) A deferred presentment provider must ~~shall~~ provide the
94 following notice in a prominent place on each deferred
95 presentment agreement in at least 14-point type in substantially
96 the following form and ~~must~~ obtain the signature of the drawer
97 where indicated:



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NOTICE

1. STATE LAW PROHIBITS A HOUSEHOLD ~~YOU~~ FROM HAVING MORE THAN ONE DEFERRED PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE LAW ALSO PROHIBITS A HOUSEHOLD ~~YOU~~ FROM ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT WITHIN 24 HOURS AFTER TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL HARDSHIP FOR YOU AND YOUR FAMILY.

YOU MUST SIGN THE FOLLOWING STATEMENT:

NO PERSON IN MY HOUSEHOLD HAS ~~I DO NOT HAVE~~ AN OUTSTANDING DEFERRED PRESENTMENT AGREEMENT WITH ANY DEFERRED PRESENTMENT PROVIDER AT THIS TIME. NO PERSON IN MY HOUSEHOLD HAS ~~I HAVE NOT~~ TERMINATED A DEFERRED PRESENTMENT AGREEMENT WITHIN THE PAST 24 HOURS.

(Signature of Drawer)

2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A CHECK WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT MAY BE PURSUED AGAINST YOU.

3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER (THIS BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR DEFERRED PRESENTMENT TRANSACTION. THIS MEANS THAT YOU



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CANNOT BE ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE
IN ORDER TO FURTHER DELAY THE DEPOSIT OR PRESENTMENT
OF YOUR CHECK FOR PAYMENT.

4. FOR DEFERRED PRESENTMENT TRANSACTIONS NOT REPAYABLE
IN INSTALLMENTS: IF YOU INFORM THE PROVIDER IN PERSON
THAT YOU CANNOT COVER THE CHECK OR PAY IN FULL THE
AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT,
YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF
THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE
ORIGINAL TERMINATION DATE, WITHOUT ANY ADDITIONAL
CHARGE. THE DEFERRED PRESENTMENT PROVIDER MUST ~~SHALL~~
REQUIRE THAT YOU, AS A CONDITION OF OBTAINING THE
GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING
PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL
BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO
AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN
APPROVED BY THAT AGENCY. IF YOU DO NOT COMPLY WITH AND
ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY, WE
MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
THE DEBT AT THE END OF THE 60-DAY GRACE PERIOD.

5. FOR DEFERRED PRESENTMENT INSTALLMENT TRANSACTIONS:
IF YOU INFORM THE PROVIDER IN WRITING OR IN PERSON BY
NOON [TIME ZONE] OF THE BUSINESS DAY BEFORE A
SCHEDULED PAYMENT THAT YOU CANNOT PAY IN FULL THE
SCHEDULED AMOUNT DUE AND OWING, YOU MAY DEFER THE
SCHEDULED PAYMENT, WITHOUT ANY ADDITIONAL FEES OR



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CHARGES, AND THE PROVIDER MAY NOT DEFAULT THE ACCOUNT
AND ACCELERATE THE FULL BALANCE. YOU MAY REQUEST ONLY
ONE DEFERRED PAYMENT PER LOAN. THE DEFERRED PAYMENT
WILL BE ADDED AFTER THE LAST SCHEDULED PAYMENT AND IS
DUE AT AN INTERVAL NO SHORTER THAN THE INTERVALS
BETWEEN THE ORIGINALLY SCHEDULED PAYMENTS.

(21) The deferred presentment provider may not deposit or present the drawer's check if the drawer informs the provider in writing or in person that the drawer cannot redeem or pay in full in cash the amount due and owing the deferred presentment provider, unless the drawer fails to comply with subsection (22) or subsection (23), as applicable. No additional fees or penalties may be imposed on the drawer by virtue of any misrepresentation made by the drawer as to the sufficiency of funds in the drawer's account. Additional fees may not be added to the amounts due and owing to the deferred presentment provider.

(22) For deferred presentment transactions not repayable in installments, if, by the end of the deferment period, the drawer informs the deferred presentment provider in writing or in person that the drawer cannot redeem or pay in full in cash the amount due and owing the deferred presentment provider, the deferred presentment provider must ~~shall~~ provide a grace period extending the term of the agreement for an additional 60 days after the original termination date, without any additional charge.

(a) The provider must ~~shall~~ require, ~~that~~ as a condition of providing a grace period, that the drawer make an appointment



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with a consumer credit counseling agency within 7 days after the end of the deferment period and complete the counseling by the end of the grace period. The drawer may agree to, comply with, and adhere to a repayment plan approved by the counseling agency. If the drawer agrees to comply with and adhere to a repayment plan approved by the counseling agency, the provider must also comply with and adhere to that repayment plan. The deferred presentment provider may not deposit or present the drawer's check for payment before the end of the 60-day grace period unless the drawer fails to comply with such conditions or the drawer fails to notify the provider of such compliance.

Before each deferred presentment transaction, the provider may verbally advise the drawer of the availability of the grace period consistent with the written notice in subsection (20), and may not discourage the drawer from using the grace period.

(b) At the commencement of the grace period, the deferred presentment provider must ~~shall~~ provide the drawer:

1. Verbal notice of the availability of the grace period consistent with the written notice in subsection (20).

2. A list of approved consumer credit counseling agencies prepared by the office. The office list must ~~shall~~ include nonprofit consumer credit counseling agencies affiliated with the National Foundation for Credit Counseling which provide credit counseling services to state residents in person, by telephone, or through the Internet. The office list must include phone numbers for the agencies, the counties served by the agencies, and indicate the agencies that provide telephone counseling and those that provide Internet counseling. The office must ~~shall~~ update the list at least once each year.



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3. The following notice in at least 14-point type in substantially the following form:

AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING THE TERM OF YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN ADDITIONAL 60 DAYS, UNTIL [DATE], WITHOUT ANY ADDITIONAL FEES, YOU MUST COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY BE IN PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU MUST NOTIFY US WITHIN 7 DAYS, BY [DATE], THAT YOU HAVE MADE AN APPOINTMENT WITH A CONSUMER CREDIT COUNSELING AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 DAYS, BY [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE AGENCY. IF YOU FAIL TO PROVIDE THE 7-DAY OR 60-DAY NOTICE, OR IF YOU HAVE NOT MADE THE APPOINTMENT OR COMPLETED THE COUNSELING WITHIN THE TIME REQUIRED, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT.

(c) If a drawer completes an approved payment plan, the deferred presentment provider must ~~shall~~ pay one-half of the drawer's fee for the deferred presentment agreement to the consumer credit counseling agency.

(23) For deferred presentment installment transactions, if



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a drawer informs the deferred presentment provider in writing or in person by noon of the business day before a scheduled payment that the drawer cannot pay in full the scheduled payment amount due and owing the provider, the deferred presentment provider must provide the drawer the opportunity to defer the scheduled payment, at no additional fee or charge, until after the last scheduled payment. The phrase "by noon" means 12:00 p.m. of the same time zone in which the deferred presentment agreement was entered into. Only one deferred payment is permitted for each deferred presentment installment transaction. The deferred payment must be due at an interval after the last scheduled payment which is no shorter than the intervals between the originally scheduled payments.

(24) (a) ~~(23)~~ The office must ~~shall~~ implement a common database with real-time access through an Internet connection for deferred presentment providers, as provided in this subsection. The database must be accessible to the office and the deferred presentment providers in order to verify whether any deferred presentment transactions are outstanding for any drawer in a particular household ~~person~~. Deferred presentment providers must ~~shall~~

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

And the title is amended as follows:

Delete lines 380 - 414

and insert:

exclusive of fees; revising and specifying the maximum interest, fees, and charges that deferred presentment providers or their affiliates may charge, collect, or



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receive in deferred presentment transactions and
deferred presentment installment transactions,
respectively; specifying the calculation of fees
earned for deferred presentment installment
transactions; prohibiting prepayment penalties;
specifying the minimum and maximum terms of a deferred
presentment installment transaction; specifying dates
that checks must bear; authorizing providers of
deferred presentment installment transactions to
accept additional checks subject to certain
limitations; requiring the deferred presentment
agreement to include the deferment period applicable
to each check; correcting a reference to federal law;
providing an exception to a prohibition against the
acceptance or holding of undated checks or checks with
certain dates by a deferred presentment provider or
its affiliate; prohibiting deferred presentment
providers from entering into deferred presentment
transactions or deferred presentment installment
transactions with a drawer, if the drawer or any other
person in the drawer's household has an outstanding
deferred presentment transaction or deferred
presentment installment transaction, or within a
specified timeframe after the termination of the
previous deferred presentment transaction or deferred
presentment installment transaction of the drawer or
any other person in the drawer's household; defining
the term "household"; conforming a cross-reference;
providing a verification process that may be relied



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upon under certain conditions; revising a notice in
deferred presentment agreements; authorizing a drawer
to inform a provider in writing that the drawer cannot
redeem or pay in full the amount due and owing to the
provider; providing an exception to a prohibition,
under certain circumstances, against a deferred
presentment provider's deposit or presentment of a
drawer's check; requiring a provider of a deferred
presentment installment transaction to allow a drawer
to defer one scheduled payment under certain
circumstances; providing requirements for the deferred
payment; revising a requirement for the common
database for deferred presentment providers;
specifying the frequency a certain fee may be imposed
by Financial Services Commission rule for data on
certain transactions submitted by deferred presentment
providers to the database; providing

By Senator Bradley

5-00976-18

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1 A bill to be entitled
 2 An act relating to deferred presentment transactions;
 3 amending s. 560.402, F.S.; defining the term "deferred
 4 presentment installment transaction"; amending s.
 5 560.404, F.S.; specifying the maximum face amount of
 6 checks which may be taken for deferred presentment
 7 installment transactions, exclusive of fees;
 8 specifying the maximum rate and frequency of fees that
 9 deferred presentment providers or their affiliates may
 10 charge on deferred presentment installment
 11 transactions; specifying when fees are earned for
 12 certain deferred presentment transactions; specifying
 13 the calculation of fees earned for deferred
 14 presentment installment transactions; prohibiting
 15 prepayment penalties; specifying the minimum and
 16 maximum terms of a deferred presentment installment
 17 transaction; providing an exception to a prohibition
 18 against the acceptance or holding of undated checks or
 19 checks with certain dates by a preferred presentment
 20 provider or its affiliate; conforming a cross-
 21 reference; revising a notice in deferred presentment
 22 agreements; providing an exception to a prohibition,
 23 under certain circumstances, against a deferred
 24 presentment provider's deposit or presentment of a
 25 drawer's check; requiring a provider of a deferred
 26 presentment installment transaction to allow a drawer
 27 to defer a scheduled payment under certain
 28 circumstances; providing requirements for the deferred
 29 payment; specifying the frequency a certain fee may be

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30 imposed by Financial Services Commission rule for data
 31 on certain transactions submitted by deferred
 32 presentment providers to a certain database; providing
 33 an exception to a limitation on a deferred presentment
 34 provider's acceptance of a certain check or
 35 authorization; specifying requirements for
 36 amortization, installment repayments, and calculation
 37 of charges for deferred presentment installment
 38 transactions; conforming provisions to changes made by
 39 the act; amending s. 560.405, F.S.; providing an
 40 exception to a prohibition against a deferred
 41 presentment provider's or its affiliate's presentment
 42 of a drawer's check before the end of the deferment
 43 period; revising a condition under which a deferred
 44 presentment provider may allow the check to be
 45 redeemed in lieu of presentment; revising a
 46 prohibition against requiring a drawer to redeem his
 47 or her check before the agreed-upon date; reenacting
 48 s. 560.111(5), F.S., relating to prohibited acts, to
 49 incorporate the amendments made to ss. 560.404 and
 50 560.405, F.S., in references thereto; providing an
 51 effective date.

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

54
 55 Section 1. Present subsections (3) through (7) of section
 56 560.402, Florida Statutes, are redesignated as subsections (4)
 57 through (8), respectively, and a new subsection (3) is added to
 58 that section, to read:

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59 560.402 Definitions.—For the purposes of this part, the
60 term:

61 (3) "Deferred presentment installment transaction" means a
62 deferred presentment transaction that is repayable in
63 installments.

64 Section 2. Subsections (5), (6), (8), and (14), paragraph
65 (b) of subsection (19), and subsections (20), (21), and (22) of
66 section 560.404, Florida Statutes, are amended, present
67 subsections (23) and (24) of that section are redesignated as
68 subsections (24) and (25), respectively, and amended, and a new
69 subsection (23) and subsection (26) are added to that section,
70 to read:

71 560.404 Requirements for deferred presentment
72 transactions.—

73 (5) The face amount of a check taken for deferred
74 presentment may not exceed \$500, exclusive of the fees allowed
75 under this part. The face amount of a check taken for a deferred
76 presentment installment transaction may not exceed \$1,000,
77 exclusive of fees allowed under this part.

78 (6) (a) A deferred presentment provider or its affiliate may
79 not charge fees that exceed 10 percent of the currency or
80 payment instrument provided. A deferred presentment provider or
81 its affiliate may not charge fees on any deferred presentment
82 installment transaction which exceed 8 percent of the
83 outstanding transaction balance on a biweekly basis.

84 (b) Notwithstanding paragraph (a) ~~However~~, a verification
85 fee may be charged as provided in s. 560.309(8). The fees in
86 paragraph (a) ~~The 10-percent fee~~ may not be applied to the
87 verification fee.

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88 (c) Fees are earned at the time of origination for a
89 deferred presentment transaction scheduled to be paid off in 31
90 days or less; however, fees for a deferred presentment
91 installment transaction are earned using a simple interest
92 calculation. A deferred presentment provider may charge only
93 those fees specifically authorized in this section. Prepayment
94 penalties are prohibited.

95 (8) A deferred presentment agreement may not be for a term
96 longer than 31 days or less than 7 days, except for a deferred
97 presentment installment transaction, which may not be for a term
98 longer than 90 days or less than 60 days.

99 (14) A deferred presentment provider or its affiliate may
100 not accept or hold an undated check or a check dated on a date
101 other than the date on which the deferred presentment provider
102 agreed to hold the check and signed the deferred presentment
103 transaction agreement, except when a customer provides a new
104 payment instrument reflecting the new outstanding transaction
105 balance and anticipated fees upon making a payment on a deferred
106 presentment installment transaction.

107 (19) A deferred presentment provider may not enter into a
108 deferred presentment transaction with a drawer who has an
109 outstanding deferred presentment transaction with that provider
110 or with any other deferred presentment provider, or with a
111 person whose previous deferred presentment transaction with that
112 provider or with any other provider has been terminated for less
113 than 24 hours. The deferred presentment provider must verify
114 such information as follows:

115 (b) The deferred presentment provider shall access the
116 office's database established pursuant to subsection (24) ~~(23)~~

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and shall verify whether any other deferred presentment provider has an outstanding deferred presentment transaction with a particular person or has terminated a transaction with that person within the previous 24 hours. If a provider has not established a database, the deferred presentment provider may rely upon the written verification of the drawer as provided in subsection (20).

(20) A deferred presentment provider shall provide the following notice in a prominent place on each deferred presentment agreement in at least 14-point type in substantially the following form and must obtain the signature of the drawer where indicated:

NOTICE

1. STATE LAW PROHIBITS YOU FROM HAVING MORE THAN ONE DEFERRED PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE LAW ALSO PROHIBITS YOU FROM ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT WITHIN 24 HOURS AFTER TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL HARDSHIP FOR YOU AND YOUR FAMILY.

YOU MUST SIGN THE FOLLOWING STATEMENT:

I DO NOT HAVE AN OUTSTANDING DEFERRED PRESENTMENT AGREEMENT WITH ANY DEFERRED PRESENTMENT PROVIDER AT THIS TIME. I HAVE NOT TERMINATED A DEFERRED PRESENTMENT AGREEMENT WITHIN THE PAST 24 HOURS.

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(Signature of Drawer)

2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A CHECK WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT MAY BE PURSUED AGAINST YOU.

3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER (THIS BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR DEFERRED PRESENTMENT TRANSACTION. THIS MEANS THAT YOU CANNOT BE ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE IN ORDER TO FURTHER DELAY THE DEPOSIT OR PRESENTMENT OF YOUR CHECK FOR PAYMENT.

4. FOR DEFERRED PRESENTMENT TRANSACTIONS NOT PAYABLE IN INSTALLMENTS: IF YOU INFORM THE PROVIDER IN PERSON THAT YOU CANNOT COVER THE CHECK OR PAY IN FULL THE AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT, YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE ORIGINAL TERMINATION DATE, WITHOUT ANY ADDITIONAL CHARGE. THE DEFERRED PRESENTMENT PROVIDER SHALL REQUIRE THAT YOU, AS A CONDITION OF OBTAINING THE GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY. IF YOU DO NOT COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY, WE

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175 MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
 176 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
 177 THE DEBT AT THE END OF THE 60-DAY GRACE PERIOD.
 178

179 5. FOR DEFERRED PRESENTMENT INSTALLMENT TRANSACTIONS:
 180 IF YOU INFORM THE PROVIDER IN PERSON THAT YOU CANNOT
 181 PAY IN FULL THE SCHEDULED AMOUNT OWING BEFORE THE DUE
 182 DATE AS PROVIDED BY THE AGREEMENT, YOU MAY DEFER THE
 183 SCHEDULED PAYMENT, WITHOUT ANY ADDITIONAL FEES OR
 184 CHARGES, AND THE PROVIDER MAY NOT DEFAULT THE ACCOUNT
 185 AND ACCELERATE THE FULL BALANCE. YOU MAY REQUEST ONLY
 186 ONE DEFERRED PAYMENT PER LOAN. THE DEFERRED PAYMENT
 187 WILL BE ADDED AFTER THE LAST SCHEDULED PAYMENT AND IS
 188 DUE AT AN INTERVAL NO LESS THAN THE INTERVALS BETWEEN
 189 THE SCHEDULED PAYMENTS.
 190

191 (21) The deferred presentment provider may not deposit or
 192 present the drawer's check if the drawer informs the provider in
 193 person that the drawer cannot redeem or pay in full in cash the
 194 amount due and owing the deferred presentment provider without
 195 first complying with subsection (23). No additional fees or
 196 penalties may be imposed on the drawer by virtue of any
 197 misrepresentation made by the drawer as to the sufficiency of
 198 funds in the drawer's account. Additional fees may not be added
 199 to the amounts due and owing to the deferred presentment
 200 provider.

201 (22) As to deferred presentment transactions not payable in
 202 installments, if, by the end of the deferment period, the drawer
 203 informs the deferred presentment provider in person that the

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204 drawer cannot redeem or pay in full in cash the amount due and
 205 owing the deferred presentment provider, the deferred
 206 presentment provider shall provide a grace period extending the
 207 term of the agreement for an additional 60 days after the
 208 original termination date, without any additional charge.

209 (a) The provider shall require ~~that~~ as a condition of
 210 providing a grace period, that the drawer make an appointment
 211 with a consumer credit counseling agency within 7 days after the
 212 end of the deferment period and complete the counseling by the
 213 end of the grace period. The drawer may agree to, comply with,
 214 and adhere to a repayment plan approved by the counseling
 215 agency. If the drawer agrees to comply with and adhere to a
 216 repayment plan approved by the counseling agency, the provider
 217 must also comply with and adhere to that repayment plan. The
 218 deferred presentment provider may not deposit or present the
 219 drawer's check for payment before the end of the 60-day grace
 220 period unless the drawer fails to comply with such conditions or
 221 the drawer fails to notify the provider of such compliance.
 222 Before each deferred presentment transaction, the provider may
 223 verbally advise the drawer of the availability of the grace
 224 period consistent with the written notice in subsection (20),
 225 and may not discourage the drawer from using the grace period.

226 (b) At the commencement of the grace period, the deferred
 227 presentment provider shall provide the drawer:

228 1. Verbal notice of the availability of the grace period
 229 consistent with the written notice in subsection (20).

230 2. A list of approved consumer credit counseling agencies
 231 prepared by the office. The office list shall include nonprofit
 232 consumer credit counseling agencies affiliated with the National

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Foundation for Credit Counseling which provide credit counseling services to state residents in person, by telephone, or through the Internet. The office list must include phone numbers for the agencies, the counties served by the agencies, and indicate the agencies that provide telephone counseling and those that provide Internet counseling. The office shall update the list at least once each year.

3. The following notice in at least 14-point type in substantially the following form:

AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING THE TERM OF YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN ADDITIONAL 60 DAYS, UNTIL [DATE], WITHOUT ANY ADDITIONAL FEES, YOU MUST COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY BE IN PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU MUST NOTIFY US WITHIN 7 DAYS, BY [DATE], THAT YOU HAVE MADE AN APPOINTMENT WITH A CONSUMER CREDIT COUNSELING AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 DAYS, BY [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE AGENCY. IF YOU FAIL TO PROVIDE THE 7-DAY OR 60-DAY NOTICE, OR IF YOU HAVE NOT MADE THE APPOINTMENT OR COMPLETED THE COUNSELING WITHIN THE TIME REQUIRED, WE MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE

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THE DEBT.

(c) If a drawer completes an approved payment plan, the deferred presentment provider shall pay one-half of the drawer's fee for the deferred presentment agreement to the consumer credit counseling agency.

(23) As to deferred presentment installment transactions, if a drawer informs the deferred presentment installment transaction provider in writing or in person by noon of the business day before a scheduled payment that the drawer cannot pay in full the scheduled payment amount due and owing the deferred presentment installment provider, the deferred presentment installment provider must provide the drawer the opportunity to defer the scheduled payment, at no additional fee or charges, until after the last scheduled payment. Such deferred payment must be due at an interval after the last scheduled payment which is no less than the intervals between the originally scheduled payments.

~~(24)~~ The office shall implement a common database with real-time access through an Internet connection for deferred presentment providers, as provided in this subsection. The database must be accessible to the office and the deferred presentment providers in order to verify whether any deferred presentment transactions are outstanding for a particular person. Deferred presentment providers shall submit such data before entering into each deferred presentment transaction in such format as required by rule, including the drawer's name, social security number or employment authorization alien number, address, driver license number, amount of the transaction, date

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291 of transaction, the date that the transaction is closed, and
 292 such additional information as is required by rule. The
 293 commission may by rule impose a fee of up to \$1 per transaction,
 294 or for each month that a balance is scheduled to be outstanding
 295 on transactions that have multiple scheduled payments, for data
 296 that must be submitted by a deferred presentment provider. A
 297 deferred presentment provider may rely on the information
 298 contained in the database as accurate and is not subject to any
 299 administrative penalty or civil liability due to relying on
 300 inaccurate information contained in the database. A deferred
 301 presentment provider must notify the office, in a manner as
 302 prescribed by rule, within 15 business days after ceasing
 303 operations or no longer holding a license under part II or part
 304 III of this chapter. Such notification must include a
 305 reconciliation of all open transactions. If the provider fails
 306 to provide notice, the office shall take action to
 307 administratively release all open and pending transactions in
 308 the database after the office becomes aware of the closure. This
 309 section does not affect the rights of the provider to enforce
 310 the contractual provisions of the deferred presentment
 311 agreements through any civil action allowed by law. The
 312 commission may adopt rules to administer this subsection and to
 313 ensure that the database is used by deferred presentment
 314 providers in accordance with this section.

315 (25)-(24) A deferred presentment provider may not accept
 316 more than one check or authorization to initiate more than one
 317 automated clearinghouse transaction to collect on a deferred
 318 presentment transaction for a single deferred presentment
 319 transaction, except for deferred presentment installment

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320 transactions in which such checks or authorizations represent
 321 multiple scheduled payments.

322 (26) A deferred presentment installment transaction must be
 323 fully amortizing and repayable in substantially equal and
 324 consecutive installments according to a payment schedule agreed
 325 upon by the parties with no less than 13 days and not more than
 326 1 calendar month between payments, except that the first
 327 installment period may be longer than the remaining installment
 328 periods by not more than 15 days, and the first installment
 329 payment may be larger than the remaining installment payments by
 330 the amount of charges applicable to the extra days. In
 331 calculating charges under this subsection, when the first
 332 installment period is longer than the remaining installment
 333 periods, the amount of the charges applicable to the extra days
 334 may not exceed those that would accrue under a simple interest
 335 calculation based on the rates allowed under subsection (6).

336 Section 3. Subsections (1), (3), and (4) of section
 337 560.405, Florida Statutes, are amended to read:

338 560.405 Deposit; redemption.—

339 (1) The deferred presentment provider or its affiliate may
 340 not present the drawer's check before the end of the deferment
 341 period, except for a missed scheduled payment for a deferred
 342 presentment installment transaction, as reflected and described
 343 in the deferred presentment transaction agreement.

344 (3) Notwithstanding subsection (1), in lieu of presentment,
 345 a deferred presentment provider may allow the check to be
 346 redeemed at any time upon payment of the outstanding transaction
 347 balance and earned fees ~~face amount of the drawer's check.~~
 348 However, payment may not be made in the form of a personal

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349 check. Upon redemption, the deferred presentment provider shall
350 return the drawer's check and provide a signed, dated receipt
351 showing that the drawer's check has been redeemed.

352 (4) A drawer may not be required to redeem his or her check
353 in full before the agreed-upon date; however, the drawer may
354 choose to redeem the check before the agreed-upon presentment
355 date.

356 Section 4. For the purpose of incorporating the amendments
357 made by this act to sections 560.404 and 560.405, Florida
358 Statutes, in references thereto, subsection (5) of section
359 560.111, Florida Statutes, is reenacted to read:

360 560.111 Prohibited acts.—

361 (5) Any person who willfully violates any provision of s.
362 560.403, s. 560.404, or s. 560.405 commits a felony of the third
363 degree, punishable as provided in s. 775.082, s. 775.083, or s.
364 775.084.

365 Section 5. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 17, 2018

I respectfully request that **Senate Bill # 920**, relating to Deferred Presentment Transactions, be placed on the:

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

A handwritten signature in dark ink, appearing to read "Rob Bradley", is written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 5

APPEARANCE RECORD

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

1/29/18

Meeting Date

920

Bill Number (if applicable)

937894

Amendment Barcode (if applicable)

Topic Deferred Prosecution Transaction

Name Rev. James T. Golden

Job Title Social Action Director - African Methodist Episcopal Church

Address P.O. B. 299

Street

Bradenton, FL 34206

City

State

Zip

Phone

941-773-4031

Email

jamesthegold@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing African Methodist Episcopal Church

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18
Meeting Date

920

Bill Number (if applicable)

937894

Amendment Barcode (if applicable)

Support

Topic Deferred Presentment Transactions

Name Rev. Rachel Gunter Shapard

Job Title Associate Coordinator

Address 9430 Kells Rd.

Street

Jacksonville FL 32257

City

State

Zip

Phone 904-502-5158

Email rshapard12@floridabf.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Cooperative Baptist Fellowship of Florida

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

920

1/29

Meeting Date

Bill Number (if applicable)

937894

Amendment Barcode (if applicable)

Topic small dollar lending

Name Jim Daughton

Job Title _____

Address 119 S. Monroe Street

Phone 850-205-9000

Street

Tallahassee

FL

32301

City

State

Zip

Email jim.daughton@mhdflm.com

Speaking: ☐ For ☒ Against ☐ Information
Amendment

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

Representing Amisat Financial

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 (10/14/14)

APPEARANCE RECORD

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

1/29/18
Meeting Date

920
Bill Number (if applicable)

937894
Amendment Barcode (if applicable)

Topic Deferred Pre-nuptial Transactions

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Av. Phone _____
Street

Tallahassee FL 32301 Email _____
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

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 (10/14/14)

APPEARANCE RECORD

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

1/29/18
Meeting Date

920

Bill Number (if applicable)

937894

Amendment Barcode (if applicable)

Topic Deferred Presentment

Name Alice Vickers

Job Title Attorney

Address 623 Beard st.

Phone 850 5563101

Street

Tallahassee

FL

32303

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL Alliance for Consumer Protection

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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APPEARANCE RECORD

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

1/29/18
Meeting Date

920
Bill Number (if applicable)

Topic Deferred Presentment

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

Tallahassee FL 32303
City State Zip

Email alicevickers@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL Alliance for Consumer Protection

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/29/18

Meeting Date

920

Bill Number (if applicable)

Topic DEFERRED PRESENTMENT INSTALLMENT

Amendment Barcode (if applicable)

Name IAN A. MACKECHNIE

Job Title EXEC. VICE CHAIRMAN

Address 600 N. WESTSHORE BLVD, SUITE 1200 Phone 813-637-6205

Street

TAMPA, FL

City

33609

State

Zip

Email iamackechnie@amscot.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AMSCOT FINANCIAL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18
Meeting Date

SB 920
Bill Number (if applicable)

Topic Deferred Presentment Installment bill

Amendment Barcode (if applicable)

Name Carol Stewart

Job Title

Address 135 N. Church St.
Street

Phone (803) 920-0620

Spartanburg SC 29306
City State Zip

Email cstewart@advanceamerica.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Advance America

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Bill Number (if applicable) _____

Topic SB 920

Amendment Barcode (if applicable) _____

Name Rev. FREDERICK D. NEWBILL

Job Title SR. PASTOR

Address ~~1210~~ 12103 BISCAYNE BLVD

Phone 904-304-1634

Street

Jax

FL

32218

Email newbill32218@yahoo.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FIRST Timothy Baptist Church

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

JAN 29 2018
Meeting Date

SB 920
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name RODERICK C. CUNNINGHAM

Job Title VICE PRESIDENT, PINELLAS COUNTY URBAN LEAGUE

Address 150 COMMONWEALTH COURT N.
Street

Phone 813-380-8045

ST. PETERSBURG FL 33716
City State Zip

Email RCUNNINGHAM@ACUL.ORG

Speaking: ☒ For ☐ Against ☐ Information

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

Representing URBAN LEAGUE

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18

Meeting Date

SB 928

Bill Number (if applicable)

Topic SB 920

Amendment Barcode (if applicable)

Name Darlene A. Echevarria

Job Title Sr District Manager

Address 4550 NW 70th Ave

Street

Phone 941-400-7952

Lauderhill

City

FL

State

33319

Zip

Email Darlenechevarria2003@gmail

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Amscot Financial

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

129T 1/29/18
Meeting Date

SB 920
Bill Number (if applicable)

Topic SB 920

Amendment Barcode (if applicable)

Name Rev. Troy Adams Sr.

Job Title Pastor

Address 1715 18th Ave. S.

Phone 727-318-9663

St. Petersburg FL 33712
City State Zip

Email njmbc@live.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing _____

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-29-2018

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Jared RossJob Title SVP, Governmental AffairsAddress 3692 Coolidge CourtPhone 850-322-6956

Street

Tallahassee

FL

32311

Email jared.ross@lscu.coop

City

State

Zip

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing Florida Credit Union AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

01/29/18

Meeting Date

SB920

Bill Number (if applicable)

Topic SB920

Amendment Barcode (if applicable)

Name Rev. Dr. Wayne E. Wilson

Job Title Pastor/Retired Educator

Address 6791 Colony Dr. S.

Street

St. Petersburg FL 33705

City

State

Zip

Phone (727) 560-7071

Email revwaynewilson@hotmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing United Community Church

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/30/18

Meeting Date

SB 920

Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams At

Phone 224-7173

Street

TLH

City

FL

State

32301

Zip

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

1/29/18

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Av
Street

Phone

Tallahassee
City

FL
State

32301
Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

APPEARANCE RECORD

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1/29/18

Meeting Date

SB920

Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Dorene BarkerJob Title Associate State DirectorAddress 200 W College Ave

Street

Phone 850 228 6387Jacksonville

City

FL

State

32301

Zip

Email dobarker@acarp.orgSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing AARP FLAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

APPEARANCE RECORD

1-29-18

Meeting Date

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

920

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Albert Balido (BAH' LEE' DOE)

Job Title

Mailing Patron, Ant. & Const. Hg

Address

201 W Park Ave #100

Phone

850 251 3440

Street

Zallahassae

FL

32301

City

State

Zip

Email

Albert@ant. & const. hg.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

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

Representing

Unidos U.S.

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18

Meeting Date

920

Bill Number (if applicable)

Topic

Deferred Presentation of Information

Amendment Barcode (if applicable)

Name

Rev. James T. Gold

Job Title

Social Action Director - African Methodist Episcopal Church

Address

POB

Street

Phone

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18
Meeting Date

920
Bill Number (if applicable)

Topic Deferred presentment
Installment loans

Amendment Barcode (if applicable)

Name Rev. Rachel Gunter Shepard

Job Title Assoc. Coordinator

Address 9430 Kells Rd.

Phone _____

Tax FL 32257
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Cooperative Baptist Fellowship of FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1224

INTRODUCER: Senator Bradley

SUBJECT: Beverage Law

DATE: January 26, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	McSwain	RI	Favorable
2.	Swift	McKay	CM	Favorable
3.			AP	

I. Summary:

SB 1224 creates an exception to the alcoholic beverage tied-house evil prohibitions to permit a malt beverage distributor to give, without charge, malt beverage branded glassware to a vendor licensed to sell beer or malt beverages for on-premises consumption. The bill prohibits the distributor from giving more than 10 cases that include up to 24 pieces per case of single-service glassware per brand, per licensed premises, per calendar year, and prohibits the vendor from selling the glassware or returning it to the distributor for cash or credit. Each single-service glass container may hold no more than 23 ounces of liquid volume.

The “tied house evil” prohibition in current law prohibits a member of the alcoholic beverage industry, including a manufacturer, distributor, or importer, from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor, and prohibits a manufacturer, distributor, or importer from giving gifts, loans or property, or rebates to retail vendors. Under current law, a distributor may sell glassware and other expendable retailer advertising specialties to any vendor, but must sell the items at a price not less than the actual cost to the industry member who initially purchased them, with no limit in total dollar value of the items sold to the vendor.

The bill provides an effective date of July 1, 2018.

II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,¹ which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and

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

vendors.² The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation administers and enforces the Beverage Law.³

“Alcoholic beverages” are defined in s. 561.01, F.S., as “distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.” “Malt beverages” are brewed alcoholic beverages containing malt.⁴

Section 561.14, F.S., specifies the license and registration classifications used in the Beverage Law.

- “Manufacturers” are those “licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.”⁵
- “Distributors” are those “licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.”⁶
- “Importers” are those licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else in this state; provided that ss. 564.045 and 565.095, F.S., relating to primary American source of supply licensure, are in no way violated by such imports.⁷
- “Vendors” are those “licensed to sell alcoholic beverages at retail only” and may not “purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law.”⁸

Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer.⁹ A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.¹⁰

Generally, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.¹¹ Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.¹² Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.¹³

² See s. 561.14, F.S.

³ Section 561.02, F.S.

⁴ Section 563.01, F.S.

⁵ Section 561.14(1), F.S.

⁶ Section 561.14(2), F.S.

⁷ Section 561.01(5), F.S.

⁸ Section 561.14(3), F.S.

⁹ Section 561.14, F.S.

¹⁰ Section 561.22(1), F.S.

¹¹ Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

¹² Section 561.22, F.S.

¹³ Sections 563.022(14) and 561.14(1), F.S.

Tied House Evil Prohibitions

States have enacted statutes designed to prevent or limit the control of retail alcoholic beverage vendors by manufacturers, wholesalers, and importers, or to prohibit "tied-house arrangements," such legislation is referred to as "tied house" or "tied house evil" statutes.¹⁴

Section 561.42, F.S., Florida's "tied house evil" statute, regulates the permitted and prohibited relationships and interactions of manufacturers and distributors with vendors in order to prevent a manufacturer or distributor from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor, and to prevent a manufacturer or distributor from giving a vendor gifts, loans or property, or rebates.¹⁵ The prohibitions also apply to an importer, primary American source of supply,¹⁶ brand owner or registrant, broker, and sales agent (or sales person thereof).

The tied house evil statute also prohibits any distributor or vendor from receiving any financial incentives from any manufacturer. It further prohibits manufacturers or distributors from assisting retail vendors by gifts or loans of money or property or by the giving of rebates. These prohibitions do not, however, apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages, to advertising materials, or to the extension of credit for liquors sold, if made strictly in compliance with the provisions of s. 561.42, F.S.¹⁷

Section 561.42, F.S., also prohibits licensed manufacturers and distributors from:

- Making further sales to vendors that the division has certified as not having fully paid for all liquors previously purchased;¹⁸
- Directly or indirectly giving, lending, renting, selling, or in any other manner furnishing to a vendor any outside sign, printed, painted, electric, or otherwise;¹⁹
- Providing neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material herein authorized to be used or displayed by the vendor in the interior of the licensed premises;²⁰ and
- Providing expendable retail advertising specialties, unless sold to the vendor at not less than the actual cost to the industry member who initially purchased them.²¹

Section 561.42(14), F.S., further prohibits industry members from providing expendable retail advertising specialties, unless sold to the vendor at not less than the actual cost to the industry member who initially purchased them. A member of the malt beverage industry may provide a vendor with expendable retailer advertising specialties such as trays, coasters, mats, menu cards, napkins, cups, glasses, thermometers, and the like. The industry member must sell these items to a vendor only at a price not less than the actual cost to the industry member who initially

¹⁴ 45 AM. JUR. 2d *Intoxicating Liquors*, s. 94 (2017).

¹⁵ Section 561.42(1), F.S.

¹⁶ See s. 564.045, F.S.

¹⁷ Section 564.42(1). Section 561.42(2), F.S., permits distributors to extend credit for the sale of liquors to any vendor up to, but not including, the 10th day after the calendar week within which such sale was made.

¹⁸ Section 561.42(4), F.S.

¹⁹ Section 561.42(10), F.S.

²⁰ Section 561.42(12), F.S.

²¹ Section 561.42(14)(a), F.S.

purchased the items, without limitation in total dollar value of such items sold to a vendor. Industry members may not engage in cooperative advertising with a vendor.²²

III. Effect of Proposed Changes:

The bill amends s. 561.42(14), F.S., to permit a distributor to give branded glassware to a vendor licensed to sell malt beverages for on-premises consumption.

The bill replaces the term “glasses” with “glassware.”

Under the bill, advertising specialties, including glassware, may only be sold by industry members to vendors licensed to sell malt beverages for on-premises consumption. Current law permits such sales to any vendor.

As required under current law, industry members may only sell the glassware at a price not less than the actual cost to the industry member who initially purchased them, with no limit in total dollar value of the items sold to the vendor.

A distributor may give glassware to a vendor licensed to sell malt beverages for on-premises consumption under the following restrictions:

- The distributor must have received the glassware at no charge from a malt beverage manufacturer or importer;
- Each piece of glassware must bear a permanent brand name intended to prominently advertise the brand;
- No more than 10 cases of glassware per calendar year per licensed premises may be given to the vendor; and
- Each single-service glass container can hold no more than 23 ounces of liquid volume.

Additionally, a vendor that receives a gift of glassware from a distributor may not sell the glassware or return it to a distributor for cash, credit, or replacement.

The effective date of the bill is July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²² Section 561.42(14)(e), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 561.42 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Bradley

5-00800-18

20181224__

A bill to be entitled

An act relating to the Beverage Law; amending s. 561.42, F.S.; authorizing a malt beverage distributor to give branded glassware to vendors licensed to sell malt beverages for on-premises consumption; requiring that the glassware bear certain branding; providing an annual limit on the amount of glassware a distributor may give to a vendor; prohibiting a vendor from selling the branded glassware or returning it to a distributor for cash, credit, or replacement; defining the terms "case" and "glassware"; providing an effective date.

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

Section 1. Paragraph (a) of subsection (14) of section 561.42, Florida Statutes, is amended to read:

561.42 Tied house evil; financial aid and assistance to vendor by manufacturer, distributor, importer, primary American source of supply, brand owner or registrant, or any broker, sales agent, or sales person thereof, prohibited; procedure for enforcement; exception.—

(14) The division shall adopt reasonable rules governing promotional displays and advertising. Such rules may, which ~~rules shall~~ not conflict with or be more stringent than the federal regulations pertaining to such promotional displays and advertising furnished to vendors by distributors, manufacturers, importers, primary American sources of supply, or brand owners or registrants, or any sales agent or sales person thereof;

Page 1 of 4

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

5-00800-18

20181224__

however:

(a) If a manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any sales agent or sales person thereof, provides a vendor licensed to sell malt beverages for on-premises consumption with branded expendable retailer advertising specialties such as trays, coasters, mats, menu cards, napkins, cups, glassware ~~glasses~~, thermometers, and the like, such items may be sold only at a price not less than the actual cost to the industry member who initially purchased them, without limitation in total dollar value of such items sold to a vendor. However, a distributor that has received glassware at no charge from a malt beverage manufacturer or importer may give such glassware to a vendor licensed to sell malt beverages for on-premises consumption. Each piece of glassware given to a vendor by a distributor must bear a permanent brand name intended to prominently advertise the brand. A distributor may not give a vendor more than 10 cases of glassware per calendar year per licensed premises. A vendor that receives a gift of glassware from a distributor may not sell the glassware or return it to a distributor for cash, credit, or replacement. As used in this paragraph, the term:

1. "Case" means a box containing up to 24 pieces of glassware.

2. "Glassware" means a single-service glass container that can hold no more than 23 ounces of liquid volume.

(b) Without limitation in total dollar value of such items provided to a vendor, a manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any sales agent or sales person thereof, may rent, loan without charge for

Page 2 of 4

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an indefinite duration, or sell durable retailer advertising specialties such as clocks, pool table lights, and the like, which bear advertising matter.

(c) If a manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any sales agent or sales person thereof, provides a vendor with consumer advertising specialties such as ashtrays, T-shirts, bottle openers, shopping bags, and the like, such items may be sold only at a price not less than the actual cost to the industry member who initially purchased them, and may be sold without limitation in total value of such items sold to a vendor.

(d) A manufacturer, distributor, importer, brand owner, or brand registrant of malt beverage, or any sales agent or sales person thereof, may provide consumer advertising specialties described in paragraph (c) to consumers on any vendor's licensed premises.

(e) A manufacturer, distributor, importer, brand owner, or brand registrant of malt beverages, and any sales agent or sales person thereof or contracted third-party, may not engage in cooperative advertising with a vendor and may not name a vendor in any advertising for a malt beverage tasting authorized under s. 563.09.

(f) A distributor of malt beverages may sell to a vendor draft equipment and tapping accessories at a price not less than the cost to the industry member who initially purchased them, except there is no required charge, and the distributor may exchange any parts that are not compatible with a competitor's system and are necessary to dispense the distributor's brands. A distributor of malt beverages may furnish to a vendor at no

5-00800-18 20181224__

charge replacement parts of nominal intrinsic value, including, but not limited to, washers, gaskets, tail pieces, hoses, hose connections, clamps, plungers, and tap markers.

Section 2. This act shall take effect October 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/17
Meeting Date

SB 1224
Bill Number (if applicable)

Topic Glassware

Amendment Barcode (if applicable)

Name Max Herrle

Job Title _____

Address 117 South Gadsden
Street

Phone _____

Tallahassee, FL 32301
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Tallahassee Bar & Hospitality Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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APPEARANCE RECORD

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

1/30/18

Meeting Date

SB 1224

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams At

Phone 224-7173

Street

TLH

City

FL

State

32301

Zip

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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APPEARANCE RECORD

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

1/29/18

Meeting Date

SB 1224

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Jonathan Rees

Job Title Senior Manager, State Affairs

Address 204 S. Monroe St.

Phone (850) 570-0043

Street

Tallahassee, FL 32301

City

State

Zip

Email Jonathan.Rees@anheuser-busch.ca

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Anheuser-Busch, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

1-29-18

Meeting Date

1224

Bill Number (if applicable)

Topic Glessware

Amendment Barcode (if applicable)

Name Jon Costello

Job Title lobbyist

Address 119 S. Monroe St

Phone 681-6788

Street

Tallahassee

FL

32301

City

State

Zip

Email jon@ruphlem.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Miller Coors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

01/29/18

Meeting Date

1284

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 230 S. Adams St.

Phone 850-284-2250

Street

Tallahassee

FL

32301

City

State

Zip

Email spadgett@fla.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Restaurant & Lodging Assn.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

1/29/18
Meeting Date

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

SB 1224
Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name JAKE FARMER

Job Title Legislative Coordinator

Address 227 S Adams Street
Street

Phone 352 359 6835

Tallahassee FL 32301
City State Zip

Email Jake@frf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

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.

APPEARANCE RECORD

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

1/29/18

Meeting Date

1224

Bill Number (if applicable)

Topic Beer glassware

Amendment Barcode (if applicable)

Name Eric Criss

Job Title President

Address 110 S. Monroe
Street

Phone 491 3903

Tally FL 32309
City State Zip

Email eric@floridabeer.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Beer Industry of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

January 29, 2018
Meeting Date1224
Bill Number (if applicable)Topic Alcoholic Beverages

Amendment Barcode (if applicable)

Name Josh AubuchonJob Title AttorneyAddress 315 S. Calhoun St
StreetPhone 224-7000Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Brewers GuildAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1450

INTRODUCER: Commerce and Tourism Committee and Senator Steube

SUBJECT: Sales Tax Refund for Eligible Job Training Organizations

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Little	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1450 creates a sales tax refund for eligible job training organizations that provide job training and employment services to low-income persons, individuals with workplace disadvantages, or individuals with barriers to employment. Under the bill, an eligible job training organization is entitled to a refund of 10 percent of the sales tax the organization remitted to the DOR on its sales of donated goods during the previous state fiscal year. The total amount of sales tax refunds issued may not exceed \$2 million in any state fiscal year.

The Department of Economic Opportunity (DEO) is required to determine an applicant's eligibility for the sales tax refund, and must certify the eligibility of organizations that meet the specified requirements. After obtaining certification from the DEO, an eligible job training organization must apply to the Department of Revenue (DOR) each year a refund is sought.

The bill limits the use of a sales tax refund issued to an eligible job training organization to the following purposes:

- Growth in employment hours;
- Job training and employment services to low-income persons, as defined in s. 420.0004(11) F.S., individuals who have workplace disadvantages, or individuals with barriers to employment; or
- Job training and employment services for veterans.

An eligible job training organization that receives a refund must annually report eligibility information to the DEO, including how the previously issued refund was used. If the DEO determines an organization no longer qualifies for the refund, the DEO must immediately notify the DOR. The DOR is prohibited from issuing a refund after receiving such notification. The bill authorizes the DOR to audit any refund within 4 years of the date the refund was granted, and subjects the overpayment of a refund or a refund issued to an ineligible job training organization to repayment.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a six percent state sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rentals of commercial real estate, and a limited number of services.¹ Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes.² A surtax applies to all transactions occurring in the county that are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.³

Generally, sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale. The Department of Revenue (DOR) oversees the collection of the tax levied by ch. 212, F.S., and is authorized to audit organizations in the state for the purpose of determining whether such taxes are properly collected, reported, and paid.⁴

Charitable Organizations

Charitable organizations are eligible to receive tax-deductible contributions.⁵ To qualify as a charitable organization under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for an exempt purpose,⁶ none of its earnings may inure to any private shareholder or individual, and it cannot be an action organization.⁷

¹ See ch. 212, F.S.

² The tax rates, duration of the surtaxes, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

³ Section 212.054, F.S.

⁴ Section 212.13

⁵ 26 U.S.C. 170

⁶ Exempt purposes under section 501(c)(3) include: charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

⁷ IRS, *Exemption Requirements - 501(c)(3) Organizations*, available at <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited Jan. 26 2018).

Additionally, organizations that qualify under section 501(c)(3) may be eligible for other tax benefits, such as state and federal sales, property, and income tax exemptions.^{8,9}

Florida's Workforce System Overview

The Department of Economic Opportunity (DEO),¹⁰ CareerSource Florida, Inc. (CareerSource Florida),¹¹ and 24 local workforce development boards (LWDBs) act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

The DEO and CareerSource Florida deliver Florida's workforce development services through the LWDBs and nearly 100 one-stop career centers.¹² One-stop career service centers provide Floridians local access to available workforce services, including job placement, career counseling, and skills training.¹³ Many businesses throughout the state participate in Florida's workforce system by providing job training and employment services to individuals with disabilities, individuals with workplace disadvantages, and individuals with barriers to employment.

III. Effect of Proposed Changes:

The bill creates a sales tax refund for eligible job training organizations that provide job training and employment services¹⁴ to low-income persons,¹⁵ individuals with workplace disadvantages, or individuals with barriers to employment.

To become eligible, a job training organization must:

- Be exempt under s. 501(c)(3) of the Internal Revenue Code of 1986;

⁸ See Internal Revenue Service, *Federal Tax Obligations of Non-Profit Corporations*, available at <https://www.irs.gov/pub/irs-pdf/n844.pdf> (last visited Jan. 26, 2018); See also Department of Revenue, *Nonprofit Organizations*, available at <http://floridarevenue.com/taxes/businesses/Pages/nonprofit.aspx> (last visited Jan. 26, 2018).

⁹ Nonprofit organizations may qualify for exemption from some Florida taxes. Each tax is separate and distinct and has its own requirements. As a result, exemption from one tax does not necessarily exempt the organization from all taxes and not all Florida tax exemptions require the organization obtain a federal tax-exempt status.

¹⁰ The DEO is responsible for the fiscal and administrative affairs of the workforce development system, including reporting financial and performance data to the United States Department of Labor and other federal entities. See s. 20.60, F.S. and s. 445.009(3)(c), F.S.

¹¹ CareerSource Florida is a not-for-profit corporation that assists the DEO with state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services. CareerSource Florida also provides an annual report containing information regarding its operations, accomplishments, and audits. See s. 445.004, F.S.

¹² Florida Department of Economic Opportunity, *CareerSource Florida Center Directory*, <http://www.floridajobs.org/onestop/onestopdir/> (last visited Jan. 26, 2018).

¹³ See s. 445.009, F.S.

¹⁴ "Job training and employment services" is defined by the bill as "programs and services that improve workers' job readiness, assist them in gaining employment and adapting to the changing labor market, and help them achieve employment success through self-sufficiency."

¹⁵ "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. Section 420.0004(11), F.S.

- Provide job training and employment services to low-income persons as defined in s. 420.0004, F.S., individuals who have workplace disadvantages, or individuals with barriers to employment;
- Be credited by the Commission on Accreditation of Rehabilitation Facilities; and
- Be certified by the DEO.

The bill also specifies that an eligible job training organization consisting of commonly owned and controlled entities is deemed to be a single organization entity.

An eligible job training organization is entitled to a refund equal to 10 percent of the sales tax remitted to the DOR during the prior state fiscal year on its sales of goods donated to the organization. The total amount of sales tax refunds issued to eligible job training organizations may not exceed \$2 million in any state fiscal year granted on a first-come, first-serve basis. An eligible job training organization that is issued a refund must reserve the refund to be exclusively used for any of the following purposes:

- Growth in employment hours;¹⁶
- Job training and employment services to low-income persons as defined in s. 420.0004(11) F.S., individuals who have workplace disadvantages, or individuals with barriers to employment; and
- Job training and employment services for veterans.

Under the bill, an organization seeking a refund must submit an initial application to the DEO by July 15. The application must establish that the organization meets the eligibility requirements and that the refund will be used exclusively for the purposes authorized by the bill. The DEO is required to verify the application and notify the organization of its determination within 15 days of receiving the application. The bill authorizes the DEO to adopt rules necessary to administer the sales tax refund, including rules for the approval and disapproval of applications by organizations.

For approved applications, the DEO must also send the eligible job training organization a notice indicating that the organization is certified to receive the sales tax refund created by the bill. This notice must be in writing, or e-mail if agreed to by organization. Upon approval, the DEO must transfer a copy of the decision to the DOR. The DEO's issuance of a certification remains in effect as long as the eligible job training organization remains in compliance with the requirements.

An eligible job training organization that has received certification by the DEO must then apply to the DOR between August 1 and August 31 of each year it seeks a refund. The first application for a refund submitted to the DOR must also include a copy of the DEO certification.

By July 15 of each year, an eligible job training organization is required to provide a report to the DEO describing the use of the refund previously issued. The report must include the following:

- The amount of the refund used to create growth in employment hours;
- The total annual growth in employment hours;

¹⁶ "Growth in employment hours" is defined by the bill as "the annual growth in hours worked by employees in the current year compared with the number of hours worked by employees in the previous year."

- The amount of the refund used for job training and employment services;
- The number of individuals who participated in job training and employment services at the eligible job training organization for the fiscal year in which the requested funds were remitted to the department; and
- A statement declaring that the organization continues to meet the necessary requirements to remain eligible for the sales tax refund.

If the DEO determines that a job training organization no longer qualifies for the refund, the DEO must notify the DOR immediately. The DOR is prohibited from issuing a refund after receiving such notification. The bill also provides that, notwithstanding s. 95.091(3)(a)6.b., F.S., the DOR has the authority to audit any refund within 4 years after the date the refund was granted. The overpayment of a refund, or a refund issued to an ineligible job training organization, is subject to repayment and interest at the rate calculated pursuant to s. 213.235, F.S.

The bill takes effect on July 1, 2018.

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 creates a sales tax exemption for eligible job training organizations equal to 10 percent of the sales tax remitted to the DOR on its sales of goods donated to the organization during the prior state fiscal year.

B. Private Sector Impact:

The bill will have a positive impact on eligible job training organizations that receive a sales tax refund.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet estimated the fiscal impact of the bill. However, the issuance of the sales tax refund will likely have a negative impact on the state's revenues in an amount up to \$2 million each year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The sales tax refund is equal to 10 percent of the sales tax remitted on sales of donated goods. However, the criteria set forth in the application for eligibility does not require information relating to the applicant's sales of donated goods.

Lines 60-62 provide that "[t]he total amount of refunds issued under this section may not exceed \$2 million in any state fiscal year granted on a first-come, first-served basis." This language may be confusing to applicants trying to determine when and how the first-come, first-served standard will be applied to the sales tax refund. The language could be amended to clarify whether the standard applies to applications submitted to the DEO or applications submitted to the DOR.

VIII. Statutes Affected:

This bill creates section 212.099 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 January 29, 2018:

The bill is amended to:

- Make references to "eligible job training organizations" rather than "eligible businesses;"
- Remove "capital costs" from the uses of the sales tax refund authorized by the bill; and
- Clarify that the DOR may audit, rather than examine, any sales tax refund granted to an eligible job training organization within 4 years of issuance.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 212.099, Florida Statutes, is created to
read:

212.099 Sales tax refund for eligible job training
organizations.—

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

(a) "Eligible job training organization" means an



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organization that:

1. Is an exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended;

2. Provides job training and employment services to low-income persons, as defined in s. 420.0004(11), individuals who have workplace disadvantages, or individuals with barriers to employment;

3. Is accredited by the Commission on Accreditation of Rehabilitation Facilities; and

4. Is certified by the Department of Economic Opportunity as meeting the requirements of this section.

(b) "Growth in employment hours" means the annual growth in the number of hours worked by employees in the current year compared with the number of hours worked by employees in the previous year.

(c) "Job training and employment services" means programs and services that are provided to improve job readiness, assist workers in gaining employment and adapting to the changing labor market, and achieve worker success through self-sufficiency.

(2) An eligible job training organization is entitled to a refund of 10 percent of the sales tax remitted to the department during the prior state fiscal year on its sales of goods donated to the organization. The refund must be reserved exclusively for use in any of the following:

(a) Growth in employment hours;

(b) Job training and employment services to low-income persons, as defined in s. 420.0004(11), individuals who have workplace disadvantages, and individuals with barriers to employment; or



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40 (c) Job training and employment services for veterans.

41 (3) The total amount of refunds issued under this section
42 may not exceed \$2 million in any state fiscal year granted on a
43 first-come, first-served basis.

44 (4) An eligible job training organization seeking a refund
45 under this section must submit an initial application to the
46 Department of Economic Opportunity by July 15, which sets forth
47 that the organization meets the requirements under paragraph
48 (1)(a) and that the refund will be used exclusively for the
49 purposes listed in subsection (2). The organization may submit
50 supporting information as prescribed by rule.

51 (5) The Department of Economic Opportunity must verify the
52 application and notify the organization of its determination
53 within 15 days of receiving the application. If the Department
54 of Economic Opportunity approves the application, it must send
55 to the eligible job training organization a notice that
56 indicates its certification to receive a refund of certain sales
57 and use tax remitted under this chapter. Upon the Department of
58 Economic Opportunity's issuance of a certification, such
59 certification remains in effect so long as the eligible job
60 training organization is in compliance with the requirements of
61 this section.

62 (6) An eligible job training organization certified under
63 this section must apply to the department between August 1 and
64 August 31 of each year to receive a refund. The first
65 application for a refund submitted to the department must be
66 accompanied by a copy of the certification.

67 (7) For purposes of this section, an eligible job training
68 organization comprised of commonly owned and controlled entities



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is deemed to be a single organization.

(8) By July 15 of each year, an eligible job training organization must provide a report to the Department of Economic Opportunity which describes the use of the amount refunded. The report must include all of the following:

(a) The amount of the refund used to create growth in employment hours.

(b) The total annual growth in employment hours.

(c) The amount of the refund used for job training and employment services.

(d) The number of individuals who participated in job training and employment services at the eligible job training organization for the fiscal year in which the requested funds were remitted to the department.

(e) A statement declaring that the eligible job training organization continues to meet the requirements of this section.

(9) Administration.—

(a) The Department of Economic Opportunity may adopt rules to administer this section, including rules for the approval and disapproval of applications.

(b) The decision of the Department of Economic Opportunity must be in writing or, if agreed to by the applicant, electronic mail. Upon approval, the Department of Economic Opportunity shall transmit a copy of the decision to the department.

(c) If the Department of Economic Opportunity determines that an eligible job training organization no longer qualifies for the refund under this section, the Department of Economic Opportunity must notify the department immediately. The department may not issue a refund after receiving such



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notification.

(d) Notwithstanding s. 95.091(3)(a)6.b., the department may audit any refund within 4 years after the date of which a refund is granted. The overpayment of a refund or a refund issued to an ineligible organization is subject to repayment and interest at the rate calculated pursuant to s. 213.235.

Section 2. This act shall take effect July 1, 2018.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to a sales tax refund for eligible job training organizations; creating s. 212.099, F.S.; providing definitions; authorizing eligible organizations to receive a refund of a specified amount of certain sales taxes collected if such amount is used for certain purposes relating to job training and employment services; specifying the annual maximum allowable tax refund for such organizations; providing requirements for receiving the refund; authorizing the Department of Economic Opportunity to certify organizations; authorizing the Department of Revenue to audit, within a certain timeframe, any refund issued; providing the applicable interest rate on overpayments and payments to ineligible organizations; providing that an eligible organization comprised of commonly owned and controlled entities is a single



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127 organization; requiring eligible organizations to
128 provide an annual report to the Department of Economic
129 Opportunity; providing an effective date.

By Senator Steube

23-00609B-18

20181450__

1 A bill to be entitled
 2 An act relating to a sales tax refund for eligible job
 3 training organizations; creating s. 212.099, F.S.;
 4 defining terms; providing a specified sales tax refund
 5 to eligible businesses providing job training and
 6 employment services to certain individuals; requiring
 7 that the refund be used exclusively for specified
 8 purposes; specifying the limit on the total amount of
 9 refunds issued annually; requiring that refunds be
 10 granted on a first-come, first-served basis; providing
 11 application requirements and procedures for
 12 certification with the Department of Economic
 13 Opportunity; providing that a certification remains in
 14 effect so long as an eligible business complies with
 15 certain requirements; specifying requirements for the
 16 Department of Economic Opportunity relating to
 17 certification decisions and eligibility; prohibiting
 18 the Department of Revenue from issuing refunds after
 19 receiving a certain notification from the Department
 20 of Economic Opportunity; providing requirements for
 21 eligible businesses applying for refunds with the
 22 Department of Revenue; providing construction;
 23 requiring eligible businesses to provide a specified
 24 annual report to the Department of Economic
 25 Opportunity; authorizing the Department of Economic
 26 Opportunity to adopt rules; authorizing the Department
 27 of Revenue to examine any granted refunds within a
 28 specified timeframe; providing that overpaid refunds
 29 or refunds issued to ineligible businesses are subject

Page 1 of 5

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

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30 to repayment and certain interest provisions;
 31 providing an effective date.
 32

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

34
 35 Section 1. Section 212.099, Florida Statutes, is created to
 36 read:

37 212.099 Sales tax refund for eligible job training
 38 organizations.-

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

40 (a) "Capital costs" means the costs of construction,
 41 improvements, or renovations or the costs associated with the
 42 purchase of equipment, the purpose of which is to expand
 43 employment opportunities. The term does not include the cost of
 44 real property.

45 (b) "Eligible business" means an organization that:

46 1. Is an exempt organization under s. 501(c)(3) of the
 47 Internal Revenue Code of 1986, as amended;

48 2. Provides job training and employment services to low-
 49 income persons as defined in s. 420.0004, individuals who have
 50 workplace disadvantages, or individuals with barriers to
 51 employment;

52 3. Is accredited by the Commission on Accreditation of
 53 Rehabilitation Facilities; and

54 4. Is certified by the Department of Economic Opportunity
 55 as meeting the requirements of this section.

56 (c) "Growth in employment hours" means the annual growth in
 57 hours worked at the eligible business.

58 (d) "Job training and employment services" means programs

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

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and services that improve workers' job readiness, assist them in gaining employment and adapting to the changing labor market, and help them achieve employment success through self-sufficiency.

(2) An eligible business is entitled to a refund of 10 percent of the sales tax remitted to the department during the prior state fiscal year on its sales of goods donated to the business. The refund must be reserved exclusively for use in any of the following:

(a) Growth in employment hours.

(b) Job training and employment services to low-income persons as defined in s. 420.0004, individuals who have workplace disadvantages, or individuals with barriers to employment.

(c) Job training and employment services for veterans.

(d) Capital costs.

(3) The total amount of refunds issued under this section may not exceed \$2 million in any state fiscal year, and refunds must be granted on a first-come, first-served basis.

(4) A business seeking a refund under this section must submit an initial application to the Department of Economic Opportunity by July 15 which sets forth that the business meets the requirements under paragraph (1)(b) and that the refund will be used exclusively for the purposes under subsection (2). The business may submit supporting information as prescribed by rule.

(5)(a) The Department of Economic Opportunity must verify the application and notify the business of its determination within 15 days after receiving the application. If the

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Department of Economic Opportunity approves the application, it must send the eligible business a notice indicating that the business is certified to receive a refund of certain sales and use tax remitted under this chapter. Upon the Department of Economic Opportunity's issuance of a certification, the certification remains in effect so long as the eligible business is in compliance with this section.

(b) The decision of the Department of Economic Opportunity must be in writing or may be provided by e-mail if agreed to by the eligible business. Upon approval, the Department of Economic Opportunity shall transmit a copy of the decision to the department.

(c) If the Department of Economic Opportunity determines that an eligible business no longer qualifies for the refund under this section, the Department of Economic Opportunity must immediately notify the department. The department may not issue a refund after receiving such notification.

(6) An eligible business certified under this section must apply to the department between August 1 and August 31 of each year it seeks a refund. The first application for a refund submitted to the department must be accompanied by a copy of the certification.

(7) For purposes of this section, an eligible business consisting of commonly owned and controlled entities is deemed to be a single business entity.

(8) By July 15 of each year, an eligible business must provide a report to the Department of Economic Opportunity which describes the use of the amount refunded. The report must include all of the following:

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117 (a) The amount of the refund used for capital costs.
118 (b) The amount of the refund used to create growth in
119 employment hours.
120 (c) The total annual growth in employment hours.
121 (d) The amount of the refund used for job training and
122 employment services.
123 (e) The number of individuals who participated in job
124 training and employment services at the eligible business for
125 the fiscal year in which the requested funds were remitted to
126 the department.
127 (f) A statement declaring that the eligible business
128 continues to meet the requirements of this section.
129 (9) (a) The Department of Economic Opportunity may adopt
130 rules necessary to administer this section, including rules for
131 the approval and disapproval of applications by businesses.
132 (b) Notwithstanding s. 95.091(3)(a)6.b., the department may
133 examine any refund within 4 years after the date the refund is
134 granted. The overpayment of a refund or a refund issued to an
135 ineligible business is subject to repayment and interest at the
136 rate calculated pursuant to s. 213.235.
137 Section 2. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Pre-K - 12 Education
Children, Families, and Elder Affairs
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

January 15, 2018

The Honorable Bill Montford
Florida Senate
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Montford,

I am writing this letter because my bill, SB 1450 - Sales Tax Refund for Eligible Job Training Organizations, has been referred to the Senate Commerce and Tourism Committee. This bill has passed the first committee of reference. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

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

Very respectfully yours,

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

W. Gregory Steube, District 23

REPLY TO:

- ☐ 6230 University Parkway, Suite 202, Sarasota, Florida 34240 (941) 342-9162
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1574

INTRODUCER: Commerce and Tourism Committee and Senator Taddeo

SUBJECT: Unarmed Security Licenses

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			RI	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1574 allows applicants for licensure as a class “D” licensee (security officer) to perform required pre-licensing training online. Currently, a security officer applicant must attend 40 hours of pre-licensing training in-person.

A security officer may not carry a gun in the course of his or her work unless he or she obtains an additional, class “G” license (“statewide firearm”).¹ A statewide firearm applicant must perform an additional 28 hours of classroom and range training.²

II. Present Situation:

Security Officers, Generally

The Division of Licensing within the Florida Department of Agriculture and Consumer Services (department) is responsible for investigating and issuing licenses to conduct private security, private investigative, and recovery services pursuant to ch. 493, F.S. As of December 2017, there

¹ Section 493.6105(5), F.S.

² Florida Department of Agriculture and Consumer Services, Division of Licensing, Class “G” Statewide Firearm License Training, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Private-Investigation/Private-Investigation-and-Firearms/G-License-Classroom-and-Range-Requirements> (last visited Jan. 30, 2018).

were 134,033 class “D” security officer licenses and 379 class “DS” security officer school or facility licenses issued by the department.³

A security officer is an individual who advertises for, or performs: bodyguard services, personal or property protection; theft and loss prevention; armored car staffing; and transportation of prisoners.⁴ Law enforcement officers engaged in their official duties or off-duty security activities that have been approved by appropriate superiors are not considered security officers.⁵ Additionally, unarmed security officers who are employed by, and perform their work entirely on the premises of either their employer’s business, a church or denominational organization, or a church cemetery are not required to be licensed as a security officer under ch. 493, F.S.⁶

A class “D” security officer licensee must obtain an additional license, a class “G” statewide firearm license, in order to be able to carry a firearm in the course of his or her work as a security officer.⁷ A class “G” license has additional statutory qualifications, such as the requirement that the applicant not be prohibited from purchasing or possessing a firearm, and requires an additional 28 hours of classroom and range training.⁸

Licensing Requirements

An applicant for a class “D” license must be at least 18 years old, and be permitted to work in the U.S. as either a citizen, permanent legal resident, or possessor of a work visa.⁹ Additionally, the applicant must evince that he or she has no disqualifying criminal history, is of good moral character, and has no history of mental illness or substance abuse.¹⁰

So the department may review and investigate the fitness of a class “D” license applicant, the applicant must submit an application with general, personal information, including:

- The applicant’s social security number or alien registration number;
- A statement of all criminal convictions, findings of guilt, and pleas of guilty or nolo contendere, regardless of adjudication of guilt;
- A statement whether he or she has ever been adjudicated incompetent or committed to a mental institution;
- A full set of fingerprints and associated fees for processing and retaining the information; and
- A waiver permitting the department to conduct investigations into the applicant’s personal background.¹¹

³ Florida Department of Agriculture and Consumer Services, Division of Licensing, *Number of Licensees by Type* (Dec. 31, 2017), http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf (last visited Jan. 30, 2018).

⁴ Section 493.6101(19), F.S.; *see also*, Florida Department of Agriculture and Consumer Services, *Private Security*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Private-Security> (last visited Jan. 30, 2018).

⁵ Section 493.6102(1), F.S.

⁶ Section 493.6102(4), (13), F.S.

⁷ Sections 493.6115(2) and 493.6301(6) F.S.

⁸ *See* note 2, *supra*; s. 493.6106(1)(g), F.S.

⁹ 493.6106(1), F.S.

¹⁰ *Id.*

¹¹ Section 493.6105, F.S., *see also*, Florida Department of Agriculture and Consumer Services, Application for Class “D” Security Officer License, available at: <http://forms.freshfromflorida.com/16007.pdf> (last visited Jan. 30, 2018).

In addition, the applicant must submit a \$45 license fee¹² and proof of successful completion of 40 hours of professional training at a school or training facility that is licensed by the department.¹³ A class “D” licensee must renew his or her license every two years, and provide associated fees.¹⁴

Security Officer Schools and Training Facilities

Schools and training facilities that wish to provide instruction and training for class “D” license applicants must become licensed as a class “DS” licensee under ch. 493, F.S.¹⁵ The application for this license must include:

- The name and address of the school or training facility. If the applicant is an individual, his or her name, address, and social security or alien registration number;
- The street address of the place at which the school or facility will conduct training; and
- A copy of the school or facility’s training curriculum and final examination.

In addition, the school or training facility must submit a \$60 initial license fee,¹⁶ and renew its license every two years.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 493.6303(4), F.S., to permit required training for class “D” licensure to be performed by in-person instruction or via a school or facility’s secure website. The applicant’s identification, attendance, and successful completion of training must be verified and provided to the department according to its reporting requirements.

Section 2 amends s. 493.6304(2), F.S., to require class “DS” license applicants, security officer schools or training facilities, to provide their name and website address on their application if they plan to provide training for class “D” licensure online.

Section 3 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹² Section 493.6302(1)(d), F.S.; *see also*, Florida Department of Agriculture and Consumer Services, *Private Investigation, Security, Recovery: Chapter 493, Florida Statutes New License Fee Schedule*, available at: http://www.freshfromflorida.com/content/download/33389/815718/FS493_License_Fees.pdf (last visited Jan. 30, 2018).

¹³ Section 493.6303(4)(a), F.S.

¹⁴ Section 493.6113, F.S.

¹⁵ Section 493.6304, F.S.

¹⁶ Section 493.6304(1); *see also*, Florida Department of Agriculture and Consumer Services, *Private Investigation, Security, Recovery: Chapter 493, Florida Statutes New License Fee Schedule*, available at: http://www.freshfromflorida.com/content/download/33389/815718/FS493_License_Fees.pdf (last visited Jan. 30, 2018).

¹⁷ Section 493.6113, F.S.

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:

After an initial outlay to develop online services, schools and training facilities may incur savings by foregoing classroom costs. The schools and training facilities may pass on these savings to license applicants in the form of reduced course fees.

C. Government Sector Impact:

There may be an increase in class “D” security guard applicants, because it will be more convenient for those who do not have access to in-person training to complete the licensure requirements. The department may also need to adopt rules to implement this bill. The department states that any additional regulatory work can be performed by existing staff.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 493.6303, 493.6304.

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

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

CS by Commerce and Tourism Committee on January 29, 2018:

The committee substitute:

¹⁸ Florida Department of Agriculture and Consumer Services, *HB 813 Agency Analysis* (Dec. 27, 2017), on file with the Senate Committee on Commerce and Tourism.

- Provides that online training for unarmed security guard applicants is valid only if the department receives verification of the applicant's identity, attendance, and successful completion of the training; and
- Clarifies the information that a security officer school or training facility must submit on its application for licensure.

B. Amendments:

None.

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



640980

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (4) of section
493.6303, Florida Statutes, is amended to read:

493.6303 License requirements.—In addition to the license
requirements set forth elsewhere in this chapter, each
individual or agency must comply with the following additional
requirements:



640980

(4) (a) An applicant for a Class "D" license must submit proof of successful completion of a minimum of 40 hours of professional training at a school or training facility licensed by the department. Such training may be conducted by in-person instruction or online through the school or facility's secure website, provided that the applicant's identity, attendance, and successful completion of training are verified, and such verification is provided to the department upon completion of the training. The department shall by rule establish the general content, ~~and~~ number of hours of each subject area to be taught, and reporting requirements for verification of the training submission.

Section 2. Paragraphs (a) and (b) of subsection (2) of section 493.6304, Florida Statutes, are amended to read:

493.6304 Security officer school or training facility.—

(2) The application shall be signed and verified by the applicant under oath as provided in s. 92.525 and must contain, at a minimum, the following information:

(a) The name and address of the school or training facility, or if the training is conducted online, the school or facility's name and website address, and, if the applicant is an individual, her or his name, address, and social security or alien registration number.

(b) The street address or website address of the place at which the training is to be conducted.

Section 3. This act shall take effect July 1, 2018.

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

And the title is amended as follows:



640980

40 Delete everything before the enacting clause
41 and insert:

42 A bill to be entitled
43 An act relating to licensure of unarmed security
44 guards; amending s. 493.6303, F.S.; authorizing
45 security officer training classes to be offered online
46 under certain circumstances; requiring the Department
47 of Agriculture and Consumer Services to establish
48 reporting requirements for verification of training
49 submission; amending s. 493.6304, F.S.; conforming
50 provisions to changes made by the act; providing an
51 effective date.

By Senator Taddeo

40-01475B-18

20181574__

A bill to be entitled

An act relating to unarmed security licenses; amending s. 493.6303, F.S.; authorizing security officer training classes to be offered in-person or online through certain secure websites; amending s. 493.6304, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) of section 493.6303, Florida Statutes, is amended to read:

493.6303 License requirements.—In addition to the license requirements set forth elsewhere in this chapter, each individual or agency must comply with the following additional requirements:

(4) (a) An applicant for a Class "D" license must submit proof of successful completion of a minimum of 40 hours of professional training at a school or training facility licensed by the department. Such training may be conducted by in-person instruction or online through the school or facility's secure website provided that the applicant's identity, attendance, and successful completion of the training are verified by the department. The department shall by rule establish the general content and number of hours of each subject area to be taught.

Section 2. Paragraph (a) of subsection (2) of section 493.6304, Florida Statutes, is amended to read:

493.6304 Security officer school or training facility.—

(2) The application shall be signed and verified by the

Page 1 of 2

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

40-01475B-18

20181574__

applicant under oath as provided in s. 92.525 and must contain, at a minimum, the following information:

(a) The name and address of the school or training facility, or if the training is conducted online, the school or facility's name and website address, and, if the applicant is an individual, her or his name, address, and social security or alien registration number.

Section 3. This act shall take effect July 1, 2018.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on General
Government
Banking and Insurance
Environmental Preservation and Conservation
Military and Veterans Affairs, Space, and
Domestic Security
Transportation

SENATOR ANNETTE TADDEO
40th District

MEMORANDUM

To: Senator Bill Montford, Chair of the Commerce and Tourism Committee
From: Senator Annette Taddeo
Subject: Committee Agenda Request
Date: January 17, 2018

I respectfully request that **Senate Bill 1574**, relating to Unarmed Security Licenses, be placed on the:

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

A handwritten signature in black ink, appearing to be "AT", written over a horizontal line.

Senator Annette Taddeo
Florida Senate, District 40

REPLY TO:

- ☐ 10689 North Kendall Drive, Suite 212, Miami, Florida 33176 (305) 596-3003
- ☐ 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

01.29

Meeting Date

1574

Bill Number (if applicable)

Topic ONLINE SECURITY COURSE

Amendment Barcode (if applicable)

Name Marcos Lopez

Job Title Instructor

Address 9637 SW 37th St

Street

Phone 386-999-4636

Miami, FL 33165

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18
Meeting Date

1574
Bill Number (if applicable)
DE 640980
Amendment Barcode (if applicable)

Topic Unarmed Security Officers

Name Cynthia Henderson

Job Title _____

Address 108 E. Jefferson St. Suite E

Street

Tallahassee FL

City

State

32301

Zip

Phone 850 559 0853

Email Cyhenderson@me.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FASCO

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Jan. 29

Meeting Date

1574

Bill Number (if applicable)

Topic Security Online

Amendment Barcode (if applicable)

Name Irina Dudina

Job Title Developer of the course

Address 828 SW 43rd st

Street

Phone 305-340-7403

Coral Gables, FL

City

State

Zip

Email irinadudina@icloud.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing _____

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

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1714

INTRODUCER: Commerce and Tourism Committee and Senator Perry

SUBJECT: Economic Development and Tourism Promotion Accountability

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	Fav/CS
2.			ATD	
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1714 specifies reporting, contractual, and accountability requirements for “economic development agencies” and “tourism promotion agencies” that engage in economic development and tourism promotion on behalf of local governmental entities. The bill imposes the following measures on economic development agencies:

- Requires board member financial and conflict of interest disclosures;
- Prohibits compensation for board members;
- Limits the amount of employee compensation from public funds to amount paid to the chief executive officer of the local government entity;
- Requires compliance with state per diem and travel expenses requirements;
- Specifies ethics provisions and gift prohibitions;
- Limits lodging expenses;
- Requires that all contracts contain certain information;
- Requires that contracts valued at \$250,000 or more be submitted to the board of the appropriate local government entity, and published on that entity’s website;
- Requires the submittal of specified financial information to local governing boards;
- Requires the posting of specified contract, meeting, and financial information;
- Provides that any contract or agreement required by the bill are public records;
- Requires that agencies and the DEO maintain and provide online access to information;

- Provides that agencies that fail to comply with certain transparency and accountability requirements may not receive or expend public funds until becoming compliant;
- Requires Auditor General audits of such agencies, and provides authority for doing so; and
- Provides for a first-degree misdemeanor for willful noncompliance.

The bill imposes the following measures on tourism promotion agencies:

- Requires board members to disclose conflicts of interest;
- Provides that board members serve without compensation;
- Limits the amount of employee compensation from public funds to amount paid to the chief executive officer of the local government entity;
- Requires that agency contracts must contain certain specified information;
- Requires tourism promotion agencies to submit to the local governmental entity a yearly report detailing public and private financial data; and
- Provides that tourism promotion agencies that fail to comply with the transparency requirements may not receive or expend public funds until becoming compliant.

The bill also enacts contract approval and additional reporting requirements for county governing boards that impose tourist development taxes, and modifies existing reporting requirements for entities that partner with VISIT FLORIDA or Enterprise Florida, Inc.

II. Present Situation:

Auditor General

The position of Auditor General is established by Art. III, s. 2 of the State Constitution. The Auditor General is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing Committee, subject to confirmation by both houses of the Legislature.¹ The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.²

Section 11.45, F.S., defines the types of audits the Auditor General may conduct, and requires certain state and local governmental audits and specifies the frequency with which the audits must occur. The Auditor General also may conduct other audits he or she determines to be appropriate.³

Local Tourism Promotion and Economic Development

To the extent authorized by state law, local governments have the authority to promote economic and tourism development within their jurisdictions.⁴

¹ Section 11.42(2), F.S.

² Section 11.42(5), F.S.

³ Section 11.45(3), F.S.

⁴ Florida counties and municipalities are granted broad home rule authority. *See* Article VIII, sections 1 and 2 of the Florida Constitution; and s. 125.001(3), F.S., which provides a general law grant of expansive home rule authority to all Florida counties. Statutory preemptions and charter limitations impose limitations on this expansive authority. Additionally, article VII, section 1 of the Florida Constitution preempts all taxing authority (with the exception of ad valorem taxes) to the state.

In order to promote tourism development in the state, the Legislature has authorized counties to levy a number of tourist development taxes, the proceeds of which may generally be used to:⁵

- Promote and advertise tourism in the State of Florida, nationally and internationally;
- Fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency;
- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, auditoriums, aquariums, or museums within the boundaries of the county or subcounty special taxing district in which the tax is levied;⁶
- Promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;
- Pay the debt service on bonds issued to finance professional sports franchise facilities, retained spring training franchise facilities, and convention centers; and
- Finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river.

In order to promote economic development in the state, current law allows for the expenditure of “public funds to attract and retain business enterprises”⁷ The Legislature also provides explicit authority for counties and municipalities to:

enhance and expand economic activity in the counties of this state by attracting and retaining manufacturing development, business enterprise management, and other activities conducive to economic promotion, in order to provide a stronger, more balanced, and stable economy in the state; to enhance and preserve purchasing power and employment opportunities for the residents of this state; and to improve the welfare and competitive position of the state.⁸

Tourist Development Taxes

Florida law permits counties to impose local option taxes on rentals or leases of accommodations for a term of 6 months or less.⁹ The taxes are generally referred to as “tourist development taxes,” but consist of several separate levied taxes.

- **One or 2 Percent Tax:**¹⁰ This tax may be levied by the county’s governing board at a rate of 1 or 2 percent on the total amount charged for transient rental transactions.

⁵ Sections 125.0104(5)(a), F.S., and 125.0104(3)(l) and (n), F.S.

⁶ Also included in this category: publicly owned auditoriums operated by nonprofit organizations, and aquariums or museums owned and operated by nonprofit organizations.

⁷ Section 125.045, F.S.; Section 166.021(8), F.S.

⁸ The Florida Legislature’s Office of Economic and Demographic Research (EDR), Florida County & Municipal Economic Development Incentives: LFY 2014-15 Report (December 2016) available at <http://edr.state.fl.us/Content/local-government/reports/index.cfm#incentives-report> (last visited January 26, 2018).

⁹ Section 125.0104, F.S.

¹⁰ Section 125.0104(3)(c), F.S.

- Additional 1 Percent Tax:¹¹ This tax may be levied by an extraordinary vote of a county's governing board, in addition to the 1 or 2 percent tax on the total amount charged for transient rental transactions. To be eligible to levy the tax, a county must have levied the 1 or 2 percent tax for at least 3 years.
- High Tourism Impact Tax:¹² A county with high tourism impact may levy an additional 1 percent tax on the total amount charged for transient rental transactions.¹³
- Professional Sports Franchise Facility Tax:¹⁴ In addition to any other tourist development taxes, a 1 percent tax on the total amount charged for transient rental transactions may be levied to pay debt service on bonds issued to finance professional sports franchise facilities, retaining spring training franchise facilities, and convention centers. These funds may also be used to promote tourism in the state.
- Additional Professional Sports Franchise Facility Tax:¹⁵ Counties that levy the professional sports franchise facility tax may levy an additional tax no greater than 1 percent to be used for the same purposes.

Depending on a county's eligibility, the maximum tax rate varies from 3 to 6 percent. The table below displays the five local option tourist development taxes available to counties, the number of counties eligible to levy a specific tourist development tax, and the number of counties currently levying such tax:¹⁶

	Original Tax (1% or 2%)	Additional Tax (1%)	Professional Sports Franchise Facility Tax (up to 1%)	High Tourism Impact Tax (1%)	Additional Professional Sports Franchise Facility Tax (up to 1%)
Eligible to Levy:	67	59	67	8	65
Levying:	63	51	43	6	29

These local option taxes may be administered by the Department of Revenue or by one or more units of local government. These taxes may be levied within a subcounty special district. If the tax is levied in a subcounty special district, the additional taxes must be levied only in that district.¹⁷

As a requirement for adopting tourist development taxes, a county's tourist development council¹⁸ must prepare a plan for tourist development and present it before the governing board of the county. The plan must include the anticipated revenue derived from the tax for the first 24 months, the tax district where it will be imposed, and a list prioritizing the use of the revenue.

¹¹ Section 125.0104(3)(d), F.S.

¹² Section 125.0104(3)(m), F.S.

¹³ A county may be designated as having a "high tourism impact" by the Department of Revenue as provided by s. 125.0104(3)(m)2., F.S.

¹⁴ Section 125.0104(3)(l), F.S.

¹⁵ Section 125.0104(3)(n), F.S.

¹⁶ Office of Economic Demographic Research, The Florida Legislature, *County Tax Rates: CY 2007-2018, Local Option Tourist Taxes*, (last updated January 8, 2018), available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z-g-l.cfm> (last visited January 26, 2018).

¹⁷ See ss. 125.0104(b), (d), and (l), F.S.

¹⁸ Also referred to as a "tourism" development council.

Any changes to the plan after the levy has been enacted must be approved by the county's governing board.¹⁹

Economic Development and Reporting Requirements

Section 125.045, F.S., related to “county economic development powers,” provides legislative intent language with regards to enhancing and expanding economic activity in the counties of the state by attracting and retaining business, allows the governing body of a county to expend public funds to attract and retain business enterprises, and indicates that the use of public funds toward the achievement of such economic development goals constitutes a public purpose. A public purpose includes expending:

public funds for economic development activities, including, but not limited to, developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants, leasing or conveying real property, and making grants to private enterprises for the expansion of businesses existing in the community or the attraction of new businesses to the community.²⁰

Section 125.045(4), F.S., requires that a “contract between the governing body of a county or other entity engaged in economic development activities on behalf of the county and an economic development agency must require the agency or entity receiving county funds to submit a report to the governing body of the county detailing how county funds were spent and detailing the results of the economic development agency's or entity's efforts on behalf of the county.” This report must be submitted annually to the governing body of the county, and the county must file a copy of the report with the Office of Economic and Demographic Research and post a copy of the report on the county's website.

Public Employee Per Diem and Travel Expenses

Section 112.061, F.S., establishes the rates of per diem and subsistence allowance for travel by public officers and employees. When traveling to a convention or conference or to conduct bona fide state business, a traveler is authorized to receive \$80 per diem. However, if actual expenses exceed \$80, the traveler may receive \$6 for breakfast, \$11 for lunch, \$19 for dinner, and the actual expenses for lodging at a single-occupancy rate.

The 2017-18 implementing bill created a limit on the amount of actual expenses for lodging that may be reimbursed under certain circumstances. The bill provided that when an employee of a state agency or the judicial branch is attending a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or the judicial branch, the reimbursement for lodging expenses may not exceed \$150 per day. However, an employee may expend his or her own funds for any lodging expenses in excess of the limit. This limit is in effect until July 1, 2018.

¹⁹ See ss. 125.0104(4), F.S. The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

²⁰ Section 125.045(3), F.S.

Section 112.061(2)(a), F.S., defines the term “agency or public agency” to mean any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law.

VISIT FLORIDA

VISIT FLORIDA (VF) serves as Florida’s statewide destination marketing organization, representing the state’s entire tourism industry.²¹ VF is a 501(c)(6) not-for-profit corporation and a subcontractor of EFI.²² VF’s primary responsibilities include:

- Administering domestic and international advertising campaigns;
- Conducting research on tourism and travel trends;
- Conducting domestic and international marketing activities; and
- Managing the state’s five welcome centers.

Enterprise Florida, Inc.

Enterprise Florida, Inc., (EFI) serves as the principal economic development organization for the state. Among its numerous duties, EFI markets the state for business creation, expansion, and retention.²³ Additionally, EFI contracts with the DEO to manage some of the various programs housed in the Division of Strategic Business Development.

Reporting Requirements for Entities that Partner with VISIT FLORIDA or Enterprise Florida

Section 288.1226(13)(c)1., F.S., requires any entity that in the previous fiscal year received more than 50 percent of its revenue from VF or tourist development taxes, high tourist impact taxes, or convention development taxes, and that partners with VF or participates in a program, cooperative advertisement, promotional opportunity, or other activity offered by or in conjunction with VF, to annually report all public and private financial data to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and include that report on its website.

The financial data must include:

- The total amount of revenue received from public and private sources;
- The operating budget of the partner entity;
- Employee and board member salary and benefit details from public and private funds;
- An itemized account of all expenditures by the partner entity on the behalf of, or coordinated for the benefit of the corporation, its board members, or employees; and
- Itemized travel and entertainment expenditures of the partner entity.

Section 288.904(6)(c)1., specifies the same requirements for entities that partner with EFI.

²¹ Section 288.1226, F.S.

²² Section 288.923, F.S.

²³ Section 288.901(2), F.S.

III. Effect of Proposed Changes:

Auditor General

Section 1 amends the duties in s. 11.45, F.S., to give the Auditor General the authority to conduct audits of the accounts and records pertaining to:

- The use of funds from tourist development taxes, high tourist impact taxes, or convention development taxes, for tourism development or promotion by a local governmental entity, nonprofit organization, or for-profit organization, including a tourism promotion agency as defined and created in section 3 of this bill or a program or entity created by a tourism promotion agency;
- An economic development agency of a county or municipality, including an economic development agency as defined and created in section 2 of this bill, or a program or entity created by an economic development agency;
- If the county or municipality does not have an economic development agency, the county or municipal officers or employees assigned to promote the general business interests, industrial interests, or related responsibilities of the county or municipality; or
- If authorized by the state, a municipality, or a county to promote the general business interests, industrial interests, or related responsibilities of the state, municipality, or county, a private agency, person, partnership, corporation, or business entity.

Economic Development Agencies

Section 2 creates s. 288.0751, F.S., which provides a definition and related transparency and contracting requirements for any entity defined as an “economic development agency,” which means an entity, including, but not limited to, an agency as defined in s. 119.011, F.S., that receives public funds and is engaged in economic development activities on behalf of one or more local governmental entities. The bill specifies that the DEO and EFI are not considered economic development agencies.

“Economic development activities” include:

- Developing or improving local infrastructure;
- Providing grants to private enterprises;
- Participating in trade shows and prospecting missions;
- Making expenditures for the design of strategic plans for economic development;
- Making expenditures for marketing and research services; and
- Providing economic development incentives, including direct, indirect, fee-based, tax-based, and property-based incentives.

“Economic development activities” do not include developing, maintaining, or improving infrastructure or public safety and other traditional functions of local government that benefit the public at large or otherwise provide an indirect or incidental benefit to the development of the local economy.

The bill imposes the following measures on economic development agencies:

Operation

- Specifies the financial disclosure and conflict of interest requirements for directors, officers, and board members.
- Prohibits compensation for board members, and subjecting them to state per diem and travel provisions.
- Limits the amount of employee compensation from public funds to amount paid to the chief executive officer of the local government entity on whose behalf the activities are performed, and prohibits bonuses or severance pay for employees from public funds unless authorized by law.
- Provides that agencies comply with the per diem and travel expenses requirements in s. 112.061, F.S.
- Provides that officers and employees are subject to the Code of Ethics for Public Officers and Employees standards under s. 112.313, F.S.
- Requires that agencies avoid, neutralize, or mitigate significant potential organizational conflicts of interest before entering into contracts.
- Prohibits agency from spending funds on food, beverages, lodging, entertainment, or gifts for employees or board members, unless authorized by s. 112.061, F.S., or the bill.
- Prohibits agency employees or board members from accepting or receiving food, beverages, lodging, entertainment, or gifts from persons, vendors, or other entities doing business with the agency, unless such food, beverage, lodging, entertainment, or gift is available to similarly situated members of the general public.
- Prohibits expenditure of agency funds for food, beverages, lodging, entertainment, or gifts for employees or board members, nor may they be accepted, unless available to general public.
- Limits lodging expenses for an employee or board member to \$150 per day, excluding taxes, unless the agency is participating in a negotiated group rate discount or the agency provides documentation of at least three comparable alternatives demonstrating that such lodging at the required rate is not available. However, an employee or board member may expend his or her own funds for any lodging expenses in excess of \$150 per day.

Transparency

- Requires that agency contracts must contain certain information, including performance standards, a project budget, the value of services provided, and projected travel and entertainment expenses for employees and board members under certain circumstances.
- Requires agency contracts valued at \$250,000 or more to be submitted to the board of the appropriate local government entity and published on that entity's website at least 14 days before execution of the contract. If the contract is rejected by a majority vote, the agency may not execute any similar contract without first obtaining a majority vote in favor of such contract. An economic development agency may not enter into multiple related contracts to avoid this requirement. If the local government entity does not take action on the proposed contract within the 14 day time period, the contract is authorized to be executed.
- Requires an agency to submit to the governing board of the local governmental entity, within 30 days after the end of its fiscal year, a complete and detailed report setting forth all public and private financial data, and publish such report on its website, including:
 - The total amount of revenue received from public and private sources.

- The operating budget.
- The total amount of salary, benefits, and other compensation provided by the agency to its officers, employees, or agents, regardless of the funding source.
- An itemized account of all expenditures, including all travel and entertainment expenditures.
- Requires an agency to post the following information on their website:
 - All contracts valued at \$5,000 or more, within 5 business days after execution.
 - All contracts, information, and financial data that is submitted to the governing board of the local governmental entity, within 5 business days after submission.
 - Video recordings of each board meeting, within 3 business days after the meeting.
 - A detailed report of expenditures following each marketing event paid for with agency funds, within 14 days after the event.
 - An annual itemized account of the total amount of funds spent by a third party on behalf of the agency, its board members, or its employees.
 - An annual itemized account of the total amount of travel and entertainment expenditures.
- Provides that any record required by the bill, including, but not limited to, a contract or agreement, is a public record and is not confidential or exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, except as provided in s. 125.0104(9)(d)1. and (d)2.a., and must be produced in full in accordance with the bill or upon request.
- Requires that agencies maintain and provide online access to all of the information required, and that the DEO publish and maintain an online directory of the agencies and their websites.
- Provides that agencies which fail to comply with certain transparency and accountability requirements of the bill may not receive or expend public funds until becoming compliant.

Audits, Penalties, Applicability, and Enforcement

- Requires the Auditor General to annually select and audit at least two economic development agencies that received public funds.
- Provides that it is a first degree misdemeanor to knowingly and willfully make a materially false or misleading statement, provide false or misleading information, fail to report certain information, or structure an organization or agreement to avoid the requirements of the bill.
- Limits the extent to which a private entity must comply with the bill, under certain circumstances.
- Requires a local government to stop providing public funds to an economic development agency that is failing to comply with the requirements imposed above.

Tourism Promotion Agencies

Section 3 creates s. 288.12261, F.S., which provides a definition and related transparency and contracting requirements for a “tourism promotion agency,” which means an entity, including, but not limited to, an agency as defined in s. 119.011, F.S., that receives public funds to promote tourism development on behalf of one or more local governmental entities. The bill specifies that the DEO and VF are not considered tourism promotion agencies.

The bill imposes the following operation, contracting, and accountability measures on tourism promotion agencies:

- Requires board members to disclose conflicts of interest.

- Provides that board members serve without compensation.
- Limits the amount of employee compensation from public funds to amount paid to the chief executive officer of the local government entity on whose behalf the activities are performed, and prohibits bonuses or severance pay for employees from public funds unless authorized by law.
- Requires that agency contracts must contain certain information, including performance standards, a project budget, the value of services provided, and projected travel and entertainment expenses for employees and board members.
- Requires tourism promotion agencies to submit to the local governmental entity a yearly report detailing public and private financial data.
- Provides that agencies that fail to comply with the transparency requirements may not receive or expend public funds until becoming compliant.
- Requires that agencies maintain and provide online access to all of the information required, and that the DEO publish and maintain an online directory of the agencies and their websites.

Tourist Development Tax Transparency

Section 4 amends s. 125.0104, F.S., to provide that county governing boards must review, and may reject, a proposed contract by a tourist development council with an estimated total contract value of \$250,000 or more. The county governing board must review all certifications by the head of a tourism promotion agency related to potential conflicts of interest and mitigation plans.

The governing board of a county that levies and imposes a tourist development tax must publish the following information available online:

- The approved tourist development plan, including the approximate cost or expense allocation for each specific project or special use.
- Any substantial amendments to the tourist development plan.
- The tax district in which the tourist development tax is levied.
- A prioritized list of the proposed uses of the tax revenue by specific project or special use.
- The quarterly expenditure reports from the county governing board or its designee.

Reporting Requirements for Entities that Partner with VISIT FLORIDA or Enterprise Florida

Sections 5 and 6 amend sections 288.1226(13)(c)1. and 288.904(6)(c)1., F.S., respectively, to modify reporting requirements for entities that partner with VF or EFI. The bill deletes the requirement that entities receiving more than 50 percent of their revenue from tourist development taxes, high tourist impact taxes, or convention development taxes must annually report specified financial information.

For entities that must report, the bill clarifies the required salary and benefit information, and the required travel and entertainment expenditure information.

Effective Date

Section 7 provides that the bill takes effect July 1, 2018.

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

None.

B. Public Records/Open Meetings Issues:

The bill does not create a new public records exemption, but it does provide that notwithstanding any law to the contrary, records required under the bill, which may include contracts, are public records and are not “confidential or exempt.”

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”²⁴ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.²⁵

This provision may affect contracting arrangements that involve trade secrets or other materials that may otherwise be confidential and exempt, or exempt.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate costs, but likely minimal, for any entity that meets the definition of economic development agency or tourism promotion agency and is therefore subject to the reporting requirements imposed by the bill.

Indeterminate costs, but likely minimal, for the DEO to provide and maintain the required website addresses.

²⁴ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

²⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 125.0104, 288.1226, and 288.904.

This bill creates the following sections of the Florida Statutes: 288.0751 and 288.12261.

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 January 29, 2018:

The committee substitute:

- Provides definitions related to economic development agencies;
- Modifies conflict of interest requirements for board members of economic development agencies;
- Modifies Auditor General auditing requirement for economic development agencies, and removes requirement that Auditor General must audit tourism promotion agencies;
- Removes provisions applicable to tourism development agencies relating to per diem and travel, public records, and county approval of proposed contracts;
- Removes provision prohibiting tourism development agencies from expending funds for the direct benefit of a single corporation or business entity; and
- Removes provision authorizing the Governor or Chief Financial Officer to suspend or prohibit the distribution of tourist development taxes when an agency fails to comply with the transparency and accountability requirements.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
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The Committee on Commerce and Tourism (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 273 - 468
and insert:

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Local governmental entity" means the county or municipality on whose behalf the tourism promotion agency engages in tourism promotion activity.

(b) "Promote tourism development" means using public funds to promote or perform the activities described in s.



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11 125.0104(5) .

12 (c) "Tourism promotion agency" means an entity, including,
13 but not limited to, an agency as defined in s. 119.011, that
14 receives public funds to promote tourism development on behalf
15 of one or more local governmental entities.

16 1. The term also includes any local governmental entity or
17 any entity under contract with one or more local governmental
18 entities to promote tourism development on behalf of such local
19 governmental entity or entities through the expenditure of
20 public funds.

21 2. For purposes of this section, the Florida Tourism
22 Industry Marketing Corporation and the Department of Economic
23 Opportunity are not considered tourism promotion agencies.

24 (2) OPERATION.—A tourism promotion agency must operate in
25 accordance with the following:

26 (a) Directors, officers, and members of the board of
27 directors of a tourism promotion agency shall disclose to the
28 board any activity that may reasonably be construed to be a
29 conflict of interest.

30 (b) Board members shall serve without compensation.

31 (c) Officers, employees, or agents, including the president
32 or chief executive officer, may not receive compensation from
33 public funds for the performance of tourism promotion-related
34 duties, responsibilities, or services in an amount that exceeds
35 the annual compensation of the chief administrative or executive
36 officer or employee of the local governmental entity on whose
37 behalf such duties, responsibilities, or services are performed.
38 Any payments of performance bonuses or severance pay to
39 officers, employees, or agents from public funds are prohibited



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unless specifically authorized by law.

(3) TRANSPARENCY.—

(a) All contracts entered into by a tourism promotion agency must include:

1. The purpose of the contract.

2. Specific performance standards and responsibilities for each entity.

3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The projected travel and entertainment expenses for employees and board members, if applicable.

(b)1. A tourism promotion agency shall submit to the governing body of the local governmental entity, within 45 days after the end of its fiscal year, a complete and detailed report setting forth all public and private financial data of the tourism promotion agency, and shall publish such report on its website.

2. The financial data must include:

a. The total amount of revenue received from public and private sources.

b. The operating budget.

c. The total amount of salary, benefits, and other compensation provided by the tourism promotion agency to its officers, employees, or agents, regardless of the funding source.

d. An itemized account of all expenditures, including all travel and entertainment expenditures.

e. All contracts with a total contract value of \$5,000 or more.



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(c) A tourism promotion agency that fails to comply with the transparency and accountability requirements of this subsection may not receive or expend public funds until it becomes fully compliant.

(d) The local governmental entity shall maintain and provide online access to all of the information required under this subsection and s. 125.0104(4)(f). Each local governmental entity shall provide the Department of Economic Opportunity with the specific website address where the required information is published and maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory that lists each local governmental entity and the specific website address where such required information may be located.

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

And the title is amended as follows:

Delete lines 5 - 45

and insert:

accounts and records; creating s. 288.0751, F.S.;
defining terms; providing requirements for the
operation of economic development agencies; requiring
specified persons to file an annual disclosure of
certain interests; providing requirements for such
disclosure; requiring board members to serve without
compensation; authorizing per diem and travel expenses
for certain persons paid from specified funds;
prohibiting specified persons from receiving public
compensation in excess of a certain amount;
prohibiting certain performance bonuses and severance



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pay; subjecting certain persons to a specified code of ethics; requiring an economic development agency to take certain actions regarding a significant potential conflict of interest; limiting lodging expenses for certain persons; providing an exception; authorizing certain persons to expend their own funds in excess of the lodging expense limit; prohibiting the expenditure of economic development agency funds on certain items unless authorized by law; prohibiting specified persons from accepting certain items from specified entities under certain circumstances; requiring that contracts include specified information; requiring that certain contracts be submitted to the governing board of the county and published on the county's website within a certain timeframe; prohibiting an economic development agency from executing certain contracts without obtaining a majority vote of the governing board of the county; requiring an economic development agency to submit a report of financial data to the governing board of a county and publish such report on its website within a certain timeframe; requiring that the financial data include certain items; requiring that an economic development agency's website contain certain information; specifying that certain records are public records; requiring an economic development agency to provide online access to certain information; requiring an economic development agency to provide the Department of Economic Opportunity with a certain website address;



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requiring the department to publish and maintain a directory of certain information; prohibiting an economic development agency from receiving or expending public funds while in violation of certain requirements; requiring the Auditor General to conduct certain audits and report to certain persons if certain violations are found; providing that it is unlawful to knowingly and willfully make false or misleading statements, provide false or misleading information, fail to report certain information, or purposefully avoid specified requirements; providing civil and criminal penalties; providing applicability; creating s. 288.12261, F.S.; defining terms; providing requirements for the operation of tourism promotion agencies; requiring board members to serve without compensation; prohibiting specified persons from receiving public compensation in excess of a certain amount; prohibiting certain performance bonuses and severance pay except under certain circumstances; requiring that contracts include specified information; requiring a tourism promotion agency to submit a report of financial data to the governing body of the local governmental entity and publish such report on its website within a certain timeframe; requiring that the financial data include certain items; prohibiting a tourism promotion agency from receiving or expending public funds while in violation of certain requirements; requiring a local governmental entity to maintain and provide online



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156 access to certain information; requiring a local
157 governmental entity to provide the department with a
158 certain website address; requiring the department to
159 publish and maintain a directory of certain
160 information; amending s. 125.0104, F.S.; requiring



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
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The Committee on Commerce and Tourism (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (y) and (z) are added to subsection
(3) of section 11.45, Florida Statutes, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor
General may, pursuant to his or her own authority, or at the
direction of the Legislative Auditing Committee, conduct audits



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or other engagements as determined appropriate by the Auditor General of:

(y) The accounts and records pertaining to the use of funds from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 for tourism development or promotion by a local governmental entity, nonprofit organization, or for-profit organization, including a tourism promotion agency as defined in s. 288.12261 or a program or entity created by a tourism promotion agency.

(z) The accounts and records pertaining to:

1. An economic development agency of a county or municipality, including an economic development agency as defined in s. 288.0751 or a program or entity created by an economic development agency;

2. The county or municipal officers or employees assigned to promote the general business interests, industrial interests, or related responsibilities of the county or municipality; or

3. A private agency, person, partnership, corporation, or business entity authorized by the state, a municipality, or a county to promote the general business interests, industrial interests, or related responsibilities of the state, municipality, or county.

Section 2. Section 288.0751, Florida Statutes, is created to read:

288.0751 Local economic development agencies.—

(1) DEFINITIONS.—For purposes of this section:

(a) "Economic development activities" means:

1. Developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for



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industrial or manufacturing plants, or leasing or conveying real property as part of an economic incentive agreement for one or more businesses.

2. Providing grants to private enterprises for the expansion of existing businesses or the attraction of new businesses.

3. Participating in trade shows and prospecting missions.

4. Making expenditures for the design of strategic plans for economic development.

5. Making expenditures for marketing and research services, including marketing specific sites for business and industry development or recruitment, and responding to inquiries from businesses and industries concerning the development of specific sites.

6. Providing economic development incentives, including:

a. Direct financial incentives of monetary assistance provided to businesses, including, but not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies.

b. Indirect financial incentives of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investments or development.

c. Fee-based or tax-based incentives, including, but not limited to, credits, refunds, exemptions, and property tax abatement or assessment reductions.

d. Real property incentives, including, but not limited to, below-market interest rate leases or sales of real property.



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The term "economic development activities" does not include developing, maintaining, or improving infrastructure or public safety and other traditional functions of local government that benefit the public at large or otherwise provide an indirect or incidental benefit to the development of the local economy.

(b) "Economic development agency" means an entity, including, but not limited to, an agency as defined in s. 119.011, that receives public funds and is engaged in economic development activities on behalf of one or more local governmental entities.

1. An economic development agency may include any local governmental entity or any entity under contract with one or more local governmental entities to promote economic development activities on behalf of such local governmental entity or entities through the expenditure of public funds. An economic development agency may also include any private agency, person, partnership, corporation, or business entity authorized by a county or municipality to promote the general business or industrial interests of that county or municipality.

2. Enterprise Florida, Inc., and the Department of Economic Opportunity are not considered economic development agencies.

(c) "Local governmental entity" means the county or municipality on whose behalf the economic development agency engages in economic development activity.

(d) "Relative" has the same meaning as in s. 726.102.

(2) OPERATION.—An economic development agency must operate in accordance with the following:

(a) Each director, officer, and member of the board of directors of an economic development agency who is not otherwise



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required to file a financial disclosure pursuant to ch. 112 must
file an annual disclosure pursuant to s. 112.3145 as a local
officer. Directors, officers, and members of the board of
directors are considered local officers and the local
governmental entity is considered their agency.

(b) Directors, officers, and members of the board of
directors of an economic development agency must disclose to the
board any activity that may reasonably be construed to be a
conflict of interest. A rebuttable presumption of a conflict of
interest exists if any of the following occurs without prior
notice to the economic development agency's board:

1. A director, officer, or board member, or a relative of a
director, officer, or board member, enters into a contract for
goods or services with the agency.

2. A director, officer, or board member, or a relative of a
director, officer, or board member, holds an interest in a
corporation, limited liability corporation, partnership, limited
liability partnership, or other business entity that conducts
business with the agency or proposes to enter into a contract or
other transaction with the agency.

(c) If a director, officer, or board member, or a relative
of a director, officer, or board member, proposes to engage in
an activity that is a conflict of interest as described in
paragraph (b), the proposed activity must be listed on, and all
contracts and transactional documents related to the proposed
activity must be attached to, the meeting agenda for the
consideration of the contract. The disclosure must be placed on
the website of the economic development agency and included in
the minutes of each meeting of the board of directors of the



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economic development agency during which such contracts or
related expenditures are discussed or voted upon.

(d) A director, officer, or board member, or a relative of
a director or an officer, who is a party to, or has an interest
in, an activity that is a possible conflict of interest as
described in paragraph (b) may attend the meeting at which the
activity is considered by the board and is authorized to make a
presentation to the board regarding the activity. After the
presentation, the director, officer, or board member, or the
relative of the director or officer, must leave the meeting
during the discussion of, and the vote upon, the activity. A
director, officer, or board member who is a party to, or has an
interest in, the activity must recuse themselves from the vote.

(e) Board members shall serve without compensation but are
entitled to receive reimbursement for per diem and travel
expenses pursuant to s. 112.061. Any ordinance or resolution
enacted pursuant to s. 112.061(14) may apply to board members in
that county only if such ordinance or resolution applies
uniformly to all travel by county employees. Such expenses must
be paid out of the funds of the economic development agency.

(f) Officers, employees, or agents, including the president
or chief executive officer, may not receive compensation from
public funds for the performance of economic development-related
duties, responsibilities, or services in an amount that exceeds
the annual compensation of the chief administrative or executive
officer or employee of the local governmental entity on whose
behalf such activities are performed. Any payments of
performance bonuses or severance pay to officers, employees, or
agents from public funds are prohibited unless specifically



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authorized by law.

(g) An economic development agency must comply with the per diem and travel expense provisions of s. 112.061. Any ordinance or resolution enacted pursuant to s. 112.061(14) may apply to economic development agencies and their officers and employees in that county only if such ordinance or resolution applies uniformly to all travel by county employees.

(h) Officers and employees are subject to s. 112.313. However, any contract between an economic development agency and a political subdivision, local governmental entity, or another economic development agency to perform economic development activities does not violate s. 112.313(3) or (7).

(i) An economic development agency not otherwise subject to s. 287.057 must avoid, neutralize, or mitigate significant potential organizational conflicts of interest before it enters into a contract. If the economic development agency elects to mitigate a significant potential organizational conflict of interest, an adequate mitigation plan, including organizational, physical, and electronic barriers, shall be developed and the head of the economic development agency must certify that the award is in the best interests of the local governmental entity and submit such certification to the governing body of the local governmental entity within 3 business days after entering into the contract.

(j) Lodging expenses for an employee or board member may not exceed \$150 per day, excluding taxes, unless the economic development agency is participating in a negotiated group rate discount or the economic development agency provides documentation of at least three comparable alternatives



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demonstrating that such lodging at the required rate is not available. However, an employee or board member may expend his or her own funds for any lodging expenses in excess of \$150 per day.

(k) Economic development agency funds may not be expended for food, beverages, lodging, entertainment, or gifts for employees or board members, unless authorized pursuant to s. 112.061 or this section. Employees or board members may not accept or receive food, beverages, lodging, entertainment, or gifts from persons, vendors, or other entities doing business with the economic development agency unless such food, beverage, lodging, entertainment, or gift is available to similarly situated members of the general public.

Nothing in this subsection is intended to limit the applicability of ch. 112 to any person already subject to the provisions of such chapter.

(3) TRANSPARENCY.—

(a) All contracts entered into by an economic development agency shall include:

1. The purpose of the contract.
2. Specific performance standards and responsibilities for each entity.
3. A detailed project or contract budget, if applicable.
4. The value of any services provided.
5. The projected travel and entertainment expenses for employees and board members, if applicable.

(b) A proposed contract with an estimated total contract value of \$250,000 or more must be submitted to the governing



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body of the local governmental entity and published on such
entity's website at least 14 days before the contract is
executed. If the governing body of the local governmental entity
rejects such proposed contract by a majority vote held during
the 14-day period, the economic development agency may not
execute such proposed contract or any substantially similar
contract without obtaining a majority vote of the governing body
of the local governmental entity in favor of such contract. An
economic development agency may not enter into multiple related
contracts to avoid the requirements of this paragraph. If the
governing body of the local governmental entity does not take
action on the proposed contract within the 14-day period, the
contract may be executed.

(c)1. An economic development agency shall submit to the
governing body of the local governmental entity, within 30 days
after the end of its fiscal year, a complete and detailed report
setting forth all public and private financial data of the
economic development agency, and shall publish such report on
its website.

2. The financial data shall include:

a. The total amount of revenue received from public and
private sources.

b. The operating budget.

c. The total amount of salary, benefits, and other
compensation provided by the economic development agency to its
officers, employees, or agents, regardless of the funding
source.

d. An itemized account of all expenditures, including all
travel and entertainment expenditures.



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(d) The following information must be posted on the website of each economic development agency:

1. All contracts with a total contract value of \$5,000 or more. Such contracts must be posted within 5 business days after execution.

2. All contracts, information, and financial data submitted to the governing body of the local governmental entity. Such contracts, information, and data must be posted within 5 business days after submission.

3. Video recordings of each board meeting. Such recordings must be posted within 3 business days after the meeting.

4. A detailed report of expenditures following each marketing event paid for with economic development agency funds. Such report must be posted within 14 days after the event.

5. An annual itemized account of the total amount of funds spent by a third party on behalf of the economic development agency, its board members, or its employees.

6. An annual itemized account of the total amount of travel and entertainment expenditures.

(e) Notwithstanding any provision of law to the contrary, a record required under this section, including, but not limited to, a contract or agreement, is a public record and is not confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as provided in s. 288.075(5) and (6) (a)1. and 2. Such record shall be produced in full in accordance with this section or upon request.

(f) An economic development agency shall maintain and provide online access to all of the information required under this subsection. Each economic development agency shall provide



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the Department of Economic Opportunity with the specific website address where the required information is published and maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory which lists each economic development agency and the specific website address where such required information may be located.

(g) An economic development agency that fails to comply with the transparency and accountability requirements of this subsection may not receive or expend public funds until it becomes fully compliant.

(4) AUDITS.—The Auditor General shall annually select at least two economic development agencies that received public funds in the previous year and conduct audits, as defined in s. 11.45, to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately report such findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) PENALTIES.—It is unlawful for a person to knowingly and willfully make a materially false or misleading statement, provide false or misleading information, fail to report required information, or structure an organization or agreement to avoid the requirements of this section. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) APPLICABILITY.—A private entity that meets the definition of an economic development agency under subsection



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(1) due solely to the existence of a contract between the private entity and an economic development agency to engage in economic development activities is required to comply with this section only in connection with the performance of its obligations and the expenditure of funds pursuant to such contract. This section shall not be construed to require the private entity to report or conform its other business practices or activities to the provisions of this section, provided such practices or activities are not directly related to or funded by such contract. An entity that does not receive any public funds for economic development activities is not subject to this section if the entity does not concurrently employ or use the services of a local governmental entity employee for economic development activities.

(7) ENFORCEMENT.—The local governmental entity shall cease and desist from transferring or providing public funds to any economic development agency that fails to comply with this section.

Section 3. Section 288.12261, Florida Statutes, is created to read:

288.12261 Tourism promotion agencies.—

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Local governmental entity" means the county or municipality on whose behalf the tourism promotion agency engages in tourism promotion activity.

(b) "Promote tourism development" means using public funds to promote or perform the activities described in s. 125.0104(5).

(c) "Tourism promotion agency" means an entity, including,



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but not limited to, an agency as defined in s. 119.011, that receives public funds to promote tourism development on behalf of one or more local governmental entities.

1. A tourism promotion agency may include any local governmental entity or any entity under contract with one or more local governmental entities to promote tourism development on behalf of such local governmental entity or entities through the expenditure of public funds.

2. For purposes of this section, the Florida Tourism Industry Marketing Corporation and the Department of Economic Opportunity are not considered tourism promotion agencies.

(d) "Relative" has the same meaning as in s. 726.102.

(2) OPERATION.—A tourism promotion agency must operate in accordance with the following:

(a) Each director, officer, and member of the board of directors of a tourism promotion agency who is not otherwise required to file a financial disclosure pursuant to ch. 112 must file an annual disclosure pursuant to s. 112.3145 as a local officer. Directors, officers, and members of the board of directors are considered local officers and the local governmental entity is considered their agency.

(b) Directors, officers, and members of the board of directors of a tourism promotion agency must disclose to the board any activity that may reasonably be construed to be a conflict of interest. A rebuttable presumption of a conflict of interest exists if any of the following occurs without prior notice to the tourism promotion agency's board:

1. A director, officer, or board member, or a relative of a director, officer, or board member, enters into a contract for



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goods or services with the agency.

2. A director, officer, or board member, or a relative of a director, officer, or board member, holds an interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the agency or proposes to enter into a contract or other transaction with the agency.

(c) If a director, officer, or board member, or a relative of a director, officer, or board member, proposes to engage in an activity that is a conflict of interest as described in paragraph (b), the proposed activity must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the meeting agenda for the consideration of the contract. The disclosure must be placed on the website of the tourism promotion agency and included in the minutes of each meeting of the board of directors of the tourism promotion agency when such contracts or related expenditures are discussed or voted upon.

(d) A director, officer, or board member, or a relative of a director or an officer, who is a party to, or has an interest in, an activity that is a possible conflict of interest as described in paragraph (b) may attend the meeting at which the activity is considered by the board and is authorized to make a presentation to the board regarding the activity. After the presentation, the director, officer, or board member, or the relative of the director or officer, must leave the meeting during the discussion of, and the vote upon, the activity. A director, officer, or board member who is a party to, or has an interest in, the activity must recuse himself or herself from



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the vote.

(e) Board members shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Any ordinance or resolution enacted pursuant to s. 112.061(14) may apply to board members only if such ordinance or resolution applies uniformly to all travel by county employees. Such expenses must be paid out of funds of the tourism promotion agency.

(f) Officers, employees, or agents, including the president or chief executive officer, may not receive compensation from public funds for the performance of tourism promotion-related duties, responsibilities, or services in an amount that exceeds the annual compensation of the chief administrative or executive officer or employee of the local governmental entity on whose behalf such duties, responsibilities, or services are performed. Any payments of performance bonuses or severance pay to officers, employees, or agents from public funds are prohibited unless specifically authorized by law.

(g) A tourism promotion agency must comply with the per diem and travel expense provisions of s. 112.061. Any ordinance or resolution enacted pursuant to s. 112.061(14) may apply to tourist promotion agencies and their officers and employees only if such ordinance or resolution applies uniformly to all travel by county employees.

(h) Officers and employees are subject to s. 112.313. However, any contract between the tourism promotion agency and the political subdivision, local governmental entity, or another tourism promotion agency to perform tourism promotion activities does not violate s. 112.313(3) or (7).



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(i) A tourism promotion agency not otherwise subject to s. 287.057 must avoid, neutralize, or mitigate significant potential organizational conflicts of interest before it enters into a contract. If the tourism promotion agency elects to mitigate a significant potential organizational conflict of interest, an adequate mitigation plan, including organizational, physical, and electronic barriers, shall be developed and the head of the tourism promotion agency must certify that the award is in the best interests of the county and submit such certification to the governing board of the county within 3 business days after entering into the contract.

(j) Lodging expenses for an employee or board member may not exceed \$150 per day, excluding taxes, unless the tourism promotion agency is participating in a negotiated group rate discount or the tourism promotion agency provides documentation of at least three comparable alternatives demonstrating that such lodging at the required rate is not available. However, an employee or board member may expend his or her own funds for any lodging expenses in excess of \$150 per day.

(k) Tourism promotion agency funds may not be expended for food, beverages, lodging, entertainment, or gifts for employees or board members, unless authorized pursuant to s. 112.061 or this section. Employees or board members may not accept or receive food, beverages, lodging, entertainment, or gifts from persons, vendors, or other entities doing business with the tourism promotion agency unless such food, beverage, lodging, entertainment, or gift is available to similarly situated members of the general public.

(l) A tourism promotion agency shall not expend public or



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private funds that directly benefit only one business entity.

Nothing in this section is intended to limit the applicability of ch. 112 to any person already subject to the provisions of such chapter.

(3) TRANSPARENCY.—

(a) All contracts entered into by a tourism promotion agency shall include:

1. The purpose of the contract.

2. Specific performance standards and responsibilities for each entity.

3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The projected travel and entertainment expenses for employees and board members, if applicable.

(b) A proposed contract with an estimated total contract value of \$250,000 or more must be submitted to the governing body of the local governmental entity and published on such entity's website at least 14 days before the contract is executed. If the governing body of the local governmental entity rejects such proposed contract by a majority vote held during the 14-day period, the tourism promotion agency may not execute such proposed contract or any substantially similar contract without obtaining a majority vote of the governing body of the local governmental entity in favor of such contract. A tourism promotion agency may not enter into multiple related contracts to avoid the requirements of this paragraph. If the governing body of the local governmental entity does not take action on the proposed contract within the 14-day period, the contract may



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be executed.

(c)1. A tourism promotion agency shall submit to the governing body of the local governmental entity, within 30 days after the end of its fiscal year, a complete and detailed report setting forth all public and private financial data of the tourism promotion agency, and shall publish such report on its website.

2. The financial data shall include:

a. The total amount of revenue received from public and private sources.

b. The operating budget.

c. The total amount of salary, benefits, and other compensation provided by the tourism promotion agency to its officers, employees, or agents, regardless of the funding source.

d. An itemized account of all expenditures, including all travel and entertainment expenditures.

(d) The following information must be posted on the website of each tourism promotion agency:

1. All contracts with a total contract value of \$5,000 or more. Such contracts must be posted within 5 business days after execution.

2. All contracts, information, and financial data submitted to the governing body of the local governmental entity. Such contracts, information, and data must be posted within 5 business days after submission.

3. Video recordings of each board meeting. Such recordings must be posted within 3 business days after the meeting.

4. A detailed report of expenditures following each



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marketing event paid for with the funds of the tourism promotion agency. Such report must be posted within 14 days after the event.

5. An annual itemized account of the total amount of funds spent by a third party on behalf of the tourism promotion agency, its board members, or its employees.

6. An annual itemized account of the total amount of travel and entertainment expenditures.

(e) Notwithstanding any provision of law to the contrary, a record required under this section, including, but not limited to, a contract or agreement, is a public record and is not confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as provided in s. 125.0104(9)(d)1. and 2.a. Such record shall be produced in full in accordance with this section or upon request.

(f) A tourism promotion agency shall maintain and provide online access to all of the information required under this subsection and s. 125.0104(4)(f). Each tourism promotion agency shall provide the Department of Economic Opportunity with the specific website address where the required information is published and maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory which lists each tourism promotion agency and the specific website address where such required information may be located.

(g) A tourism promotion agency that fails to comply with the transparency and accountability requirements of this subsection may not receive or expend public funds until it becomes fully compliant.

(4) AUDITS.—



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(a) For any county that annually receives \$30,000,000 or more from taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, the Auditor General shall, biennially, conduct an audit, as defined in s. 11.45, of all tourism promotion agencies in such county to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

(b) The Auditor General shall annually select at least two counties that in the previous year received less than \$30,000,000 from taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 and conduct audits, as defined in s. 11.45, of all tourism promotion agencies in the county to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

(5) ENFORCEMENT.—The Governor or Chief Financial Officer may at any time order the Department of Revenue or the local official to whom the tax is remitted to cease and desist distributing any taxes levied under s. 125.0104, s. 125.0108, or s. 212.0305 based on a tourism promotion agency's failure to comply with this section.



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(6) PENALTIES.—It is unlawful for a person to knowingly and willfully make a materially false or misleading statement, provide false or misleading information, fail to report required information, or structure an organization or agreement to avoid the requirements of this section. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) APPLICABILITY.—A private entity that meets the definition of a tourism promotion agency under subsection (1) due solely to the existence of a contract between the private entity and a tourism promotion agency to promote tourism development is required to comply with this section only in connection with the performance of its obligations and the expenditure of funds pursuant to such contract. This section shall not be construed to require the private entity to report or conform its other business practices or activities to the provisions of this section, provided such practices or activities are not directly related to or funded by such contract. An entity that does not receive any public funds for tourism promotion development is not subject to this section if the entity does not concurrently employ or use the services of a local governmental entity employee for tourism promotion development.

Section 4. Paragraph (e) of subsection (4) of section 125.0104, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(4) ORDINANCE LEVY TAX; PROCEDURE.—



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(e) The governing board of each county which levies and imposes a tourist development tax under this section shall appoint an advisory council to be known as the "... (name of county) ... Tourist Development Council." The council shall be established by ordinance and composed of nine members who shall be appointed by the governing board. The chair of the governing board of the county or any other member of the governing board as designated by the chair shall serve on the council. Two members of the council shall be elected municipal officials, at least one of whom shall be from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council shall be electors of the county. The governing board of the county shall have the option of designating the chair of the council or allowing the council to elect a chair. The chair shall be appointed or elected annually and may be reelected or reappointed. The members of the council shall serve for staggered terms of 4 years. The terms of office of the original members shall be prescribed in the resolution required under paragraph (b). The council shall meet at least once each quarter and, from time to time, shall make recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by



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county ordinance or resolution. The council shall continuously review expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the county governing board or its designee. Expenditures which the council believes to be unauthorized shall be reported to the county governing board and the Department of Revenue. The governing board and the department shall review the findings of the council and take appropriate administrative or judicial action to ensure compliance with this section. The county governing board shall review all proposed contracts with an estimated total contract value of \$250,000 or more submitted by a tourism promotion agency. The county governing board may reject such proposed contract by a majority vote before the execution of such contract. The county governing board must review all certifications by the head of a tourism promotion agency related to potential conflicts of interest and mitigation plans ~~The changes in the composition of the membership of the tourist development council mandated by chapter 86-4, Laws of Florida, and this act shall not cause the interruption of the current term of any person who is a member of a council on October 1, 1996.~~

(f) The governing board of a county that levies and imposes a tourist development tax under this section shall publish and make the following information available online:

1. The approved tourist development plan, including the approximate cost or expense allocation for each specific project or special use.

2. Any substantial amendments to the tourist development plan.



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649 3. The tax district in which the tourist development tax is
650 levied.

651 4. A prioritized list of the proposed uses of the tax
652 revenue by specific project or special use.

653 5. The quarterly expenditure reports from the county
654 governing board or its designee.

655 Section 5. Paragraph (c) of subsection (13) of section
656 288.1226, Florida Statutes, is amended to read:

657 288.1226 Florida Tourism Industry Marketing Corporation;
658 use of property; board of directors; duties; audit.—

659 (13) TRANSPARENCY.—

660 (c)1. Any entity that in the previous fiscal year received
661 more than 50 percent of its revenue from the corporation ~~or~~
662 ~~taxes imposed pursuant to s. 125.0104, s. 125.0108, or s.~~
663 ~~212.0305, and that partners with the corporation or participates~~
664 ~~in a program, cooperative advertisement, promotional~~
665 ~~opportunity, or other activity offered by or in conjunction with~~
666 ~~the corporation,~~ shall annually, within 30 days after the end of
667 its fiscal year, ~~on July 1~~ report all public and private
668 financial data to the Governor, the President of the Senate, and
669 the Speaker of the House of Representatives, and include such
670 report on its website.

671 2. The financial data shall include:

672 a. The total amount of revenue received from public and
673 private sources.

674 b. The operating budget ~~of the partner entity.~~

675 c. The total amount of salary, benefits, and other
676 compensation provided by the entity to its officers, employees,
677 board members, or agents, regardless of the funding source



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~~Employee and board member salary and benefit details from public and private funds.~~

d. An itemized account of all expenditures, including all travel and entertainment expenditures, by the ~~partner~~ entity on the behalf of, or coordinated for the benefit of, the corporation, its board members, or its employees.

~~e. Itemized travel and entertainment expenditures of the partner entity.~~

Section 6. Paragraph (c) of subsection (6) of section 288.904, Florida Statutes, is amended to read:

288.904 Funding for Enterprise Florida, Inc.; performance and return on the public's investment.—

(6)

(c)1. Any entity that in the previous fiscal year received more than 50 percent of its revenue from Enterprise Florida, Inc., ~~or a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305,~~ and that partners with Enterprise Florida, Inc., ~~in a program or other activity offered by or in conjunction with Enterprise, Florida, Inc.,~~ shall annually, within 30 days after the end of its fiscal year, ~~on July 1~~ report all public and private financial data to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and include such report on its website.

2. The financial data shall include:

a. The total amount of revenue received from public and private sources.

b. The operating budget ~~of the partner entity.~~

c. The total amount of salary, benefits, and other compensation provided by the entity to its officers, employees,



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board members, or agents, regardless of the funding source
~~Employee and board member salary and benefit details from public~~
~~and private funds.~~

d. An itemized account of all expenditures, including all
travel and entertainment expenditures, by the ~~partner~~ entity on
the behalf of, or coordinated for the benefit of, Enterprise
Florida, Inc., its board members, or its employees.

~~e. Itemized travel and entertainment expenditures of the~~
~~partner entity.~~

Section 7. This act shall take effect October 1, 2018.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to economic development and tourism
promotion accountability; amending s. 11.45, F.S.;
authorizing the Auditor General to audit certain
accounts and records; creating ss. 288.0751 and
288.12261, F.S.; providing definitions; providing
requirements for the operation of economic development
agencies and tourism promotion agencies, respectively;
requiring specified persons to file an annual
disclosure of certain interests; providing
requirements for such disclosure; requiring board
members to serve without compensation; authorizing per
diem and travel expenses for certain persons paid from
specified funds; prohibiting specified persons from



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receiving public compensation in excess of a certain amount; prohibiting certain performance bonuses and severance pay; subjecting certain persons to a specified code of ethics; requiring such agencies to take certain actions regarding a significant potential conflict of interest; limiting lodging expenses for certain persons; providing an exception; prohibiting the expenditure of agency funds on certain items; prohibiting specified persons from accepting certain items from specified entities; prohibiting a tourism promotion agency from expending funds that directly benefit only one business entity; requiring certain contracts to include specified information; requiring a governing body of a local governmental entity to publish certain proposed contracts on such entity's website and approve certain contracts; requiring such agencies to submit a report of financial data to a governing body of a local governmental entity; specifying that certain records are public records; requiring such agencies to provide online access to certain information; prohibiting such agencies from receiving or expending public funds; requiring the Auditor General to conduct certain audits; authorizing the Governor or Chief Financial Officer to cease distributing certain tax revenues to certain noncompliant tourism promotion agencies; providing that it is unlawful to knowingly and willfully make false or misleading statements, provide false or misleading information, fail to report certain



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information, or purposefully avoid specified requirements; providing penalties; providing applicability; amending s. 125.0104, F.S.; requiring the governing board of a county to review certain proposed contracts and certifications relating to potential conflicts of interest and mitigation plans; requiring the governing board of a county that imposes a tourist development tax to provide online access to certain information; amending ss. 288.1226 and 288.904, F.S.; revising financial data required to be included in an annual report; conforming provisions to changes made by the act; providing an effective date.



406366

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (655428) (with title amendment)

Delete lines 322 - 584
and insert:

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Local governmental entity" means the county or municipality on whose behalf the tourism promotion agency engages in tourism promotion activity.

(b) "Promote tourism development" means using public funds



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to promote or perform the activities described in s.
125.0104(5).

(c) "Tourism promotion agency" means an entity, including, but not limited to, an agency as defined in s. 119.011, that receives public funds to promote tourism development on behalf of one or more local governmental entities.

1. The term also includes any local governmental entity or any entity under contract with one or more local governmental entities to promote tourism development on behalf of such local governmental entity or entities through the expenditure of public funds.

2. For purposes of this section, the Florida Tourism Industry Marketing Corporation and the Department of Economic Opportunity are not considered tourism promotion agencies.

(2) OPERATION.—A tourism promotion agency must operate in accordance with the following:

(a) Directors, officers, and members of the board of directors of a tourism promotion agency shall disclose to the board any activity that may reasonably be construed to be a conflict of interest.

(b) Board members shall serve without compensation.

(c) Officers, employees, or agents, including the president or chief executive officer, may not receive compensation from public funds for the performance of tourism promotion-related duties, responsibilities, or services in an amount that exceeds the annual compensation of the chief administrative or executive officer or employee of the local governmental entity on whose behalf such duties, responsibilities, or services are performed. Any payments of performance bonuses or severance pay to



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officers, employees, or agents from public funds are prohibited unless specifically authorized by law.

(3) TRANSPARENCY.—

(a) All contracts entered into by a tourism promotion agency must include:

1. The purpose of the contract.

2. Specific performance standards and responsibilities for each entity.

3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The projected travel and entertainment expenses for employees and board members, if applicable.

(b)1. A tourism promotion agency shall submit to the governing body of the local governmental entity, within 45 days after the end of its fiscal year, a complete and detailed report setting forth all public and private financial data of the tourism promotion agency, and shall publish such report on its website.

2. The financial data must include:

a. The total amount of revenue received from public and private sources.

b. The operating budget.

c. The total amount of salary, benefits, and other compensation provided by the tourism promotion agency to its officers, employees, or agents, regardless of the funding source.

d. An itemized account of all expenditures, including all travel and entertainment expenditures.

e. All contracts with a total contract value of \$5,000 or



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more.

(c) A tourism promotion agency that fails to comply with the transparency and accountability requirements of this subsection may not receive or expend public funds until it becomes fully compliant.

(d) The local governmental entity shall maintain and provide online access to all of the information required under this subsection and s. 125.0104(4)(f). Each local governmental entity shall provide the Department of Economic Opportunity with the specific website address where the required information is published and maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory that lists each local governmental entity and the specific website address where such required information may be located.

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

And the title is amended as follows:

Delete lines 726 - 767

and insert:

accounts and records; creating s. 288.0751, F.S.;
defining terms; providing requirements for the
operation of economic development agencies; requiring
specified persons to file an annual disclosure of
certain interests; providing requirements for such
disclosure; requiring board members to serve without
compensation; authorizing per diem and travel expenses
for certain persons paid from specified funds;
prohibiting specified persons from receiving public
compensation in excess of a certain amount;



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prohibiting certain performance bonuses and severance pay except under certain circumstances; subjecting certain persons to a specified code of ethics; requiring an economic development agency to take certain actions regarding a significant potential conflict of interest; limiting lodging expenses for certain persons; providing an exception; authorizing certain persons to expend their own funds in excess of the lodging expense limit; prohibiting the expenditure of economic development agency funds on certain items unless authorized by law; prohibiting specified persons from accepting certain items from specified entities under certain circumstances; requiring that contracts include specified information; requiring that certain contracts be submitted to the governing body of the local governmental entity and published on such entity's website within a certain timeframe; prohibiting an economic development agency from executing certain contracts without obtaining a majority vote of the governing body of the local governmental entity; requiring an economic development agency to submit a report of financial data to the governing body of a local governmental entity and publish such report on its website within a certain timeframe; requiring that the financial data include certain items; requiring that an economic development agency's website contain certain information; specifying that certain records are public records; requiring an economic development agency to provide



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online access to certain information; requiring an economic development agency to provide the Department of Economic Opportunity with a certain website address; requiring the department to publish and maintain a directory of certain information; prohibiting an economic development agency from receiving or expending public funds while in violation of certain requirements; requiring the Auditor General to conduct certain audits and report to certain persons if certain violations are found; providing that it is unlawful to knowingly and willfully make materially false or misleading statements, provide false or misleading information, fail to report certain information, or purposefully avoid specified requirements; providing civil and criminal penalties; providing applicability; requiring a local governmental entity to cease and desist from transferring or providing public funds to an economic development agency that fails to comply with this section; creating s. 288.12261, F.S.; defining terms; providing requirements for the operation of tourism promotion agencies; requiring board members to serve without compensation; prohibiting specified persons from receiving public compensation in excess of a certain amount; prohibiting certain performance bonuses and severance pay except under certain circumstances; requiring that contracts include specified information; requiring a tourism promotion agency to submit a report of financial data to the



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governing body of the local governmental entity and
publish such report on its website within a certain
timeframe; requiring that the financial data include
certain items; prohibiting a tourism promotion agency
from receiving or expending public funds while in
violation of certain requirements; requiring a local
governmental entity to maintain and provide online
access to certain information; requiring a local
governmental entity to provide the department with a
certain website address; requiring the department to
publish and maintain a directory of certain
information; amending s. 125.0104, F.S.; requiring



737920

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 211

and insert:

3. Except for counties as described in s. 288.0656(2)(e)1. and 2., video recordings of each board meeting. Such recordings

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

And the title is amended as follows:

Delete line 32



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11 and insert:
12 governing board of a county; requiring economic
13 development agencies to post certain information on
14 their websites; providing an exemption; specifying
15 that certain

By Senator Perry

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1 A bill to be entitled
 2 An act relating to economic development and tourism
 3 promotion accountability; amending s. 11.45, F.S.;
 4 authorizing the Auditor General to audit certain
 5 accounts and records; creating ss. 288.0751 and
 6 288.12261, F.S.; providing definitions; providing
 7 requirements for the operation of economic development
 8 agencies and tourism promotion agencies, respectively;
 9 requiring specified persons to file an annual
 10 disclosure of certain interests; providing
 11 requirements for such disclosure; requiring board
 12 members to serve without compensation; authorizing per
 13 diem and travel expenses for certain persons paid from
 14 specified funds; prohibiting specified persons from
 15 receiving public compensation in excess of a certain
 16 amount; prohibiting certain performance bonuses and
 17 severance pay; subjecting certain persons to a
 18 specified code of ethics; requiring such agencies to
 19 take certain actions regarding a significant potential
 20 conflict of interest; limiting lodging expenses for
 21 certain persons; providing an exception; prohibiting
 22 the expenditure of agency funds on certain items;
 23 prohibiting specified persons from accepting certain
 24 items from specified entities; prohibiting a tourism
 25 promotion agency from expending funds that directly
 26 benefit only one business entity; requiring certain
 27 contracts to include specified information; requiring
 28 a governing body of a local governmental entity to
 29 publish certain proposed contracts on such entity's

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

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30 website and approve certain contracts; requiring such
 31 agencies to submit a report of financial data to a
 32 governing board of a county; specifying that certain
 33 records are public records; requiring such agencies to
 34 provide online access to certain information;
 35 prohibiting such agencies from receiving or expending
 36 public funds; requiring the Auditor General to conduct
 37 certain audits; authorizing the Governor or Chief
 38 Financial Officer to cease distributing certain tax
 39 revenues to certain noncompliant tourism promotion
 40 agencies; providing that it is unlawful to knowingly
 41 and willfully make false or misleading statements,
 42 provide false or misleading information, fail to
 43 report certain information, or purposefully avoid
 44 specified requirements; providing penalties; providing
 45 applicability; amending s. 125.0104, F.S.; requiring
 46 the governing board of a county to review certain
 47 proposed contracts and certifications relating to
 48 potential conflicts of interest and mitigation plans;
 49 requiring the governing board of a county that imposes
 50 a tourist development tax to provide online access to
 51 certain information; amending ss. 288.1226 and
 52 288.904, F.S.; revising financial data required to be
 53 included in an annual report; conforming provisions to
 54 changes made by the act; providing an effective date.
 55
 56 Be It Enacted by the Legislature of the State of Florida:
 57
 58 Section 1. Paragraphs (y) and (z) are added to subsection

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

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(3) of section 11.45, Florida Statutes, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

(y) The accounts and records pertaining to the use of funds from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 for tourism development or promotion by a local governmental entity, nonprofit organization, or for-profit organization, including a tourism promotion agency as defined in s. 288.12261 or a program or entity created by a tourism promotion agency.

(z) The accounts and records pertaining to:

1. An economic development agency of a county or municipality, including an economic development agency as defined in s. 288.0751 or a program or entity created by an economic development agency;

2. If the county or municipality does not have an economic development agency, the county or municipal officers or employees assigned to promote the general business interests, industrial interests, or related responsibilities of the county or municipality; or

3. If authorized by the state, a municipality, or a county to promote the general business interests, industrial interests, or related responsibilities of the state, municipality, or county, a private agency, person, partnership, corporation, or business entity.

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Section 2. Section 288.0751, Florida Statutes, is created to read:

288.0751 Local economic development agencies.—

(1) DEFINITION.—For purposes of this section, the term “economic development agency” means an entity, including, but not limited to, an agency as defined in s. 119.011, that receives public funds and is engaged in economic development activities on behalf of one or more local governmental entities.

(a) An economic development agency may include any local governmental entity or any entity under contract with one or more local governmental entities to promote economic development activities on behalf of such local governmental entity or entities through the expenditure of public funds.

(b) Enterprise Florida, Inc., and the Department of Economic Opportunity are not considered economic development agencies.

(2) OPERATION.—An economic development agency must operate in accordance with the following:

(a) Each officer and member of the board of directors of an economic development agency who is not otherwise required to file a financial disclosure pursuant to chapter 112 must file an annual disclosure describing the nature of his or her interests or the nature of the interests of his or her principals, including corporate parents and subsidiaries of his or her principals, when such interests benefit from the expenditure of economic development agency funds. The disclosure must be placed on the website of the economic development agency and included in the minutes of each meeting of the board of directors of the economic development agency when such expenditures are discussed

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or voted upon.

(b) Board members shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Such expenses must be paid out of funds of the economic development agency.

(c) Officers, employees, or agents, including the president or chief executive officer, may not receive compensation for employment from public funds, pursuant to such contract, that exceeds the salary and benefits authorized to be paid to the Governor. Any payments of performance bonuses or severance pay to officers, employees, or agents from public funds are prohibited unless specifically authorized by law.

(d) An economic development agency must comply with the per diem and travel expense provisions of s. 112.061.

(e) Officers and employees are subject to the Code of Ethics for Public Officers and Employees standards under s. 112.313.

(f) An economic development agency must avoid, neutralize, or mitigate significant potential organizational conflicts of interest before it enters into a contract. If the economic development agency elects to mitigate a significant potential organizational conflict of interest, an adequate mitigation plan, including organizational, physical, and electronic barriers, shall be developed, and the head of the economic development agency must certify that the award is in the best interests of the county and submit such certification to the governing board of the county within 3 business days after entering into the contract.

(g) Lodging expenses for an employee or board member may

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not exceed \$150 per day, excluding taxes, unless the economic development agency is participating in a negotiated group rate discount or the economic development agency provides documentation of at least three comparable alternatives demonstrating that such lodging at the required rate is not available. However, an employee or board member may expend his or her own funds for any lodging expenses in excess of \$150 per day.

(h) Economic development agency funds may not be expended for food, beverages, lodging, entertainment, or gifts for employees or board members, unless authorized pursuant to s. 112.061 or this section. Employees or board members may not accept or receive food, beverages, lodging, entertainment, or gifts from persons, vendors, or other entities doing business with the economic development agency unless such food, beverage, lodging, entertainment, or gift is available to similarly situated members of the general public.

(3) TRANSPARENCY.—

(a) All contracts entered into by an economic development agency shall include:

1. The purpose of the contract.
2. Specific performance standards and responsibilities for each entity.
3. A detailed project or contract budget, if applicable.
4. The value of any services provided.
5. The projected travel and entertainment expenses for employees and board members, if applicable.

(b) A proposed contract with an estimated total contract value of \$250,000 or more must be submitted to the governing

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 175 body of the local governmental entity on whose behalf the
 176 contracted activity will occur and published on such entity's
 177 website at least 14 days before the contract is executed. If the
 178 governing body of the local governmental entity rejects such
 179 proposed contract by a majority vote held during the 14-day
 180 period, the economic development agency may not execute such
 181 proposed contract or any substantially similar contract without
 182 obtaining a majority vote of the governing body of the local
 183 governmental entity in favor of such contract. An economic
 184 development agency may not enter into multiple related contracts
 185 to avoid the requirements of this paragraph.

(c)1. An economic development agency shall submit to the
 187 governing board of the county, within 30 days after the end of
 188 its fiscal year, a complete and detailed report setting forth
 189 all public and private financial data of the economic
 190 development agency, and shall publish such report on its
 191 website.

2. The financial data shall include:

a. The total amount of revenue received from public and
 194 private sources.

b. The operating budget.

c. The total amount of salary, benefits, and other
 197 compensation provided by the economic development agency to its
 198 officers, employees, or agents, regardless of the funding
 199 source.

d. An itemized account of all expenditures, including all
 201 travel and entertainment expenditures.

(d) The following information must be posted on the website
 203 of each economic development agency:

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 204 1. All contracts with a total contract value of \$5,000 or
 205 more. Such contracts must be posted within 5 business days after
 206 execution.

2. All contracts, information, and financial data submitted
 208 to the governing board of the county. Such contracts,
 209 information, and data must be posted within 5 business days
 210 after submission.

3. Video recordings of each board meeting. Such recordings
 212 must be posted within 3 business days after the meeting.

4. A detailed report of expenditures following each
 214 marketing event paid for with economic development agency funds.
 215 Such report must be posted within 10 business days after the
 216 event.

5. An annual itemized account of the total amount of funds
 218 spent by a third party on behalf of the economic development
 219 agency, its board members, or its employees.

6. An annual itemized account of the total amount of travel
 221 and entertainment expenditures.

(e) Notwithstanding any provision of law to the contrary, a
 223 record required under this section, including, but not limited
 224 to, a contract or agreement, is a public record and is not
 225 confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of
 226 the State Constitution. Such record shall be produced in full in
 227 accordance with this section or upon request.

(f) An economic development agency shall maintain and
 229 provide online access to all of the information required under
 230 this subsection. Each economic development agency shall provide
 231 the Department of Economic Opportunity with the specific website
 232 address where the required information is published and

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maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory which lists each economic development agency and the specific website address where such required information may be located.

(g) An economic development agency that fails to comply with the transparency and accountability requirements of this subsection may not receive or expend public funds until it becomes fully compliant.

(4) AUDITS.—The Auditor General shall annually select at least two economic development agencies that received public funds in the previous year and conduct audits, as defined in s. 11.45, to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately report such findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) PENALTIES.—It is unlawful for a person to knowingly and willfully make a materially false or misleading statement, provide false or misleading information, fail to report certain information, or structure an organization or agreement to avoid the requirements of this section. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) APPLICABILITY.—A private entity that meets the definition of an economic development agency under subsection (1) due solely to the existence of a contract between the private entity and an economic development agency to engage in

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economic development activities is required to comply with this section only in connection with the performance of its obligations and the expenditure of funds pursuant to such contract. This section shall not be construed to require the private entity to report or conform its other business practices or activities to the provisions of this section, provided such practices or activities are not directly related to or funded by such contract.

Section 3. Section 288.12261, Florida Statutes, is created to read:

288.12261 Tourism promotion agencies.—

(1) DEFINITION.—For purposes of this section, the term “tourism promotion agency” means an entity, including, but not limited to, an agency as defined in s. 119.011, that receives public funds to promote tourism development on behalf of one or more local governmental entities.

(a) A tourism promotion agency may include any local governmental entity or any entity under contract with one or more local governmental entities to promote tourism development on behalf of such local governmental entity or entities through the expenditure of public funds.

(b) For purposes of this section, the Florida Tourism Industry Marketing Corporation and the Department of Economic Opportunity are not considered tourism promotion agencies.

(2) OPERATION.—A tourism promotion agency must operate in accordance with the following:

(a) Each officer and member of the board of directors of a tourism promotion agency who is not otherwise required to file a financial disclosure pursuant to chapter 112 must file an annual

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291 disclosure describing the nature of his or her interests or the
 292 interests of his or her principals, including corporate parents
 293 and subsidiaries of his or her principal, when such interests
 294 benefit from the expenditure of tourism promotion agency funds.
 295 The disclosure must be placed on the website of the tourism
 296 promotion agency and included in the minutes of each meeting of
 297 the board of directors of the tourism promotion agency when such
 298 expenditures are discussed or voted upon.

299 (b) Board members shall serve without compensation, but are
 300 entitled to receive reimbursement for per diem and travel
 301 expenses pursuant to s. 112.061. Such expenses must be paid out
 302 of funds of the tourism promotion agency.

303 (c) Officers, employees, or agents, including the president
 304 or chief executive officer, may not receive compensation for
 305 employment from public funds, pursuant to such contract, that
 306 exceeds the salary and benefits authorized to be paid to the
 307 Governor. Any payments of performance bonuses or severance pay
 308 to officers, employees, or agents from public funds are
 309 prohibited unless specifically authorized by law.

310 (d) A tourism promotion agency must comply with the per
 311 diem and travel expense provisions of s. 112.061.

312 (e) Officers and employees are subject to the Code of
 313 Ethics for Public Officers and Employees standards under s.
 314 112.313.

315 (f) A tourism promotion agency must avoid, neutralize, or
 316 mitigate significant potential organizational conflicts of
 317 interest before it enters into a contract. If the tourism
 318 promotion agency elects to mitigate a significant potential
 319 organizational conflict of interest, an adequate mitigation

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320 plan, including organizational, physical, and electronic
 321 barriers, shall be developed, and the head of the tourism
 322 promotion agency must certify that the award is in the best
 323 interests of the county and submit such certification to the
 324 governing board of the county within 3 business days after
 325 entering into the contract.

326 (g) Lodging expenses for an employee or board member may
 327 not exceed \$150 per day, excluding taxes, unless the tourism
 328 promotion agency is participating in a negotiated group rate
 329 discount or the tourism promotion agency provides documentation
 330 of at least three comparable alternatives demonstrating that
 331 such lodging at the required rate is not available. However, an
 332 employee or board member may expend his or her own funds for any
 333 lodging expenses in excess of \$150 per day.

334 (h) Tourism promotion agency funds may not be expended for
 335 food, beverages, lodging, entertainment, or gifts for employees
 336 or board members, unless authorized pursuant to s. 112.061 or
 337 this section. Employees or board members may not accept or
 338 receive food, beverages, lodging, entertainment, or gifts from
 339 persons, vendors, or other entities doing business with the
 340 tourism promotion agency unless such food, beverage, lodging,
 341 entertainment, or gift is available to similarly situated
 342 members of the general public.

343 (i) A tourism promotion agency shall not expend public or
 344 private funds that directly benefit only one business entity.

345 (3) TRANSPARENCY.—

346 (a) All contracts entered into by a tourism promotion
 347 agency shall include:

348 1. The purpose of the contract.

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349 2. Specific performance standards and responsibilities for
 350 each entity.
 351 3. A detailed project or contract budget, if applicable.
 352 4. The value of any services provided.
 353 5. The projected travel and entertainment expenses for
 354 employees and board members, if applicable.
 355 (b) A proposed contract with an estimated total contract
 356 value of \$250,000 or more must be submitted to the governing
 357 board of the county and published on the county's website at
 358 least 14 days before the contract is executed. If the governing
 359 board of the county rejects such proposed contract by a majority
 360 vote held during the 14-day period, the tourism promotion agency
 361 may not execute such proposed contract or any substantially
 362 similar contract without obtaining a majority vote of the
 363 governing body of the county in favor of such contract. A
 364 tourism promotion agency may not enter into multiple related
 365 contracts to avoid the requirements of this paragraph.
 366 (c)1. A tourism promotion agency shall submit to the
 367 governing board of the county, within 30 days after the end of
 368 its fiscal year, a complete and detailed report setting forth
 369 all public and private financial data of the tourism promotion
 370 agency, and shall publish such report on its website.
 371 2. The financial data shall include:
 372 a. The total amount of revenue received from public and
 373 private sources.
 374 b. The operating budget.
 375 c. The total amount of salary, benefits, and other
 376 compensation provided by the tourism promotion agency to its
 377 officers, employees, or agents, regardless of the funding

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378 source.
 379 d. An itemized account of all expenditures, including all
 380 travel and entertainment expenditures.
 381 (d) The following information must be posted on the website
 382 of each tourism promotion agency:
 383 1. All contracts with a total contract value of \$5,000 or
 384 more. Such contracts must be posted within 5 business days after
 385 execution.
 386 2. All contracts, information, and financial data submitted
 387 to the governing board of the county. Such contracts,
 388 information, and data must be posted within 5 business days
 389 after submission.
 390 3. Video recordings of each board meeting. Such recordings
 391 must be posted within 3 business days after the meeting.
 392 4. A detailed report of expenditures following each
 393 marketing event paid for with the funds of the tourism promotion
 394 agency. Such report must be posted within 10 business days after
 395 the event.
 396 5. An annual itemized account of the total amount of funds
 397 spent by a third party on behalf of the tourism promotion
 398 agency, its board members, or its employees.
 399 6. An annual itemized account of the total amount of travel
 400 and entertainment expenditures.
 401 (e) Notwithstanding any provision of law to the contrary, a
 402 record required under this section, including, but not limited
 403 to, a contract or agreement, is a public record and is not
 404 confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of
 405 the State Constitution. Such record shall be produced in full in
 406 accordance with this section or upon request.

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(f) A tourism promotion agency shall maintain and provide online access to all of the information required under this subsection and s. 125.0104(4) (f). Each tourism promotion agency shall provide the Department of Economic Opportunity with the specific website address where the required information is published and maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory which lists each tourism promotion agency and the specific website address where such required information may be located.

(g) A tourism promotion agency that fails to comply with the transparency and accountability requirements of this subsection may not receive or expend public funds until it becomes fully compliant.

(4) AUDITS.—

(a) For any county that annually receives \$30 million or more from taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, the Auditor General shall, biennially, conduct an audit, as defined in s. 11.45, of all tourism promotion agencies in such county to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

(b) The Auditor General shall annually select at least two counties that in the previous year received less than \$30,000,000 from taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 and conduct audits, as defined in s.

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11.45, of all tourism promotion agencies in the county to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

(5) ENFORCEMENT.—The Governor or Chief Financial Officer may at any time order the Department of Revenue or the local official to whom the tax is remitted to cease and desist distributing any taxes levied under s. 125.0104, s. 125.0108, or s. 212.0305 based on a tourism promotion agency's failure to comply with this section.

(6) PENALTIES.—It is unlawful for a person to knowingly and willfully make a materially false or misleading statement, provide false or misleading information, fail to report certain information, or structure an organization or agreement to avoid the requirements of this section. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) APPLICABILITY.—A private entity that meets the definition of a tourism promotion agency under subsection (1) due solely to the existence of a contract between the private entity and a tourism promotion agency to promote tourism development is required to comply with this section only in connection with the performance of its obligations and the expenditure of funds pursuant to such contract. This section shall not be construed to require the private entity to report

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465 or conform its other business practices or activities to the
 466 provisions of this section, provided such practices or
 467 activities are not directly related to or funded by such
 468 contract.

469 Section 4. Paragraph (e) of subsection (4) of section
 470 125.0104, Florida Statutes, is amended, and paragraph (f) is
 471 added to that subsection, to read:

472 125.0104 Tourist development tax; procedure for levying;
 473 authorized uses; referendum; enforcement.—

474 (4) ORDINANCE LEVY TAX; PROCEDURE.—

475 (e) The governing board of each county which levies and
 476 imposes a tourist development tax under this section shall
 477 appoint an advisory council to be known as the "... (name of
 478 county)... Tourist Development Council." The council shall be
 479 established by ordinance and composed of nine members who shall
 480 be appointed by the governing board. The chair of the governing
 481 board of the county or any other member of the governing board
 482 as designated by the chair shall serve on the council. Two
 483 members of the council shall be elected municipal officials, at
 484 least one of whom shall be from the most populous municipality
 485 in the county or subcounty special taxing district in which the
 486 tax is levied. Six members of the council shall be persons who
 487 are involved in the tourist industry and who have demonstrated
 488 an interest in tourist development, of which members, not less
 489 than three nor more than four shall be owners or operators of
 490 motels, hotels, recreational vehicle parks, or other tourist
 491 accommodations in the county and subject to the tax. All members
 492 of the council shall be electors of the county. The governing
 493 board of the county shall have the option of designating the

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494 chair of the council or allowing the council to elect a chair.
 495 The chair shall be appointed or elected annually and may be
 496 reelected or reappointed. The members of the council shall serve
 497 for staggered terms of 4 years. The terms of office of the
 498 original members shall be prescribed in the resolution required
 499 under paragraph (b). The council shall meet at least once each
 500 quarter and, from time to time, shall make recommendations to
 501 the county governing board for the effective operation of the
 502 special projects or for uses of the tourist development tax
 503 revenue and perform such other duties as may be prescribed by
 504 county ordinance or resolution. The council shall continuously
 505 review expenditures of revenues from the tourist development
 506 trust fund and shall receive, at least quarterly, expenditure
 507 reports from the county governing board or its designee.
 508 Expenditures which the council believes to be unauthorized shall
 509 be reported to the county governing board and the Department of
 510 Revenue. The governing board and the department shall review the
 511 findings of the council and take appropriate administrative or
 512 judicial action to ensure compliance with this section. The
 513 county governing board shall review a proposed contract with an
 514 estimated total contract value of \$250,000 or more. The county
 515 governing board may reject such proposed contract by a majority
 516 vote before the execution of such contract. The county governing
 517 board must review all certifications by the head of a tourism
 518 promotion agency related to potential conflicts of interest and
 519 mitigation plans ~~The changes in the composition of the~~
 520 ~~membership of the tourist development council mandated by~~
 521 ~~chapter 86-4, Laws of Florida, and this act shall not cause the~~
 522 ~~interruption of the current term of any person who is a member~~

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of a council on October 1, 1996.

(f) The governing board of a county that levies and imposes a tourist development tax under this section shall publish and make the following information available online:

1. The approved tourist development plan, including the approximate cost or expense allocation for each specific project or special use.

2. Any substantial amendments to the tourist development plan.

3. The tax district in which the tourist development tax is levied.

4. A prioritized list of the proposed uses of the tax revenue by specific project or special use.

5. The quarterly expenditure reports from the county governing board or its designee.

Section 5. Paragraph (c) of subsection (13) of section 288.1226, Florida Statutes, is amended to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(13) TRANSPARENCY.—

(c)1. Any entity that in the previous fiscal year received more than 50 percent of its revenue from the corporation ~~or taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, and that partners with the corporation or participates in a program, cooperative advertisement, promotional opportunity, or other activity offered by or in conjunction with the corporation,~~ shall annually on July 1 report all public and private financial data to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and

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include such report on its website.

2. The financial data shall include:

a. The total amount of revenue received from public and private sources.

b. The operating budget ~~of the partner entity.~~

c. The total amount of salary, benefits, and other compensation provided by the entity to its officers, employees, board members, or agents, regardless of the funding source ~~Employee and board member salary and benefit details from public and private funds.~~

d. An itemized account of all expenditures, including all travel and entertainment expenditures, by the ~~partner~~ entity on the behalf of, or coordinated for the benefit of, the corporation, its board members, or its employees.

e. ~~Itemized travel and entertainment expenditures of the partner entity.~~

Section 6. Paragraph (c) of subsection (6) of section 288.904, Florida Statutes, is amended to read:

288.904 Funding for Enterprise Florida, Inc.; performance and return on the public's investment.—

(6)

(c)1. Any entity that in the previous fiscal year received more than 50 percent of its revenue from Enterprise Florida, Inc., ~~or a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, and that partners with Enterprise Florida, Inc., in a program or other activity offered by or in conjunction with Enterprise, Florida, Inc.,~~ shall annually on July 1 report all public and private financial data to the Governor, the President of the Senate, and the Speaker of the House of Representatives,

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20181714__

and include such report on its website.

2. The financial data shall include:

a. The total amount of revenue received from public and private sources.

b. The operating budget ~~of the partner entity~~.

c. The total amount of salary, benefits, and other compensation provided by the entity to its officers, employees, board members, or agents, regardless of the funding source
~~Employee and board member salary and benefit details from public and private funds.~~

d. An itemized account of all expenditures, including all travel and entertainment expenditures, by the ~~partner~~ entity on the behalf of, or coordinated for the benefit of, Enterprise Florida, Inc., its board members, or its employees.

e. ~~Itemized travel and entertainment expenditures of the partner entity.~~

Section 7. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 12, 2018

I respectfully request that **Senate Bill #1714**, relating to Economic Development and Tourism Promotion Accountability, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long, sweeping underline.

Senator Keith Perry
Florida Senate, District 8

APPEARANCE RECORD

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

1.29.18

Meeting Date

1714

Bill Number (if applicable)

Topic Toucan MKT

Amendment Barcode (if applicable)

Name Virginia Haley

Job Title President

Address 1777 Main St
Street

Phone 941 955 0991

Sarasota FL 34236
City State Zip

Email vhaley@visitsarasota.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Visit Sarasota

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

1/29/18

Meeting Date

SB1714

Bill Number (if applicable)

Topic Speaking against the bill

Amendment Barcode (if applicable)

Name Sergio PiedraJob Title Director of Community EngagementAddress 2195 Southern Blvd.Phone 561 233 3035

Street

West Palm Beach FL 33406

City

State

Zip

Email spiedra@thepalmbeaches.comSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Discover The Palm BeachesAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

1/29/18
Meeting Date

1714
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jeff Hendry

Job Title Executive Director

Address 3200 Commonwealth Blvd, Suite 7

Phone _____

Street

City

State

Zip

Tallahassee FL 32303

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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APPEARANCE RECORD

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

1/29/18
Meeting Date

SB1714
Bill Number (if applicable)

Topic TOURISM ACCOUNTABILITY

Amendment Barcode (if applicable)

Name DAN ROWE

Job Title EXECUTIVE DIRECTOR BAY CO. TDC

Address 17001 Panama City Beach Parkway Phone 850-233-5070

Street

Panama City Beach FL 32413

City

State

Zip

Email drowe@visn.panama-city-beach.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Bay Co TDC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1-29-18

Meeting Date

1714

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Amy Boek

Job Title Director of Marketing

Address 2398 Sadler Rd Suite 200
Street

Phone 904-753-6531

Ferrandina Beach, FL 32034
City State Zip

Email aboek@ameliaisland.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Amelia Island CUB

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/29/18

Meeting Date

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

SB1714

Bill Number (if applicable)

Topic SB1714

Amendment Barcode (if applicable)

Name DAVID Reese

Job Title President Florida's First Coast of Golf

Address 4300 MARSHLANDING PARKWAY

Phone 904.607.3204

Street

Jacksonville

FL

32250

City

State

Zip

Email david@fla-golf.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA'S FIRST COAST OF GOLF

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 (10/14/14)

APPEARANCE RECORD

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

1/29/18

Meeting Date

SB 1714

Bill Number (if applicable)

Topic

TOURISM ACCOUNTABILITY

Amendment Barcode (if applicable)

Name

RICHARD GOLDMAN

Job Title

PRESIDENT

Address

29 OLD MISSION AVE

Street

Phone

904-209-4426

ST AUGUSTINE

City

FL

State

32084

Zip

Email

RGoldman@Floridasthse.com
COAST.COM

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

ST JOHN'S COUNTY TOURISM

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18

Meeting Date

1714

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name ROBERT STUART GRAY-ROBINSON

Job Title

Address 301 S. BRIMMINGHAM ST

Street

TALLAHASSEE

City

FL

State

32801

Zip

Phone 407-843-8880

Email ROBERT.STUART@GRAY-ROBINSON.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing AMERICAN CENTRAL FL HIRE & LOGGING ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

1/29/18

Meeting Date

1714

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Alex Price, ~~Central Florida Development Council of~~Job Title Business Development Assoc.~~Polk County~~Address 5908 Hillside Heights DrivePhone (863) 937-4430

Street

LakelandFL33812

City

State

Zip

Email alex@cfdc.orgSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing Central Florida Development Council Polk CountyAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18

Meeting Date

1714

Bill Number (if applicable)

Topic TOL Accountability

Amendment Barcode (if applicable)

Name CURT BLAIR

Job Title Administrator Franklin TDC

Address 731 Highway 98
Street

Phone 850-328-0719

Eastpoint Fla 32328
City State Zip

Email CURT@saltyflorida

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Franklin County

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18
Meeting Date

SB 1714
Bill Number (if applicable)

Topic ELO DEV & TOURISM ACCOUNTABILITY

Amendment Barcode (if applicable)

Name JILL BLACKMAN

Job Title MANAGER, MEMBERSHIP & PROGRAMS

Address 3551 BLAIRSTONE RD
Street

Phone 850-228-6244

TALLAHASSEE FL 32301
City State Zip

Email jblackman@fedconline.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ECONOMIC DEVELOPMENT COUNCIL

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18
Meeting Date

Bill Number (if applicable)

Topic Tourism Transparency - SB 1214

Amendment Barcode (if applicable)

Name Gil Langley

Job Title President

Address 2398 Sedler Road
Street

Phone 904-277-4369

Fernandina Beach
City State Zip

Email glangley@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Amelia Island TDC

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 (10/14/14)

APPEARANCE RECORD

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

JAN. 29 2018

Meeting Date

SB 1714

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Mary Hayes

Job Title _____

Address 1061 Stormy Terrace

Phone _____

Street

Pensacola

City

FL

State

32503

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

Phone

City

State

Zip

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18

Meeting Date

1714

Bill Number (if applicable)

Topic TOURISM

Amendment Barcode (if applicable)

Name JENNIFER GREEN

Job Title President

Address 113 E. COLLEGE AVE, #400

Phone 841-1726

Street

City

TULSA FL

State

32301

Zip

Email JENNIFER@LIBRARY

PARTNERSFL.COM

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FLORIDA ATTRACTIONS ASSOCIATION

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-29-18

Meeting Date

1714

Bill Number (if applicable)

Topic LOCAL GOVT FLOOD/TWIST DEV

Amendment Barcode (if applicable)

Name LAURA YOUNANS

Job Title _____

Address 100 N. MONROE ST

Street

Phone 294-1838

TAL
City

FL
State

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

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 (10/14/14)

APPEARANCE RECORD

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

1-29-18

Meeting Date

1714

Bill Number (if applicable)

655428

Amendment Barcode (if applicable)

Topic LOCAL GOVT EDUCATIONIST DEVName LAURA VOUMANS

Job Title _____

Address 100 N. MONROE ST

Street

Phone 294-1838TAL

City

FL

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing FLORIDA ASSOCIATION OF COUNTIESAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/29/18

Meeting Date

1714

Bill Number (if applicable)

406366

Amendment Barcode (if applicable)

Topic Economic Dev. and Tourism Promotion

Name Ron Pierce

Job Title _____

Address 235 W. Brandon Blvd., Suite 640

Street

Phone _____

Brandon

City

FL

State

33511

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Visit Tampa Bay

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 (10/14/14)

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

Bill Number (if applicable)

406366

Amendment Barcode (if applicable)

Phone _____

Email

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

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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/29/18

Meeting Date

SB 1714

Bill Number (if applicable)

406366

Amendment Barcode (if applicable)

Topic TOURISM ACCOUNTABILITY

Name DAN ROWE

Job Title EXEC. DIRECTOR

Address 17001 PCB Parkway

Street

Panama City Beach FL 32413

City

State

Zip

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing BOY CO TDC / VISIT PANAMA CITY BEACH

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-29-18

Meeting Date

1714

Bill Number (if applicable)

655428

Amendment Barcode (if applicable)

Topic Economic Development / Tourist Development

Name LAURA YOUMANS

Job Title Associated Dir. of Public Policy

Address 100 N. MONROE

Street

TA

City

FL

State

32301

Zip

Phone 294-1838

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-29-18

Meeting Date

1714

Bill Number (if applicable)

923982

Topic LAURA YOUMANS LOCAL ECONOMIC DEV/201772

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title

Address

Street

Phone

Email

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1646

INTRODUCER: Commerce and Tourism Committee and Senators Montford and Gainer

SUBJECT: Regional Rural Development Grants

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Swift	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1646 amends the Regional Rural Development Grants Program to:

- Set a maximum annual grant amount that an organization can receive at \$250,000 for each regional economic development organization, an increase of \$100,000 from current statute;
- Provide that grant funds must be matched by non-state sources at a rate of 25 percent of the state's contribution;
- Clarify that state grant funds may be used to build professional capacity of regional economic development organizations; and
- Allow regional economic development organizations to use these grants to provide technical assistance to local governments, local economic development organizations, and existing and prospective businesses within the rural community it serves.

The bill also amends the Rural Infrastructure Fund program to clarify that eligible projects include improving access to broadband Internet service. The bill extends a deadline by which the Department of Economic Opportunity must evaluate criteria for grant applications, and deletes a provision to an expired program.

The bill implements increased transparency requirements for grants that expend Regional Rural Development Grant funds or Rural Infrastructure funds. The bill:

- Mandates that contract agreements that includes the spending of these funds must be posted on the ROA's website at least 14 days prior to its execution and if the contract agreement exceeds \$35,000, a plain language version of the contract must also be posted on their website; and

- Details what needs to be included in contract agreements expending state grant funds.

The bill takes effect July 1, 2018.

II. Present Situation:

Regional Rural Development Grant Program

The Regional Rural Development Grant Program was established to provide funding, through matching grants, to build the professional capacity of regional economic development organizations in Florida. Additionally, grants from the program may be used by an economic development organization to provide technical assistance to businesses within the rural counties and communities that the organization serves. The Department of Economic Opportunity (DEO) may approve annual grants to regionally based economic development organizations for the purposes of the grant program. The maximum amount any organization can receive is \$50,000, or \$150,000 in a rural area of opportunity, and it must be matched by an equivalent amount of non-state resources. The DEO may expend up to \$750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund for the matching grant program. The DEO is authorized to contract with Enterprise Florida, Inc., to administer this program.

To be approved, an applying organization must need assistance and provide to the DEO:

- Documentation of official commitments of support from all the local governments represented by the organization;
- Proof that each local government has made financial or in-kind commitment to the organization;
- Proof that private sector financial or in-kind commitments have been made to the organization;
- Proof that the organization is in existence and actively involved in economic development activities in the region; and
- Documentation of the manner in which the organization coordinates its efforts with those of other local and state organizations.

Additionally, the program authorizes the DEO to contact for the development of an enterprise zone web portal or websites for each enterprise zone to market the program for job creation in disadvantaged urban and rural enterprise zones.¹

Rural Areas of Opportunity

A Rural Area of Opportunity (RAO) is a rural community, or region of rural communities, designated by the Governor that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.² By executive order, the Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development

¹ Section 288.018, F.S.

² Section 288.0656(1)(d), F.S.

Initiative agencies. This allows the Governor to waive criteria of any economic development incentive including the Qualified Target Industry Tax Refund Program,³ the Quick Response Training Program and the Quick Response Training Program for participants in the welfare transition program,⁴ transportation projects,⁵ the Brownfield Redevelopment Bonus Refund,⁶ and the Rural Job Tax Credit program.⁷

The currently designated RAOs are:

- **Northwestern RAO:** consisting of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport in Walton County;
- **South Central RAO:** consisting of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, South Bay (Palm Beach County), and Immokalee (Collier County); and
- **North Central RAO:** consisting of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Regional Economic Development Organizations

Three regional economic development organizations that operate in the state coincide with the current RAOs. These public/private 501c(6) organizations provide economic development support to the local governments that represent the RAOs. Opportunity Florida⁸ serves the Northwestern RAO, Florida's Heartland Economic Region of Opportunity,⁹ serves the South Central RAO, and the North Florida Economic Development Partnership¹⁰ serves the North Central RAO.

Rural Infrastructure Fund

The Rural Infrastructure Fund was created in order to facilitate the planning, preparation, and financing of tourism infrastructure and economic development projects, that encourage job growth and capital investment, in rural communities. There are three grants awarded from this fund, namely the Total Project Participation Grant, Infrastructure Feasibility Grant, and Preclearance Review Grant. The Total Project Participation Grant and Infrastructure Feasibility Grant can be used in conjunction. Both the Infrastructure Feasibility Grant and Preclearance Review Grant have a \$300,000 maximum limit for projects in an RAO.¹¹

³ Section 288.106, F.S.

⁴ Section 288.047, F.S.

⁵ Section 339.2821, F.S.

⁶ Section 288.107, F.S.

⁷ Sections 212.098 and 220.1895, F.S.

⁸ See generally, Opportunity Florida, available at <http://www.opportunityflorida.com/>, (last visited January 26, 2018).

⁹ See generally, Florida's Heartland REDI, Inc., available at <http://flaheartland.com/>, (last visited January 26, 2018). This organization is not directly related to the REDI program administered by the DEO pursuant to s. 288.0656, F.S.

¹⁰ See generally, North Florida Economic Development Partnership, available at <http://nflp.org/>, (last visited January 26, 2018).

¹¹ Florida Department of Economic Opportunity, *Rural Infrastructure Fund*, available at www.floridajobs.org/RIF, (last visited January 26, 2018).

Rural Community Development Revolving Loan Fund Program

The Rural Community Development Revolving Loan Fund Program was created to facilitate the use of existing federal, state, and local financial resources by providing local governments with financial assistance to further promote the economic viability of rural communities.¹² The program has received an annual appropriation of \$1.17 million for several consecutive fiscal years.¹³ These funds may be used to finance initiatives directed toward maintaining or developing the economic base of rural communities, especially initiatives addressing employment opportunities for residents of these communities. The program requires all repayments of principal and interest to be returned to the loan fund and made available for loans to other applicants. Up to \$750,000 of the annual allocation may be expended for the Regional Rural Development Grant Program.¹⁴

Rural Economic Development Initiative

The Rural Economic Development Initiative (REDI) was established in 1997 by the Legislature to encourage and facilitate the location and expansion of major economic development projects of significant scale in rural communities.¹⁵ The REDI is responsible for coordinating and focusing the efforts and resources of state and regional agencies on the problems that affect the fiscal, economic, and community viability of Florida's economically distressed rural communities.¹⁶ The REDI works with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs.

The Governor, acting through the REDI, can waive criteria, requirements, or any similar provisions of any state economic development incentive in RAOs. While not explicitly listed in statute, the matching requirement in the Regional Rural Development Grants Program is likely able to be waived.¹⁷

Florida Enterprise Zones

The Florida Enterprise Zone Program offered a variety of sales tax credits, refunds, exemptions, and corporate income tax credits to businesses within certain geographic regions to encourage economic growth and investment in distressed areas. The program was administered by the DEO and sunset on December 31, 2015.¹⁸

¹² Section 288.065, F.S.

¹³ Chapters 2016-66, 2015-232, 2014-51, and 2013-40, Laws of Fla.

¹⁴ Section 288.018(4), F.S.

¹⁵ Section 288.0656, F.S.

¹⁶ Agencies required to participate in the REDI are found in s. 288.0656(6)(a), F.S.

¹⁷ Section 288.018(1), F.S.

¹⁸ Florida Department of Economic Opportunity, *Florida Enterprise Zone Program*, available at <http://www.floridajobs.org/business-growth-and-partnerships/for-businesses-and-entrepreneurs/business-resources/florida-enterprise-zone-program>, (last visited January 26, 2018).

Enterprise Florida, Inc.

Enterprise Florida, Inc., (EFI) serves as the principal economic development organization for the state. Among its numerous duties, EFI markets the state for business creation, expansion, and retention.¹⁹ Additionally, EFI contracts with DEO to manage some of the various programs housed in the Division of Strategic Business Development, including the Regional Rural Development Grants Program.²⁰

III. Effect of Proposed Changes:**Regional Rural Development Grants Program**

CS/SB 1646 changes the Regional Rural Development Grants Program in s. 288.018, F.S. The bill:

- Sets a maximum annual grant amount of \$250,000 per year for each regional economic development organization designated pursuant to s. 288.0656, F.S.;
- Provides that grant funds must be matched by non-state sources at a rate of 25 percent of the state's contribution;
- Allows regional economic development organizations to use these grants to provide technical assistance to local governments, local economic development organizations, and existing and prospective businesses within the rural community they serve;
- Clarifies that state grant funds may be used for:
 - Hiring professional staff; and
 - Facilitating and delivering needed economic development professional services, such as: technical assistance, education, leadership development, marketing and project recruitment, and other services important to rural economic development.
- Provides that contract agreements that include the spending of state grant funds must be posted on the regional economic development organization's website at least 14 days prior to execution;
- If the contract agreement exceeds \$35,000, requires that a plain language version of the contract must also be posted on their website;
- Provides that contract agreements expending state grant funds must include:
 - The purpose of the agreement;
 - Performance standards and responsibilities of all involved parties;
 - A detailed budget, if applicable;
 - The value of services provided; and
 - Estimated travel and entertainment expenses of board members and staff, if applicable;and
- Removes language related to an expired program.

¹⁹ Enterprise Florida, *About EFI*, available at <https://www.enterpriseflorida.com/about-efi/>, (last visited January 26, 2018).

²⁰ Section 288.018(3), F.S.

Rural Infrastructure Fund

The bill also makes changes to the Rural Infrastructure Fund program in s. 288.0655, F.S. Specifically, the bill:

- Clarifies that access to and availability of broadband Internet is an infrastructure improvement for which state grant funds may be used;
- Provides that contract agreements that includes the spending of these funds must be posted on the regional economic development organization's website at least 14 days prior to execution;
- If the contract agreement exceeds \$35,000, requires that a plain language version of the contract must also be posted on their website;
- Provides that contract agreements expending these funds must include:
 - The purpose of the agreement;
 - Performance standards and responsibilities of all involved parties,
 - A detailed budget, if applicable;
 - The value of services provided, and
 - Estimated travel and entertainment expenses of board members and staff, if applicable.

The bill also gives the DEO until September 1, 2019 to review and edit any guidelines or criteria for grant applications.

The bill takes effect July 1, 2018.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill requires 25 percent of all disbursed Regional Rural Development Grant funds to be matched annually by a nonstate source, a reduction from the current one to one match.

C. Government Sector Impact:

The fiscal impact is indeterminate. While the bill increases the amount each regional economic development organization can receive from the state, the overall funding of the program is not addressed in the bill.

The Rural Infrastructure Fund has a recurring budget of \$1.6 million.²¹

The bill allows Regional Rural Development Grant funds to be used to provide technical assistance to local governments. The fiscal impact on local governments is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 1646 specifies by name which regional economic development organizations serving RAOs may receive the larger maximum grant amount. Several situations could arise requiring statutory change, including if one or more of the organizations changed name, or another organization began to be the primary economic development representative for one of the regions.

It is not clear if the term “organization” is synonymous with “regional economic development organization” in the bill. If these terms are used interchangeably, there could be confusion regarding annual funding caps for regional economic development organizations.

VIII. Statutes Affected:

This bill substantially amends sections 288.018 and 288.0655 of the Florida Statutes.

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

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

CS by Commerce and Tourism Committee on January 29, 2017:

The committee substitute made technical changes by correcting the name of a regional economic development organization.

B. Amendments:

None.

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

²¹ Chapter 2017-70, Laws of Florida



261302

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2018	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 67 - 70
and insert:
and Florida Heartland Economic Region of Opportunity. Grant
funds received by a regional economic development organization
~~\$150,000 in a rural area of opportunity recommended by the Rural~~
~~Economic Development Initiative and designated by the Governor,~~
and

By Senator Montford

3-01588-18

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1 A bill to be entitled
 2 An act relating to regional rural development grants;
 3 amending s. 288.018, F.S.; providing that regional
 4 rural development grants may be used to hire regional
 5 economic development organization professional staff;
 6 authorizing the use of matching grant funds to provide
 7 technical assistance to certain entities; increasing
 8 the annual maximum amount of grant funding that
 9 specified economic development organizations may
 10 receive; revising the amount of nonstate matching
 11 funds required; requiring that contracts or agreements
 12 involving the expenditure of grant funds be placed on
 13 a certain website for a specified time period;
 14 requiring that certain information be included in a
 15 contract or agreement involving the expenditure of
 16 grant funds; requiring that a plain language version
 17 of certain contracts or agreements be placed on a
 18 certain website; deleting a provision authorizing the
 19 Department of Economic Opportunity to contract for the
 20 development of certain enterprise zone web portals or
 21 websites; amending s. 288.0655, F.S.; providing that
 22 improving access to and availability of broadband
 23 Internet service may be included in a project that is
 24 eligible for rural infrastructure grant funds;
 25 extending the date by which the department is required
 26 to reevaluate certain guidelines and criteria;
 27 revising the factors that the department must consider
 28 when awarding grant funds; requiring that contracts or
 29 agreements involving the expenditure of grant funds be

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

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30 placed on a certain website for a specified time
 31 period; requiring that certain information be included
 32 in a contract or agreement involving the expenditure
 33 of grant funds; requiring that a plain language
 34 version of certain contracts or agreements be placed
 35 on a certain website; providing an effective date.
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Subsections (1) and (3) of section 288.018,
 40 Florida Statutes, are amended to read:
 41 288.018 Regional Rural Development Grants Program.—
 42 (1) The department shall establish a matching grant program
 43 to provide funding to regional ~~regionally-based~~ economic
 44 development organizations representing rural counties and
 45 communities to build for the purpose of building the
 46 professional capacity of such regional economic development
 47 ~~their~~ organizations. Building the professional capacity of
 48 regional economic development organizations includes hiring
 49 professional staff to develop, facilitate the delivery of, and
 50 directly provide needed economic development professional
 51 services, including technical assistance, education and
 52 leadership development, marketing and project recruitment, and
 53 other services that are important for rural economic
 54 development. ~~Such~~ Matching grants may also be used by a regional
 55 ~~an~~ economic development organization to provide technical
 56 assistance to local governments, local economic development
 57 organizations, and existing and prospective businesses within
 58 the rural counties and communities that it serves. The

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

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department is authorized to approve, on an annual basis, grants to such ~~regional regionally-based~~ economic development organizations. The maximum amount an organization may receive in any year ~~is will be~~ \$50,000, or \$250,000 for each of the three regional economic development organizations serving rural areas of opportunity designated pursuant to s. 288.0656. The three regional economic development organizations include the North Florida Economic Development Partnership, Opportunity Florida, and Florida's Heartland Regional \$150,000 in a rural area of opportunity recommended by the Rural Economic Development Initiative, Inc. Grant funds received by a regional economic development organization and designated by the Governor, and must be matched each year by an equivalent amount of nonstate resources in an amount equal to 25 percent of the state contribution.

(3) (a) A contract or agreement that involves the expenditure of grant funds provided under this section must be placed on the contracting regional economic development organization's website for review at least 14 days before execution.

(b) A contract or agreement that involves the expenditure of grant funds provided under this section, including a contract or agreement entered into between another entity and a regional economic development organization, a unit of local government, or an economic development organization substantially underwritten by a unit of local government, must include:

1. The purpose of the contract or agreement.

2. Specific performance standards and responsibilities for each entity.

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3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The projected travel and entertainment expenses for employees and board members, if applicable.

(c) A plain language version of a contract or agreement with a private entity, a municipality, or a vendor of services, supplies, or programs, including marketing, or for the purchase or lease or use of lands, facilities, or properties which involves the expenditure of grant funds provided under this section and which is estimated to exceed \$35,000 must be posted on the contracting regional economic development organization's website. The department may also contract for the development of an enterprise zone web portal or websites for each enterprise zone which will be used to market the program for job creation in disadvantaged urban and rural enterprise zones. Each enterprise zone web page should include downloadable links to state forms and information, as well as local message boards that help businesses and residents receive information concerning zone boundaries, job openings, zone programs, and neighborhood improvement activities.

Section 2. Subsection (5) of section 288.0655, Florida Statutes, is redesignated as subsection (6), paragraph (b) of subsection (2) and subsection (4) of that section are amended, and a new subsection (5) is added to that section, to read:

288.0655 Rural Infrastructure Fund.—

(2) (b) To facilitate access of rural communities and rural areas of opportunity as defined by the Rural Economic Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the United States

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117 Department of Agriculture and the United States Department of
 118 Commerce, and state programs, including those offered by Rural
 119 Economic Development Initiative agencies, and to facilitate
 120 local government or private infrastructure funding efforts, the
 121 department may award grants for up to 30 percent of the total
 122 infrastructure project cost. If an application for funding is
 123 for a catalyst site, as defined in s. 288.0656, the department
 124 may award grants for up to 40 percent of the total
 125 infrastructure project cost. Eligible projects must be related
 126 to specific job-creation or job-retention opportunities.
 127 Eligible projects may also include improving any inadequate
 128 infrastructure that has resulted in regulatory action that
 129 prohibits economic or community growth or reducing the costs to
 130 community users of proposed infrastructure improvements that
 131 exceed such costs in comparable communities, which includes
 132 improving access to and the availability of broadband Internet
 133 service. Eligible uses of funds shall include improvements to
 134 public infrastructure for industrial or commercial sites, and
 135 upgrades to or development of public tourism infrastructure, and
 136 improvements to broadband Internet service and access in
 137 unserved or underserved rural communities. Authorized
 138 infrastructure may include the following public or public-
 139 private partnership facilities: storm water systems;
 140 telecommunications facilities; broadband facilities; roads or
 141 other remedies to transportation impediments; nature-based
 142 tourism facilities; or other physical requirements necessary to
 143 facilitate tourism, trade, and economic development activities
 144 in the community. Authorized infrastructure may also include
 145 publicly or privately owned self-powered nature-based tourism

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146 facilities, publicly owned telecommunications facilities, and
 147 broadband facilities, and additions to the distribution
 148 facilities of the existing natural gas utility as defined in s.
 149 366.04(3)(c), the existing electric utility as defined in s.
 150 366.02, or the existing water or wastewater utility as defined
 151 in s. 367.021(12), or any other existing water or wastewater
 152 facility, which owns a gas or electric distribution system or a
 153 water or wastewater system in this state where:
 154 1. A contribution-in-aid of construction is required to
 155 serve public or public-private partnership facilities under the
 156 tariffs of any natural gas, electric, water, or wastewater
 157 utility as defined herein; and
 158 2. Such utilities as defined herein are willing and able to
 159 provide such service.
 160 (4) By September 1, 2019 ~~2012~~, the department shall, in
 161 consultation with the organizations listed in subsection (3),
 162 and other organizations, reevaluate existing guidelines and
 163 criteria governing submission of applications for funding,
 164 review and evaluation of such applications, and approval of
 165 funding under this section. The department shall consider
 166 factors including, but not limited to, the project's potential
 167 for enhanced job creation or increased capital investment, the
 168 demonstration and level of local public and private commitment,
 169 whether the project is located ~~in an enterprise zone~~, in a
 170 community development corporation service area, or in an urban
 171 high-crime area as designated under s. 212.097, the unemployment
 172 rate of the county in which the project would be located, and
 173 the poverty rate of the community.
 174 (5)(a) A contract or agreement that involves the

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175 expenditure of grant funds provided under this section must be
176 placed on the department's website for review at least 14 days
177 before execution.

178 (b) A contract or agreement that includes the expenditure
179 of grant funds provided under this section, including a contract
180 or agreement entered into between an entity and a regional
181 economic development organization, a unit of local government,
182 or an economic development organization substantially
183 underwritten by a unit of local government, must include:

184 1. The purpose of the contract or agreement.

185 2. Specific performance standards and responsibilities for
186 each entity.

187 3. A detailed project or contract budget, if applicable.

188 4. The value of any services provided.

189 5. The projected travel and entertainment expenses for
190 employees and board members, if applicable.

191 (c) A plain language version of a contract or agreement
192 with a private entity, a municipality, or a vendor of services,
193 supplies, or programs, including marketing, or for the purchase
194 or lease or use of lands, facilities, or properties which
195 involves the expenditure of grant funds provided under this
196 section and which is estimated to exceed \$35,000 must be posted
197 on the department's website.

198 Section 3. This act shall take effect July 1, 2018.

APPEARANCE RECORD

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

1/29/18

Meeting Date

SB 1646

Bill Number (if applicable)

Topic

SB 1646

Amendment Barcode (if applicable)

Name

Jeff Hendry

Job Title

North Florida Economic Development Partnership

Address

3200 Commonwealth Blvd., Suite 7

Phone

Street

Tallahassee, FL 32303

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Re ~~LEGISLATION~~

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/29/18

Meeting Date

16440

Bill Number (if applicable)

Topic Rural Development Grants

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 1344 S. Brannan St

Phone 521-1200

Street

Tallahassee FL 32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

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.

S-001 (10/14/14)

APPEARANCE RECORD

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

1-29-18

Meeting Date

1646

Bill Number (if applicable)

Topic Regional Rural Development Grants

Amendment Barcode (if applicable)

Name Chris Doolin

Job Title CONSULTANT

Address 1118 B Thomasville Rd.

Phone 850-508-5492

Street

TALLAHASSEE, FLA.

City

State

Zip

Email cdoolin@netally.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SMALL COUNTY COALITION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Commerce and Tourism Committee Judge:

Started: 1/29/2018 4:04:28 PM

Ends: 1/29/2018 6:00:50 PM

Length: 01:56:23

4:04:35 PM Call to order
4:04:35 PM Chair Montford explains procedure for the day
4:04:35 PM Chair comments
4:04:41 PM Call to order
4:05:24 PM Roll call
4:05:43 PM Quorum present
4:06:45 PM Take up Tab 1 - SB 396 by Senator Hukill
4:07:10 PM Senator Rodriguez moves a point of order on amendment 668688
4:07:25 PM Senator Montford moves to TP
4:07:35 PM Senator Hukill asks for a ruling on the point of order today
4:07:58 PM Take up Tab 6--Senator Bradley SB 920
4:08:06 PM Senator Bradley to explain the bill
4:09:57 PM Take up Late filed amendment 478870
4:10:04 PM Senator Bradley explains the amendment
4:10:15 PM Questions?
4:10:35 PM AA 937894 by Senator Gibson
4:10:41 PM Senator Gibson explains
4:11:20 PM Questions?
4:11:30 PM Alice Vickers, FL Alliance for Consumer Protection
4:11:36 PM Jim Golden, African Methodist Episcopal Church
4:11:46 PM Ingrid Delgato, FL Conference of Catholic Bishops
4:11:57 PM Rachel Sheppard, Baptist Fellowship of Florida
4:12:04 PM Rev. James Golden
4:12:54 PM Debate?
4:13:05 PM Senator Hutson
4:13:12 PM Senator Bradley responds
4:13:49 PM Senator Gibson closes on the amendment
4:14:58 PM Amendment is withdrawn by Sponsor
4:15:09 PM Back on the main amendment
4:15:12 PM Debate?
4:15:25 PM Senator Bradley closes on amendment
4:15:51 PM Amendment is adopted
4:15:59 PM Back on bill as amended
4:16:01 PM Questions?
4:16:14 PM Speakers?
4:17:09 PM Ian Mackechnie, Amscot Financial
4:18:09 PM Carol Stewart, Advance America
4:18:19 PM Rev. Newbill
4:18:42 PM Rod Cunningham, Urban League
4:19:53 PM Darlene Echwarria, Amscot Financial
4:20:53 PM Rev. Troy Adams
4:21:01 PM Jared Ross, Florida Credit Union
4:21:13 PM Rev. Wayne Wilson
4:21:18 PM Brewster Bevis, AIF
4:21:25 PM Ingrid Delgatto, Conference of Catholic Bishops
4:21:31 PM Doreen Barker, AARP
4:21:43 PM Albert Balido, Unidos U.S.
4:21:56 PM Debate?/ Back to Speaker Cards
4:22:10 PM Alice Vickers
4:26:19 PM Rev. James Golden
4:30:16 PM Rev. Rachel Shepard
4:32:01 PM Debate?

4:32:06 PM	Senator Stargel
4:33:02 PM	Senator Gainer
4:33:36 PM	Senator Gibson
4:38:24 PM	Senator Bradley to close
4:39:44 PM	Roll call on CS/SB 920
4:39:54 PM	Bill is reported favorably
4:40:16 PM	Take up Tab 7--SB 1224 Beverage Law
4:40:24 PM	Senator Bradley to explain
4:40:59 PM	Questions?
4:41:05 PM	Max Herrle, Bev & Hosp Association
4:41:13 PM	Brewster Bevis, AIF
4:41:18 PM	Jonathon Rees, Anheuser Busch
4:41:23 PM	Jon Costello, Miller/Coors
4:41:30 PM	Samatha Padgett, FL Restaurant and Lodging
4:41:34 PM	Jake Farmer, FL Retail Federation
4:41:39 PM	Eric Criss, Beer Industry of Florida
4:43:31 PM	Josh Aubuchon, FL Brewers Guild
4:45:12 PM	Debate?
4:45:17 PM	Senator Bradley waives close
4:45:23 PM	Roll call on SB 1224
4:45:33 PM	The bill is reported favorably
4:46:14 PM	Take up Tab 9--SB 1574
4:46:26 PM	Senator Taddeo to explain the bill
4:48:44 PM	Questions?
4:49:20 PM	Amendment 640980 by Senator Taddeo
4:49:50 PM	Questions?
4:49:54 PM	Appearance Cards
4:50:02 PM	Cynthia Henderson, FASCO
4:52:44 PM	Debate?
4:53:13 PM	Back to Speakers
4:53:18 PM	Marcos Lopez, Instructor
4:55:43 PM	Irina Dudina
4:57:45 PM	Senator Taddeo recognized to close
4:58:53 PM	Amendment is adopted
4:58:59 PM	On the bill as amended
4:59:04 PM	Debate?
4:59:15 PM	Senator Taddeo waives close
4:59:19 PM	Roll Call
4:59:31 PM	CS/SB 1574 is reported favorably
4:59:58 PM	Take up Tab 3 - SB 640 by Rouson
5:00:09 PM	Senator Rouson to explain
5:01:30 PM	Questions?
5:01:39 PM	Speakers?
5:01:49 PM	Doreen Barker, AARP
5:02:00 PM	Alice Vickers, Alliance for Consumer Protection
5:03:26 PM	James Guitierrez
5:04:15 PM	Debate?
5:04:22 PM	Senator Rouson waives close
5:04:24 PM	Roll call
5:04:36 PM	SB 640 is reported favorably
5:05:02 PM	Take up Tab 5--SB 766 by Senator Bean
5:05:13 PM	Explanation of the bill
5:07:32 PM	There is an amendment barcode: 410870 by Senator Hutson
5:07:37 PM	Explanation of the amendment
5:07:40 PM	Questions
5:07:49 PM	Debate?
5:07:54 PM	Senator Hutson waives close
5:08:00 PM	The amendment is adopted
5:08:23 PM	Questions?
5:08:28 PM	Appearance cards?
5:08:35 PM	Derrick McGee, FL Airport Council
5:08:43 PM	Steven Popilek, FI Aviation Business Association

5:09:00 PM Jeff Ramsden, SFBA
5:10:40 PM Debate?
5:10:48 PM Senator Bean recognized to close
5:10:52 PM Roll call
5:11:04 PM CS/SB 766 is reported favorably
5:11:21 PM Tab 4 - SB 756 by Senator Grimsley
5:11:28 PM Senator Grimsley to explain the bill
5:12:01 PM Questions?
5:12:06 PM Appearance cards
5:12:09 PM Monte Stevens, AAA
5:12:12 PM Debate?
5:12:17 PM Senator Grimsely waives close
5:12:19 PM Roll call
5:12:37 PM SB 756 is reported favorably
5:13:02 PM Take up Tab 8- SB 1450 by Senator Steube
5:13:16 PM There is a strike all amendment 437660
5:13:22 PM Explanation of the amendment
5:13:59 PM Questions?
5:14:03 PM Debate?
5:14:11 PM Senator Steube waives close
5:14:15 PM Amendment adopted
5:14:22 PM Questions?
5:14:27 PM Debate?
5:14:33 PM Senator Steube waives close
5:14:35 PM Roll call
5:14:49 PM CS/SB 1450 is reported favorably
5:15:58 PM Take up Tab 2--CS/SB 416 by Senator Thurston
5:16:07 PM Senator Thurston for explanation
5:16:40 PM Questions?
5:16:54 PM Katie Crofoot, Florida Bankers Association
5:17:00 PM Debate?
5:17:05 PM Senator Thurston waives close
5:17:07 PM Roll call
5:17:22 PM CS/SB 416 is reported favorably
5:18:11 PM Senator Young votes favorably on TABS 9, 3, 5, 4 ,8, and 2
5:18:20 PM Senator Hutson voting favorably on TABS 6 and 7
5:18:45 PM Senator Gibson votes in the affirmation on TABS 9, 3, 4, 2 and No on TAB 5
5:19:15 PM Take up Tab 10--Economic Development by Senator Perry (SB 1714)
5:19:20 PM Explanation of the bill
5:19:55 PM There is a strike all amendment 655428 (late filed)
5:20:05 PM Explanation of the amendment explained
5:20:11 PM Amendment to the amendment 923982
5:21:03 PM Amendment to the amendment 737920
5:21:07 PM Show it withdrawn
5:21:19 PM Show 923982 withdrawn
5:21:52 PM Take up amendment 406366 to strike all
5:21:57 PM Questions?
5:23:20 PM Move to Appearance Cards
5:26:14 PM Appearance cards
5:26:17 PM Ron Pierce, VISIT Tampa Bay
5:26:33 PM Kerri Post, Leon County Tourism
5:27:31 PM Dan Rowe, Bay County TDC
5:28:32 PM Debate?
5:28:44 PM Senator Stargel
5:29:08 PM Senator Young
5:30:33 PM Senator Gibson
5:31:46 PM Senator Perry to close on the amendment
5:32:40 PM AtoA adopted
5:32:48 PM Back on amendment as amended
5:32:56 PM Appearance Cards
5:33:01 PM Laura Youmans, FL Assoc of Counties
5:34:08 PM Beth Kirkland, FL Economic Development Council

5:35:22 PM Senator Perry to close on the amendment as amended
 5:35:33 PM Amendment adopted
 5:35:36 PM Questions?
 5:35:48 PM Appearance cards
 5:35:52 PM Virginia Haley, VISIT Sarasota
 5:36:06 PM Sergio Piedra, Discover the Palm Beaches
 5:36:14 PM Jeff Henry
 5:36:17 PM Dan Rowe, Bay County TDC
 5:36:26 PM Amy Boek, Amelia Island
 5:36:33 PM Richard Goldman, St. Johns County Tourism
 5:36:41 PM Alex Price, Polk County Development Council
 5:37:01 PM Curt Blair, Franklin Co. TDC
 5:37:04 PM Jill Blackman, Florida Economic Development Council
 5:37:19 PM Gil Lingley, Amelia Island TDC
 5:37:30 PM Mary Hayes
 5:37:34 PM Steve Hayes, Visit Pensacola
 5:37:41 PM Jennifer Green, Florida Attractions
 5:37:50 PM Laura Youman
 5:38:20 PM Debate
 5:41:39 PM Senator Gibson in debate
 5:42:56 PM Senator Perry to close on the bill as amended
 5:43:27 PM Roll call
 5:43:46 PM CS/SB 1714 is reported favorably
 5:44:05 PM Take up Tab 11- SB 1646 by Senator Montford
 5:44:17 PM Senator Montford for explanation
 5:45:28 PM Questions?
 5:45:42 PM Amendment barcode: 261302 by Senator Montford
 5:45:53 PM Explanation
 5:45:57 PM Questions?
 5:46:15 PM Debate?
 5:46:20 PM Senator Montford waives close
 5:46:31 PM Amendment is adopted
 5:46:35 PM Questions?
 5:46:49 PM Chris Doolin, Small Counties Coalition
 5:47:00 PM Carolyn Johnson, FL Chamber of Commerce
 5:47:08 PM Jeff Hendry
 5:47:13 PM Debate?
 5:47:35 PM Senator Montford to close
 5:47:39 PM Roll call
 5:47:52 PM CS/SB 1646 is reported favorably
 5:48:11 PM Senator Montford votes yes on SB 1714
 5:48:48 PM Senator Montford comments
 5:48:53 PM Take up Tab 1
 5:48:59 PM Take up Tab 1 that had a point of order
 5:49:11 PM CS/SB 396 by Senator Hukill
 5:50:35 PM Handwritten amendment filed by Senator Hukill
 5:51:08 PM Original amendment with point of order called is withdrawn 668688
 5:51:35 PM Considering late filed handwritten amendment
 5:52:14 PM Senator Hukill for further explanation
 5:52:38 PM Senator Rodriguez for a question
 5:55:39 PM Senator Rodriguez moves a point of order on the amendment
 5:55:44 PM Senator Hukill responds
 5:56:37 PM Senator Montford to explain procedure
 5:57:47 PM Senator Rodriguez to state his point of order for clarification
 5:58:42 PM Point not well taken
 5:59:02 PM Senator Passidomo moves to vote in 1 minutes
 5:59:13 PM Senator Gibson for a question
 5:59:46 PM Roll call on amendment /amendment passes
 5:59:54 PM Senator Gibson withdraws #896414
 6:00:01 PM Motion to vote at time certain
 6:00:10 PM Roll call
 6:00:32 PM CS/SB 396 is reported favorably

6:00:37 PM Meeting adjourned