

<b>Tab 1</b>	<b>CS/SB 532 by BI, Burton;</b> (Compare to H 00607) Money Services Businesses					
<b>Tab 2</b>	<b>SB 728 by Garcia;</b> (Compare to CS/CS/H 00261) Liveries					
462846	A	S	RCS	CM, Garcia	Delete L.79 - 204:	03/27 06:27 PM
<b>Tab 3</b>	<b>CS/SB 752 by RI, Calatayud;</b> (Identical to CS/H 00415) Temporary Commercial Kitchens					
892746	A	S L		CM, Calatayud	Delete L.77:	03/27 10:51 AM
<b>Tab 4</b>	<b>SB 770 by Bradley;</b> (Similar to CS/CS/H 00861) Residential Real Estate Listing Agreements					
559776	D	S	RCS	CM, Bradley	Delete everything after	03/27 06:27 PM
<b>Tab 5</b>	<b>SB 1458 by Yarborough;</b> (Similar to H 01129) Roller Skating Rink Safety					
<del>897286</del>	A	S	WD	CM, Yarborough	Delete L.69:	03/24 02:32 PM
903660	A	S	RCS	CM, Yarborough	btw L.89 - 90:	03/27 06:27 PM
<b>Tab 6</b>	<b>SB 442 by Gruters (CO-INTRODUCERS) Hooper, DiCeglie;</b> (Similar to H 00737) Secondhand Dealers					
<b>Tab 7</b>	<b>SB 490 by Jones;</b> (Similar to CS/H 00233) Family and Household Members of Homicide Victims and Deceased Minors					
811428	A	S	RCS	CM, Jones	Delete L.28 - 87.	03/27 06:27 PM
<b>Tab 8</b>	<b>SB 492 by Jones;</b> (Similar to H 00789) Public Records/Requesting Specified Leave Relating to a Homicide					
979044	A	S		CM, Jones	Delete L.53 - 54:	03/23 05:52 PM
<b>Tab 9</b>	<b>CS/SB 626 by RI, DiCeglie;</b> (Similar to H 01221) Broadband Internet Service Providers					
<b>Tab 10</b>	<b>SB 1106 by Hooper;</b> (Identical to H 01523) Household Moving Services					
<b>Tab 11</b>	<b>SB 1108 by Hooper;</b> (Identical to H 01525) Fees/Moving Brokers					
552372	A	S	RCS	CM, Hooper	Delete L.17 - 18:	03/27 06:27 PM
<b>Tab 12</b>	<b>SB 1664 by Hooper;</b> (Compare to CS/H 00005) Economic Development					
424206	A	S	RCS	CM, Hooper	Delete L.172 - 687:	03/27 06:27 PM

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

**COMMERCE AND TOURISM**  
**Senator Trumbull, Chair**  
**Senator Wright, Vice Chair**

**MEETING DATE:** Monday, March 27, 2023  
**TIME:** 3:00—6:00 p.m.  
**PLACE:** Toni Jennings Committee Room, 110 Senate Building

**MEMBERS:** Senator Trumbull, Chair; Senator Wright, Vice Chair; Senators DiCeglie, Gruters, Hooper, Hutson, Jones, Rodriguez, Stewart, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 532</b> Banking and Insurance / Burton (Compare H 607)	Money Services Businesses; Revising the definition of the term "control person" for purposes of ch. 560, F.S.; defining the terms, etc.  BI      03/15/2023 Fav/CS CM      03/27/2023 Favorable RC	Favorable Yeas 10 Nays 0
2	<b>SB 728</b> Garcia (Compare CS/CS/H 261)	Liveries; Revising safety requirements for liveries and requiring hands-on instruction that meets specified requirements; revising insurance requirements for liveries and renters; authorizing the Fish and Wildlife Conservation Commission to enter into agreements with qualified contractors to perform compliance inspections of liveries; requiring liveries to make facilities and records available for inspection by the qualified contractors within a specified timeframe, etc.  EN      03/14/2023 Favorable CM      03/27/2023 Fav/CS RC	Fav/CS Yeas 10 Nays 0
3	<b>CS/SB 752</b> Regulated Industries / Calatayud (Identical CS/H 415)	Temporary Commercial Kitchens; Requiring operators of public food service establishments who provide commissary services to maintain a temporary commercial kitchen registry; defining the term "temporary commercial kitchen"; preempting regulation of temporary commercial kitchens to the state; authorizing mobile food dispensing vehicles and temporary commercial kitchens in specified locations to operate during certain hours, etc.  RI      03/07/2023 Fav/CS CM      03/27/2023 Temporarily Postponed RC	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 27, 2023, 3:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 770</b> Bradley (Similar CS/CS/H 861)	Residential Real Estate Listing Agreements; Specifying a limitation on the term of an option to enter into a listing agreement for the disposition of residential real property; prohibiting a court from enforcing an option to enter into a listing agreement by certain means; requiring notice and a written agreement of the residential property owner before a broker may assign the option to enter into a listing agreement to another broker, etc.  RI 03/14/2023 Favorable CM 03/27/2023 Fav/CS RC	Fav/CS Yeas 9 Nays 0
5	<b>SB 1458</b> Yarborough (Similar H 1129)	Roller Skating Rink Safety; Providing that an operator of a roller skating rink is not liable for damages or personal injury resulting from inherent risks of roller skating; providing exceptions; providing that certain persons assume the inherent risk of roller skating; providing that an operator is not required to eliminate, alter, or control the inherent risks in roller skating, etc.  CM 03/27/2023 Fav/CS JU RC	Fav/CS Yeas 10 Nays 0
6	<b>SB 442</b> Gruters (Similar H 737)	Secondhand Dealers; Revising the definition of "secondhand goods" to exclude certain items, etc.  CM 03/27/2023 Favorable JU RC	Favorable Yeas 10 Nays 0
7	<b>SB 490</b> Jones (Similar CS/H 233, Compare H 789, Linked S 492)	Family and Household Members of Homicide Victims and Deceased Minors; Citing this act as "Curtis' Law"; requiring employers to authorize employees to request and take up to a specified number of days of leave from work under certain circumstances; requiring employees to make a reasonable effort to provide employers with advance notice of such leave; requiring employees to exhaust other leave options before taking specified leave; requiring law enforcement agencies to provide certain information during the investigation of the death of a minor, etc.  CM 03/27/2023 Fav/CS CJ AP	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 27, 2023, 3:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 492</b> Jones (Similar H 789, Compare CS/H 233, Linked S 490)	Public Records/Requesting Specified Leave Relating to a Homicide; Providing a public records exemption for certain personal identifying information, records, and time sheets submitted to an agency by an employee requesting specified leave relating to a homicide; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CM 03/27/2023 Temporarily Postponed CJ AP	Temporarily Postponed
9	<b>CS/SB 626</b> Regulated Industries / DiCeglie (Similar H 1221)	Broadband Internet Service Providers; Specifying that the poles of rural electric cooperatives that are engaged in the provision of broadband are subject to regulation by the Public Service Commission; authorizing the commission to access the books and records of such cooperatives for specified purposes; providing that such information that contains proprietary confidential business information retains its confidential or exempt status when held by the commission; authorizing rural electric cooperatives to engage in the provision of broadband, etc.  RI 03/07/2023 Fav/CS CM 03/27/2023 Favorable RC	Favorable Yeas 9 Nays 0
10	<b>SB 1106</b> Hooper (Identical H 1523, Compare H 1525, Linked S 1108)	Household Moving Services; Revising requirements for estimates, contracts, and advertisements; prohibiting certain persons from operating as or holding themselves out to be a mover or moving broker without registering with the department; requiring the Department of Agriculture and Consumer Services to immediately suspend a mover's or moving broker's registration under certain circumstances, etc.  CM 03/27/2023 Favorable AEG FP	Favorable Yeas 10 Nays 0
11	<b>SB 1108</b> Hooper (Identical H 1525, Compare H 1523, Linked S 1106)	Fees/Moving Brokers; Revising registration fees for moving brokers, etc.  CM 03/27/2023 Fav/CS AEG FP	Fav/CS Yeas 10 Nays 0



**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 27, 2023, 3:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	<b>SB 1664</b> Hooper (Compare CS/H 5, H 1209, H 1491, H 7041, S 1482, S 1666)	Economic Development; Requiring the Secretary of Economic Opportunity to appoint deputy secretaries and directors for specified divisions of the Department of Economic Opportunity; revising the list of local governments affected by Naval Support Activity Orlando; revising requirements relating to the Florida Rural Development Grants Program; deleting a future repeal of the Florida Development Finance Corporation, etc.  CM      03/27/2023 Fav/CS ATD FP	Fav/CS Yeas 10 Nays 0

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Other Related Meeting Documents

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

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

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

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BILL: CS/SB 532

INTRODUCER: Banking and Insurance Committee and Senator Burton

SUBJECT: Money Services Businesses

DATE: March 24, 2023

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 532 revises the definition of a “control person” and defines several terms used in the revised definition in ch. 560, F.S., the money services business (MSB) chapter. The purpose of the bill is to clarify terms within the definition of “control person” to ensure compliance with federal law.

This bill has no fiscal impact on the state, local governments, or the private sector.

The bill takes effect on July 1, 2023.

**II. Present Situation:**

**Licensing of Money Services Businesses**

The Office of Financial Regulation (OFR) is responsible for the regulatory oversight of Florida’s financial services industry. As part the OFR’s responsibilities, the OFR oversees MSBs, which are regulated under two license categories created pursuant to ch. 560, F.S. The first category, money transmitters and persons selling or issuing payment instruments, is regulated under part II of ch. 560, F.S. The second category, check cashers and foreign currency exchangers, is regulated under part III of ch. 560, F.S.

To be licensed under ch. 560, F.S., an MSB applicant must:

- Demonstrate to the OFR the character and general fitness necessary to command the confidence of the public and warrant the belief that the MSB or deferred presentment provider shall be operated lawfully and fairly;
- Be legally authorized to do business in Florida;
- Be registered as a MSB with the Financial Crimes Enforcement Network as required by 31 C.F.R. s. 1022.380, if applicable;
- Have an anti-money laundering program in place which meets the requirements of 31 C.F.R. s. 1022.210; and
- Provide the OFR with all the information required under ch. 560, F.S., and related rules.<sup>1</sup>

To apply as a money services business a person must submit:

- An application to the OFR for an MSB license that must include, on a form prescribed by rule, all of the following:
  - The legal name and address of the applicant, including any fictitious or trade names used by the applicant in the conduct of its business;
  - The date of the applicant's formation and the state where the applicant was formed, if applicable;
  - The name, social security number, alien identification or taxpayer identification number, business and residence addresses, and employment history for the past 5 years for each control person;
  - A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded;
  - The applicant's history of operations in other states, if applicable, and a description of the money services business or deferred presentment provider activities the applicant proposes to conduct in Florida;
  - If the applicant or its parent is a publicly traded company, for the preceding year, copies of all filings made by the applicant with the United States Securities and Exchange Commission (SEC); or, if publicly traded in a country other than the United States, such filings with that country's regulator similar to the SEC;
  - The location at which the applicant proposes to establish its principal place of business and any other location, including branch offices and authorized vendors operating within Florida. For each branch office and each location of an authorized vendor, the applicant must include the nonrefundable fee required by s. 560.143, F.S.;
  - The name and address of the clearing financial institution or financial institutions through which the applicant's payment instruments are drawn or through which the payment instruments are payable;
  - The history of the applicant's material litigation, criminal convictions, pleas of nolo contendere, and cases of adjudication withheld;
  - The history of material litigation, arrests, criminal convictions, pleas of nolo contendere, and cases of adjudication withheld for each control person;
  - The name of the registered agent in this state for service of process unless the applicant is a sole proprietor; and

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<sup>1</sup> Section 560.1401, F.S.

- Any other information specified in ch. 560, F.S. or by rule.<sup>2</sup>
- A nonrefundable application fee, as specified in s. 560.143, F.S.<sup>3</sup>
- Fingerprints, for live-scan processing in accordance with rules adopted by the Financial Services Commission (Commission), for each control person. Regarding such fingerprints:
  - They may be submitted through a third-party vendor authorized by the Florida Department of Law Enforcement (FDLE) to provide live-scan fingerprinting. The FDLE must also conduct the state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation (FBI). The OFR must review the results of this background check.
  - The cost of processing and retaining the fingerprints are borne by the person subject to the background checks to determine license eligibility.
  - Fingerprints are not required from publicly traded corporations.<sup>4</sup>
- A copy of the applicant's written anti-money laundering program required under 31 C.F.R. s. 1022.210.<sup>5</sup>
- Within the time allotted by rule, any information needed to resolve any deficiencies found in the application.<sup>6</sup>

Licenses issued to MSBs cannot be for more than 2 years,<sup>7</sup> after which, the MSB must reapply for licensure pursuant to s. 560.142, F.S.

Once licensed, an MSB is required to report any change in control persons.<sup>8</sup> If any person, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in an MSB, such person or group must submit a new application for licensure at least 30 days before such purchase or acquisition.<sup>9</sup> Such a change of control application is not required where the person or group of persons has previously complied with applicable licensing provisions, provided that they are currently affiliated with the MSB, or where the person or group of persons is currently licensed with the OFR as an MSB.<sup>10</sup> A change of control application must be accompanied by the payment of an initial licensing fee<sup>11</sup> and a fee per branch or authorized vendor<sup>12</sup>, up to a maximum of \$20,000.<sup>13</sup>

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<sup>2</sup> Section 560.141(1)(a), F.S.

<sup>3</sup> Section 560.141(1)(b), F.S.

<sup>4</sup> Section 560.141(1)(c), F.S.

<sup>5</sup> Section 560.141(1)(d), F.S.

<sup>6</sup> Section 560.141(1)(e), F.S.

<sup>7</sup> Section 560.141(2), F.S.

<sup>8</sup> Section 560.126(3), F.S.

<sup>9</sup> Section 560.126(3)(a), F.S.; r. 69v-560.201(4), F.A.C.

<sup>10</sup> Section 560.126(3)(c), F.S.; r. 69v-560.201(6), F.A.C.

<sup>11</sup> Fees are determined by whether the MSB is licensed under Part II or Part III of Chapter 560. Initial licensing fees under Part II licenses require a \$375 license application fee per s. 560.143(1)(a), F.S. Part III licenses require a \$188 license application fee per s. 560.143(b), F.S.

<sup>12</sup> Section 560.143(1)(c) and (d), F.S., provides that both the per branch fee and the authorized vendor fee are \$38.

<sup>13</sup> Section 560.143(1)(g), F.S.

## **Federal Bureau of Investigation Determination Regarding Access to Criminal History Record Information**

As stated above, MSB applicant fingerprints must be submitted to FDLE for a state and federal criminal history background check. The federal check is conducted through the FBI, which manages a criminal history record information (CHRI) system, through which this information can be obtained. The purpose of the CHRI system is to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to ensure the accuracy, completeness, currency, integrity, and security of such information and to protect individual privacy.<sup>14</sup> Federal Public Law 92-544 authorizes the exchange of CHRI with officials of state and local governmental agencies for licensing and employment purposes. However, this access can only be authorized by a state statute which has been subsequently approved by the Attorney General of the United States. One of the primary purposes for enacting Pub. L. 92-544 was to establish a national policy with adequate sanctions and administrative safeguards regarding the dissemination of the FBI's CHRI data to state and local governments for non-criminal justice licensing and employment purposes.<sup>15</sup> The FBI, with the assistance of the United States Department of Justice, has determined the parameters of Pub. L. 92-544.<sup>16</sup> The criteria for granting access to the FBI's CHRI data are as follows:

- The state's statute requiring fingerprinting must exist as a result of a legislative enactment;
- It must require the fingerprinting of applicants who are to be subjected to a national criminal history background check;
- It must, expressly ("submit to the FBI") or by implication ("submit for a national check"), authorize the use of FBI records for the screening of applicants;
- It must identify the specific category(ies) of licensees/employees falling within its purview, thereby avoiding over breadth;
- It must not be against public policy; and
- It may not authorize receipt of the CHRI data by a private entity.

Section 560.141, F.S. (the statute authorizing background checks for MSB applicants), was previously approved for access to CHRI; however, the situation has recently changed.

In an effort to obtain CHRI for applicants to a recently created (in 2020) Financial Technology Sandbox under s. 559.952, F.S., the FDLE sent correspondence to the FBI's Criminal Justice Information Law Unit (CJILU) to obtain an Originating Agency Identifier (ORI). The ORI validates legal authorization to access criminal justice information and identifies the specific agency requesting the information. CJILU reviewed s. 559.952, F.S., which derives its fingerprinting authority from s. 560.141, F.S. On March 22, 2021, CJILU responded to this request stating that s. 560.141, F.S. did not qualify for CHRI because certain terms were overly broad and, thus, did not sufficiently define the categories of people subject to the background

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<sup>14</sup> 28 C.F.R. s. 20.1.

<sup>15</sup> Federal Bureau of Investigation, *Testimony of Dennis Lormel Before the House Financial Services Committee* (Mar. 06, 2001), available at <https://archives.fbi.gov/archives/news/testimony/fbis-perspective-on-criminal-history-record-information-checks-on-individuals-conducting-insurance-business> (last visited Mar. 24, 2023).

<sup>16</sup> Email from Heather R. Postlethwait, FBI Office of the General Counsel, to Nathan Pate, Florida Department of Law Enforcement, RE: ORI Request - Florida Office of Financial Regulation (Mar. 22, 2021) (on file with the Senate Committee on Banking and Insurance).

check.<sup>17</sup> The CJILU did express that since it had previously approved s. 560.141, F.S., it would continue to honor fingerprints submitted under ch. 560, F.S., during a grace period in order to allow Florida to amend 560.103, F.S.<sup>18</sup> CJILU will not allow fingerprinting of additional categories of applicants (i.e., those applying under the Financial Technology Sandbox) during this grace period.<sup>19</sup>

These concerns raised by the FBI resulted in the adoption of a new definition of the term “control person” that was codified in 2022 which describes all persons subject to fingerprinting under ch. 560, F.S.,<sup>20</sup> to mean any of the following:

- A person who holds the title of president, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer for a money services business.
- A person who holds any of the officer positions named in the money services business’s governing documents.
- A person who holds any position named by the money services business’s liability insurance coverage for directors and officers, if the business has such coverage.
- A director of the money services business’s board of directors.
- A person who directs the affairs of a money services business or who participates in, or has authority to participate in, the major policymaking functions of a money services business, regardless of whether the person has an official title or receives a salary or other compensation.
- For a money services business that is a corporation, all shareholders that, directly or indirectly, own 25 percent or more or that have the power to vote 25 percent or more of a class of voting securities.
- For a money services business that is a partnership, all general partners, and those limited or special partners that have contributed 25 percent or more or that have the right to receive upon dissolution 25 percent or more of the limited liability company’s capital.
- For a money services business that is a limited liability company, all managers, and those members that have contributed 25 percent or more or that have the right to receive upon dissolution 25 percent or more of the limited liability company’s capital.<sup>21</sup>

The FBI determined that this definition of “control person” does not meet the requirements of Public Law 92-544 because it does not “‘identify the specific category(ies) of licensees/employees falling within its purview,’”<sup>22</sup> and has continued the grace period while revisions are made to meet the requirements of federal law.

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<sup>17</sup> Office of Financial Regulation, Senate Bill 1536 Analysis (January 12, 2022) (on file with the Senate Committee on Banking and Insurance), and Letter from Heather R. Postletwait, Paralegal Specialist for the FBI CJILU, to Nathan Pate, Florida Dept. of Law Enforcement, (Mar. 22, 2022) (on file with the Senate Committee on Banking and Insurance).

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

<sup>19</sup> *Id.*

<sup>20</sup> Chapter 2022-135, L.O.F.

<sup>21</sup> Section 560.103(10), F.S.

<sup>22</sup> Email from Amanda Brooke Taylor, FDLE Operations & Management Consultant Manager, to Russell Weigel, Commissioner of Office of Financial Regulation, RE: OFR Request – FBI approval of HB 389 language (August 9, 2022) (on file with the Senate Committee on Banking and Insurance).

### III. Effect of Proposed Changes:

On February 17, 2023, the FBI asked questions and provided comments on SB 532. The FBI noted “the inclusion of terms that are overly broad and undefined do not meet the requirements of Public Law 92-544.” The FBI also noted that they would need to review the entire statute to make a final determination on whether the proposed bill language would be approved.<sup>23</sup> The revisions to the bill in CS/SB 532 are intended to address the concerns communicated by the FBI regarding the bill as filed.

**Section 1** amends the definition of a “control person,” with respect to MSB, to include:

- A person who holds the title of treasurer.
- A person who holds general manager, manager or managing member positions named in the MSB governing documents. “Governing documents” is defined, as used in s. 560.103(10)(b), F.S., to mean bylaws, articles of incorporation or organization, partnership agreements, shareholder agreements, and management or operating agreement.
- A shareholder whose name shares are registered in the records of a corporation<sup>24</sup> for profit, whether incorporated under the laws of Florida or organized under the laws of any other jurisdiction and existing in that legal form, who owns 25 percent or more of a class of the company’s equity securities. The bill clarifies paragraph (d) of the definition in that it: (a) specifies that a shareholder is the title of the interest holder of a corporation, (b) incorporates the definition of foreign corporation within the definition of “control person” and (c) clarifies that equity securities are the type of interest held in a corporation.

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<sup>23</sup> Email from CJILU to Charles Murphy, Deputy Director, Florida Department of Law Enforcement Criminal Justice Information Services, (Feb. 17, 2023) (on file with the Senate Committee on Banking and Insurance).

<sup>24</sup> Section 607.01401(13), F.S., defines “corporation” as a corporation for profit, which is not a foreign corporation, incorporated under this chapter.

- A general partner,<sup>25</sup> limited partner,<sup>26</sup> or special partner who has a 25 percent or greater transferable interest<sup>27</sup> of a limited partnership,<sup>28</sup> limited liability limited partnership,<sup>29</sup> foreign limited partnership,<sup>30</sup> or foreign limited liability limited partnership,<sup>31</sup> which is substantially the same as current law except that the bill: (a) describes the types of partnerships that fall within the definition of “control person,” (b) defines the types of partners, including general partner, limited partner, or special partners, and (c) provides for a partner who has a 25 percent or greater transferable interest, which is defined in the bill, rather than a right to receive upon dissolution 25 percent or more of the partnership’s capital. The bill defines “special partner,” for purposes of s. 60.103(10)(e), F.S., as having the same meaning as a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

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<sup>25</sup> Section 620.1102(9), F.S., defines “general partner” as (a) with respect to a limited partnership, a person that: 1. Becomes a general partner under s. 620.1401, F.S.; or 2. Was a general partner in a limited partnership when the limited partnership became subject to this act under s. 620.2204(1) or (2), F.S., (b) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership. Section 620.1401, F.S., provides that a person becomes a general partner: (1) as provided in the partnership agreement; (2) under s. 620.1801(1)(c), F.S., following the dissolution of a limited partnership’s last general partner; (3) as a result of a conversion or merger involving the limited partnership under the Florida Revised Uniform Limited Partnership Act of 2005 (FRULPA) as provided for in the plan of conversion or merger; or (4) with the consent of all partners.

<sup>26</sup> Section 620.1102(11), F.S., defines “limited partner” to mean (a) with respect to a limited partnership, a person that: 1. Becomes a limited partner under s. 620.1301, F.S.; or 2. was a limited partner in a limited partnership when the limited partnership became subject to this act under s. 620.2204(1) or (2), F.S. (b) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership. Section 620.1301, F.S., provides that a person becomes a limited partner: (1) as provided in the partnership agreement; (2) as a result of a conversion or merger involving the limited partnership under FRULPA as provided in the plan of conversion or merger; or (3) with the consent of all the partners.

<sup>27</sup> Section 620.1102(25), F.S., defines “transferable interest” as a partner’s right to receive distributions.

<sup>28</sup> Section 620.1102(12), F.S., defines “limited partnership,” except in the phrase “foreign limited partnership” and “foreign limited liability limited partnership,” means an entity, having one or more general partners and one or more limited partners, which is formed under this act by two or more persons or becomes subject to this act as the result of a conversion or merger under this act, or which was a limited partnership governed by the laws of this state when this act became a law and became subject to this act under s. 620.2204(1) and (2). The term includes a limited liability limited partnership.

<sup>29</sup> Section 620.1102(10), F.S., defines “limited liability limited partnership,” except in the phrase “foreign limited liability limited partnership,” means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership, or which was a limited liability limited partnership when the limited partnership became subject to this act under s. 620.2204(1) or (2).

<sup>30</sup> Section 620.1102(8), F.S., defines “foreign limited partnership” as a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership.

<sup>31</sup> Section 620.1102(7), F.S., defines “foreign limited liability limited partnership” as a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to s. 620.1404(3).



- A member<sup>32</sup> who holds a 25 percent or more membership interest in a limited liability company<sup>33</sup> or a foreign limited liability company,<sup>34</sup> as that term is defined in s. 605.0102, F.S.. The bill defines “membership interest,” as used in s. 560.103(10)(f), F.S., to mean a member’s right to receive distributions or other rights, such as voting rights or management rights, under the articles of organization. The bill differs from current law in that the bill: (a) includes members of a foreign limited liability company, (b) defines member, membership interest, limited liability company, and foreign limited liability company, and (c) provides for a member who holds a 25 percent or more membership interest rather than a right to receive 25 percent or greater of the limited liability company’s capital upon dissolution.
- A beneficial owner of any legal entity of the corporations, partnerships, and limited liability companies noted above. Defines “beneficial owner” as each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, or relationship other than a revocable proxy, owns 25 percent or more of the shares or stock interest, transferable interest, or membership interest of a legal entity.

The bill removes the following persons from within the definition of “control person”:

- A person who holds any position named in the MSB’s liability insurance coverage for directors and officers, if the business has such coverage; and
- A person who directs the affairs of a MSB or who participates in, or has authority to participate in, the major policymaking functions of a money service business, regardless of whether the person has an official title or receives a salary or other compensation.

**Section 2** provides an effective date of July 1, 2023.

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

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

None.

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

None.

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

None.

<sup>32</sup> Section 605.0102,(40), F.S., defines “member” as a person who (a) is a member of a limited liability company under s. 605.0401 or was a member in a company when the company became subject to this chapter; and (b) has not dissociated from the company under s. 605.0602, F.S. Section 605.0401(3), F.S., provides that, after formation of a limited liability company, a person becomes a member: (a) as provided in the operating agreement; (b) as the result of a merger, interest exchange, conversion, or domestication under ss. 605.1001-605.1072, F.S., as applicable; (c) with the consent of all members; or (d) as provided in s. 605.0701(3), F.S.

<sup>33</sup> Section 605.0102(36), F.S., defines “limited liability company” as an entity formed or existing under ch. 605, F.S., or an entity that becomes subject to ch. 605, F.S., pursuant to ss. 605.1001-605.1072, F.S.

<sup>34</sup> Section 605.0102(26), F.S., defines “foreign limited liability company” as an unincorporated entity that was formed in a jurisdiction other than this state and is denominated by that law as a limited liability company.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 560.103 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 Banking and Insurance Committee on March 15, 2023:**

The committee substitute makes the following changes to the definition of “control person” under s. 560.103(10), F.S.:

- Adds a person who holds the title of treasurer;
- Adds a person who holds general manager, manager or managing member positions named in the MSB governing documents;
- With respect to MSB’s that are corporations:
  - Specifies that a shareholder is the title of the interest holder of a corporation;

- Incorporates the definition of foreign corporation within the definition of “control person” with referencing the term or cross-referencing the definition of “foreign corporation;” and
  - Clarifies that equity securities are the type of interest held in a corporation.
- With respect to partnerships:
  - Describes the types of partnerships that fall within the definition of “control person;” and
  - Provides for a partner who has a 25 percent or greater transferable interest rather than a right to receive upon dissolution 25 percent or more of the partnership’s capital;
- With respect to limited liability companies:
  - Includes members of a foreign limited liability company; and
  - Provides for a member who holds a 25 percent or more membership interest rather than a right to receive 25 percent or greater of the limited liability company’s capital upon dissolution;
- Provides that a “control person” includes a beneficial owner of corporations, partnerships, and limited liability companies covered under the definition of “control person;”
- Defines the terms “governing documents,” “special partner,” and “membership interest,” and “beneficial owner” within the definition of “control person;” and
- Defines “general partner,” “limited partner,” “transferable interest,” “limited partnership,” “limited liability partnership,” “foreign limited partnership,” “foreign limited liability partnership,” “member,” “limited liability company,” and “foreign limited liability company” by cross-referencing the definitions of these terms in Title XXXVI Business Organizations of the Florida Statutes.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Burton

597-02623-23

2023532c1

A bill to be entitled

An act relating to money services businesses; amending s. 560.103, F.S.; revising the definition of the term "control person" for purposes of ch. 560, F.S.; defining terms; providing an effective date.

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

Section 1. Subsection (10) of section 560.103, Florida Statutes, is amended to read:

560.103 Definitions.—As used in this chapter, the term:

(10) "Control person" means, with respect to a money services business, any of the following:

(a) A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer for a money services business.

(b) A person who holds any of the officer, general partner, manager, or managing member positions named in the money services business's governing documents. As used in this paragraph, the term "governing documents" includes bylaws, articles of incorporation or organization, partnership agreements, shareholder agreements, and management or operating agreements.

(c) ~~A person who holds any position named by the money services business's liability insurance coverage for directors and officers, if the business has such coverage.~~

~~(d)~~ A director of the money services business's board of directors.

597-02623-23

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~~(e) A person who directs the affairs of a money services business or who participates in, or has authority to participate in, the major policymaking functions of a money services business, regardless of whether the person has an official title or receives a salary or other compensation.~~

(d) (f) A shareholder whose name shares are registered in the records of a corporation for profit, whether incorporated under the laws of this state or organized under the laws of any other jurisdiction and existing in that legal form, who owns 25 percent or more of a class of the company's equity securities ~~For a money services business that is a corporation, all shareholders that, directly or indirectly, own 25 percent or more or that have the power to vote 25 percent or more of a class of voting securities.~~

(e) (g) A general partner or a limited partner, as those terms are defined in s. 620.1102, or a special partner who has a 25 percent or greater transferable interest, as defined in s. 620.1102, of a limited partnership, limited liability limited partnership, foreign limited partnership, or foreign limited liability limited partnership, as those terms are defined in s. 620.1102. For purposes of this paragraph, a special partner has the same meaning as a person that has rights, powers, and obligations similar to those of a limited partner, as defined in s. 620.1102, in a limited partnership ~~For a money services business that is a partnership, all general partners, and those limited or special partners that have contributed 25 percent or more or that have the right to receive upon dissolution 25 percent or more of the partnership's capital.~~

(f) (h) A member, as defined in s. 605.0102, who holds a 25

597-02623-23

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59 percent or greater membership interest in a limited liability  
60 company or a foreign limited liability company, as those terms  
61 are defined in s. 605.0102. As used in this subsection, the term  
62 "membership interest" means a member's right to receive  
63 distributions or other rights, such as voting rights or  
64 management rights, under the articles of organization ~~For a~~  
65 ~~money services business that is a limited liability company, all~~  
66 ~~managers, and those members that have contributed 25 percent or~~  
67 ~~more or that have the right to receive upon dissolution 25~~  
68 ~~percent or more of the limited liability company's capital.~~

69 (g) A beneficial owner of any legal entity referred to in  
70 paragraphs (d)-(f). As used in this paragraph, the term  
71 "beneficial owner" means each individual, if any, who, directly  
72 or indirectly, through any contract, arrangement, understanding,  
73 or relationship other than a revocable proxy, owns 25 percent or  
74 more of the shares or stock interest, transferable interest as  
75 defined in s. 620.1102, or membership interest of a legal  
76 entity.

77 Section 2. This act shall take effect July 1, 2023.

**APPEARANCE RECORD**3/27/23

Meeting Date

532

Bill Number or Topic

Commerce

Committee

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

Amendment Barcode (if applicable)

Name

ASH MASON

Phone

Address

Street

Email

Ash.mason@FLOFR.gov

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

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Against

**PLEASE CHECK ONE OF THE FOLLOWING:**☐I am appearing without  
compensation or sponsorship.☒I am a registered lobbyist,  
representing:Office of Financial  
Regulation☐I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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

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

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

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BILL: CS/SB 728

INTRODUCER: Commerce and Tourism Committee and Senator Garcia

SUBJECT: Liveries

DATE: March 28, 2023

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carroll	Rogers	EN	<b>Favorable</b>
2. Baird	McKay	CM	<b>Fav/CS</b>
3. _____	_____	RC	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 728 specifies that a livery's pre-rental or pre-ride instruction must be hands-on. The instruction must include education on safety, regulatory, informational, or navigation markers in the geographic vicinity, and on the prohibition against boating under the influence.

The bill exempts a renter or lessee and livery from the pre-rental or pre-ride instruction requirement if the renter or lessee retains a professional captain with an active U.S. Coast Guard license, as required by the agreement between the livery and the renter or lessee.

The bill allows a livery to limit insurance covering the renter if the renter or lessee has a boating certification authorized by statute or if the renter or lessee hires a professional captain.

**II. Present Situation:**

**Fish and Wildlife Conservation Commission**

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.<sup>1</sup> FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate.<sup>2</sup> Under Article IV, Section 9 of the Florida Constitution, FWC has the authority to exercise the

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<sup>1</sup> FLA. CONST. art. IV, s. 9.

<sup>2</sup> *Id.*; see also s. 379.102(1), F.S.

regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Chapter 327, F.S., concerning vessel safety is enforced by FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.<sup>3</sup> The Division of Law Enforcement manages the state's waterways to ensure boating safety for Florida residents and visitors.<sup>4</sup> This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.<sup>5</sup>

### **Boating Safety Education**

A person operating a vessel powered by a motor of 10 horsepower or greater must possess photographic identification and a Florida boating safety identification card; a state-issued identification card or driver license indicating possession of the boating safety identification card; or photographic identification and a temporary certificate issued or approved by FWC, an International Certificate of Competency, a boating safety card or certificate from another state or U.S. territory, or a Canadian Pleasure Craft Operator Card.<sup>6</sup> A person is exempt from this requirement if he or she:

- Was born before January 1, 1988;<sup>7</sup>
- Is or has been licensed by the U.S. Coast Guard;
- Operates a vessel only on a private lake or pond;
- Is accompanied by an adult who meets boating safety requirements and who is attendant to the operation of the vessel and responsible for safe operation of the vessel;
- Is a nonresident who possesses photographic identification and proof of completion of a boating safety education course or examination that meets or exceeds the minimum requirements established by the National Association of State Boating Law Administrators;
- Is operating a vessel within 90 days after purchase and possesses the bill of sale; or
- Is exempted by FWC rule.<sup>8</sup>

A Florida boating safety identification card is issued after successful completion of a boating safety education course approved by FWC.<sup>9</sup> The card is valid for a person's life.<sup>10</sup> A temporary certificate requires passing an FWC-approved examination and is valid for 90 days after the date

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<sup>3</sup> Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

<sup>4</sup> Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited March 24, 2023).

<sup>5</sup> FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited March 24, 2023). See s. 327.70(1) and (4), F.S.

<sup>6</sup> Section 327.395(1), (2), F.S.

<sup>7</sup> Section 327.395(1), F.S.

<sup>8</sup> Section 327.395(6), F.S.

<sup>9</sup> Section 327.395(3), F.S.

<sup>10</sup> Section 327.395(5), F.S.



of issuance.<sup>11</sup> An FWC-approved boating safety education course or temporary certificate examination must contain information regarding:

- Diving vessels, awareness of divers in the water, divers-down warning devices, and navigation around divers;
- The danger associated with:
  - A passenger riding on a vessel area not designed and designated for seating,
  - A passenger falling overboard,
  - Operating a vessel near a person in the water,
  - Starting a vessel with the engine in gear, and
  - Leaving the vessel running when a passenger is boarding or disembarking; and
- The proper use and lifesaving benefits of an engine cutoff switch for motorboats and personal watercraft.<sup>12</sup>

### **Regulation of Liveries**

A livery is defined as a person who advertises and offers a livery vessel<sup>13</sup> for use by another in exchange for any type of consideration, when the livery does not also provide the lessee or renter with a captain, crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel.<sup>14</sup> The statute specifies two exemptions from the definition:

- Vessel owners who do not advertise their vessel for use by another for consideration and who loan or offer the vessel to a person they know; and
- A public or private school or postsecondary institution located in the state.<sup>15</sup>

A livery may not offer a vessel for lease or rent without obtaining an annual, no-cost livery permit from FWC.<sup>16</sup> To qualify for the issuance or renewal of the permit, a livery must:

- Provide FWC with a list of all vessels available for lease or rent;
- Have valid insurance;
- Have enough U.S. Coast Guard-approved lawful personal flotation devices on site to accommodate the capacity of all available vessels;
- Have enough safety equipment required by statute and the Code of Federal Regulations on site to equip all available vessels; and
- Display boating safety information in a place visible to the renting public.

If the information required to qualify for the permit changes before the annual renewal of the permit, a livery must provide the updated information to FWC within 10 days of the change.<sup>17</sup>

Regarding boating safety, the law prohibits a livery from knowingly leasing or renting a vessel to any person:

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<sup>11</sup> Section 327.395(3), (5), F.S.

<sup>12</sup> Section 327.395(4), F.S.

<sup>13</sup> A livery vessel is defined as a vessel that is leased, rented, or chartered to another for consideration. Section 327.02(24), F.S.

<sup>14</sup> Section 327.54(1), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 327.54(2), F.S.

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

- When the number of persons intending to use the vessel exceeds the maximum safety load for the vessel;
- When the horsepower of the motor exceeds the capacity of the vessel;
- When the vessel does not contain required safety equipment;
- When the vessel is not seaworthy, is derelict, or is at risk of becoming derelict;
- Unless the livery provides pre-rental or pre-ride instruction that reviews, at a minimum:
  - The operational characteristics of the livery vessel,
  - Safe vessel operation and right-of-way,
  - The responsibility of the vessel operator for the safe and proper operation of the vessel,
  - Local characteristics of the waterway, and
  - Emergency procedures;
- Unless the livery displays boating safety information in a place visible to the renting public; and
- Unless the livery has a written agreement with the renter or lessee.<sup>18</sup>

A livery also may not knowingly lease or rent a vessel to a person who is required to have a boating safety identification card or other boating safety certificate unless the person presents the card or certificate and photographic identification to the livery.<sup>19</sup> A person must be 18 years or more to rent a livery vessel other than a human-powered vessel.<sup>20</sup> Liveries must notify law enforcement if a vessel is unnecessarily overdue by more than four hours or if an accident occurs.<sup>21</sup>

Liveries must also obtain and carry in full force and effect a policy from a licensed insurance carrier in the state, which insures the livery and the renter against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the livery vessel. The policy must cover at least \$500,000 per person and \$1 million per event. Proof of insurance must be available for inspection where vessels are rented or leased. The insurance requirement only applies to human-powered vessels.<sup>22</sup>

A livery is required to make its facilities and records available for inspection upon request of law enforcement within 24 hours of receiving notice.<sup>23</sup>

### ***The Boating Safety Act of 2022***

The Legislature passed the Boating Safety Act of 2022 in part to increase protections for individuals who rent or lease livery vessels.<sup>24</sup> The Act provided the current statutory definition of a livery as a person who advertises and offers a livery vessel for use by another in exchange for any type of consideration, when the livery does not also provide a captain, crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel. It also required liveries to obtain a no-cost, annual livery permit, as well as an insurance policy that insures both the livery

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<sup>18</sup> Section 327.54(3), F.S.

<sup>19</sup> Section 327.54(4), F.S.; *See generally* s. 327.395, F.S.

<sup>20</sup> Section 327.54(6), F.S.

<sup>21</sup> Section 327.54(5) and (9), F.S.

<sup>22</sup> Section 327.54(7), F.S.

<sup>23</sup> Section 327.54(10), F.S.

<sup>24</sup> Chapter 2022-197, Laws of Fla.

and the renter. The Act added additional components to FWC-approved boating safety education courses and temporary certificate examinations.<sup>25</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 327.54, F.S., to specify that a livery's pre-rental or pre-ride instruction must be hands-on. The bill requires that the instruction include education on any safety, regulatory, informational, or navigation markers in the geographic vicinity, as well as notice of the prohibition against boating under the influence.

The bill provides that if a renter or lessee retains a professional captain who holds an active U.S. Coast Guard license to command the livery vessel as required by the agreement between the livery and the renter or lessee, and the livery confirms that the captain has been retained, the renter or lessee and the livery will be exempt from the pre-rental or pre-ride instruction requirement.

The bill allows a livery to limit insurance covering the renter if the renter or lessee:

- Has a Florida boating safety identification card issued by the Florida Fish and Wildlife Conservation Commission (FWC), a temporary certificate, or another authorized form of boating certification; or
- Hires a professional captain who holds an active U.S. Coast Guard license.

The bill makes technical changes.

**Section 2** provides an effective date of July 1, 2023.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None.

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<sup>25</sup> *Id.*

**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 327.54 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 Committee on March 27, 2023:**

The committee substitute removes language that limits pre-rental and pre-ride instruction to only hands-on instruction, while still requiring part of the instruction to be hands-on.

Regarding the exception to the requirement that a livery provide safety instruction, the amendment will not require the livery to confirm that a renter or lessee has retained a professional captain. The committee substitute makes a clarifying change.

The committee substitute also removes provisions allowing the Florida Fish and Wildlife Conservation Commission to enter into agreements with qualified contractors to perform compliance inspections of liveries.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

	Senate	House
Comm: RCS	.	.
03/27/2023	.	.
	.	.
	.	.

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

**Senate Amendment (with title amendment)**

Delete lines 79 - 204

and insert:

(e) Unless the livery provides pre-rental or pre-ride instruction, which shall include hands-on instruction, in compliance with rules established by the commission.

1. The instruction must include, but need not be limited to:

a. Operational characteristics of the vessel to be rented.

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- b. Safe vessel operation and vessel right-of-way.
- c. The responsibility of the vessel operator for the safe and proper operation of the vessel.
- d. Local characteristics of the waterway where the vessel will be operated, such as navigational hazards, the presence of boating-restricted areas, ~~and~~ water depths, and education on any safety, regulatory, informational, or navigation markers in the geographic vicinity.
- e. Emergency procedures, such as appropriate responses to capsizing, falls overboard, taking on water, and vessel accidents.
- f. A notice of the prohibition against boating under the influence pursuant to s. 327.35.
2. Any person receiving instruction in the safe handling of livery vessels pursuant to this paragraph must provide the livery with a written statement attesting to each component of the instruction.
- a. The commission shall establish by rule the content of the statement form.
- b. The statement form must be signed by the individual providing the instruction.
- c. The livery shall maintain the statement form for no less than 90 days and, upon request, make the form available for inspection by law enforcement.
- (f) Unless the livery displays boating safety information in a place visible to the renting public. The commission shall prescribe by rule, pursuant to chapter 120, the contents and size of the boating safety information to be displayed.
- (g) Unless the livery has a written agreement with the

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renter or lessee. The written agreement must include the name, address, and date of birth for the renter and the number of people aboard the vessel, as well as the time the vessel is required to be returned to the livery or another specified location and an emergency contact name, address, and telephone number. The livery shall maintain each agreement for no less than 1 year and, upon request, make each agreement available for inspection by law enforcement.

(4) If a renter or lessee retains a professional captain who holds an active license issued by the United States Coast Guard to command the vessel as required by the agreement between the livery and the renter or lessee, the livery is not subject to paragraph (3) (e).

(5) A livery may not knowingly lease or rent a vessel to a person who is required to comply with s. 327.395 unless such person presents to the livery the documentation required by s. 327.395(2) for the operation of a vessel or meets the exemption provided under s. 327.395(6) (f).

(6) ~~(5)~~ If a vessel rented or leased by a livery is unnecessarily overdue more than 4 hours after the contracted vessel rental time has expired, the livery must notify law enforcement.

(7) ~~(6)~~ A livery may not knowingly lease or rent a livery vessel, other than a human-powered vessel, to any person who is under 18 years of age.

(8) ~~(7)~~ A livery may not lease or rent or offer to lease or rent any livery vessel unless the livery first obtains and carries in full force and effect a policy from a licensed insurance carrier in this state which insures the livery and the

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- renter against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the livery vessel. The insurance policy must provide coverage of at least \$500,000 per person and \$1 million per event. The livery shall have proof of such insurance available for inspection at the location where livery vessels are being leased or rented, or offered for lease or rent, and shall provide to each renter the insurance carrier's name and address and the insurance policy number. A livery may choose to limit insurance covering the renter if the renter or lessee meets one of the following requirements:
- (a) Has a Florida boating safety identification card issued by the commission, a temporary certificate, or another form of boating certification authorized pursuant to s. 327.395.
- (b) Hires a professional captain who holds an active license issued by the United States Coast Guard.
- This subsection does not apply to human-powered vessels.
- (9) ~~(8)~~ Notwithstanding the person's age or any exemptions provided in s. 327.395, any person delivering instruction regarding the safe operation of vessels or hands-on pre-rental or pre-ride instruction in accordance with subsection (3) must have successfully completed a boating safety education course approved by the National Association of State Boating Law Administrators and this state.
- (10) ~~(9)~~ If a vessel rented or leased by a livery is involved in an accident, the livery must report the accident to the division.
- (11) ~~(10)~~ A livery shall make its facilities and records

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98 available for inspection upon request by law enforcement no  
99 later than 24 hours after receiving notice from law enforcement.  
100 (12) (a) ~~(11) (a)~~ Any person convicted of violating this  
101 section, other than subsection (2), who has not been convicted  
102 of a violation of this section within the past 3 years commits a  
103 misdemeanor of the second degree, punishable as provided in s.  
104 775.082 or s. 775.083.  
105 (b) Unless the stricter penalties in paragraph (c) apply, a  
106 person who violates this section, other than subsection (2),  
107 within 3 years after a previous conviction of a violation of  
108 this section commits a misdemeanor of the first degree,  
109 punishable as provided in s. 775.082 or s. 775.083, with a  
110 minimum mandatory fine of \$500.  
111 (c) A person who violates this section, other than  
112 subsection (2), within 5 years after two previous convictions  
113 for a violation of this section commits a misdemeanor of the  
114 first degree, punishable as provided in s. 775.082 or s.  
115 775.083, with a minimum mandatory fine of \$1,000.  
116 (13) ~~(12)~~ A person who commits more than one violation of  
117  
118 ===== T I T L E A M E N D M E N T =====  
119 And the title is amended as follows:  
120 Delete lines 8 - 15  
121 and insert:  
122 and renters; providing an effective date.

By Senator Garcia

36-00399B-23

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A bill to be entitled

An act relating to liveries; amending s. 327.54, F.S.; revising safety requirements for liveries and requiring hands-on instruction that meets specified requirements; providing an exemption from certain safety requirements when a renter hires a professional captain; revising insurance requirements for liveries and renters; authorizing the Fish and Wildlife Conservation Commission to enter into agreements with qualified contractors to perform compliance inspections of liveries; providing requirements for such contracted inspections; requiring liveries to make facilities and records available for inspection by the qualified contractors within a specified timeframe; providing an effective date.

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

Section 1. Section 327.54, Florida Statutes, is amended to read:

327.54 Liveries; safety regulations; penalty.—

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

(a) "Advertise" means to describe or draw attention to a vessel and its availability for lease or rental in any medium for the purpose of promoting the lease or rental of the vessel.

(b) "Conviction" means any judicial disposition other than acquittal or dismissal.

(c) "Livery" means a person who advertises and offers a livery vessel for use by another in exchange for any type of

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consideration when such person does not also provide the lessee or renter with a captain, a crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel. The owner of a vessel who does not advertise his or her vessel for use by another for consideration and who loans or offers his or her vessel for use to another known to him or her either for consideration or without consideration is not a livery. A public or private school or postsecondary institution located within this state is not a livery. A vessel rented or leased by a livery is a livery vessel as defined in s. 327.02.

(d) "Seaworthy" means the vessel and all of its parts and equipment, including, but not limited to, engines, bilge pumps, and kill switches, are functional and reasonably fit for their intended purpose.

(2) A livery may not offer a vessel for lease or rent without first being issued a no-cost livery permit by the commission. The permit must be renewed annually. To qualify for issuance or renewal of a livery permit, an applicant must provide the commission with a list of all vessels offered by the livery for lease or rent by another, have valid insurance pursuant to subsection (8) ~~(7)~~, have an amount of United States Coast Guard-approved lawful personal floatation devices on site sufficient to accommodate the capacity of all vessels offered by the livery for rent or lease by another, have on site all safety equipment required by s. 327.50 and the Code of Federal Regulations sufficient to equip all vessels offered by the livery for rent or lease by another, and display the information required by paragraph (3)(f). If, before the annual renewal of the permit, the information required by this subsection changes,

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the livery must provide the commission with the updated information within 10 days after the change.

(a) The commission may adopt rules to implement this subsection.

(b) A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A livery may not knowingly lease or rent a vessel to any person:

(a) When the number of persons intending to use the vessel exceeds the number considered to constitute a maximum safety load for the vessel as specified on the authorized persons capacity plate of the vessel.

(b) When the horsepower of the motor exceeds the capacity of the vessel.

(c) When the vessel does not contain the safety equipment required under s. 327.50.

(d) When the vessel is not seaworthy, is a derelict vessel as defined in s. 823.11, or is at risk of becoming derelict as provided in s. 327.4107.

(e) Unless the livery provides hands-on pre-rental or pre-ride instruction in compliance with rules established by the commission.

1. The instruction must include, but need not be limited to:

a. Operational characteristics of the vessel to be rented.

b. Safe vessel operation and vessel right-of-way.

c. The responsibility of the vessel operator for the safe and proper operation of the vessel.

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d. Local characteristics of the waterway where the vessel will be operated, such as navigational hazards, the presence of boating-restricted areas, ~~and~~ water depths, and education on any safety, regulatory, informational, or navigation markers in the geographic vicinity.

e. Emergency procedures, such as appropriate responses to capsizing, falls overboard, taking on water, and vessel accidents.

f. A notice of the prohibition against boating under the influence pursuant to s. 327.35.

2. Any person receiving instruction in the safe handling of livery vessels pursuant to this paragraph must provide the livery with a written statement attesting to each component of the instruction.

a. The commission shall establish by rule the content of the statement form.

b. The statement form must be signed by the individual providing the instruction.

c. The livery shall maintain the statement form for no less than 90 days and, upon request, make the form available for inspection by law enforcement or an authorized agent of the commission pursuant to subsection (10).

(f) Unless the livery displays boating safety information in a place visible to the renting public. The commission shall prescribe by rule, pursuant to chapter 120, the contents and size of the boating safety information to be displayed.

(g) Unless the livery has a written agreement with the renter or lessee. The written agreement must include the name, address, and date of birth for the renter and the number of



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people aboard the vessel, as well as the time the vessel is required to be returned to the livery or another specified location and an emergency contact name, address, and telephone number. The livery shall maintain each agreement for no less than 1 year and, upon request, make each agreement available for inspection by law enforcement or an authorized agent of the commission pursuant to subsection (10).

(4) If a renter or lessee retains a professional captain who holds an active license issued by the United States Coast Guard to command the vessel as required by an agreement between the livery and the renter or lessee, and the livery confirms that a professional captain has been retained, the renter or lessee and the livery are not subject to paragraph (3)(e).

(5) A livery may not knowingly lease or rent a vessel to a person who is required to comply with s. 327.395 unless such person presents to the livery the documentation required by s. 327.395(2) for the operation of a vessel or meets the exemption provided under s. 327.395(6)(f).

(6)(5) If a vessel rented or leased by a livery is unnecessarily overdue more than 4 hours after the contracted vessel rental time has expired, the livery must notify law enforcement.

(7)(6) A livery may not knowingly lease or rent a livery vessel, other than a human-powered vessel, to any person who is under 18 years of age.

(8)(7) A livery may not lease or rent or offer to lease or rent any livery vessel unless the livery first obtains and carries in full force and effect a policy from a licensed insurance carrier in this state which insures the livery and the

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renter against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the livery vessel. The insurance policy must provide coverage of at least \$500,000 per person and \$1 million per event. The livery shall have proof of such insurance available for inspection at the location where livery vessels are being leased or rented, or offered for lease or rent, and shall provide to each renter the insurance carrier's name and address and the insurance policy number. A livery may choose to limit insurance covering the renter if the renter or lessee meets one of the following requirements:

(a) Has a Florida boating safety identification card issued by the commission, a temporary certificate, or another form of boating certification authorized pursuant to s. 327.395.

(b) Hires a professional captain who holds an active license issued by the United States Coast Guard.

This subsection does not apply to human-powered vessels.

(9)(8) Notwithstanding the person's age or any exemptions provided in s. 327.395, any person delivering instruction regarding the safe operation of vessels or hands-on pre-rental or pre-ride instruction in accordance with subsection (3) must have successfully completed a boating safety education course approved by the National Association of State Boating Law Administrators and this state.

(10) To enhance enforcement efforts, the commission may enter into agreements with qualified contractors to perform inspections of liveries to ensure compliance with this section. Inspections may be performed by an authorized agent working

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under the supervision of a qualified contractor. The qualified contractor shall provide a copy of a written, signed inspection report to the livery upon completion of the inspection and to the commission within 30 days after the inspection. The commission may develop the contents of the inspection report.

~~(11)(9)~~ If a vessel rented or leased by a livery is involved in an accident, the livery must report the accident to the division.

~~(12)(10)~~ A livery shall make its facilities and records available for inspection upon request by law enforcement or an authorized agent of the commission pursuant to subsection (10) no later than 24 hours after receiving notice from law enforcement or an authorized agent of the commission.

~~(13)(a)(11)(a)~~ Any person convicted of violating this section, other than subsection (2), who has not been convicted of a violation of this section within the past 3 years commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Unless the stricter penalties in paragraph (c) apply, a person who violates this section, other than subsection (2), within 3 years after a previous conviction of a violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of \$500.

(c) A person who violates this section, other than subsection (2), within 5 years after two previous convictions for a violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of \$1,000.

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~~(14)(12)~~ A person who commits more than one violation of this section, other than subsection (2), within a 3-year period may not act as a livery during a 90-day period immediately after being charged with that violation. The commission may revoke or refuse to issue a permit under subsection (2) based on repeated violations of this section.

Section 2. This act shall take effect July 1, 2023.

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The Florida Senate  
**APPEARANCE RECORD**

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

3/27/23

Meeting Date

B.11 728

Bill Number or Topic

Commerce & Tourism  
Committee

Amendment Barcode (if applicable)

Name

Maya Schilder

Phone

850 624 7226

Address

326 Mountain Dr.

Email

xh2omaya@gmail.com

Street

Destin FL

32541

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

Khene H2O Sports

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

3-27-23

Meeting Date

728

Bill Number or Topic

Commerce & Tourism  
Committee

Amendment Barcode (if applicable)

Name

Peggy Matthews

Phone

850 566 6778

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

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

American Watercraft Association

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

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

S-001 (08/10/2021)

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

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

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

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BILL: CS/SB 752

INTRODUCER: Regulated Industries Committee and Senator Calatayud

SUBJECT: Temporary Commercial Kitchens

DATE: March 24, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Baird</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 752 regulates temporary commercial kitchens in the same manner as mobile food delivery vehicles (MFDVs or food trucks). The bill defines the term “temporary commercial kitchen” to mean “any kitchen that is a public food service establishment, used for the preparation of takeout or delivery-only meals housed in portable structures that are movable from place to place by a tow or are self-propelled or otherwise axle-mounted, that include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.” The term does not include a tent.

Temporary kitchens are typically used when fixed kitchens are unavailable, e.g., when damaged by a fire, or during remodeling, when extra kitchen space is needed, and for catering at events. Temporary kitchens may also be used after a natural disaster, such as a hurricane. Temporary kitchens are contained in a variety of modular structures, such as portable cabin structures, modular buildings, towed trailers, or standard freight containers.

The bill:

- Requires operators of public food service establishments who provide commissary services to temporary commercial kitchens to maintain a registry to verify that each temporary commercial kitchen that receives such services is properly licensed;
- Requires operators of temporary commercial kitchens to properly display their public food service establishment license number to assist the public food service establishment to verify the licensure of the temporary commercial kitchens;

- Preempts regulation of licenses, registrations, permits, and fees for temporary commercial kitchens to the state; and
- Authorizes MFDVs and temporary commercial kitchens that are operated on the same premises of a separately licensed public food service establishment to operate during the same hours of operation as the separately licensed public food service establishment.

The bill takes effect July 1, 2023.

## **II. Present Situation:**

### **Department of Business and Professional Regulation, Division of Hotels and Restaurants**

The Division of Hotels and Restaurants (Division) within the Division of Business and Professional Regulation (DBPR) is charged with enforcing the laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.<sup>1</sup>

#### **Public Food Service Establishments**

A “public food service establishment” is defined as:<sup>2</sup>

...any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

There are several exclusions from the definition of public food service establishment, including:<sup>3</sup>

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests;
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier;
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families;
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.;
- Any vending machine that dispenses any food or beverage other than potentially hazardous food;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items; and

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<sup>1</sup> Section 509.032, F.S.

<sup>2</sup> Section 509.013(5)(a), F.S.

<sup>3</sup> Section 509.013(5)(b), F.S.

- Any research and development test kitchen limited to use by employees and not open to the general public.

### **Health and Safety**

The division must adopt and enforce sanitation rules to ensure the protection of the public from food-borne illness in those establishments it licenses. These rules must provide standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments; approving public food service establishment facility plans; conducting inspections for compliance with sanitation regulations; cooperating and coordinating with the Department of Health in epidemiological investigations; initiating enforcement actions; and other such responsibilities deemed necessary by the division.<sup>4</sup>

Effective November 1, 2019, the division has adopted the 2017 Food and Drug Administration (FDA) Food Code (food code), which establishes practical, science-based guidance and enforceable provisions for reducing risk factors known to cause or contribute to foodborne illness.<sup>5</sup> The food code represents FDA's best advice for a uniform system to address the safety and protection of food offered at retail and in food service.<sup>6</sup>

The food code provides a plan review and inspectional guide for “mobile food establishments” based on the mobile unit's menu and operation. Mobile units range in type from push carts to food preparation catering vehicles. The guide provides a matrix of requirements that a mobile food establishment must follow based on the type of food that is available for sale to the consumer. This includes requirements for “time/temperature control for the safety of food”<sup>7</sup> that is prepared within a mobile food establishment.<sup>8</sup>

### **Mobile Food Dispensing Vehicles – Food Trucks**

Food Trucks<sup>9</sup> are regulated by the DBPR as a “mobile food dispensing vehicles,” (MFDV),<sup>10</sup> which are defined as:<sup>11</sup>

...any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

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<sup>4</sup> Section 509.032(2)(d), F.S.

<sup>5</sup> Fla. Admin. Code R. 61C-1.001(12).

<sup>6</sup> U.S. Public Health Service, FDA Food Code 2017, p. 327,

<http://www.myfloridalicense.com/dbpr/hr/statutes/documents/2017-FDA-Food-Code.pdf> (last visited March 24, 2023).

<sup>7</sup> The term “time/temperature control for safety food” is defined in chapter 1, subpart 1-201, of the food code as a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

<sup>8</sup> U.S. Public Health Service, FDA Food Code 2017, FDA Food Code Mobile Food Establishment Matrix, p. 754,

<http://www.myfloridalicense.com/dbpr/hr/statutes/documents/2017-FDA-Food-Code.pdf> (last visited March 24, 2023).

<sup>9</sup> Generally, a food truck is a large wheeled vehicle from which food is sold that typically contains cooking facilities where the food is prepared. Merriam-Webster Dictionary, *Food Truck*, <https://www.merriam-webster.com/dictionary/food%20truck> (last visited March 24, 2023).

<sup>10</sup> Section 509.102, F.S.

<sup>11</sup> Section 509.032, F.S., and Fla. Admin. Code R. 61C-1.002.

To obtain a license as an MFDV, an applicant must complete a kitchen plan review for sanitation and safety concerns (if required).<sup>12</sup> No plan review is required if an operator buys a vehicle already licensed by the division and no changes have been made to the vehicle. A plan review is required if an operator:

- Constructs or uses a vehicle that has never been licensed by the division;
- Uses a vehicle that has been closed for more than one year; or
- Uses a vehicle that has been remodeled.

A plan review requires:

- A plan of the vehicle with the equipment labeled;
- A sample menu; and
- A side photograph of the vehicle showing the wheels and open service window, and the water/sewer or commissary location.

By rule, the division provides different license fees for a public food service establishment based on the license classification for the establishment. The division's general classifications are nonseating and seating, which are then divided into sub-classifications.<sup>13</sup> MFDVs are classified under the nonseating classification. The license for an MFDV requires payment of a \$50 application fee and a \$347 license fee.<sup>14</sup>

All new licensees are required to pass a sanitation and safety inspection prior to opening.<sup>15</sup> Division personnel have the right to inspect licensed MFDVs as often as necessary to enforce the provisions of law and rule, and for the protection of the public's health, safety, and welfare.<sup>16</sup>

The division is required, upon proper finding, to immediately issue an order to close a licensed public food service establishment in the instance of a severe and immediate public health or safety or welfare threat.<sup>17</sup>

### ***Commissary Services Registry***

The DBPR defines the term "commissary" to mean "a licensed public food service establishment, which is utilized by an MFDV for the purpose of providing all required support services, including potable water and wastewater disposal that are not available on the mobile food dispensing vehicle."<sup>18</sup>

Operators of public food service establishments that provide commissary services are required to maintain a daily registry verifying that each MFDV that receives such services is properly licensed. Each MFDV operator must permanently affix in a prominent place on the side of the vehicle, in figures at least 2 inches high and in contrasting colors from the background, the

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<sup>12</sup> Fla. Admin. Code R. 61C-1.002(5)(c); *See also* Florida Department of Business and Professional Regulation, *Division of Hotels and Restaurants – Guide to Mobile Food Dispensing Vehicles*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/licensing/mfdv-guide/> (last visited March 24, 2023).

<sup>13</sup> *See* Fla. Admin. Code R. 61C-1.008(4).

<sup>14</sup> Fla. Admin. Code R. 61C-1.008(4)(a)1.

<sup>15</sup> Fla. Admin. Code R. 61C-1.002(3).

<sup>16</sup> Section 509.032(2)(b), F.S.

<sup>17</sup> Section 509.035, F.S.

<sup>18</sup> Fla. Admin. Code R. 61C-1.001(8).

operator's public food service establishment license number. Prior to providing commissary services, each public food service establishment must verify that the license number displayed on the vehicle matches the number on the vehicle operator's public food service establishment license.<sup>19</sup>

### ***Mobility Requirements***

"Permanent nonseating establishments" are described in current law as "fixed public food service establishments for which the sole service provided is intended as take-out or delivery, or which do not otherwise provide accommodations for consumption of food by guests on the premises, or premises under the control of the operator."<sup>20</sup>

MFDVs are described in current law as "mounted public food service establishments which are self-propelled or otherwise movable from place to place..."<sup>21</sup> The DBPR's Guide to Mobile Food Establishments (guide) provides that an MFDV license is a vehicle mounted food service license where the vehicle has adequate hand washing and dishwashing facilities, food protection, refrigeration, power and plumbing systems. The guide indicates that an MFDV operator performs food service activities inside the vehicle like food storage, cooking or preparation of food and dishwashing.<sup>22</sup>

One of the requirements for obtaining an MFDV license is that the licensed location be a vehicle and for the vehicle to be mobile.<sup>23</sup> In order to be mobile, the DBPR requires "a side photograph of the vehicle showing its wheels and open service window must be submitted at time of application."<sup>24</sup>

### **Preemption**

The regulation of public food service establishments is preempted to the state. This preemption does not affect the authority of a local government or local enforcement district to conduct inspections for compliance with the Florida Building Code and the Florida Fire Prevention Code.<sup>25</sup>

The regulation of MFDVs is also preempted to the state. A municipality, county, or other local government entity may not:<sup>26</sup>

- Require a separate license, registration, or permit beyond those established by the DBPR as a condition for the MFDV's operation within the jurisdiction;
- Require a separate fee beyond those established by the DBPR as a condition for the MFDV's operation within the jurisdiction; or
- Prohibit MFDVs from operating within the entirety of the entity's jurisdiction.

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<sup>19</sup> Section 509.101(3), F.S.

<sup>20</sup> Fla. Admin. Code R. 61C-1.002(5)(a)1.

<sup>21</sup> Fla. Admin. Code R. 61C-1.002(5)(a)2.

<sup>22</sup> *Supra* note 12.

<sup>23</sup> Fla. Admin. Code R. 61C-1.002(5)(a)2.

<sup>24</sup> *Id.*

<sup>25</sup> Section 509.032(7), F.S.

<sup>26</sup> Section 509.102, F.S.



The preemption for the regulation of MFDVs does not apply to any port authority, aviation authority, airport, or seaport.<sup>27</sup>

### Temporary Kitchens

Temporary kitchens are kitchen facilities that are typically used when fixed kitchens are unavailable, e.g., have been damaged by a fire, or when a fixed kitchen is being refurbished, when extra kitchen space is needed, and for catering at events.<sup>28</sup> Providers of temporary kitchens also market these kitchens for rent after a natural disaster, such as a hurricane.<sup>29</sup>

Temporary kitchens are contained in a variety of modular structures, such as portable cabin structures, modular buildings, towed trailers, or standard freight containers.<sup>30</sup>

A temporary kitchen is a “public food service establishment” as defined in s. 509.013(5)(a), F.S., and is therefore subject to regulation by the division.

### Ghost Kitchens

Ghost kitchens, also known as virtual restaurants, are shared commercial kitchens that do not have a public-facing storefront and only offer food for delivery. Customers of ghost kitchens typically do not know the location where the food is prepared. Ghost kitchens became popular in 2020 during the COVID-19 pandemic, when restaurants were shut down due to restrictions, or business volume slowed significantly. Some traditional restaurants also use ghost kitchens for delivery-only sales.<sup>31</sup>

The food code may be used to regulate ghost kitchen establishments. However, while the food code specifically references mobile food establishments, it does not reference ghost kitchens or similar locations or structures.

## III. Effect of Proposed Changes:

The bill amends s. 509.101(3), F.S., to require operators of public food service establishments who provide commissary services to temporary commercial kitchens to maintain a registry to verify that each temporary commercial kitchen that receives such services is properly licensed, and requires operators of temporary commercial kitchens to properly display their public food service establishment license number. The bill applies to temporary commercial kitchens the

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

<sup>28</sup> The Caterer, *Temporary kitchens: Everything you need to know*, Nov. 24, 2004, <https://www.thecaterer.com/news/foodservice/temporary-kitchens-everything-you-need-to-know> (last visited March 24, 2023).

<sup>29</sup> Mobile Kitchens USA, *Affected by a Natural Disaster? Mobile Kitchens USA Can Help*, <https://mobilekitchens.com/2018/04/05/affected-by-a-natural-disaster-mobile-kitchens-usa-can-help/> (last visited March 24, 2023).

<sup>30</sup> *Id.* See also U.S. Mobile Kitchens, *Temporary Kitchens*, at: <https://www.usmobilekitchens.com/mobile-kitchens/temporary-kitchens> (last visited March 24, 2023).

<sup>31</sup> Eater, *Ghost Kitchens Are the Wave of the Future. But Is That a Good Thing?*, Nov. 9, 2020, <https://www.eater.com/21540765/ghost-kitchens-virtual-restaurants-covid-19-industry-impact> (last visited March 24, 2023).

same the requirements that currently apply to commissary services for MFDVs under current law.

The bill amends s. 509.102, F.S., to apply the same requirements to temporary commercial kitchens that apply to MFDVs under current law.

The bill creates s. 509.102, F.S., to define the term “temporary commercial kitchen” to mean “any kitchen that is a public food service establishment, used for the preparation of takeout or delivery-only meals housed in portable structures that are movable from place to place by a tow or are self-propelled or otherwise axle-mounted, that include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.” The term does not include a tent.<sup>32</sup>

Under the bill, temporary commercial kitchens are subject to regulation under ch. 509, F.S.

The bill preempts the regulation for licenses, registrations, permits, and fees for temporary commercial kitchens to the state. Under the bill, local governments may not:

- Require a separate license, registration, or permit beyond those established by the DBPR as a condition for the temporary commercial kitchen’s operation within the jurisdiction;
- Require a separate fee beyond those established by the DBPR as a condition for the temporary commercial kitchen’s operation within the jurisdiction; or
- Prohibit temporary commercial kitchens from operating within the entirety of the entity’s jurisdiction.

The bill provides that an MFDV “or temporary commercial kitchen that is operated on the same premises as and by a separately licensed public food service establishment may operate during the same hours of operation as the separately licensed public food service establishment that operates such mobile food dispensing vehicle or temporary commercial kitchen.” This provision may permit a licensed public food service establishment to operate a separately licensed MFDV or a temporary commercial kitchen at the same location and for the same hours as the public food service establishment.

The bill clarifies that local governments’ authority regulate the operation of temporary commercial kitchens is not affected, except as described in the preemption.

The bill takes effect July 1, 2023.

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

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

None.

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<sup>32</sup> In pertinent part, the term “tent” means “a collapsible shelter of fabric (such as nylon or canvas) stretched and sustained by poles and used for camping outdoors or as a temporary building.” See Merriam-Webster.com, *tent*, <https://www.merriam-webster.com/dictionary/tent> (last visited March 24, 2023).

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The DBPR anticipates an indeterminate fiscal impact for the bill.<sup>33</sup> The division considers temporary commercial kitchens to be in the same classification as mobile food delivery vehicles, but if temporary kitchens are classified by the division under another classification, the division anticipates an indeterminate increase in license fees.<sup>34</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:*****Distinguishing MFDVs and Temporary Commercial Kitchens***

A mobile food delivery vehicle (food truck or MFDV) is defined as:<sup>35</sup>  
...any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-

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<sup>33</sup> See Department of Business and Professional Regulation, *2023 Agency Legislative Bill Analysis for HB 415* (Jan. 24, 2023) (on file with the Senate Regulated Industries Committee).

<sup>34</sup> *Id.*

<sup>35</sup> Section 509.032, F.S., and Fla. Admin. Code R. 61C-1.002.

contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

The bill defines temporary commercial kitchen as:

...any kitchen that is a public food service establishment, used for the preparation of takeout or delivery-only meals housed in portable structures that are movable from place to place by a tow or are self-propelled or otherwise axle mounted, that include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Under the bill, the primary distinction between an MFDV and a temporary commercial kitchen is that a temporary commercial kitchen prepares food for takeout or delivery-only and it may be a portable structure that can be towed. Otherwise, it is not clear that an MFDV may not also qualify as a temporary commercial kitchen because an MFDV must be self-propelled and is necessarily axle-mounted, i.e., it moves on wheels connected to an axle,<sup>36</sup> and must include the same self-contained utilities as a temporary commercial kitchen.

The term “temporary” in “temporary commercial kitchen” may relate to the length of time that a location is used as a commercial kitchen, to the kitchen’s mobility, or to the impermanence of the kitchen’s structure, but there is no time limit in the bill.

### ***Local Pilot Programs***

The City of Miami has created a pilot program to regulate “mobile operating units.” The term “mobile operation unit” is defined by the city as a “movable stand, cart, vehicle, truck, van, or trailer through which mobile operations are performed on a parking lot site or on vacant land.” The term “delivery food vehicle” is defined as “any vehicle used as or in conjunction with a mobile operation unit operating with app-based meal production for delivery only to be consumed off-premises.”<sup>37</sup> The regulations require the mobile operating units to refrain from providing on-site takeout or dine-in service.

Mobile operating units are required to obtain city business tax receipts and a “peddler’s permit.” The ordinance provides restrictions for food truck gatherings, such as prohibiting their operation in certain zones. It also requires a site plan survey indicating the general placement of a food truck. Violations are punishable by a fine of \$250 for a first offense and \$500 for each subsequent offense.<sup>38</sup> The pilot program was renewed on March 24, 2022, for a second year.<sup>39</sup>

It is not clear whether the ordinance is applicable to temporary commercial kitchens.

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<sup>36</sup> See Merriam-Webster.com, *axle*, <https://www.merriam-webster.com/dictionary/axle> (last visited March 24, 2023).

<sup>37</sup> City of Miami Ordinance s. 31-51(h), [https://library.municode.com/fl/miami/codes/code\\_of\\_ordinances?nodeId=PTIITHCO\\_CH31LOBUTAMIBURE\\_ARTIIOBUTABT\\_S31-51FOTROPRLA](https://library.municode.com/fl/miami/codes/code_of_ordinances?nodeId=PTIITHCO_CH31LOBUTAMIBURE_ARTIIOBUTABT_S31-51FOTROPRLA) (last visited March 24, 2023).

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

<sup>39</sup> City of Miami, City Commission Agenda March 24, 2022, <http://miamifl.igm2.com/Citizens/FileOpen.aspx?Type=15&ID=2611&Inline=True> (last visited March 24, 2023).

The City of Orlando has adopted a similar pilot program.<sup>40</sup>

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 509.101 and 509.102.

## IX. Additional Information:

### A. Committee Substitute – Statement of Changes:

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

#### **CS by Regulated Industries on March 7, 2023:**

The CS includes temporary commercial kitchens in the requirements:

- For public food service establishments who provide commissary services to temporary commercial kitchens. Currently, these requirements only apply to commissary services provided to mobile food dispensing vehicles (food trucks);
- For food trucks, including the preemption of regulation to the state.

The CS also:

- Permits a food truck or temporary commercial kitchen to operate on the same premises as and by a separately licensed public food service establishment may operate during the same hours of operation as the separately licensed public food service establishment that operates such mobile food dispensing vehicle or temporary commercial kitchen; and
- Removes the requirement that the Division of Hotels and Restaurants adopt rules regulating temporary commercial kitchens.

### B. Amendments:

None.

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

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<sup>40</sup> The Community Paper, *Ghost kitchens pilot program passed by the City*, <https://www.yourcommunitypaper.com/articles/ghost-kitchens-pilot-program-passed-by-city/> (last visited March 24, 2023).



892746

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Commerce and Tourism (Calatayud) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete line 77

and insert:

(3)(a) A temporary commercial kitchen may be used in conjunction with a permanent food service establishment licensed under this chapter for the purpose of supplementing the kitchen operations of the licensed permanent food service establishment. A temporary commercial kitchen may operate in this capacity on the premises of the licensed permanent food service

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11 establishment for 60 consecutive days. Upon request of the  
12 operators of a temporary commercial kitchen, the division may  
13 grant a one extension of up to 60 additional consecutive days.  
14 If the temporary commercial kitchen is needed to supplement the  
15 kitchen services of the licensed permanent food service  
16 establishment during a period of renovation or repair, the  
17 division may exercise discretion to grant an additional  
18 extension of time upon a reasonable and reliable demonstration  
19 by the licensed permanent food service establishment that  
20 additional time is needed to complete the renovation or repair.  
21 (b) If a licensed permanent food service establishment  
22 licensed under this chapter, or the land upon which that  
23 establishment is sited, is rendered uninhabitable due to a  
24 natural disaster that is the subject of a declared state of  
25 emergency, a temporary commercial kitchen may operate in a  
26 location on or as near the location of the permanent licensed  
27 food service establishment as reasonably practicable. A  
28 temporary commercial kitchen may operate in this capacity only  
29 during the period of repair and rebuilding of the permanent  
30 establishment. The operators of a temporary commercial kitchen  
31 operating in this capacity must notify the division of the  
32 kitchens location and renew the notification every 90 days.  
33 (c) Except as authorized under paragraphs (a) and (b), a  
34 temporary commercial kitchen may not operate in one location for  
35 longer than 30 consecutive days. The operators of a temporary  
36 commercial kitchen must notify the division within 24 hours  
37 after commencing operation in a location.  
38 (4) ~~(3)~~ This section may not be construed to affect a  
39

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===== DIRECTORY CLAUSE AMENDMENT =====

And the directory clause is amended as follows:

Delete lines 38 - 39

and insert:

Section 2. Present subsections (3) and (4) of section 509.102, Florida Statutes, are redesignated as subsections (4) and (5), a new subsection (3) is added to that section, and subsection (1) and present subsection (3) of that section are amended, to read:

===== TITLE AMENDMENT =====

And the title is amended as follows:

Delete line 13

and insert:

to operate during certain hours; authorizing temporary commercial kitchens to be used in conjunction with licensed permanent food service establishments for specified purposes; authorizing such operation for specified timeframes; authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to grant extensions; requiring a temporary commercial kitchen to notify the division within a specified timeframe of commencing operation; providing

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577-03014-23

By the Committee on Regulated Industries; and Senator Calatayud

580-02343-23

2023752c1

A bill to be entitled

An act relating to temporary commercial kitchens; amending s. 509.101, F.S.; requiring operators of public food service establishments who provide commissary services to maintain a temporary commercial kitchen registry; requiring temporary commercial kitchen operators to display license numbers; amending s. 509.102, F.S.; defining the term "temporary commercial kitchen"; preempting regulation of temporary commercial kitchens to the state; authorizing mobile food dispensing vehicles and temporary commercial kitchens in specified locations to operate during certain hours; providing construction; providing an effective date.

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

Section 1. Subsection (3) of section 509.101, Florida Statutes, is amended to read:

509.101 Establishment rules; posting of notice; food service inspection report; maintenance of guest register; mobile food dispensing vehicle registry.—

(3) It is the duty of each operator of a public food service establishment that provides commissary services to maintain a daily registry verifying that each mobile food dispensing vehicle or temporary commercial kitchen that receives such services is properly licensed by the division. In order that such licensure may be readily verified, each mobile food dispensing vehicle operator or temporary commercial kitchen

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

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operator shall permanently affix in a prominent place on the side of the vehicle or kitchen, in figures at least 2 inches high and in contrasting colors from the background, the operator's public food service establishment license number. Prior to providing commissary services, each public food service establishment must verify that the license number displayed on the vehicle or kitchen matches the number on the vehicle or kitchen operator's public food service establishment license.

Section 2. Subsections (1), (2), and (3) of section 509.102, Florida Statutes, are amended to read:

509.102 Mobile food dispensing vehicles; temporary commercial kitchens; preemption.—

(1) (a) As used in this section, the term "mobile food dispensing vehicle" means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(b) As used in this section, the term "temporary commercial kitchen" means any kitchen that is a public food service establishment, used for the preparation of takeout or delivery-only meals housed in portable structures that are movable from place to place by a tow or are self-propelled or otherwise axle-mounted, that include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal. Such kitchens are subject to all provisions of this chapter except as may be provided herein. The term does not include a tent.

(2) (a) Regulation of mobile food dispensing vehicles, and

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

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59 temporary commercial kitchens, involving licenses,  
60 registrations, permits, and fees is preempted to the state. A  
61 municipality, county, or other local governmental entity may not  
62 require a separate license, registration, or permit other than  
63 the license required under s. 509.241, or require the payment of  
64 any license, registration, or permit fee other than the fee  
65 required under s. 509.251, as a condition for the operation of a  
66 mobile food dispensing vehicle or temporary commercial kitchen  
67 within the entity's jurisdiction. A municipality, county, or  
68 other local governmental entity may not prohibit mobile food  
69 dispensing vehicles or temporary commercial kitchens from  
70 operating within the entirety of the entity's jurisdiction.

71 (b) Any mobile food dispensing vehicle or temporary  
72 commercial kitchen that is operated on the same premises as and  
73 by a separately licensed public food service establishment may  
74 operate during the same hours of operation as the separately  
75 licensed public food service establishment that operates such  
76 mobile food dispensing vehicle or temporary commercial kitchen.

77 (3) This section may not be construed to affect a  
78 municipality, county, or other local governmental entity's  
79 authority to regulate the operation of mobile food dispensing  
80 vehicles or temporary commercial kitchens other than the  
81 regulations described in subsection (2).

82 Section 3. This act shall take effect July 1, 2023.



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

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

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

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BILL: CS/SB 770

INTRODUCER: Committee on Commerce and Tourism and Senator Bradley

SUBJECT: Residential Loan Alternative Agreements

DATE: March 28, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Favorable</b>
2.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 770 regulates residential loan alternative agreements for the disposition of residential real property. Under the bill, a “residential loan alternative agreement” means “a signed writing between a person and a seller or owner of residential real property that grants an exclusive right to a person to act as a broker; has an effective duration, inclusive of renewals, of more than 2 years; and requires the person to pay monetary compensation to the seller or owner.”

The bill prohibits a residential loan alternative agreement from authorizing a person to place a lien or otherwise encumber any residential real property. Nor can a residential loan alternative agreement constitute a lien, an encumbrance, or a security interest in the residential real property.

Under the bill, a residential loan alternative agreement may not be enforced by a lien or constructive trust in the residential real property or upon the proceeds of the disposition (sale) of the residential real property.

The bill provides that a residential loan alternative agreement may not be assigned and becomes void if the listing services do not begin within 90 days after the execution of the agreement by both parties. The bill provides that, as a matter of public policy, a residential loan alternative agreement that does not meet these requirements is unenforceable in law or equity and may not be recorded by the clerk of the circuit court.

Additionally, the bill provides that a violation of the requirements in the bill is an unfair or deceptive trade practice within the meaning of the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), and the violator is subject to the penalties and remedies provided by FDUTPA.

The bill takes effect July 1, 2023.

## **II. Present Situation:**

### **Regulation of Real Estate Professionals**

Real estate brokers<sup>1</sup> and broker associates<sup>2</sup> (real estate professionals) are regulated by the Florida Real Estate Commission (commission) within the Department of Business and Professional Regulation (DBPR) under part I of ch. 475, F.S. The Division of Real Estate within the DBPR performs the administrative services for the commission, including recordkeeping services, examination services, legal services, and investigative services.<sup>3</sup>

#### ***Fiduciary Relationship***

Real estate brokers are in a relationship with the buyer or seller for whom they act as an agent. The duties of a broker as a fiduciary are loyalty, confidentiality, obedience, full disclosure and accounting, and the duty to use skill, care, and diligence.<sup>4</sup>

The listing agreement between the buyer or seller of real estate and a broker must be disclosed in writing in the listing agreement or other documents.<sup>5</sup>

#### ***Listing Agreements***

In an exclusive listing agreement such as the standard agreement offer by Florida Realtors, the seller authorizes the listing broker to sell the property and to offer cooperation to other agents, but the seller reserves the right to sell the property herself or himself.<sup>6</sup>

#### ***Disciplinary Provisions***

If the commission finds that a licensee, registrant, permittee, or applicant, has violated any of the disciplinary grounds in ss. 455.227, 475.25, and 475.42, F.S., the commission may:

- Deny an application for licensure, registration, or permit, or renewal thereof;
- Place a licensee, registrant, or permittee on probation;
- Suspend a license, registration, or permit for a period not exceeding 10 years;
- Revoke a license, registration, or permit;
- Impose an administrative fine not to exceed \$5,000 for each count or separate offense;

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<sup>1</sup> See s. 475.01(1)(a), F.S., defining the term “broker.”

<sup>2</sup> See s. 475.01(1)(b), F.S., defining the term “broker associate.”

<sup>3</sup> Section 475.021, F.S.

<sup>4</sup> See s. 475.278, F.S., providing the requirements for an authorized brokerage relationship in residential sales, and s. 475.01(1)(f), F.S., defining the term “fiduciary.”

<sup>5</sup> Section 475.278, F.S.

<sup>6</sup> Florida Realtors is a trade association for Florida’s real estate brokers. Members of the trade association have access to a variety of forms for use in the real estate brokerage practice. See Florida Realtors, *Form Descriptions*, available at <https://www.floridarealtors.org/tools-research/form-descriptions> (last visited Mar. 24, 2023).

- Issue a reprimand; and
- Do any or all of the foregoing actions.<sup>7</sup>

In relevant part, grounds for discipline of a real estate professional may include:

- Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession;<sup>8</sup>
- Advertising property or services in a manner that is fraudulent, false, deceptive, or misleading in form or content;<sup>9</sup> and
- Disseminating or causing to be disseminated by any means any false or misleading information for the purpose of offering for sale, or for the purpose of causing or inducing any other person to purchase, lease, or rent, real estate located in Florida or for the purpose of causing or inducing any other person to acquire an interest in the title to real estate located in Florida.<sup>10</sup>

### **Florida Deceptive and Unfair Practices Act**

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA or act)<sup>11</sup> addresses issues of consumer protection, unfair methods of competition, and unconscionable, deceptive, and unfair trade practices.<sup>12</sup> Violations of the act are enforced by the office of the state attorney if a violation occurs in or affects the judicial circuit under the office's jurisdiction. The Department of Legal Affairs is the enforcement authority if the violation occurs in or affects more than one judicial circuit or if the office of the state attorney defers to the department in writing, or fails to act upon a violation within 90 days after a written complaint has been filed with the state attorney.<sup>13</sup>

The enforcing authority may seek a declaratory judgment to determine whether an act or practice violates FDUTPA, file an action to enjoin any person who has violated, is violating, or is otherwise likely to violate the act, or take legal action on behalf of one or more consumers or governmental entities for the actual damages caused by an act or practice in violation of the act.<sup>14</sup>

The FDUTPA provides for a civil penalty of no more than \$10,000 for willful violations. The enforcing authority is also entitled to reasonable attorney's fees and costs if civil penalties are assessed in any litigation.<sup>15</sup>

### **MV Realty Case**

The Florida Attorney General has filed a complaint for injunctive and monetary relief against Florida-based real estate brokerage firm (MV Realty) and its principals for deceptive, unfair and

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<sup>7</sup> Section 475.25(1), F.S.

<sup>8</sup> Section 455.227(1)(m), F.S.

<sup>9</sup> Section 475.25(1)(c), F.S.

<sup>10</sup> Section 475.42(1)(n), F.S.

<sup>11</sup> Part II of ch. 501, F.S.

<sup>12</sup> See s. 501.202, F.S.

<sup>13</sup> Section 501.203(2), F.S.

<sup>14</sup> Section 501.207(1), F.S.

<sup>15</sup> Section 501.2075, F.S.

unconscionable business practices under the FDUTPA.<sup>16</sup> The Attorney General alleges that the practices of MV Realty “result in homeowners signing away home equity for a paltry upfront payment.”<sup>17</sup> The defendants allegedly offer homeowners \$300 to \$5,000 as a cash loan alternative in exchange for an agreement to use the MV Realty as an exclusive listing broker. After accepting the payment, MV Realty files a 40-year lien on the property that requires homeowners to pay 3 percent of the value of the home to MV Realty, regardless of whether the company provides any real estate listing services.

The Attorney General also alleges that MV Realty and the other defendants have violated the Telemarketing Sales Rule<sup>18</sup> by bombarding prospective consumers, including consumers who have registered under the national Do-Not-Call registry, with unwanted telemarketing calls and by using phone numbers that deceptively simulate local calls.<sup>19</sup>

### III. Effect of Proposed Changes:

The bill creates s. 475.279, F.S., to regulate residential loan alternative agreements.

The bill defines the term “residential loan alternative agreement” as a signed writing between a person and a seller or owner of residential real property that:

- Grants an exclusive right to a person to act as a broker;
- Has an effective duration, inclusive of renewals, of more than 2 years; and
- Requires the person to pay monetary compensation to the seller or owner.

The bill defines the term “disposition” to mean “a transfer or voluntary conveyance of the title or other ownership interest in residential real estate.” It also defines the term “residential real property” to mean “improved residential property of four units or fewer or unimproved residential real property intended for four units or fewer.”

The bill prohibits a residential loan alternative agreement from authorizing a person to place a lien or otherwise encumber any residential real property. Nor can a residential loan alternative agreement constitute a lien, an encumbrance, or a security interest in the residential real property.

Under the bill, a residential loan alternative agreement may not be enforced by a lien or constructive trust in the residential real property or upon the proceeds of the disposition (sale) of the residential real property.

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<sup>16</sup> *Office of Attorney General v. MV Realty, et al*, case no. 22-CA-009958 (Fla. 13<sup>th</sup> Jud. Cir. 2022). A copy of the civil complaint for injunctive and other relief is available at [http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CLMSK3/\\$file/Web+Link.pdf](http://myfloridalegal.com/webfiles.nsf/WF/CPAL-CLMSK3/$file/Web+Link.pdf) (last visited Mar. 24, 2023).

<sup>17</sup> Office of Attorney General Ashley Moody, *Attorney General Moody Takes Legal Action Against MV Realty for Swindling Florida Homeowners* (Nov. 29, 2022), available at <https://www.myfloridalegal.com/newsrel.nsf/newsreleases/E9E4A2F7281415CE85258909007259EC?Open&> (last visited Mar. 24, 2023).

<sup>18</sup> The Telemarketing Sales Rule, 16 C.F.R s. 310, *et seq.*, is a rule of the Federal Trade Commission (FTC) which requires telemarketers to make specific disclosures of material information; prohibits misrepresentations; sets limits on the times telemarketers may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale of certain goods and services. See FTC, *Telemarketing Sales Rule*, available at <https://www.ftc.gov/legal-library/browse/rules/telemarketing-sales-rule> (last visited Mar. 24, 2023).

<sup>19</sup> *Supra* note 17.

The bill provides that a residential loan alternative agreement may not be assigned and becomes void if the listing services do not begin within 90 days after the execution of the agreement by both parties. The bill provides that, as a matter of public policy, a listing agreement or an option to enter into a listing agreement that does not meet these requirements is unenforceable in law or equity and may not be recorded by the clerk of the circuit court.

Additionally, the bill deems a violation of s. 475.279, F.S., to be an unfair or deceptive trade practice within the meaning of FDUTPA, and provides that a person who violates this section is subject to the penalties and remedies provided FDUTPA.

The bill takes effect July 1, 2023.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 475.279 of the Florida Statutes.

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

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

**CS by Commerce and Tourism on March 27, 2023:**

The amendment regulates residential loan alternative agreements, rather than the option to enter into a listing agreement as provided in the current bill.

The amendment defines a residential loan alternative agreement as a signed writing between a person and a seller or owner of a residential property that.

- Grants an exclusive right to a person to act as a broker;
- Has an effective duration, inclusive of renewals, of more than 2 years; and
- Requires the person to pay monetary compensation to the seller or owner.

The amendment provides that a residential loan alternative agreement may not be assigned and becomes void if the listing services do not begin within 90 days after the execution of the agreement by both parties.

**B. Amendments:**

None.



559776

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
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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. Section 475.279, Florida Statutes, is created to read:  
475.279 Residential loan alternative agreements for the disposition of residential real property.-  
(1) As used in this section, the term:  
(a) "Disposition" means a transfer or voluntary conveyance

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of the title or other ownership interest in residential real property.  
(b) "Residential loan alternative agreement" means a signed writing between a person and a seller or owner of residential real property which:  
1. Grants an exclusive right to a person to act as a broker for the disposition of the property;  
2. Has an effective duration, inclusive of renewals, of more than 2 years; and  
3. Requires the person to pay monetary compensation to the seller or owner.  
(c) "Residential real property" means improved residential real property of four units or fewer or unimproved residential real property intended for four units or fewer.  
(2) A residential loan alternative agreement may not authorize a person to place a lien or otherwise encumber any residential real property. A residential loan alternative agreement may not constitute a lien, an encumbrance, or a security interest in the residential real property. A court may not enforce a residential loan alternative agreement by a lien or constructive trust in the residential real property or upon the proceeds of the disposition of the residential real property.  
(3) A residential loan alternative agreement may not be assigned.  
(4) A residential loan alternative agreement is void if listing services do not begin within 90 days after the execution of the agreement by both parties.  
(5) As a matter of public policy, a residential loan

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alternative agreement that does not meet the requirements of this section is unenforceable in law or equity. In addition, a residential loan alternative agreement may not be recorded by the clerk of the circuit court.  
(6) A violation of this section is deemed an unfair or deceptive trade practice within the meaning of part II of chapter 501, and a person who violates this section is subject to the penalties and remedies provided therein.  
Section 2. This act shall take effect July 1, 2023.

===== 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 residential loan alternative agreements; creating s. 475.279, F.S.; defining terms; specifying restrictions on residential loan alternative agreements for the disposition of residential real property; prohibiting a court from enforcing such agreements by certain means; providing that such agreements are void if listing services do not begin within a certain timeframe; providing construction; prohibiting the clerk of the circuit court from recording such agreements; providing that violations are unfair or deceptive trade practices; specifying penalties and remedies; providing an effective date.

Page 3 of 3

3/23/2023 12:53:17 PM

577-02902-23

By Senator Bradley

6-00472C-23

2023770\_\_

A bill to be entitled

An act relating to residential real estate listing agreements; creating s. 475.279, F.S.; defining terms; specifying a limitation on the term of an option to enter into a listing agreement for the disposition of residential real property; prohibiting a court from enforcing an option to enter into a listing agreement by certain means; requiring notice and a written agreement of the residential property owner before a broker may assign the option to enter into a listing agreement to another broker; providing construction; providing penalties for violations; providing an effective date.

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

Section 1. Section 475.279, Florida Statutes, is created to read:

475.279 Option to enter into a listing agreement for the disposition of residential real property.-

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

(a) "Disposition" means a transfer or voluntary conveyance of the title or other ownership interest in residential real estate.

(b) "Option to enter into a listing agreement" means a signed writing wherein a broker pays valuable consideration to a person granting the broker an exclusive right to enter into a listing agreement with the person at a future date during the term of the signed writing.

Page 1 of 2

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

6-00472C-23

2023770\_\_

(c) "Residential real property" means improved residential property of four units or fewer or unimproved residential real property intended for four units or fewer.

(2) An option to enter into a listing agreement for the disposition of residential real property may not exceed a term of 6 months.

(3) An option to enter into a listing agreement may not constitute a lien, encumbrance, or security interest in the residential real property. A court may not enforce an option to enter into a listing agreement by a lien or constructive trust in the residential real property or upon the proceeds of the disposition of the residential real property.

(4) An option to enter into a listing agreement must require notice and written agreement of the residential property owner before the broker may assign the option to enter into a listing agreement to another broker.

(5) As a matter of public policy, a listing agreement or an option to enter into a listing agreement that does not meet the requirements of this section is unenforceable in law or equity and may not be recorded by the clerk of the circuit court.

(6) A violation of this section is deemed an unfair or deceptive trade practice within the meaning of part II of chapter 501, and a person who violates this section is subject to the penalties and remedies provided therein.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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



## The Florida Senate

## APPEARANCE RECORD

SB 770

Meeting Date

Bill Number or Topic

Commerce and Tourism

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

Committee

Amendment Barcode (if applicable)

Name Beau Beaubien Phone 813-416-0723Address 101 E College Ave Email \_\_\_\_\_  
StreetTallahassee FL 32301  
City State ZipSpeaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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

S-001 (08/10/2021)

## The Florida Senate

## APPEARANCE RECORD

SB 770

Meeting Date

Bill Number or Topic

Commerce and Tourism

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

Committee

Amendment Barcode (if applicable)

Name JAMES MERRITT Phone 850-681-6422Address 249 E. Virginia St. Email Scott@FLTA.ORG  
StreetTallahassee FL 32301  
City State ZipSpeaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

3/27  
Meeting Date  
COMMERCE  
Committee

770  
Bill Number or Topic

Name LIBBY GUZZO Phone 505 245 0155  
Address PL 01 CAPITOL Email LIBBY.GUZZO@MYFLORIDATEAM.COM  
TLH FL 32399  
City State Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

ATTORNEY GENERAL

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

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

3/27/23  
Meeting Date  
Commerce and Tourism  
Committee

770  
Bill Number or Topic

Name AARP - Karen Murillo Phone 850-567-0414  
Address 215 S. Monroe St. Email kmurillo@aarp.org  
Tallahassee FL 32301  
City State Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

AARP Florida

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

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

3/27/23

Meeting Date

SB 770

Bill Number or Topic

Commerce

Committee

Amendment Barcode (if applicable)

Name

Ryan Patmintra (Per Zillow)

Phone

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

Zillow

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

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

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

S-001 (08/10/2021)

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

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

---

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

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BILL: CS/SB 1458

INTRODUCER: Commerce and Tourism Committee and Senator Yarborough

SUBJECT: Roller Skating Rink Safety

DATE: March 28, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	McKay	CM	Fav/CS
2.			JU	
3.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1458 creates s. 768.395, F.S., which provides that roller skating rink operators will not be liable to a roller skater or spectator for any damages or personal injuries resulting from the inherent risks of roller skating if certain requirements are met by the operator, which include: signage to be posted on the premises, requiring a roller skating rink supervisor or manager for every 200 skaters and the maintenance, safety, and lighting of the roller skating rink itself.

The bill does not limit the liability of any roller skating rink operator for acts of gross negligence by the operator or their employees.

The bill also provides that a roller skater assumes the inherent risks of skating at a roller skating rink. While skating at a rink, roller skaters must maintain control and awareness, obey signage, and refrain from acting in a manner that may cause or contribute to their own personal injury or the personal injury of another.

Failure by a roller skating rink operator to perform their specified duties and responsibilities constitutes negligence, and failure by a roller skater to perform their specified duties and responsibilities constitutes negligence.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Roller Skating Rinks

There are less than 50 roller skating rinks in Florida that are mostly owned by individual owners and operators.<sup>1</sup> These small business owners are currently faced with raised costs associated with real estate prices, insurance premiums, and even obtaining insurance coverage.<sup>2</sup>

Currently eleven other states have dedicated roller skating statutes including Alabama, Georgia, Illinois, Indiana, Maine, Michigan, New Jersey, North Carolina, Ohio, South Carolina, and Texas.

### Premises Liability

Premises liability refers to the duty of an individual or entity that owns or controls real property to reasonably operate and maintain such property for the safety of those who enter or remain on the property. Unlike ordinary negligence, which is based upon active negligence, a premises liability claim is based upon passive negligence; that is, a premises liability claim stems from the tortfeasor's failure to act to prevent harm to the injured party and not from any affirmative actions of the tortfeasor.<sup>3</sup>

Skating rinks are currently susceptible to such premise liability claims. Other common premises liability claims include slip and fall accidents, dog bites, trip or misstep accidents, and swimming pool accidents. As to an invitee, a landowner or possessor is liable if he/she/it:

- Negligently failed to maintain the premises in a reasonably safe condition;
- Negligently failed to correct a dangerous condition about which the defendant either knew or should have known, by the use of reasonable care; or
- Negligently failed to warn the claimant of a dangerous condition about which the defendant had, or should have had, knowledge greater than that of claimant, and if so, such negligence was a legal cause of loss, injury, or damage.<sup>4</sup>

A premises liability claim may also involve negligent security allegations, in which a person injured by a third party's criminal acts (that is, a third party's intentional tort) on another's property attempts to hold the property owner liable for failing to provide adequate security measures on the property. To prevail on a negligent security claim, the plaintiff must prove that the:

- Plaintiff was lawfully present on the defendant's property;<sup>5</sup>

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<sup>1</sup> *Florida Roller Skating Rinks*, Skating Fitness, <https://www.skatingfitness.com/Roller-Locator-Florida.htm> (last visited March 24, 2023).

<sup>2</sup> Kimberly Miller, *Palm Beach County's last roller skating rink closing its doors, with years of memories*, Palm Beach Post, <https://www.palmbeachpost.com/story/business/2022/08/18/roller-skating-rink-palm-beach-county-close-under-new-owner/10333462002/> (last visited March 24, 2023).

<sup>3</sup> *Nicholson v. Stonybrook Apts., LLC*, 154 So.3d 490 (Fla. 4th DCA 2015).

<sup>4</sup> Fla. Std. Jury Instr. 401.20 *Issues on Plaintiff's Claim — Premises Liability*.

<sup>5</sup> The only duty a property owner owes to an undiscovered trespasser is to refrain from causing intentional harm, while the only duty he or she owes to a known trespasser is to refrain from committing gross negligence or intentional harm and to warn of known dangers that are not readily observable. *Nicholson*, 154 So.3d at 492.

- Defendant had a duty to provide adequate security on the property but breached such duty;<sup>6</sup>
- Plaintiff was injured because of a third party's criminal act, which act was reasonably foreseeable to the defendant and would not have occurred but for the defendant's breach;<sup>7</sup> and
- Plaintiff incurred actual damages.<sup>8</sup>

### **Florida Has Addressed Inherently Risky Behavior Before**

As skateboarding and inline skating gained in popularity in Florida, citizens called for an increase in public skate parks and other facilities. Local government officials, however, declined to create these parks and set-aside areas out of concern for liability exposure. The 1999 Legislature addressed these concerns by providing immunity from liability for governmental entities that set aside areas for skateboarding, inline skating, and freestyle bicycling.<sup>9</sup>

Today, s. 316.0085, F.S., addresses, and considers as inherently risky, the activities of skateboarding, inline skating, paintball, and freestyle, mountain, and off-road bicycling.<sup>10</sup> According to the statute, a governmental entity, which may include a federal, state, or local governmental entity, authorizes or permits a person to engage in these inherently risky activities by posting a sign designating an area for a specific activity.<sup>11</sup> The governmental entity is generally immune from liability for damages or injuries to a person 17 years of age or older as a result of participating in an inherently risky activity. However, for a participant who is younger than 17 years of age, the governmental entity has the benefit of this limited liability only if it obtains the written consent of a parent of the child.<sup>12</sup>

Although existing law provides significant liability protections to governmental entities, a governmental entity can be held liable for damages or injuries if it:

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<sup>6</sup> Generally, a property owner has no duty to protect another person from criminal acts committed by third parties on his or her property, but such a duty may arise where a special relationship exists between the property owner and the victim or between the property owner and the third party such that the property owner has a duty to control the third party's conduct. Special relationships recognized by Florida courts include landlord-tenant, hotel-guest, employer-employee, proprietor-patron, and school-student; all involve a person who has entered upon the property of another and in so doing lost a measure of control in providing for his or her own protection. *See, Stevens v. Jefferson*, 436 So.2d 33 (Fla. 1983); *K.M. ex rel. D.M. v. Publix Super Markets, Inc.*, 895 So.2d 1114 (Fla. 4th DCA 2005); *Gross v. Fam. Servs. Agency, Inc.*, 716 So.2d 337 (Fla. 4th DCA 1998); *Salerno v. Hart Fin. Corp.*, 521 So.2d 234 (Fla. 4th DCA 1988); Restatement 2d Torts s. 315; Frederic S. Zinober, *Litigating the Negligent Security Case: Who's In Control Here?*, 44 Stetson L. Rev. 289 (2015).

<sup>7</sup> Generally, a negligent person is not liable for the damages suffered by another when some separate force or action is an intervening cause of the harm, but where the intervening cause is foreseeable, the original negligent actor may still be held liable. Thus, a negligent security claim's success often hinges on the foreseeability of the crime committed, as property owners are not expected to prevent all possible crimes which may occur on their property. Whether or not a crime was foreseeable is a question of fact, but evidence of foreseeability may include the crime rate in the premises' immediate area, whether similar crimes have previously been committed on the premises, and the nature of the property itself (in other words, is the property of a type that is likely to attract crime). *Stevens*, 436 So.2d at 34-35; *Gibson v. Avis Rent-A-Car System, Inc.*, 386 So.2d 520 (Fla. 1980); *Williams v. Office of Sec. & Intelligence, Inc.*, 509 So.2d 1282 (Fla. 3d DCA 1987).

<sup>8</sup> *Globe Sec. Systems Co. v. Mayor's Jewelers, Inc.*, 458 So.2d 828 (Fla. 3d DCA 1984).

<sup>9</sup> Chapter 99-133, L.O.F., expressly recognizes "that governmental owners or lessees of property have failed to make property available for [skateboarding, inline skating, and freestyle bicycling] because of the exposure to liability from lawsuits and the prohibitive cost of insurance, if insurance can be obtained for such activities."

<sup>10</sup> Section 316.0085(2)(b), F.S.

<sup>11</sup> Section 316.0085(2)(a) and (3), F.S.

<sup>12</sup> Section 316.0085(3), F.S.

- Fails to warn of a dangerous condition which a participant cannot reasonably be expected to notice; or
- Commits gross negligence that is the proximate cause of a participant's injury.<sup>13</sup>

Additionally, s. 316.0085, F.S., does not limit the liability of individuals who are negligent while participating in an inherently dangerous activity. A participant is negligent if he or she fails to:

- Act within the limits of his or her ability and the purpose and design of the equipment used;
- Remain in control of his or her equipment and himself or herself; or
- Refrain from acting in a way that may cause or contribute to death or injury of himself or herself or others.<sup>14</sup>

### **Assumption of Inherent Risks**

A person is ordinarily liable for their torts committed. However, liability can be avoided through the tort law concept, assumption of risk. Assumption of risk is a concept that can reduce or eliminate the amount that a plaintiff is entitled to recover.<sup>15</sup> There are two primary ways that assumption of risk can be established, through informed participation (implied) or through verbal or written contractual assumption of risk agreements (express).

Where the plaintiff's conduct is properly characterized as implied assumption of the risk, the plaintiff's conduct must be evaluated by the jury under the principles of comparative negligence.<sup>16</sup> For express assumption of risk to be valid, either by contract or by voluntary participation in an activity, it must be clear that the plaintiff understood that plaintiff was assuming the particular conduct by which the defendant caused the plaintiff's injury.<sup>17</sup>

A minor ordinarily is liable for personal torts directly committed by the minor that are not connected with and do not arise out of contracts,<sup>18</sup> and likewise, a mentally incompetent person is ordinarily responsible for his or her own torts.<sup>19</sup>

### **Waiver of Claims on Behalf of Minor Children**

Section 744.301(3), F.S., authorizes natural guardians,<sup>20</sup> on behalf of any of their minor children, to waive and release, in advance, any claim or cause of action against a commercial activity

<sup>13</sup> Section 316.0085(5), F.S.

<sup>14</sup> Section 316.0085(7)(b), F.S.

<sup>15</sup> *Gorday v. Faris*, 523 So. 2d 1215 (Fla. 1st DCA 1988); *Hall v. Holton*, 330 So. 2d 81 (Fla. 2d DCA 1976); *Parker v. Maule Industries, Inc.*, 321 So. 2d 106 (Fla. 1st DCA 1975), decision approved, 348 So. 2d 287 (Fla. 1977); *Rea v. Leadership Housing, Inc.*, 312 So. 2d 818 (Fla. 4th DCA 1975), decision approved, 348 So. 2d 287 (Fla. 1977).

<sup>16</sup> 38 Fla. Jur 2d Negligence § 118.

<sup>17</sup> 38 Fla. Jur 2d Negligence § 110.

<sup>18</sup> Fla. Jur. 2d, Family Law § 549.

<sup>19</sup> Fla. Jur. 2d, Incompetent and Incapacitated Persons § 47.

<sup>20</sup> The parents jointly are the natural guardians of their own children and of their adopted children, during minority, unless the parents' parental rights have been terminated. If a child is the subject of any proceeding under chapter 39, the parents may act as natural guardians under this section unless the court division with jurisdiction over guardianship matters finds that it is not in the child's best interests. If one parent dies, the surviving parent remains the sole natural guardian even if he or she remarries. If the marriage between the parents is dissolved, the natural guardianship belongs to the parent to whom sole parental responsibility has been granted, or if the parents have been granted shared parental responsibility, both continue as natural guardians. If the marriage is dissolved and neither parent is given parental responsibility for the child, neither may act

provider, or its owners, affiliates, employees, or agents, which would accrue to a minor child for personal injury, including death, and property damage resulting from an inherent risk<sup>21</sup> in the activity. If a waiver or release complies with all of the requirements under s. 744.301, F.S., there is a rebuttable presumption that the waiver or release is valid, and a claimant must demonstrate by a preponderance of the evidence that the waiver or release does not comply with s. 744.301, F.S.

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

#### **Requirements for Skating Rink Operators**

The bill limits liability for skating rink operators unless they fail to meet certain requirements:

- Conspicuously post in at least three areas on the premises, the responsibilities of roller skaters and spectators under subsections 5 and 6;
- Maintain the stability and legibility of all signs, symbols, and posted notices;
- Have at least one roller skating rink supervisor or manager on duty for every 200 skaters when the roller skating rink is open for business;
- Maintain the skating surface in a reasonably safe condition and clean and inspect the skating surface before each skating session;
- Ensure that all coverings on risers are securely fastened in roller skating rinks with step-up or step-down skating surfaces;
- Install and regularly inspect fire extinguishers;
- Inspect emergency lights at least quarterly to ensure the lights are in proper working order;
- Keep exit lights and service area lights on when skating surface lights are turned off during a skating session;
- Inspect and maintain in good mechanical condition roller skating equipment that the operator leases or rents to roller skaters;
- Comply with all applicable state and local safety codes; and
- Take reasonable action to correct a dangerous condition that is known or reasonably should have been known.

Failure to perform these specified duties and responsibilities constitutes negligence. An operator is liable for personal injuries or damages caused by an act of gross negligence by the operator or his or her employees.

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as natural guardian of the child. The mother of a child born out of wedlock is the natural guardian of the child and is entitled to primary residential care and custody of the child unless the court enters an order stating otherwise. *See* 744.301(1), F.S.

<sup>21</sup> The term “inherent risk” means those dangers or conditions, known or unknown, which are characteristic of, intrinsic to, or an integral part of the activity and which are not eliminated even if the activity provider acts with due care in a reasonably prudent manner. The term includes, but is not limited to: (1) The failure by the activity provider to warn the natural guardian or minor child of an inherent risk; and (2) The risk that the minor child or another participant in the activity may act in a negligent or intentional manner and contribute to the injury or death of the minor child. A participant does not include the activity provider or its owners, affiliates, employees, or agents. *See* s. 744.301(3)(a), F.S.



**Requirements for Roller Skater or Spectator**

The bill creates an assumption of the risk for roller skaters and spectators at a roller skating rink. Operators will not be responsible to roller skaters or spectators for the inherent risks associated with roller skating. Roller skaters and spectators will be deemed to be negligent if they do not meet the following requirements:

- Maintain reasonable control of his or her speed and direction of travel at all time;
- Heed all posted signs and warnings;
- Maintain a proper awareness to avoid other roller skaters and objects;
- Accept responsibility for knowing the range of their own abilities to negotiate the intended direction of travel while roller skating and to skate within the limits of that ability; and
- Refrain from acting in a manner that may cause or contribute to his or her own personal injury or the personal injury of another person.

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

None identified.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

This bill could potentially limit lawsuits against roller skating rinks.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 768.395 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 Committee on March 27, 2023:**

The committee substitute provides that in order to be covered by the limitation on liability, a roller skating rink operator must take reasonable action to correct a dangerous condition that is known or reasonably should have been known.

- B. **Amendments:**

None.



897286

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/24/2023	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete line 69  
and insert:  
(c) Have at least one roller skating rink supervisor or



903660

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

**Senate Amendment**

Between lines 89 and 90  
insert:  
(1) Take reasonable action to correct a dangerous condition that is known or reasonably should have been known.

By Senator Yarborough

4-00716A-23

20231458\_\_

A bill to be entitled

An act relating to roller skating rink safety; creating s. 768.395, F.S.; providing legislative findings; defining terms; providing that an operator of a roller skating rink is not liable for damages or personal injury resulting from inherent risks of roller skating; providing exceptions; providing that certain persons assume the inherent risk of roller skating; providing that an operator is not required to eliminate, alter, or control the inherent risks in roller skating; establishing the responsibilities of roller skaters; providing that failure to take certain actions or comply with certain responsibilities constitutes negligence; providing an effective date.

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

Section 1. Section 768.395, Florida Statutes, is created to read:

768.395 Roller skating rink safety.—

(1) This section may be cited as the "Roller Skating Rink Safety Act."

(2) (a) The Legislature finds that the recreational activity of roller skating is practiced by a large number of residents of the state, roller skating is a wholesome and healthy family activity that should be encouraged, and the allocation of risks and costs of roller skating is an important matter of public policy.

(b) The Legislature further finds that owners of roller

Page 1 of 5

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

4-00716A-23

20231458\_\_

skating rinks face great difficulty in obtaining liability insurance coverage at an affordable cost and that the lack of affordable insurance coverage affects not only owners of roller skating rinks, but also persons who may suffer personal injuries or property damages as a result of accidents that occur on the premises of a roller skating rink. In order to make it more economically feasible for insurance companies to provide coverage to roller skating rinks at an affordable rate to the owners, occurrences resulting in liability to owners should be more predictable by limiting the liability that may be incurred by the owners and encouraging the development and implementation of risk reduction techniques. This section shall be liberally construed to carry out the purposes of this section.

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

(a) "Inherent risk" means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of the activity of roller skating.

(b) "Operator" means a person or entity that owns, manages, controls, directs, or has operational responsibility for a roller skating rink.

(c) "Roller skater" means a person who participates in the activity of roller skating while in a roller skating rink.

(d) "Roller skating rink" means a building, facility, or premises that provides an area specifically designed to be used for roller skating.

(e) "Spectator" means a person in a roller skating rink whose participation is limited to observing the activity of roller skating.

(4) An operator is not liable to a roller skater or

Page 2 of 5

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

4-00716A-23 20231458\_\_

spectator for any damages or personal injury resulting from the inherent risks of roller skating.

(5) This section does not limit liability that would otherwise exist if the operator fails to:

(a) Conspicuously post in at least three areas on the premises, the responsibilities of roller skaters and spectators under subsection (6) and the duties of the operator under this subsection.

(b) Maintain the stability and legibility of all signs, symbols, and posted notices required by this section.

(c) Have as least one roller skating rink supervisor or manager on duty for every 200 skaters when the roller skating rink is open for business.

(d) Maintain the skating surface in a reasonably safe condition and clean and inspect the skating surface before each skating session.

(e) Maintain in good condition the railings, kickboards, and walls surrounding the skating surface.

(f) Ensure that all coverings on risers are securely fastened in roller skating rinks with step-up or step-down skating surfaces.

(g) Install and regularly inspect fire extinguishers.

(h) Inspect emergency lights at least quarterly to ensure the lights are in proper working order.

(i) Keep exit lights and service area lights on when skating surface lights are turned off during a skating session.

(j) Inspect and maintain in good mechanical condition roller skating equipment that the operator leases or rents to roller skaters.

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(k) Comply with all applicable state and local safety codes.

(6) (a) A roller skater or spectator at a roller skating rink assumes the inherent risks in the activity of roller skating irrespective of age, and is legally responsible for all damages and injury to himself or herself or other persons or property which result from this activity. An operator is not required to eliminate, alter, or control the inherent risks in this activity.

(b) While engaging in the activity of roller skating at a roller skating rink, a roller skater must:

1. Maintain reasonable control of his or her speed and direction of travel at all times.

2. Heed all posted signs and warnings.

3. Maintain a proper awareness to avoid other roller skaters and objects.

4. Accept the responsibility for knowing the range of his or her own ability to negotiate the intended direction of travel while roller skating and to skate within the limits of that ability.

5. Refrain from acting in a manner that may cause or contribute to his or her own personal injury or the personal injury of another person.

(7) (a) This section does not limit the liability of an operator for personal injuries or damages caused by an act of gross negligence by the operator or his or her employees.

(b) Failure of an operator to take the actions described in subsection (5) or a roller skater to comply with paragraph

(6) (b) constitutes negligence.

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Section 2. This act shall take effect July 1, 2023.

The Florida Senate  
**APPEARANCE RECORD**

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

Meeting Date 3/27/23 Bill Number or Topic 1458  
Commerce 903660  
Committee  
Name Bobby Bentley Phone 850-207-5502  
Address 2607 E. Olive Rd. Email rbentley2607@yahoo.com  
Street  
City Pensacola, FL State FL Zip 32514

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

Roller Skating Assoc

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

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The Florida Senate  
**APPEARANCE RECORD**

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

Meeting Date 3-27-23 Bill Number or Topic SB 1458  
COMMUNITY AFFAIRS 903660  
Committee  
Name LAURA YOUNANS Phone 850-294-1838  
Address 218 S. MONROE ST. Email LYOUNANS@MYFJA.ORG  
Street  
City TAL. State FL Zip 32301

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing: FLORIDA  
JUSTICE  
ASSOCIATION

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

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S-001 (08/10/2021)

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**APPEARANCE RECORD**

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3/27/23

Meeting Date

Commerce

Committee

1458

Bill Number or Topic

Name

Bobby Bentley

Phone

850. 207. 5502

Address

2607 E. Olive Rd.

Email

rbentley2607@yahoo.com

Street

Rensselaer, FL 32544

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

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compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

Roller Skating Assoc.

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S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

Meeting Date

Commerce

Committee

1458

Bill Number or Topic

Name

Alicia Caridi

Phone

815. 899. 1801

Address

201 E. Kennedy Blvd, #110

Email

amcaridi@ndwccg.com

Street

Tampa FL 33602

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

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

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

S-001 (08/10/2021)



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

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

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

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BILL: SB 442

INTRODUCER: Senators Gruters and Hooper

SUBJECT: Secondhand Dealers

DATE: March 24, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	<b>Favorable</b>
2.			JU	
3.			RC	

---

## **I. Summary:**

SB 442 amends the definition of “secondhand goods” to exclude money; gold bullion, silver bullion, platinum bullion, palladium bullion, or rhodium bullion if such bullion has been assayed and is properly marked as to its weight and fineness. The bill removes coins from the list of items which are expressly excluded from the definition of “secondhand goods.”

The bill takes effect July 1, 2023.

## **II. Present Situation:**

Chapter 538, F.S., regulates secondhand dealers and secondary metal recyclers in the trade of secondhand goods. A secondhand dealer is defined as any person, corporation, or other business organization or entity that is not a secondary metals recycler and is engaged in the business of purchasing, consigning, or trading secondhand goods. The term also includes a secondhand dealer engaged in purchasing secondhand goods by means of an automated kiosk.<sup>1</sup>

Secondhand goods are previously owned or used personal property that is purchased, consigned, or traded as used property. The term also includes gift certificates and credit memos<sup>2</sup> which are purchased, consigned, or traded by a secondhand dealer. Secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number.<sup>3</sup>

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<sup>1</sup> Section 538.03(1)(h), F.S.

<sup>2</sup> Section 501.95, F.S., defines “credit memo” as a certificate, card, stored value card, or similar instrument issued in exchange for returned merchandise when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction.

<sup>3</sup> Section 538.03(1)(i), F.S.

A secondhand dealer must annually register his or her business with the Department of Revenue.<sup>4</sup>

Upon each acquisition of secondhand goods, a secondhand dealer must complete a transaction form that details the goods purchased and the seller's identity. The secondhand dealer must retain this document for at least three years and forward a copy to the appropriate law enforcement agency within 24 hours after the acquisition of the secondhand goods.<sup>5</sup> In addition to the descriptive statements of the secondhand goods and the seller's identity, the transaction record must also include:

- A statement of the date, time, and place of the transaction;
- A summary of the goods acquired, including brand name, model number, serial number, and other unique identifiers;
- Digital photographs of the goods acquired in the report that is submitted to law enforcement; and
- A description of the person from whom the goods were acquired, including his or her right thumbprint, name and address, and a physical description.<sup>6</sup>

Secondhand dealers are required to hold all secondhand goods for at least 15 days after they acquire the property. However, secondhand dealers are required to hold a precious metal,<sup>7</sup> gemstone, jewelry; antique furnishings, fixtures, or decorative objects; or an item of art as defined in s. 686.501, F.S.,<sup>8</sup> within 30 days after they acquire the property.<sup>9</sup> Additionally, a secondhand good must be held for 30 days if the secondhand dealer uses an automated kiosk.<sup>10</sup>

If a law enforcement officer has probable cause to believe that the goods held by a secondhand dealer are stolen, the officer may place a 90-day written hold order on the goods. This prevents the secondhand dealer from selling the goods and preserves them for use as evidence in a criminal trial.<sup>11</sup> Additionally, this allows for the possibility of the goods to be returned to their rightful owner.

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<sup>4</sup> Section 538.09, F.S.

<sup>5</sup> Section 538.04(1), F.S.

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

<sup>7</sup> Section 538.03(1)(f), F.S., defines "precious metals" as any item containing any gold, silver, or platinum, or any combination thereof, excluding any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

<sup>8</sup> Section 686.501, F.S., defines "art" as a painting, sculpture, drawing, work of graphic art, pottery, weaving, batik, macramé, quilt, print, photograph, or craft work executed in materials including, but not limited to, clay, textile, paper, fiber, wood, tile, metal, plastic, or glass. The term includes a rare map which is offered as a limited edition or a map 80 years old or older; or a rare document or rare print which includes, a print, engraving, etching, woodcut, lithograph, or serigraph which is offered as a limited edition, or one 80 years old or older.

<sup>9</sup> Section 538.06(1), F.S.

<sup>10</sup> Section 538.03(1)(c), F.S., defines an "automated kiosk" as an interactive device that is permanently installed within a secure retail space and that has the following technological functions: remotely monitored by a live representative during all business hours; verification of a seller's identity by government-issued photographic identification card; automated reading and recording of item serial numbers; ability to compare item serial numbers against databases of stolen items; secure storage of goods accepted by the kiosk; and capture and storage of images during the transaction.

<sup>11</sup> Section 538.06(3), F.S.

Law enforcement agencies with jurisdiction enforce compliance with registration, record keeping, holding periods, and inspection requirements.<sup>12</sup> A person who knowingly violates the requirements governing secondhand dealers in ch. 538, F.S., commits a first degree misdemeanor, punishable by up to 1 year in jail and a \$10,000 fine.<sup>13</sup>

### **Methods for Return of Stolen Goods held by a Secondhand Dealer**

A victim of a theft may recover his or her goods, or their value, through one of three methods:

- A victim may purchase his or her items back from the secondhand dealer, and then file a civil action against the thief for reimbursement of the cost expended.
- A court may order restitution or return of the goods to the secondhand dealer or victim of the crime.<sup>14</sup> If the court orders return of the goods or restitution to the victim, the court must also order restitution to the secondhand dealer from the person who sold the goods to the secondhand dealer.<sup>15</sup>
- A victim may file a civil action for replevin against the secondhand dealer.<sup>16</sup>

Replevin is an action for the repossession of personal property that was wrongfully taken or detained by the defendant, where the plaintiff secures a bond for and holds the property until the court decides the rightful owner.<sup>17</sup> Petitions for replevin must contain the following information:

- Proof of ownership or right of possession of the property in question and a description of the property;
- A description of how, to the best of plaintiff's knowledge, the property was wrongfully taken by the defendant; and
- A statement that the property was not taken under any legal basis such as execution, tax, or fine.<sup>18</sup>

In an action for replevin, a court is required to award the prevailing party attorney fees and costs. When the petitioner is the prevailing party, the court may also order payment of the filing and service fees.<sup>19</sup>

Victims of theft and prevailing plaintiffs in an action for replevin are entitled to damages for loss of use, which are limited to no more than the value of the property before it was taken or damaged.<sup>20</sup>

The plaintiff is also entitled to the summary procedure provided in s. 51.011, F.S.

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<sup>12</sup> Section 538.05, F.S.

<sup>13</sup> Section 538.07(1), F.S.

<sup>14</sup> Section 538.07(2), F.S.

<sup>15</sup> Section 538.06(4), F.S.

<sup>16</sup> Section 538.08, F.S.

<sup>17</sup> BLACK'S LAW DICTIONARY (10th ed. 2014) (defining the term "replevin"); *see also*, ch. 78, F.S., "Replevin."

<sup>18</sup> Sections 78.055 and 538.08, F.S.

<sup>19</sup> Section 538.08(2), F.S. Otherwise, the filing and services fees are waived.

<sup>20</sup> *Foresight Enterprises, Inc. v. Leisure Time Properties, Inc.*, 466 So.2d 283, 286 (Fla. 5th DCA 1985).

A secondhand dealer commits a noncriminal violation, punishable by a fine of up to \$2,500 if the following occurs:

- An owner or lienor makes a written demand for return of the property and provides proof of ownership or proof of the right of possession to the secondhand dealer at least five days before filing a replevin action;
- The secondhand dealer knows or should have known based on the proof provided above, the property belongs to the owner or lienor;
- The secondhand dealer fails to return the property and does not file an action for interpleader<sup>21</sup> to determine conflicting claims to the property; and
- The owner or lienor prevails in the replevin action against the secondhand dealer.<sup>22</sup>

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

The bill amends s. 538.03, F.S., to revise the definition of “secondhand goods” to exclude money; gold bullion, silver bullion, platinum bullion, palladium bullion, or rhodium bullion if such bullion has been assayed and is properly marked as to its weight and fineness. The bill removes coins from the list of items which are expressly excluded from the definition of “secondhand goods.”

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

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

None.

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

None.

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

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None identified.

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<sup>21</sup> Generally, interpleader is suit to determine a right to property held by a disinterested third party (called a stakeholder) who is in doubt about ownership and who therefore deposits the property with the court to permit interested parties to litigate ownership. BLACK’S LAW DICTIONARY (10th ed. 2014) (defining the term “interpleader”).

<sup>22</sup> Section 538.08(5), F.S.

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

None.

**B. Private Sector Impact:**

Secondhand dealers who purchase the types of buillon listed in the bill may see a cost benefit because these items are expressly excluded from the definition of a secondhand good and, therefore, are no longer required to be held for 30 days.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 538.03 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Gruters

22-00372A-23

2023442\_\_

A bill to be entitled

An act relating to secondhand dealers; amending s. 538.03, F.S.; revising the definition of "secondhand goods" to exclude certain items; providing an effective date.

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

Section 1. Paragraph (i) of subsection (1) of section 538.03, Florida Statutes, is amended to read:

538.03 Definitions; applicability.—

(1) As used in this part, the term:

(i) "Secondhand goods" means personal property previously owned or used which is not regulated metals property regulated under part II and which is purchased, consigned, or traded as used property. The term includes gift certificates and credit memos as defined in s. 501.95 which are purchased, consigned, or traded by a secondhand dealer. The term does not include office furniture;~~;~~ pianos;~~;~~ books;~~;~~ clothing;~~;~~ organs;~~;~~ money; ~~coins;~~ motor vehicles;~~;~~ costume jewelry; gold bullion, silver bullion, platinum bullion, palladium bullion, or rhodium bullion if such bullion has been assayed and is properly marked as to its weight and fineness;~~;~~ cardio and strength training or conditioning equipment designed primarily for indoor use;~~;~~ and secondhand sports equipment that is not permanently labeled with a serial number. As used in this paragraph, the term "secondhand sports equipment" does not include golf clubs.

Section 2. This act shall take effect July 1, 2023.

The Florida Senate  
**APPEARANCE RECORD**

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

3/27/23

Meeting Date

Commerce & Tourism

Committee

SB 442

Bill Number or Topic

Amendment Barcode (if applicable)

Name Emilie Socash

Phone 813-786-7329

Address Central Ave

Street

Email emilie.socash@gmail.com

St. Pete

City

FL

State

33710

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

David Reynolds Jewelry & Coin.

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

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S-001 (08/10/2021)

The Florida Senate  
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Deliver both copies of this form to  
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3/27/23

Meeting Date

Commerce

Committee

H42

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mark Anderson

Phone 813-205-0658

Address 110 S. Monroe St., Suite I

Street

Email Mark@Cons.Handerson.com

Tallahassee, FL 32301

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

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S-001 (08/10/2021)

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

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

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

---

BILL: CS/SB 490

INTRODUCER: Commerce and Tourism Committee and Senator Jones

SUBJECT: Family and Household Members of Homicide Victims and Deceased Minors

DATE: March 28, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	McKay	CM	Fav/CS
2.			CJ	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 490 amends s. 960.001 F.S., to require that during the investigation of the death of a minor, the law enforcement agency that initiates or bears the primary responsibility for the investigation must provide the minor's next of kin with certain information relating to contact information for the investigation, case number, list of minor's personal effects found on or with minor and information on how minor's next of kin can obtain such personal effects, and information regarding status of the investigation.

This information is exempt from being provided if doing so would jeopardize or otherwise interfere with an active investigation.

The effective date of the bill is July 1, 2023.



## II. Present Situation:

### *Curtis' Law*

In 1997, 16-year-old Curtis Williamson was murdered in California.<sup>1</sup> Afterwards, his mother, Patricia Ward, had difficulty obtaining information related to the investigation of his death.<sup>2</sup> Since then, his mother moved to Florida and began pushing for greater investigation information access for parents of deceased minors.<sup>3</sup> An organization, Curtis's & Co for Children Gone to Soon, Inc., was formed to advocate for law reform nationwide to mandate that certain investigative and contact information be made available to surviving family members in certain circumstances.<sup>4</sup> The proposed law is called Curtis' Law.<sup>5</sup>

In 2022, California passed SB 1268, a version of Curtis' Law, which requires the law enforcement agency that bears the primary responsibility for the investigation to provide a deceased minor victim's parent or guardian<sup>6</sup> with the:<sup>7</sup>

- Contact information of the primary law enforcement agency and the primary contact at such agency,
- Case number,
- List of personal effects found with the minor and contact information to recover such effects, unless doing so would interfere with an investigation,
- Status of the investigation, at the discretion of the law enforcement agency.

Law enforcement is not required to provide any information that would jeopardize or otherwise allow an individual to interfere with the ongoing investigation or any records generated pursuant to their investigation for inspection by a victim's family. Law enforcement agencies providing information may require any family member receiving the information to confirm their identity through a certified declaration.<sup>8</sup>

### *Family Members of Homicide Victims Leave Laws in Other States*

There are a few states that have adopted leave laws for family and household members of homicide victims. In California, an immediate family member of a victim who is deceased as the direct result of certain crimes may take leave to participate in a related jury trial or judicial

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<sup>1</sup> Cole Heath, Action News Jax, *Proposed Curtis Law would give families of murdered children information about their child's case*, [Proposed Curtis Law would give families of murdered children information about their child's case – Action News Jax](#) (last visited March 24, 2023).

<sup>2</sup> Justice 4 Curtis, *Our Story*, [Our Story - Curtis's & Co for Children Gone to Soon \(justice4curtis.org\)](#) (last visited March 24, 2023).

<sup>3</sup> Action Jax News, *supra* note 42.

<sup>4</sup> Justice 4 Curtis, *supra* note 43.

<sup>5</sup> Justice 4 Curtis, Curtis Law, [The Proposed Law - Curtis's & Co for Children Gone to Soon \(justice4curtis.org\)](#) (last visited March 24, 2023).

<sup>6</sup> Or immediate family if a parent or guardian cannot be located. "Immediate family" means the victim's spouse, parent, guardian, grandparent, aunt, uncle, brother, sister, and children or grandchildren who are related by blood, marriage, or adoption.

<sup>7</sup> Cal. Penal Code § 679.09.

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

proceeding.<sup>9</sup> There must be notice and proof that the employee was affected and needs this type of leave.<sup>10</sup>

In 2021, Missouri signed the Victims' Economic Security and Safety Act (VESSA) into law.<sup>11</sup> Under VESSA, an employee receives leave if they or a family or household member is a victim of any "crime of violence," if the employer has 20 or more employees.<sup>12</sup> For employers with 20-49 employees, an employee has one week of leave, and for employers with 50 or more employees, an employee receives two weeks of leave. The leave can be paid or unpaid.<sup>13</sup> A crime of violence includes: homicide, sex offenses, assault, offenses involving bodily harm, harassment, armed violence, obscene communications, terrorism, and similar criminal actions.<sup>14</sup> The leave may be received intermittently or on a reduced work schedule.<sup>15</sup> VESSA also gives employment protection.<sup>16</sup>

Illinois adopted a law similar to VESSA.<sup>17</sup> Victims of crimes of violence or who have family or household members who are victims of such violence may take up to 12 weeks of unpaid leave in any 12-month period to seek medical help, legal advice, counseling, safety precautions, and other related activities.<sup>18</sup>

### ***Household Members of Homicide Victims***

An estimated 1 in 10 Americans will lose a loved one to homicide during their lifetime.<sup>19</sup> In the immediate aftermath of a homicide a family member may incur burial and funeral expenses, possible economic or material hardships, and changes in family dynamics.<sup>20</sup> Household members of a homicide victim may need to attend funerals, ceremonies, court proceedings, and deal with safety concerns. Currently, Florida law doesn't address employment leave to cover such activities for family and household members of homicide victims.

### **Investigation Materials**

Section 960.001, F.S., provides a list of rights for victims and witnesses in the criminal justice system. The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Florida Commission on Offender Review, the State Courts

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<sup>9</sup> Cal. Labor Code § 230.

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

<sup>11</sup> Missouri HR-417 Victims Economic Safety and Security Act Leave.

<sup>12</sup> *Id.*

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

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

<sup>15</sup> EPIC Brokers, Missouri Passes the Victims' Economic Safety and Security Act (2021), <https://www.epicbrokers.com/insights/missouri-passes-victims-economic-safety-security-act/#:~:text=On%20August%2028%2C%202021%2C%20Governor%20Mike%20Parson%20of,household%20member%20a re%20victims%20of%20violence%20or%20abuse> (last visited March 24, 2023).

<sup>16</sup> *Id.*

<sup>17</sup> 820 Ill. Comp. Stat. 180/5.

<sup>18</sup> Illinois Department of Labor, *Victims' Economic Security and Safety Act (VESSA)*, <https://labor.illinois.gov/laws-rules/conmed/vessa.html> (last visited March 24, 2023).

<sup>19</sup> Sara Bastomski, PhD & Marina Duane, MID, *Research brief: Homicide Co-Victimization*, Center for Victim Research (2018), <https://victimresearch.org/documents/hcv-research-brief-final.pdf>.

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

Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency are required to develop and implement guidelines for the use of their respective agencies to achieve the following objectives.

Related to rights of a victim's parent, guardian, or next of kin:

- Law enforcement officers must distribute victim's rights cards or brochures informing on the right of the next of kin of a homicide victim to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with the constitutional rights of the accused.<sup>21</sup>
- In the case of a homicide, sexual offense, attempted murder or sexual offense, stalking, or domestic violence, law enforcement officers or personnel of an organization that provides assistance to the appropriate next of kin of the victim must request that the next of kin of the victim complete a victim notification card, which provides a way of notification if a defendant is released from custody.<sup>22</sup>
- The chief administrator of a county jail, municipal jail, juvenile detention facility, or residential commitment facility must make a reasonable attempt to notify the appropriate next of kin or designated contact of a victim homicide, sexual offense, attempted murder or sexual offense, stalking, or domestic violence before the defendant's or offender's release from custody, if the victim notification card has been provided.<sup>23</sup>
- The appropriate agency must provide notification of certain judicial and post judicial proceedings to the parent or guardian of a minor victim and a relative of a homicide victim.
  - A victim's parent or guardian if the victim is a minor, or a victim's next of kin may not be excluded from any portion of any proceeding, unless the court determines such person's presence to be prejudicial.<sup>24</sup>
- The state attorney must consult the guardian or family of a victim of a felony involving physical or emotional injury, trauma, or homicide, in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought as a result of such crime.<sup>25</sup>
- Upon request, the state attorney must allow the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide to review a copy of the presentence investigation report before the sentencing hearing if one was completed.
  - Any confidential information that pertains to medical history, mental health, or substance abuse and any information that pertains to any other victim must be redacted from the copy of the report.
  - Any person who reviews the report pursuant to this paragraph must maintain the confidentiality of the report and may not disclose its contents to any person except statements made to the state attorney or the court.<sup>26</sup>

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<sup>21</sup> Section 960.001(1)(a)5., F.S.

<sup>22</sup> Section 960.001(1)(b), F.S.

<sup>23</sup> Section 960.001(1)(f), F.S.

<sup>24</sup> Section 960.001(1)(e), F.S.

<sup>25</sup> Section 960.001(1)(g)1., F.S.

<sup>26</sup> Section 960.001(1)(g)2., F.S.

- The Department of Corrections must, upon request, notify the victim's parent or guardian if the victim is a minor, or the victim's next of kin if the victim is a homicide victim if an inmate has been approved for community work release.<sup>27</sup>

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

The bill provides that the act may be cited as "Curtis' Law."

The bill amends s. 960.001, F.S., to require that, during the investigation of the death of a minor, the law enforcement agency that initiates or bears the primary responsibility for the investigation must provide the minor's next of kin with all of the following information:

- The contact information for the primary contact, if known, for the particular investigation, as well as the contact information for each law enforcement agency involved in the investigation.
- The case number for the investigation, if applicable.
- A list of the minor's personal effects that were found on or with the minor and information on how the minor's next of kin can collect such personal effects. A law enforcement agency may withhold the information if providing the information would jeopardize or otherwise interfere with an active investigation.
- Information regarding the status of the investigation, at the discretion of the law enforcement agency.

The law enforcement agency may not provide any of the above information if doing so would jeopardize or otherwise interfere with an active investigation.

The law enforcement agency is not required to provide investigative records generated during its investigation to a minor's next of kin for inspection.

The effective date of the bill is July 1, 2023.

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

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

None.

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

None.

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

None.

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<sup>27</sup> Section 960.001(1)(g)3., F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. The bill may require more local agencies to comply with information requests by the next of kin of deceased minors.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Law enforcement agencies will need to create guidelines for transmitting certain investigative information to a deceased child's next of kin.

**VIII. Statutes Affected:**

This bill substantially amends section 960.001 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 Committee on March 27, 2023:**

The committee substitute removes Section 2 from the bill which provided leave and work accommodations for family or household members of homicide victims.

B. Amendments:

None.



811428

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 28 - 87.

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

And the title is amended as follows:

Delete lines 2 - 18

and insert:

An act relating to investigations into the deaths of  
minors; providing a short title;

By Senator Jones

34-00725-23

2023490\_\_

1 A bill to be entitled  
 2 An act relating to family and household members of  
 3 homicide victims and deceased minors; providing a  
 4 short title; creating s. 448.046, F.S.; defining  
 5 terms; requiring employers to authorize employees to  
 6 request and take up to a specified number of days of  
 7 leave from work under certain circumstances; providing  
 8 requirements and purposes for such leave; providing  
 9 applicability; requiring employees to make a  
 10 reasonable effort to provide employers with advance  
 11 notice of such leave; requiring employees to provide  
 12 employers with specified documentation upon request;  
 13 requiring employees to exhaust other leave options  
 14 before taking specified leave; providing an exception;  
 15 requiring private employers to keep information  
 16 relating to such leave confidential; prohibiting  
 17 employers from engaging in specified actions under  
 18 certain circumstances; providing construction;  
 19 amending s. 960.001, F.S.; requiring law enforcement  
 20 agencies to provide certain information during the  
 21 investigation of the death of a minor; providing an  
 22 exception; providing construction; providing an  
 23 effective date.  
 24  
 25 Be It Enacted by the Legislature of the State of Florida:  
 26  
 27 Section 1. This act may be cited as "Curtis' Law."  
 28 Section 2. Section 448.046, Florida Statutes, is created to  
 29 read:

Page 1 of 5

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

34-00725-23

2023490\_\_

30 448.046 Leave and work accommodations for family or  
 31 household members of homicide victims.—  
 32 (1) As used in this section, the term:  
 33 (a) "Employee" has the same meaning as in s. 440.02(15).  
 34 (b) "Employer" has the same meaning as in s. 440.02(16).  
 35 (c) "Family or household member" has the same meaning as in  
 36 s. 741.28.  
 37 (d) "Homicide" means an unlawful act that causes the death  
 38 of another person.  
 39 (e) "Homicide victim" means a deceased person killed in a  
 40 homicide.  
 41 (2) (a) An employer must authorize an employee to request  
 42 and take up to 3 working days of leave from work in any 12-month  
 43 period if a family or household member of the employee is a  
 44 homicide victim during that period. This leave may be granted  
 45 with or without pay, at the discretion of the employer.  
 46 (b) This section applies if an employee uses the leave from  
 47 work to:  
 48 1. Make funeral or burial arrangements for, or attend a  
 49 funeral or memorial service for, the homicide victim;  
 50 2. Make the employee's home secure from the perpetrator or  
 51 associates of the perpetrator of the homicide or to seek new  
 52 housing to elude the perpetrator or associates of the  
 53 perpetrator; or  
 54 3. Meet in person with law enforcement personnel or the  
 55 state attorney's office in the jurisdiction responsible for  
 56 investigating and prosecuting the homicide or to attend or  
 57 prepare for court or court-related proceedings arising from the  
 58 homicide.

Page 2 of 5

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

34-00725-23

2023490

(3) This section applies to an employer that employs 50 or more employees and to an employee who has been employed by the employer for 3 or more months.

(4) (a) An employee seeking leave under this section must make a reasonable effort, as practicable, to provide his or her employer with appropriate advance notice of the leave required by the employer's policy, if any. Upon request of the employer, an employee must provide the employer with sufficient documentation of the homicide.

(b) An employee seeking leave under this section must, before receiving such leave, exhaust all annual or vacation leave, personal leave, and sick leave, if applicable, available to the employee, unless the employer waives this requirement.

(c) A private employer must keep all information relating to the employee's leave under this section confidential.

(5) (a) An employer may not interfere with, restrain, or deny the exercise of or any attempt by an employee to exercise any right provided under this section.

(b) An employer may not discharge, demote, suspend, retaliate, or in any other manner discriminate against an employee for exercising his or her rights under this section.

(c) If the employee was not entitled to leave under this section, an employee has no greater rights to continued employment or to other benefits and conditions of employment. This section does not limit an employer's right to discipline or terminate any employee for any reason, including, but not limited to, reductions in work force or termination for cause or for no reason at all, other than exercising its rights under this section.

Page 3 of 5

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

34-00725-23

2023490

Section 3. Paragraph (v) is added to subsection (1) of section 960.001, Florida Statutes, to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Florida Commission on Offender Review, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(v) Information concerning an investigation into the death of a minor.—

1. During the investigation of the death of a minor, the law enforcement agency that initiates or bears the primary responsibility for the investigation must provide the minor's next of kin with all of the following information:

a. The contact information for the primary contact, if known, for the particular investigation, as well as the contact information for each law enforcement agency involved in the investigation.

b. The case number for the investigation, if applicable.

c. A list of the minor's personal effects that were found on or with the minor and information on how the minor's next of kin can collect such personal effects.

Page 4 of 5

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



34-00725-23

2023490\_\_

117 d. Information regarding the status of the investigation,  
118 at the discretion of the law enforcement agency.

119 2. A law enforcement agency may not provide any of the  
120 information under this paragraph if doing so would jeopardize or  
121 otherwise interfere with an active investigation.

122 3. This paragraph does not require a law enforcement agency  
123 to provide investigative records generated during its  
124 investigation to a minor's next of kin for inspection.

125 Section 4. This act shall take effect July 1, 2023.

The Florida Senate  
**APPEARANCE RECORD**

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

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3-27-23  
Commerce

Committee

Name

Michelle Combs Christian Coalition of Florida

Phone

Address

1515 Granville Dr.

Email mchele@cc.org

Street

Orlando FL 32789

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

Christian Coalition of Florida

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3-27-23

Commerce

Committee

Name

Patricia Ward

Phone

904-360-9300

Address

2965 Dignan street

Email

curtiscompany@yahoo.com

Street

Jax, FL 32254

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**  
Deliver both copies of this form to  
Senate professional staff conducting the meeting

Meeting Date 3/27/23  
Committee Commerce

Bill Number or Topic SB 490  
Amendment Barcode (if applicable) \_\_\_\_\_

Name Subash Kqteel Phone 347 524-3374

Address \_\_\_\_\_ Email \_\_\_\_\_  
Street  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

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

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**  
Deliver both copies of this form to  
Senate professional staff conducting the meeting

Meeting Date March 27, 2023  
Committee Commerce

Bill Number or Topic SB 490  
Amendment Barcode (if applicable) \_\_\_\_\_

Name Pastor Jearlyn Dennie Phone 386-283-6523

Address 2200 N. State St. Email pastorjearlyn@jearlyn.org  
Street  
City Bunnell State FL Zip 32110

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

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

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

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

S-001 (08/10/2021)

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

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

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

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BILL: SB 492

INTRODUCER: Senator Jones

SUBJECT: Public Records/Requesting Specified Leave Relating to a Homicide

DATE: March 24, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	McKay	CM	<b>Pre-meeting</b>
2.			CJ	
3.			AP	

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## **I. Summary:**

SB 492, which is linked to the passage of SB 490, provides a public record exemption for information pertaining to family or household members of homicide victims if they are employees of an agency. The information that falls under this exemption is as follows:

- Personal identifying information of an employee contained in the records documenting a homicide that the employee provides the employer; and
- An employee's written request for leave under the section and the time sheet that reflects the requested leave for at least 1 year after taking the leave.

The bill provides for the repeal of the exemption on October 2, 2028, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

The bill takes effect on the same date that linked bill SB 490, relating to information pertaining to family or household members of homicide victims, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

## **II. Present Situation:**

### **Public Record Exemptions**

Article I, s. 24(a) of the Florida Constitution establishes the state's public policy for accessing government records. This section guarantees that every person has the right to inspect or copy any public record from the legislative, executive, and judicial branches of government. Authority to grant exemptions from public records is vested solely to the Legislature. The Legislature, may provide an exemption of records, from the requirements of art. I, s. 24(a) of the Florida Constitution.<sup>1</sup> A proposed exemption must pass by a two-thirds vote of each chamber, state with

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<sup>1</sup> Article I, s. 24(c), FLA. CONST.

specificity the public necessity to justify the exemption,<sup>2</sup> and be no broader than necessary to accomplish the public purpose.<sup>3</sup>

Public policy regarding access to government records is addressed further in s. 119.07(1), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Public exemptions are subject to the Open Government Sunset Review Act (Act)<sup>4</sup> which provides that a public record or public meeting exemption may be created<sup>5</sup> or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.<sup>6</sup>

The Act requires the Legislature to review each public record exemption and each public meeting exemption five years after enactment. If the Legislature does not reenact an exemption, it will automatically repeal on October 2<sup>nd</sup> of the fifth year after enactment.

### **Linked Bill SB 490**

SB 490, to which this bill is linked, requires certain employers with over 50 employees to grant 3 days of unpaid leave in any 12-month period to employees who have been employed for over 3 months if a member of their family or household was a victim of homicide. The leave must be used to:

- Make funeral or burial arrangements or attend a funeral or memorial service for a family or household member who is a homicide victim;
- Secure his or her home from the perpetrator, or his or her associates, of the homicide, or seek new housing to escape;
- Attend meetings in person with a representative from a law enforcement agency or the state attorney's office responsible for investigating or prosecuting the homicide; or
- Attend or prepare for court or court-related proceedings arising from the homicide.

SB 490 defines "family or household member" as spouses, former spouses, persons related by blood or marriage, persons residing together or have resided together in the past, or parents of a child in common. With the exception of people who have a child in common, the family or household members must have resided together in the past or were currently residing in the same dwelling unit prior to the homicide.<sup>7</sup>

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<sup>2</sup> This portion of a public record exemption is commonly referred to as a "public necessity statement."

<sup>3</sup> Article I, s. 24(c), FLA. CONST.

<sup>4</sup> Section 119.15, F.S.

<sup>5</sup> An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

<sup>6</sup> Section 119.15(6)(b), F.S.

<sup>7</sup> Section 741.28, F.S.

Before using this type of leave, all other leaves must be exhausted, and proper notice must be given unless in imminent danger. All information given to a private employer is to remain confidential.

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

The bill provides a public record exemption for information pertaining to family or household members of homicide victims who are employees of a Florida agency<sup>8</sup> for the following information:

- Personal identifying information of an employee contained in the records documenting a homicide that the employee provides the employer; and
- An employee's written request for leave under the section and the time sheet that reflects the requested leave for at least 1 year after taking the leave.

The bill provides a public necessity statement as required by article I, section 24(c) of the Florida Constitution. The public necessity statement provides that it is a public necessity that the personal identifying information, timesheet, and written request for leave held by employers for employees who are requesting leave after a family or household member is the victim of a homicide be confidential and exempt<sup>9</sup> from public records requirements. Such employees are at a heightened risk of physical and emotional harm from perpetrators of the homicide and the harm that may result from the release of the employee's personal identifying information, timesheet, and written request for leave outweighs any public benefit that may be derived from the disclosure of such information.

As with all public exemptions, this exemption is subject to the Act in accordance with s. 119.15 and will be repealed on October 2<sup>nd</sup> of the fifth year unless reviewed and saved from repeal.

The bill takes effect on the same date that SB 490 is adopted and becomes law.

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

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

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties and municipalities.

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<sup>8</sup> Section 741.313(7)(a),(b), F.S.

<sup>9</sup> There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. (1985).

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

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

*Public Necessity Statement*

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

*Breadth of Exemption*

Article 1, section 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public records exemption for sensitive investigative materials and personal information, which does not appear to be broader than necessary to accomplish its purpose.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

Line 54 of the bill references a SB but does not include the senate bill number. The reference should be to SB 490, the companion bill to SB 492.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends 448.046 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.

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

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979044

LEGISLATIVE ACTION

Senate

House

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

**Senate Amendment**

Delete lines 53 - 54  
and insert:

Section 3. This act shall take effect on the same date that  
SB 490 or similar legislation takes effect, if such legislation

By Senator Jones

34-01423-23

2023492\_\_

A bill to be entitled

An act relating to public records; amending s. 448.046, F.S.; providing a public records exemption for certain personal identifying information, records, and time sheets submitted to an agency by an employee requesting specified leave relating to a homicide; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (d) is added to subsection (4) of section 448.046, Florida Statutes, as created by SB \_\_\_\_ or similar legislation, to read:

448.046 Leave and work accommodations for family or household members of homicide victims.—

(4)

(d)1. The following information obtained by an agency as defined in s. 119.011 from an agency employee requesting leave pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Personal identifying information contained in any records documenting a homicide; and

b. For a period of 1 year after the date the employee returns to work from such leave, the employee's written request for leave and any time sheets that reflect such request.

2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed

Page 1 of 2

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

34-01423-23

2023492\_\_

on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity to make confidential and exempt from public records requirements the personal identifying information contained in records that document a homicide and that are submitted to an agency by an agency employee requesting specified leave. Such information, if publicly available, could expose the employee to safety risks, public humiliation, or shame and could inhibit the employee from availing himself or herself of the relief provided under s. 448.046, Florida Statutes. In addition, the Legislature further finds that it is a public necessity to make confidential and exempt from public records requirements an agency employee's written request for leave, and any time sheets reflecting such request, until 1 year after the leave has been taken. If that information were publicly available, it could be used by the person who committed the homicide, or the associates of such person, to determine the schedule and location of the employee whose family or household member was a homicide victim. The employee's request for leave is exempt from disclosure only temporarily, and such record is available 1 year or more after the leave has been taken, thereby providing continued public oversight of public moneys.

Section 3. This act shall take effect on the same date that SB \_\_\_\_ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

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

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

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

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BILL: CS/SB 626

INTRODUCER: Regulated Industries Committee and Senator DiCeglie

SUBJECT: Broadband Internet Service Providers

DATE: March 24, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	<u><b>Fav/CS</b></u>
2.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<u><b>Favorable</b></u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 626 amends s. 425.04, F.S., regarding the powers of rural electric cooperatives, to specify that such cooperatives have the power to engage in the provision of broadband service. The bill also creates a new s. 364.391, F.S., which requires that if a cooperative engages in the provision of broadband service:

- All poles owned by that cooperative are subject to pole attachment regulation by the Public Service Commission (PSC) under 366.04(8), F.S., as if the cooperative was a public utility; and
- The PSC may access the books and records of the cooperative for the limited purpose of exercising its pole regulatory authority. Such records would be subject to the same confidentiality protection procedures as other records utilized in PSC proceedings.

The bill also provides that the rural electric cooperative pole attachment regulatory authority established pursuant to the bill may not be construed to impair the contract rights of a party to a valid rural electric cooperative pole attachment agreement in existence before July 1, 2023.

The bill has an effective date of July 1, 2023.

## II. Present Situation:

### History of Rural Electric Cooperatives

Rural electric cooperatives are electric utilities that are owned by their consumer members. These private companies are generally nonprofit, with their principal purpose being to deliver electrical service to their members. Rural electric cooperatives are mostly located in rural areas where, at least historically, the return on investment for building or installing electrical infrastructure was not enough for investor-owned utilities to want to service them.<sup>1</sup>

Historically, rural homes, farms, and businesses were some of the last places to electrify in the United States (U.S.). By the mid-1930's, 90 percent of U.S. urban homes were electrified,<sup>2</sup> however, the opposite was true in rural areas—only one out of 10 rural homes had electric service.<sup>3</sup> This lack of electrical service deeply limited economic development in rural areas of the country. Despite this impact, the costs to electrify most rural areas were usually prohibitive and often thought not economically feasible.<sup>4</sup> In the limited areas where rural electric power was available, often the prices paid by such consumers were far higher than those paid by their urban counterparts.

In 1935, Executive Order 7037, issued by President Franklin Roosevelt, created the Rural Electrification Administration (REA). One year later, Congress passed the Rural Electrification Act (Pub. L. 74–605), codifying the REA and creating a loan program to encourage the growth of rural electrification. Even with these available federal loans, established investor-owned utilities did not have much interest in building rural systems. However, there was significant interest from farmer-based electric cooperatives.<sup>5</sup> By 1939, with assistance from REA funds, 413 rural electric cooperatives had been established in the U.S.,<sup>6</sup> and by 1950, 80 percent of U.S. farms had electric service.<sup>7</sup>

During a reorganization of the United States Department of Agriculture (USDA) in 1994, the REA was replaced with the Rural Utilities Service, which still exists today.<sup>8</sup> According to the National Rural Electric Cooperative Association (NRECA), now over 99 percent of U.S. farms have electrical service.<sup>9</sup> Rural electric cooperatives continue to be the most prevalent way for consumers in rural areas to obtain electrical service.<sup>10</sup>

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<sup>1</sup> University of Wisconsin Center for Cooperatives, *Research on the Economic Impact of Cooperatives*, available at <https://reic.uwcc.wisc.edu/electric/> (last visited Mar. 24, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> National Rural Electric Cooperative Association, *History*, available at <https://www.electric.coop/our-organization/history> (last visited Mar. 24, 2023).

<sup>4</sup> United States Department of Agriculture, *Celebrating the 80th Anniversary of the Rural Electrification Administration*, Feb. 21, 2017, available at <https://www.usda.gov/media/blog/2016/05/20/celebrating-80th-anniversary-rural-electrification-administration> (last visited March 24, 2023).

<sup>5</sup> National Rural Electric Cooperative Association, *History*, *supra* note 3.

<sup>6</sup> University of Wisconsin Center for Cooperatives, *supra* note 1.

<sup>7</sup> *Celebrating the 80th Anniversary of the Rural Electrification Administration*, *supra* note 4.

<sup>8</sup> University of Wisconsin Center for Cooperatives, *supra* note 1.

<sup>9</sup> National Rural Electric Cooperative Association, *History*, *supra* note 3.

<sup>10</sup> United States Energy Information Administration, *Today in Energy: August 15, 2019*, available at <https://www.eia.gov/todayinenergy/detail.php?id=40913> (last visited March 24, 2023).

## Issues with Electrifying Rural Areas

The issues with electrifying rural areas of the U.S. have generally stemmed from lack of population density and unique consumer demographics. One issue initially was the voltage of distribution systems. The low voltage distribution systems used in urban areas would experience significant and unacceptable voltage drop between the necessary distance runs needed in rural areas. This problem was overcome by using a higher voltage distribution network.<sup>11</sup> The second issue, which is still present today, is the very different customer base rural electric cooperatives service versus the rest of the electricity industry.

As of 2019, rural electric cooperatives averaged 7.98 customers per mile of line, as compared with 32.4 customers per mile of line for the rest of the electricity industry. In addition, while rural electric cooperatives have ownership of 42 percent of U.S. electricity distribution lines, their electricity sales only represent 12 percent of the nation's overall sales. Rural electric cooperatives have a different customer mix as well. For rural electric cooperatives, 53 percent of their customers are residential, with the remainder being commercial, industrial, and transportation customers—which generally have much higher energy consumption. For the U.S. electric industry at-large, the percentage of residential customers is 38 percent.<sup>12</sup>

These factors lead to rural electric cooperatives receiving significantly less revenue per dollar of capital investment in distribution. Rural electric cooperatives' average revenue per mile of distribution line is \$19,135 (versus \$79,298 for the rest of the electricity industry) and their cost of distribution plant per customer is \$4,219 (versus \$3,698).<sup>13</sup> Thus, on a per customer basis, the distribution of electric power in rural areas is higher versus the rest of the industry.

## Rural Electric Cooperatives in Florida

In 1937, the REA drafted the Electric Cooperative Corporation Act as a model state law for states to adopt for the forming and operating of rural electric cooperatives. Florida's first distribution electric cooperatives were formed that same year.<sup>14</sup> At that time, much of Florida's geographic territory lacked electrical service due to, like most of the U.S., the lack of enough economic development to make providing service worthwhile for existing electric companies.

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives. These cooperatives are represented by the Florida Electric Cooperative Association (FECA).<sup>15</sup> These cooperatives operate in 57 of Florida's 67 counties and have more than 2.7 million

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<sup>11</sup> University of Wisconsin Center for Cooperatives, *supra* note 1.

<sup>12</sup> National Rural Electric Cooperative Association, *Fact Sheet: February 2021*, available at <https://www.cooperative.com/programs-services/bts/documents/data/electric-co-op-fact-sheet-update-february-2021.pdf> (last visited Mar. 24, 2023).

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

<sup>14</sup> Seminole Electric Cooperative, *Empowering our Community*, available at <https://www.seminole-electric.com/> (last visited Mar. 24, 2023).

<sup>15</sup> Florida Electric Cooperative Association, *Members*, available at <https://feca.com/members/> (last visited Mar 24, 2023).

customers.<sup>16</sup> Much like other areas of the U.S., Florida rural electric cooperatives serve a large percentage of area, but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida's total electric utility customers, but their service territory covers 60 percent of Florida's total land mass. Each cooperative is governed by a board of cooperative members elected by the cooperative's membership.<sup>17</sup>

### **Florida Public Service Commission**

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.<sup>18</sup> The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.<sup>19</sup> In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.<sup>20</sup>

The PSC monitors the safety and reliability of the electric power grid<sup>21</sup> and may order the addition or repair of infrastructure as necessary.<sup>22</sup> The PSC has broad jurisdiction over the rates and service of investor-owned electric utilities.<sup>23</sup> However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.<sup>24</sup> Municipally owned utility rates and revenues are regulated by their respective local governments. Rates and revenues for a cooperative utility are regulated by their governing body elected by the cooperative's membership.

Under ch. 364, F.S., telecommunications carriers in Florida are also subject to only limited PSC regulation. During the 2011 legislative session, the "Regulatory Reform Act" (Act) was passed and signed into law by the Governor, effective July 1, 2011.<sup>25</sup> Under the Act, the Legislature eliminated most of the PSC's jurisdiction over telecommunications. However, the PSC still:

- Maintains the authority to ensure that incumbent local exchange carriers meet their obligation to provide unbundled access, interconnection, and resale to competitive local exchange companies in a nondiscriminatory manner;
- Administers the system to provide Telecommunications Relay Services; and

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<sup>16</sup> Florida Electric Cooperative Association, *Our History*, available at <https://feca.com/our-history/> (last visited Mar 24, 2023).

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

<sup>18</sup> Section 350.001, F.S.

<sup>19</sup> See Florida Public Service Commission, *Florida Public Service Commission Homepage*, available at <http://www.psc.state.fl.us> (last visited Mar 24, 2023).

<sup>20</sup> Florida Public Service Commission, *About the PSC*, available at <https://www.psc.state.fl.us/about> (last visited Mar 24, 2023).

<sup>21</sup> Section 366.04(5) and (6), F.S.

<sup>22</sup> Section 366.05(1) and (8), F.S.

<sup>23</sup> Section 366.05, F.S.

<sup>24</sup> Florida Public Service Commission, *About the PSC*, supra note 20.

<sup>25</sup> Ch. 2011-36, Laws of Florida.

- Oversees the Federal Lifeline Assistance program for Florida.<sup>26</sup>

### **Regulatory Assessment Fees**

The PSC collects Regulatory Assessment Fees (RAFs) from all of the utilities under its jurisdiction. RAFs, license fees, other fees, and any other charges collected by the PSC are credited to the Florida Public Service Regulatory Trust Fund (Trust Fund).<sup>27</sup> Florida law generally directs the PSC to manage its trust fund in such a manner that each industry funds its own regulation.<sup>28</sup> While the PSC's budget is set annually by the Legislature, as approved by the Governor, Florida general revenue funds are not used to support the PSC's regulatory activities.

Rates for RAFs are set by PSC rule, subject to maximum rates established by statute. RAFs are charged as a percentage of gross operating revenues derived from intrastate business, subject to certain exclusions. Chart 1 below provides the current RAFs for Florida utilities, by industry.

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<sup>26</sup> Florida Public Service Commission, *About the PSC*, supra note 20.

<sup>27</sup> Section 350.113, F.S.

<sup>28</sup> Specifically:

- Section 364.336(2) and (3), F.S., requires the PSC to reduce the RAFs for telecommunications industry after the Regulatory Reform Act of 2011 to reflect the PSC's reduced regulatory oversight of that industry;
- Section 367.145(3), F.S., requires that RAFs collected pursuant to the water and wastewater RAF collection authorization may only be used to cover the cost of regulating water and wastewater systems. Also, fees collected under the electricity utility industry, gas utility industry, and telecommunications industry RAF collection authorizations may not be used to pay for the cost of water and wastewater regulation.
- Section 368.109, F.S., states that the RAFs set by the PSC for the natural gas transmission (i.e. natural gas pipeline) industry must, to the extent practicable, be related to the cost of regulating that industry.

**Chart 1: Regulatory Assessment Fees by Florida Utility Industry**

<b>Utility Type</b>	<b>Current RAF</b>	<b>Statutory Maximum</b>
Investor-owned Gas Utilities	0.5% <sup>29</sup>	0.5% <sup>30</sup>
Municipal Gas Utilities	0.1919% <sup>31</sup>	0.25% <sup>32</sup>
Natural Gas Transmission	0.25% <sup>33</sup>	0.25% <sup>34</sup>
Telecommunications Companies	0.16% <sup>35</sup>	0.25% <sup>36</sup>
Water and Wastewater Utilities	4.5% <sup>37</sup>	4.5% <sup>38</sup>
Investor-owned Electric Utilities	0.072% <sup>39</sup>	0.125% <sup>40</sup>
Municipal Electric Utilities and Rural Electric Cooperatives	0.015625% <sup>41</sup>	0.015625% <sup>42</sup>

By a significant margin, municipal electric utilities and rural electric cooperatives have the lowest RAF rates of all Florida utilities (the next closest is investor-owned electric utilities, with RAF rates over 4.5 times that of municipal electric utilities and rural electric cooperatives). These rates reflect the comparatively lower regulatory costs the PSC incurs in regulating these types of utilities due, in large part, to the PSC having limited jurisdiction over them.

### **Certificates of Authority**

Section 364.33, F.S., specifies that a person may not provide telecommunications services to the public without either a certificate of authority or a certificate of necessity. As part of the Regulatory Reform Act, the PSC was directed to stop issuing certificates of authority after July 1, 2011; however, existing certificates remain valid. Certificates of authority may be transferred to said holder's parent company, an affiliate, or another person holding a certificate of necessity or authority (or such entity's parent company or an affiliate) without prior approval of the PSC by giving written notice of the transfer to the PSC within 60 days after the completion of the transfer. Under s. 364.33, F.S., companies offering traditional wireline telephone service must obtain a certificate of authority from the PSC before providing service to the public. However, for companies offering other communications

<sup>29</sup> Fla. Admin. Code R. 25-7.0131, (2013).

<sup>30</sup> Section 366.14, F.S.

<sup>31</sup> Fla. Admin. Code R. 25-7.0131, (2013).

<sup>32</sup> Section 366.14, F.S.

<sup>33</sup> Fla. Admin. Code R. 25-7.101, (2013).

<sup>34</sup> Section 368.109, F.S.

<sup>35</sup> Fla. Admin. Code R. 25-4.0161, (2011).

<sup>36</sup> Section 364.336, F.S.

<sup>37</sup> Fla. Admin. Code R. 25-30.120, (2013).

<sup>38</sup> Section 367.145, F.S.

<sup>39</sup> Fla. Admin. Code R. 25-6.0131, (2013).

<sup>40</sup> Section 366.14, F.S.

<sup>41</sup> Fla. Admin. Code R. 25-6.0131, (2013).

<sup>42</sup> Section 366.14, F.S.



services such as broadband, cable, or wireless services, a certificate is optional if that company does not offer such traditional wireline service. This is because such services are exempt from PSC jurisdiction under s. 364.011, F.S.

Section 364.335, F.S., provides the application requirements for a certificate of authority. An applicant must provide all of the following:

- Their official name and, if different, any name under which the applicant will do business;
- The street address of their principal place of business;
- Their federal employer identification number or the Department of State's document number;
- The name, address, and telephone number of an officer, partner, owner, member, or manager as a contact person to whom questions or concerns may be addressed; and
- Information demonstrating their managerial, technical, and financial ability to provide telecommunications service, including an attestation to the accuracy of the information provided.

The PSC must grant the certificate upon the applicant demonstrating they have the sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

### **Regulation of Pole Attachments**

Utility poles were first deployed in the U.S. in 1844 to extend telegraph service. While they are an over 175 year old technology, utility poles continue to provide the scaffolding for the technology of the twenty-first century. In the mid-nineteenth and early twentieth centuries, many states adopted laws granting rights-of-way (ROW) to construct utility poles, wires, and facilities to transmit electricity and communications signals. First telegraph, then telephone, electricity, cable, wireless, and Internet service providers have sought to attach facilities to wooden, and later steel or composite, utility poles.<sup>43</sup>

The term “pole attachment” refers to the process by which communications companies colocate communications infrastructure on existing electric utility poles. Colocation reduces the number of poles that must be built to accommodate utility services, thereby reducing costs to users of both services by allowing providers to share costs. Rules governing pole attachments seek to balance the desire to maximize value for users of both electric and communications services with concerns unique to electric utility poles, such as safety and reliability.<sup>44</sup> The space requested for a pole attachment is typically one foot.<sup>45</sup>

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<sup>43</sup> Catherine J.K. Sandoval, Contested Places, Utility Pole Spaces: A Competition and Safety Framework for Analyzing Utility Pole Association Rules, Roles, and Risks, 69 Cath. U. L. Rev. 473, 474–75 (2020), available at <https://scholarship.law.edu/cgi/viewcontent.cgi?article=3552&context=lawreview> (last visited March 24, 2023).

<sup>44</sup> American Public Power Association, *Issue Brief: Preserving the Municipal Exemption from Federal Pole Attachment Regulations* (Jan. 2021), available at <https://www.publicpower.org/policy/preserving-municipal-exemption-federal-pole-attachment-regulations> (last visited March 24, 2023).

<sup>45</sup> Evari GIS Consulting, *Joint Use Pole Audit*, available at <https://www.evarigisconsulting.com/joint-use-pole-audit> (last visited March 24, 2023).

Pole attachments were originally established by mutual agreement. Later, such agreements were regulated by federal statute and administrative rules. Pole attachments provide non-pole-owning cable and telecommunication service providers (such as cable television providers and local exchange carriers) with access to a pole-owning utility's distribution poles, conduits, and right-of-way for:

- Installing fiber, coaxial cable or wires, and other equipment;
- Building an interconnected network; and
- Reaching customers.<sup>46</sup>

In 1978, Congress passed the “Pole Attachment Act,” which added s. 224 to the Communications Act of 1934, to require the Federal Communications Commission (FCC) to establish rates, terms, and conditions for pole attachments for the cable television industry.<sup>47</sup>

The “Telecommunications Act of 1996,” which, amended 47 U.S.C. s. 244 to add provisions making access to utility poles mandatory for telecommunications services providers and providing for nondiscriminatory access—unless there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.<sup>48</sup> Municipal owned electric utilities and rural electric cooperatives are exempt from the provisions of 47 U.S.C. s. 224.<sup>49</sup> Specifically, the term “utility” is defined as:

[A]ny person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.<sup>50</sup>

A state, however, can assume regulation of pole attachment through a process known as “reverse preemption.” This requires a state to expressly assert jurisdiction through state legislation, followed by certifying to the FCC that “in so regulating such rates, terms, and conditions, the state has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the utility services.”<sup>51</sup> As of June 13, 2022, 23 states and the District of Columbia have reverse preemption, including Florida.<sup>52</sup>

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

<sup>47</sup> Pub. L. No. 95-234, *codified* at 47 U.S.C. s. 224.

<sup>48</sup> Pub. L. No. 104-104, *codified* at 47 U.S.C. s. 224(f).

<sup>49</sup> 47 U.S.C. s. 224(a)(1).

<sup>50</sup> *Id.*

<sup>51</sup> 47 U.S.C. s. 224(c)(2).

<sup>52</sup> Federal Communications Commission, *Public Notice: States That Have Certified That They Regulate Pole Attachments*, June 13, 2022, *available at* <https://www.fcc.gov/document/states-have-certified-they-regulate-pole-attachments-3> (last visited March 24, 2023).

Florida assumed regulation of pole attachments from the FCC after the passage and enactment of SB 1944 in 2021.<sup>53</sup> Presently, pole attachments are regulated under sections 366.04(8) and (9), F.S. and 366.97, F.S.

Section 366.04(8), F.S., grants authority to the PSC to regulate and enforce rates, charges, terms, and conditions for pole attachments, including attachments to streetlight fixtures, owned by a public utility or a communications services provider. The subsection specifies that the PSC's authority includes, but is not limited to, the state regulatory authority referenced in 47 U.S.C. s. 224(c), relating to pole attachments. The types of pole attachments regulated under this provision are defined in 47 U.S.C. s. 224(a)(4) and "means any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility." Rural electric cooperatives are not included in the definition of "utility" for this federal code section. In addition, rural electric cooperatives and municipal electric utilities are not considered public utilities for the purposes of ch. 366, F.S.

In addition, s. 366.04(8), F.S., provides:

- Jurisdiction for the PSC to regulate and enforce rates, charges, terms, and conditions of pole attachments and ensure that such rates, charges, terms, and conditions are just and reasonable.<sup>54</sup> In adopting rules to regulate and enforce these provisions, the PSC must consider the interests of the subscribers and users of the services offered through such pole attachments, as well as the interests of the consumers of any pole owner providing such attachments.
- Legislative intent that parties are encouraged to enter into voluntary pole attachment agreements without PSC approval and that parties not be prevented from voluntarily entering into such contracts without PSC approval.
- Circumstances under which a pole owner, on a non-discriminatory basis, may deny access to its poles, including insufficient capacity, safety, reliability, and engineering requirements. The subsection also provides that a pole owner's evaluation of capacity, safety, reliability, and engineering requirements must consider the PSC's approved construction and reliability standards.
- That the PSC hear and resolve complaints concerning rates, charges, terms, conditions, voluntary agreements, or any denial of access relative to pole attachments. FCC precedent is not binding upon the PSC in the exercise of this delegated authority. The PSC must establish just and reasonable cost-based rates when exercising its jurisdiction to hear such cases and to apply the decisions and orders of the FCC and any appellate court decisions reviewing FCC orders regarding pole attachment rates, terms or conditions in determining just and reasonable pole attachment rates, terms or conditions.
- That a pole owner or attaching entity may provide evidence, subject to proceedings conducted pursuant to s. 120.569, F.S., and s. 120.57, F.S., to establish that an alternative cost of service-based pole attachment rate is appropriate and in the public interest.

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<sup>53</sup> Chapter 2021-191, L.O.F.

<sup>54</sup> The types of pole attachments under PSC regulation include the types of attachments regulated under 47 U.S.C. s. 224(a)(4), attachments to streetlight fixtures, attachments to poles owned by a public utility, or attachments to poles owned by a communications services provider.

- The PSC must authorize any petitioning pole owner or attaching entity to participate as an intervenor with full party rights under ch. 120, F.S., in the first four formal administrative proceedings to determine pole attachment rates, so as to provide PSC precedent to establish pole attachment rates and help guide negotiations toward voluntary pole attachment agreements.
- That, after the fourth such proceeding, parties subject to a pole attachment rate proceeding are limited to the specific pole owner and pole attaching entity involved in and directly affected by the specific pole attachment rate after the fifth formal administrative proceeding is concluded by final order.
- That the PSC must engage initial rulemaking regarding s. 366.04(8), F.S., and must have those rules proposed for adoption no later than January 1, 2022.

As of June 8, 2022, the PSC has adopted rules to implement s. 366.04(8), F.S., which are codified under Florida Administrative Code Rule 25-18.010.

Section 366.04(9), F.S., requires that the PSC regulate the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for poles of communication services providers; however, this provision does not apply to a communications services provider that does not own poles. Section 366.04(9), F.S., also directed the PSC to engage initial rulemaking regarding this provision and to have those rules proposed for adoption no later than April 1, 2022. At minimum, PSC rules regarding s. 366.04(9), F.S.:

- Address mandatory pole inspections, including repair or replacement;
- Establish vegetation management requirements for poles owned by providers of communications services; and
- Establish monetary penalties to be imposed upon any communications services provider that fails to comply with pole attachment rules of PSC established pursuant to s. 366.04(8), F.S. Such penalties must be consistent with s. 366.095, F.S., which limits fines to \$5,000 per offense.

As of April 12, 2022, the PSC has adopted rules to implement s. 366.04(9), F.S., which are codified under Florida Administrative Code Rule 25-18.020.

Section 366.97, F.S., provides procedures relating to redundant poles and the transfer of pole ownership. These procedures require:

- Pole owners to provide advance notice to attaching entities of major hardening projects to replace poles within 180 calendar days of receiving written notice to do so. Such hardening notices must include:
  - The scope of the major hardening project (to the extent it has been determined), the location of affected poles, the expected start date, and the expected completion date; and
  - The date, time, and location of a field meeting for the pole owner and attaching entities to review and discuss the planned major hardening project details, including the types of replacement poles to be used. The field meeting must occur no sooner than 15 calendar days after the date of the notice and no later than 60 calendar days

after the notice and, at a minimum, must include sufficient information to enable the attaching entity to locate the affected poles and identify the owner of any facilities attached to the poles.

- An attaching entity to remove its pole attachments from a redundant pole within 180 calendar days after receipt of an electronic or written notice from a pole owner requesting such removal. A pole owner may use a joint use notification software program to accomplish such written or electronic removal notice.
- If an attaching entity fails to remove such a pole attachment (except in the event of force majeure or other good cause as agreed to by the parties or as determined by the PSC or its designee within 30 calendar days after the 180 calendar-day period), the pole owner or its agent may transfer or relocate an attachment to a new pole at the attachment owner's expense. This provision does not apply to an electric utility's pole attachments. Payment for such transfer or removal is due to the pole owner in 60 days after receipt of invoice. A pole owner may seek to enforce its right to payment in circuit court and, if it prevails, is entitled to prejudgment interest at the prevailing statutory rate and reasonable attorney fees and court costs. Upon receipt by the pole owner of written notice, the attaching entity that fails to comply with such removal shall indemnify, defend, and hold harmless the pole owner and its directors, officers, agents, and employees from and against all liability, except to the extent of any finding of negligence or willful misconduct, including attorney fees and litigation costs, arising in connection with the transfer of the pole attachment from a redundant pole to a new pole by the pole owner.
- If a pole attachment is abandoned by an attaching entity that fails to remove or transfer its attachments as required under s. 366.97, F.S., the pole owner or its agent may remove the pole attachment at the noncompliant attaching entity's expense and may sell or dispose of the pole attachment. This does not apply where the attaching entity's noncompliance is excused by an event of force majeure or other good cause as determined by the PSC. Non-compliant attaching utilities who have abandoned their attachments as specified in this provision, are subject to the same 60-day payment and indemnification requirements as those who failed to remove an attachment from a redundant pole above.
- A pole owner may petition the PSC to enforce this section, except to the extent that petitioning to the circuit court is specified.

Section 366.97, F.S., also specifies that the legislature encourages entities to enter voluntary agreements authorizing a pole owner to remove an attaching entity's attachment and that the section should not be construed as preventing such agreements. Also, the section specifies that it should not be construed to impair the contract rights of a party to a valid pole attachment agreement in existence before June 29, 2021.

### **Broadband Availability in Rural Areas**

Much like with rural electricity distribution, the primary challenge in deploying broadband in rural areas is one of population density. The U.S. Department of Transportation estimates that the average cost of laying fiber is \$27,000 per mile.<sup>55</sup> Many rural areas are remote and

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<sup>55</sup> Congressional Research Service, *Raising the Minimum Fixed Broadband Speed Benchmark: Background and Selected Issues*, July 12, 2021, available at <https://crsreports.congress.gov/product/pdf/IF/IF11875/2> (last visited March 24, 2023).

have geographically dispersed populations, thus more fiber per customer must be laid to serve them. Moreover, rural areas often have more harsh terrain than urban areas—such as mountain ranges or ground that is frozen for substantial portions of the year. These features can make it more difficult and costly to serve such areas with fiber.<sup>56</sup> Cable networks can also face similar density and terrain issues.

While rural customers still lag behind urban counterparts, the difference in broadband access between these areas is at its lowest ever. In 2015, reflecting advances in technology, the FCC raised benchmark speeds to be considered broadband service to 25 megabits per second (Mbps) for downloads and 3 Mbps for uploads (25/3 Mbps service).<sup>57</sup> Under this benchmark, the FCC reported that 53 percent of people living in U.S. rural areas lacked access to broadband—as compared to just 8 percent of persons living in U.S. urban areas lacking such access. By 2021, the gap for 25/3 Mbps service with at least one provider had essentially vanished.<sup>58</sup> Rural areas still were behind their urban counterparts in choice however; 91 percent of rural customers had access to three or more providers, versus 99 percent of urban customers.<sup>59</sup>

In 2021, the FCC considered increasing their standard for broadband to 100 Mbps of download and 10 Mbps of upload speed (100/10 Mbps service), but ultimately rejected the change given concerns about whether enough providers could meet such a standard.

## **Broadband Growth Programs**

### ***Florida Broadband Opportunity Program***

Established under s. 288.9962, F.S., the Broadband Opportunity Program (BOP) is a competitive reimbursement program within the Florida Department of Economic Opportunity (DEO).<sup>60</sup> The purpose of the program is to award grants to applicants who seek to expand broadband Internet service to unserved areas of Florida. To operate the program, Florida Legislature appropriated \$400 million in federally funded State and Local Fiscal Recovery Funds (SLFRF) to increase Floridians' access to reliable, affordable, and high-speed internet service.<sup>61</sup>

### ***Connect America Fund***

One of the earliest and most significant federal broadband programs is the Connect America Fund, which is part of the FCC's Universal Service Fund (USF). Started in 2011, the purpose of the fund is to provide subsidies to telecommunications companies to expand

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<sup>56</sup> *Id.*

<sup>57</sup> Federal Communications Commission, *Wireline: 2015 Broadband Progress Report*, Feb. 14, 2015, available at <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2015-broadband-progress-report> (last visited March 24, 2023).

<sup>58</sup> USA Facts, *How Many Americans have Broadband Internet Access*, Sep. 27, 2022, available at <https://usafacts.org/articles/how-many-americans-have-broadband-internet-access/#footnote-3> (last visited March 24, 2023).

<sup>59</sup> *Id.*

<sup>60</sup> Florida Department of Economic Opportunity, *Broadband Opportunity Program*, available at <https://www.floridajobs.org/community-planning-and-development/broadband/broadband-opportunity-program> (last visited Mar. 24, 2023).

<sup>61</sup> *Id.*

telecommunications infrastructure in rural and remote areas of the United States.<sup>62</sup> The Connect America Fund is a “high-cost” program, meaning that it is designed to ensure that consumers in rural, insular, and high cost areas have access to modern telecommunications networks and that services through those networks, like voice and broadband, are available at a cost comparable to that in more developed urban areas.<sup>63</sup> The Connect America Fund is the largest of the USF’s programs, and has an annual budget of \$4.5 billion.<sup>64</sup>

### ***Broadband Technology Opportunities Program***

The Broadband Technology Opportunities Program (BTOP) is a federal grant program administered by the National Telecommunications and Information Administration (NTIA), part of the U.S. Department of Commerce. The BTOP is funded by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), and has an annual budget of \$4 billion. The purpose of the program is to “bridge the technological divide” and BTOP projects include deploying broadband Internet infrastructure, enhancing and expanding public computer centers, and encouraging the sustainable adoption of broadband service.<sup>65</sup>

### ***USDA Programs: ReConnect Program and the Rural Broadband Program***

The USDA operates two programs aimed at developing broadband in rural areas—the ReConnect Program and the Rural Broadband Program. Though these programs both existed prior to 2021, the Infrastructure Investment and Jobs Act (Public Law 117-58), signed into law on November 15, 2021, provided new funding for both of these programs (and other broadband initiatives). The ReConnect Program received \$1.926 billion in funds for grants and loans and the Rural Broadband Program received \$74 million in funds for loans. This new funding level, starting in 2022, exceeded the fiscal year 2021 levels by \$1.291 billion (an increase of 203 percent) for the ReConnect Program and by \$72 million (an increase of 97 percent) for the Rural Broadband Program.<sup>66</sup>

The purpose of the ReConnect Program is to offer loans, grants, and loan-grant combinations to facilitate broadband deployment in rural areas that currently do not have sufficient access to broadband. The entities eligible to apply for the Reconnect Program include:

- Corporations, limited liability companies, and limited liability partnerships;
- State and local governments;
- U.S. territories and possessions; and

<sup>62</sup> Federal Communications Commission, *Universal Service Monitoring Report*, Feb. 13, 2023, available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports> (last visited March 24, 2023).

<sup>63</sup> Federal Communications Commission, *Universal Service for High Cost Areas-Connect America Fund*, available at <https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund#releases> (last visited Mar. 24, 2023).

<sup>64</sup> Universal Service Administrative Co., *Program Overview*, available at <https://www.usac.org/high-cost/program-overview/> (last visited Mar 24, 2023).

<sup>65</sup> National Telecommunications and Information Administration, *Broadband Technology Opportunities Program*, available at <https://ntia.gov/category/broadband-technology-opportunities-program#:~:text=The%20Broadband%20Technology%20Opportunities%20Program,in%20communities%20across%20the%20country> (last visited Mar. 24, 2023).

<sup>66</sup> Congressional Research Service, *Infrastructure Investment and Jobs Act: Funding for USDA Rural Broadband Programs*, Nov. 19. 2021, available at <https://crsreports.congress.gov/product/pdf/IF/IF11918> (last visited March 24, 2023).



- Indian tribes, as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. §450b).<sup>67</sup>

The purposes for which Reconnect grants may be used are:

- Construction or improvement of facilities required to provide fixed terrestrial broadband services;
- Funding of reasonable pre-application expenses; and
- Funding the acquisition of an existing telecommunications system that does not currently provide sufficient access to broadband.<sup>68</sup>

The Rural Broadband Program offers funds to help construct, improve, or acquire facilities and equipment needed to provide broadband to rural areas. The entities eligible to apply for the program are:

- Corporations;
- Limited liability companies;
- Cooperative or mutual organizations;
- State and local governments; and
- Indian tribes and tribal organizations.

For the most recent years prior to 2021, Congress only appropriated funds to the Rural Broadband Program for loans. However, with the increase in funding under the Infrastructure Investment and Jobs Act, funding for grants and loan guarantees is also now available in the program.<sup>69</sup>

While the USDA's Reconnect and Rural programs are similar in their purpose, a key distinction lies in the standards for eligible service areas. For the ReConnect Program, eligible service areas are areas where at least 90% of households lack sufficient access to broadband with at least 100 Mbps download and 20 Mbps upload speed (100/20 Mbps service). For the Rural Broadband Program, the standard for eligibility is if the area in question does not have at least 50% of households with at least 25 Mbps download and 3 Mbps upload speed (25/3 Mbps service).

### **Growth of Rural Electric Cooperative Engagement in Broadband**

According to the NRECA, about 200 rural electric cooperatives are currently providing or building out broadband service. In addition, the NRECA states that 200 additional rural electric cooperatives are "assessing the feasibility of providing service to more than 6 million households in co-op service areas that don't have access to high-speed internet service."<sup>70</sup> To support its members wishing to be, or currently engaged in, the broadband business, the

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<sup>67</sup> United States Department of Agriculture, *ReConnect Program*, available at <https://www.usda.gov/reconnect/program-overview> (last visited Mar 24, 2023).

<sup>68</sup> *Id.*

<sup>69</sup> Federal Communications Commission, *Universal Service for High Cost Areas-Connect America Fund*, supra note 66.

<sup>70</sup> National Rural Electric Cooperatives Association, *Broadband*, available at <https://www.electric.coop/issues-and-policy/broadband> (last visited Mar 24, 2023).



NRECA launched a new level of service for its members in July 2022 called NRECA Broadband.<sup>71</sup> The stated purpose of NRECA Broadband is to offer:

- Federal policy and regulatory advocacy;
- Communication, events, and education; and
- Operations and technology support.<sup>72</sup>

While rural electric cooperatives have experience in operating a monopoly electric utility, many have little institutional experience in operating in a non-monopoly competitive market in general or in broadband telecommunications specifically. Thus, these companies can face challenges in learning how to market and provide broadband services.<sup>73</sup>

### **Rural Electric Cooperative Involvement in Broadband in Florida**

Section 425.04, F.S., establishes the powers of rural electric cooperatives in Florida. It states, that, in addition to providing energy, water, and wastewater utility services, rural electric cooperatives may, in order to promote economic development, “provide...nonenergy services to its membership.” Utilizing this provision, currently, five of Florida’s 18 rural electric cooperatives, are engaged in or developing broadband service:

- Glades Electric Cooperative (5.1 members per mile of line).
- Central Florida Electric Cooperative (6.34 members per mile of line).
- Suwannee Valley Electric Cooperative (4.5 members per mile of line).
- Tri-County Electric Cooperative (4.48 members per mile of line).
- Escambia River Electric Cooperative (6.94 members per mile of line).

According to the FECA these five cooperatives are the most rural in nature of the cooperatives in Florida.<sup>74</sup>

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

**Section 1** creates s. 364.391, F.S., which provides that, if a rural electric cooperative engages in the provision of broadband service:

- All poles owned by that cooperative are subject to pole attachment regulation by the Public Service Commission (PSC) under s. 366.04(8), F.S., as if the cooperative was a public utility.
- The PSC may access the books and records of the cooperative for the limited purpose of exercising its pole regulatory authority. Such records would be subject to the same confidentiality protection procedures as other records utilized in PSC proceedings under ss. 364.183 and 366.093, F.S.

<sup>71</sup> *Id.*

<sup>72</sup> Cooperative.com, *NRECA Broadband*, available at <https://www.cooperative.com/topics/telecommunications-broadband/nreca-broadband/Pages/default.aspx> (last visited Mar. 24, 2023).

<sup>73</sup> National Rural Electric Cooperatives Association, *Along Those Lines: What It Takes for Electric Co-ops to Enter the Broadband Space*, Jan 24, 2023, available at <https://www.electric.coop/along-those-lines-what-it-takes-for-electric-co-ops-to-enter-the-broadband-space> (last visited March 24, 2023).

<sup>74</sup> Email from Drew Love, Director of Government Affairs, Florida Electric Cooperatives Association, to Senate Regulated Industries Staff (Mar. 6, 2023) (on file with Senate Regulated Industries Committee).

Proposed s. 364.391, F.S., defines “engages in the provision of broadband” as:

- Providing broadband directly, through an affiliate,<sup>75</sup> or pursuant to an agreement with a third party; or
- Receiving broadband grant funding:
  - Pursuant to the Florida Department of Economic Opportunity’s Broadband Opportunity Program (BOP); or
  - From any other federal or state program offering grants to expand broadband Internet service to unserved areas of this state.

The section also specifies that the rural electric cooperative pole attachment regulatory authority established pursuant to proposed s. 364.391, F.S., may not be construed to impair the contract rights of a party to a valid rural electric cooperative pole attachment agreement in existence before July 1, 2023.

**Section 2** amends s. 425.04, F.S., which establishes the powers of a rural electric cooperative. Specifically, the bill provides that rural cooperatives may engage in the provision of broadband, pursuant to the pole attachment regulations specified in proposed s. 364.391, F.S., in the bill.

**Section 3** of the bill provides an effective date of July 1, 2023.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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<sup>75</sup> “Affiliate” is defined in proposed s. 364.391, F.S., as an entity related through a parent cooperative’s controlling interest. The term includes a subsidiary or any other entity under common control with the cooperative.

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

Currently, rural electric cooperatives pay limited RAFs to the Florida PSC to fund only the limited regulatory authority the PSC has over these utilities. In addition, under s. 364.011(2), F.S., broadband services, regardless of the provider, platform, or protocol, are exempt from oversight by the PSC (except to the extent delineated in ch. 364, F.S.).

Traditionally, the cost associated with regulatory requirements established in Florida law has been assessed to the utilities and telecommunications companies subject to the PSC's authority. The bill does not provide the PSC with authority to increase RAFs for rural electric cooperatives, nor does it establish authority to assess RAFs to the communication services providers that may become subject to the PSC's authority under the bill.

**B. Private Sector Impact:**

The financial and legal responsibilities of parties to rural electric cooperative pole attachment arrangements in Florida may substantially change depending on the PSC's implementation of new pole attachment regulatory authority under this bill.

**C. Government Sector Impact:**

The bill may have a negative impact on state revenues and expenditures. However, the PSC has stated that, as currently drafted, the expected increased workload "can be absorbed."<sup>76</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 425.04 of the Florida Statutes.  
This bill creates section 364.391 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 Regulated Industries on March 7, 2023:**

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<sup>76</sup> Florida Public Service Commission, *Bill Analysis for SB 626* (Mar. 3, 2023) (on file with the Senate Regulated Industries Committee).

The committee substitute:

- Adds a provision allowing the Public Service Commission (PSC) limited access to cooperative records to the extent necessary to administer rural electric cooperative pole attachment regulation established under the bill. A statement is also included to clarify that such records would be given the same protection as other utility records subject to PSC proceedings.
- Adds a provision stating that the bill is not intended to impair existing pole attachment agreements.
- Removes a reference in the bill to the definition of “communications services” in s. 350.81(1), F.S., in establishing powers of rural cooperatives under ch. 425, F.S. This is revised to state “broadband” instead, in order to clarify that a rural electric cooperative offering such services does not need to obtain a certificate of authorization from the PSC in order to do so.
- Clarifies that the PSC-regulated pole attachment provisions established under the bill only apply when a rural electric cooperative engages in broadband.
- Makes technical changes.

B. Amendments:

None.

By the Committee on Regulated Industries; and Senator DiCeglie

580-02350-23

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1 A bill to be entitled  
 2 An act relating to broadband Internet service  
 3 providers; creating s. 364.391, F.S.; defining terms;  
 4 specifying that the poles of rural electric  
 5 cooperatives that are engaged in the provision of  
 6 broadband are subject to regulation by the Public  
 7 Service Commission; authorizing the commission to  
 8 access the books and records of such cooperatives for  
 9 specified purposes; providing that such information  
 10 that contains proprietary confidential business  
 11 information retains its confidential or exempt status  
 12 when held by the commission; providing construction;  
 13 amending s. 425.04, F.S.; authorizing rural electric  
 14 cooperatives to engage in the provision of broadband;  
 15 providing an effective date.  
 16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18  
 19 Section 1. Section 364.391, Florida Statutes, is created to  
 20 read:  
 21 364.391 Rural electric cooperatives engaged in the  
 22 provision of broadband.—  
 23 (1) As used in this section, the term:  
 24 (a) "Affiliate" means an entity related through a parent  
 25 cooperative's controlling interest. The term includes a  
 26 subsidiary or any other entity under common control with the  
 27 cooperative.  
 28 (b) "Cooperative" means a rural electric cooperative  
 29 established pursuant to chapter 425.

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

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30 (c) "Engages in the provision of broadband" means an entity  
 31 that:  
 32 1. Provides broadband service directly, through an  
 33 affiliate, or pursuant to an agreement with a third party; or  
 34 2. Accepts broadband grant funding pursuant to s. 288.9962  
 35 or from any other federal or state program offering grants to  
 36 expand broadband Internet service to unserved areas of this  
 37 state.  
 38 (2) If a cooperative engages in the provision of broadband:  
 39 (a) All poles owned by the cooperative are subject to  
 40 regulation under s. 366.04(8) on the same basis as if such  
 41 cooperative were a public utility under that subsection; and  
 42 (b) The commission may access the books and records of such  
 43 cooperative to the limited extent necessary to perform its  
 44 functions and to exercise its authority under ss. 366.04(8) and  
 45 366.97(4). Upon request of the cooperative, any records the  
 46 commission receives under this paragraph which are proprietary  
 47 confidential business information under s. 364.183 or s. 366.093  
 48 shall retain their status as confidential or exempt from  
 49 disclosure under s. 119.07(1) and s. 24(a), Art. I of the State  
 50 Constitution.  
 51 (3) This section may not be construed to impair the  
 52 contract rights of a party to a valid pole attachment agreement  
 53 in existence before July 1, 2023.  
 54 Section 2. Section 425.04, Florida Statutes, is amended to  
 55 read:  
 56 425.04 Powers.—A cooperative shall have all of the  
 57 following powers ~~power~~:  
 58 (1) To sue and be sued, in its corporate name, ~~+~~

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

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59 (2) To have perpetual existence.~~+~~  
 60 (3) To adopt a corporate seal and alter the same at  
 61 pleasure.~~+~~  
 62 (4) To generate, manufacture, purchase, acquire, accumulate  
 63 and transmit electric energy, and to distribute, sell, supply,  
 64 and dispose of electric energy in rural areas to its members, to  
 65 governmental agencies and political subdivisions, and to other  
 66 persons not in excess of 10 percent of the number of its  
 67 members; to process, treat, sell, and dispose of water and water  
 68 rights; to purchase, construct, own and operate water systems;  
 69 to own and operate sanitary sewer systems; and to supply water  
 70 and sanitary sewer services. However, a ~~no~~ cooperative may not  
 71 ~~shall~~ distribute or sell any electricity, or electric energy to  
 72 any person residing within any town, city, or area in which the  
 73 person is receiving adequate central station service or who at  
 74 the time of commencing such service, or offer to serve, by a  
 75 cooperative, is receiving adequate central station service from  
 76 any utility agency, privately or municipally owned individual  
 77 partnership, or corporation.~~+~~  
 78 (5) To make loans to persons to whom electric energy is or  
 79 will be supplied by the cooperative for the purpose of, and  
 80 otherwise to assist such person in, wiring their premises and  
 81 installing therein electric and plumbing fixtures, appliances,  
 82 apparatus and equipment of any and all kinds and character, and  
 83 in connection therewith, to purchase, acquire, lease, sell,  
 84 distribute, install and repair such electric and plumbing  
 85 fixtures, appliances, apparatus and equipment, and to accept or  
 86 otherwise acquire, and to sell, assign, transfer, endorse,  
 87 pledge, hypothecate and otherwise dispose of notes, bonds and

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88 other evidences of indebtedness and any and all types of  
 89 security therefor.~~+~~  
 90 (6) To make loans to persons to whom electric energy is or  
 91 will be supplied by the cooperative for the purpose of, and  
 92 otherwise to assist such persons in, constructing, maintaining  
 93 and operating electric refrigeration plants.~~+~~  
 94 (7) To become a member in one or more other cooperatives or  
 95 corporations or to own stock therein.~~+~~  
 96 (8) To construct, purchase, take, receive, lease as lessee,  
 97 or otherwise acquire, and to own, hold, use, equip, maintain,  
 98 and operate, and to sell, assign, transfer, convey, exchange,  
 99 lease as lessor, mortgage, pledge, or otherwise dispose of or  
 100 encumber, electric transmission and distribution lines or  
 101 systems, electric generating plants, electric refrigeration  
 102 plants, lands, buildings, structures, dams, plants and  
 103 equipment, and any and all kinds and classes of real or personal  
 104 property whatsoever, which shall be deemed necessary, convenient  
 105 or appropriate to accomplish the purpose for which the  
 106 cooperative is organized.~~+~~  
 107 (9) To purchase or otherwise acquire; to own, hold, use and  
 108 exercise; and to sell, assign, transfer, convey, mortgage,  
 109 pledge, hypothecate, or otherwise dispose of or encumber,  
 110 franchises, rights, privileges, licenses, rights-of-way and  
 111 easement.~~+~~  
 112 (10) To borrow money and otherwise contract indebtedness;  
 113 to issue notes, bonds, and other evidences of indebtedness  
 114 therefor; and to secure the payment thereof by mortgage, pledge,  
 115 deed of trust, or any other encumbrance upon any or all of its  
 116 then owned or after-acquired real or personal property, assets,

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franchises, revenues or income.~~+~~

(11) To construct, maintain, and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon corporations constructing or operating electric transmission and distribution lines or systems.~~+~~

(12) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems.~~+~~

(13) To engage in the provision of broadband pursuant to s. 364.391.

(14) To conduct its business and exercise any or all of its powers within or without this state.~~+~~

~~(15)-(14)~~ To adopt, amend, and repeal bylaws.~~+~~~~and~~

~~(16)-(15)~~ To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.

~~(17)~~ To promote economic development by providing,~~an~~ ~~electric cooperative may provide~~ any energy or nonenergy services to its membership.

Section 3. This act shall take effect July 1, 2023.

3/27/23

The Florida Senate  
**APPEARANCE RECORD**

626

Meeting Date

Commerce and Tourism

Committee

Deliver both copies of this form to  
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Bill Number or Topic

Amendment Barcode (if applicable)

Name **AARP - Karen Murillo**Phone **850-567-0414**Address **215 S. Monroe St.**Email **kmurillo@aarp.org**

Street

**Tallahassee****FL****32301**

City

State

Zip

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

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:
**AARP Florida**
☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

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

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S-001 (08/10/2021)

The Florida Senate

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**CS SB 626**

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Drew Love**Phone **863-698-9936**Address **2916 Apachee Parkway**Email **drew@feca.com**

Street

**Tallahassee****FL****32301**

City

State

Zip

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

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:
**Florida Electric Cooperatives**
☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

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

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S-001 (08/10/2021)



3/27/23

The Florida Senate  
**APPEARANCE RECORD**

CS/SB 626

Meeting Date

Bill Number or Topic

Commerce  
Committee

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Amendment Barcode (if applicable)

Name

Charles Dudley

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Email

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Street

City

Tam.

State

FL

Zip

32301

Speaking:

☐ For

☒ Against

☐ Information

**OR**

Waive Speaking:

☐ In Support

☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

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

FL Internet & Television Assoc.

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

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S-001 (08/10/2021)

3/27/2023

The Florida Senate  
**APPEARANCE RECORD**

SB 626

Meeting Date

Bill Number or Topic

Commerce  
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Amendment Barcode (if applicable)

Name

Marva Johnson

Phone

407-210-3175

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2251 Lucien Way

Email

Marva.Johnson@charter.com

Street

City

Maitland,

State

FL

Zip

32751

Speaking:

☒ For

☐ Against

☐ Information

**OR**

Waive Speaking:

☐ In Support

☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

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

Charter Communications

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

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3-27-2023

Meeting Date

SB 626

Bill Number or Topic

Commerce

Committee

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

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S-001 (08/10/2021)

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

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

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

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BILL: SB 1106

INTRODUCER: Senator Hooper

SUBJECT: Household Moving Services

DATE: March 24, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	<b>Favorable</b>
2.			AEG	
3.			FP	

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## I. Summary:

SB 1106 broadens protections for consumers who use intrastate moving services by:

- Providing additional registration and proof of registration requirements for movers and moving brokers;
- Providing for a required performance bond or certificate of deposit in certain circumstances for shippers' moved goods;
- Requiring a binding estimate of the cost of services, including any applicable fees of a moving broker, to be provided by the mover to a prospective shipper;
- Requiring a moving broker to arrange with a registered mover for the loading, transportation, shipment, or unloading of household goods as part of a household move;
- Requiring a moving broker to include certain information on any document provided by the moving broker to a shipper; and
- Requiring the Department of Agriculture and Consumer Services to suspend a mover's or moving broker's registration under certain circumstances.

The bill provides an effective date of July 1, 2023.

## II. Present Situation:

### Moving Scams

The Better Business Bureau (BBB) has seen a marked increase in complaints and negative reviews about movers in recent years.<sup>1</sup> In 2021, nearly 1,100 complaints were filed with the BBB

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<sup>1</sup> Better Business Bureau, *Know Your Mover: BBB Study Reveals Scammers Price Gouge, Take Belongings Hostage, and Destroy Goods* (Jun. 30, 2020), available at <https://www.bbb.org/article/news-releases/22659-know-your-mover-bbb-study-reveals-scammers-price-gouge-take-belongings-hostage-and-destroy-goods> (last visited Mar. 24, 2023).

against moving companies.<sup>2</sup> Additionally, consumers reported more than \$730,000 lost to moving scams to BBB Scam Tracker, a 216% increase in monetary losses as compared to 2020.<sup>3</sup>

One frequent moving scam involves an initial low-ball estimate (usually provided without an in-person visit to review the belongings that need to be moved) that turns into a demand for a much higher price once all of the household belongings are on the moving truck and awaiting delivery. The truck driver can simply drive away if the consumer refuses to pay the higher price.<sup>4,5</sup>

Another scam requires the shipper to sign a blank or incomplete estimate or contract, which results in a higher than expected price demanded at the time of delivery.<sup>6</sup>

On December 8, 2022, Attorney General Moody filed legal action against three individuals, two holding companies, and multiple fraudulent moving brokerage businesses.<sup>7</sup> According to the Consumer Protection investigation, the businesses acted as a common enterprise to deceive more than 400 Floridians into believing the company professionally handled moving services and promised to provide refunds if anything went wrong. Instead, the companies hired third parties to complete the moving services at subpar quality and refused to provide refunds.<sup>8</sup>

### **Florida (Intrastate) Mover Regulations**

Chapter 507, F.S., governs the loading, transportation, shipment, unloading, and affiliated storage of household goods as part of intrastate household moves. The chapter applies to any mover or moving broker engaged in intrastate transportation or shipment of household goods that originates and terminates in Florida.<sup>9</sup> These regulations co-exist with federal law, which governs interstate moving of household goods.<sup>10</sup>

A “mover” is a person who, for compensation, contracts for or engages in the loading, transportation, shipment, or unloading of household goods as part of a household move.<sup>11</sup> A “moving broker” arranges for another person to load, transport, ship, or unload household goods

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<sup>2</sup> Better Business Bureau, *BBB Scam Alert: Avoid Moving Scams this National Moving Month* (May 2, 2022) available at <https://www.bbb.org/article/scams/24198-bbb-scam-alert-avoid-moving-scams-this-national-moving-month> (last visited Mar. 24, 2023).

<sup>3</sup> *Id.*

<sup>4</sup> Better Business Bureau, *Know Your Mover: BBB Study Reveals Scammers Price Gouge, Take Belongings Hostage, and Destroy Goods* (Jun. 30, 2020), available at <https://www.bbb.org/article/news-releases/22659-know-your-mover-bbb-study-reveals-scammers-price-gouge-take-belongings-hostage-and-destroy-goods> (last visited Mar. 24, 2023).

<sup>5</sup> See, e.g., Jackie Callaway, *Record Number of People File Complaints About Florida Movers in 2021; BBB rates 1,300 Companies ‘F’*, (Dec. 2, 2021), available at <https://www.abcactionnews.com/money/consumer/taking-action-for-you/record-number-of-people-file-complaints-about-florida-movers-in-2021-bbb-rates-1-300-companies-f> (last visited Mar. 24, 2023).

<sup>6</sup> Florida Attorney General’s Office, *Scams at a Glance: On the Move*, available at [http://myfloridalegal.com/webfiles.nsf/WF/TDGT-BYLQQL/\\$file/Movers\\_Scams+at+a+Glance\\_English.pdf](http://myfloridalegal.com/webfiles.nsf/WF/TDGT-BYLQQL/$file/Movers_Scams+at+a+Glance_English.pdf) (last visited Mar. 24, 2023).

<sup>7</sup> See Office of Attorney General Ashley Moody, *Attorney General Moody Takes Action to Shut Down Massive Moving Scam* (Dec. 8, 2022), available at [News Release - Attorney General Moody Takes Action to Shut Down Massive Moving Scam \(myfloridalegal.com\)](https://www.myfloridalegal.com/news-releases-attorney-general-moody-takes-action-to-shut-down-massive-moving-scam) (last visited Mar. 24, 2023).

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

<sup>9</sup> Section 507.02, F.S.

<sup>10</sup> Interstate movers in the U.S. must be licensed by the Department of Transportation’s Federal Motor Carrier Safety Administration (FMCSA).

<sup>11</sup> Section 507.01(9), F.S.

as part of a household move or who refers a shipper to a mover by telephone, postal, or electronic mail, website, or other means.<sup>12</sup>

Movers and moving brokers who do business in Florida must register annually with the Department of Agriculture and Consumer Services (Department).<sup>13</sup> As of March 21, 2023, there were 1,792 movers and 48 moving brokers with active Florida registrations.<sup>14</sup> In order to obtain a registration certificate, the mover or moving broker must file an application, pay a \$300 annual registration fee, and meet certain statutory qualifications, including proof of insurance coverage.<sup>15</sup>

### **Insurance Coverage and Liability Limitations**

Movers and moving brokers must maintain liability and motor vehicle insurance. A mover who operates more than two vehicles is required to maintain liability insurance of at least \$10,000 per shipment, and not less than 60 cents per pound, per article.<sup>16</sup> Movers who operate fewer than two vehicles are required only to carry either a \$25,000 performance bond or a \$25,000 certificate of deposit in lieu of liability insurance.<sup>17</sup>

Any contractual limitation to a mover's liability for loss incurred to a shipper's goods must be disclosed in writing to the shipper, along with the valuation rate, but a mover's attempt to limit its liability beyond the minimum 60 cents per pound, per article rate is void under s. 507.04(4), F.S. If the mover offers valuation insurance, it must inform the shipper of the opportunity to purchase valuation coverage to compensate the shipper for household goods that are lost or damaged during a household move prior to execution of the contract for moving services.<sup>18</sup>

### **Violations and Penalties**

Section 507.05, F.S., requires an intrastate mover to provide an estimate and contract to the shipper before commencing the move. Should a dispute arise over payment or costs, s. 507.06, F.S., provides that the mover may place the shipper's goods in a storage unit until payment is tendered. Because of ambiguity regarding what payment may legally be demanded, some shippers have been taken advantage of by deceptive or fraudulent moving practices. Often, moving fraud manifests as an increased fee assessed by the mover, who then refuses to relinquish the shipper's goods until the inflated price has been paid in full.

While administrative, civil, and criminal penalties exist in ch. 507, F.S., for such fraudulent moving practices and other violations, the aggrieved shipper is not guaranteed the return of his or her goods until after such remedies have been finalized.

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<sup>12</sup> Section 507.01(10), F.S.

<sup>13</sup> Florida Department of Agriculture and Consumer Services (FDACS), *Moving Companies: Who has to Register?*, available at <https://www.fdacs.gov/Business-Services/Moving-Companies> (last visited Mar. 24, 2023).

<sup>14</sup> FDACS, *License/Complaint Lookup*, available at <https://csapp.fdacs.gov/cspublicapp/businesssearch/businesssearch.aspx> (last visited Mar. 24, 2023). Search by "program."

<sup>15</sup> Section 507.03, F.S.

<sup>16</sup> Sections 507.04(1)(a)1. and 507.04(4), F.S.

<sup>17</sup> Section 507.04(1)(b), F.S.

<sup>18</sup> Section 507.04(5), F.S.

In March of 2021, the Florida Consumer Protection Division within the Office of the Attorney General secured four judgments against moving companies that used deceptive advertising, failed to provide proper estimates, failed to relinquish household goods, and failed to provide timely pick-up or delivery of goods in accordance with service contracts.<sup>19</sup>

### **Local Ordinances and Regulations**

Chapter 507, F.S., preempts local ordinances or regulations that relate to household moving, unless the local regulation was adopted prior to January 1, 2011.<sup>20</sup> Broward,<sup>21</sup> Miami-Dade,<sup>22</sup> Palm Beach,<sup>23</sup> and Pinellas<sup>24</sup> counties currently have such ordinances. Movers or moving brokers whose principal place of business is located in a county or municipality with such an ordinance are required to register under local and state laws. State law also allows for local taxes, fees, and bonding related to movers and moving brokers, so long as any local registration fees are reasonable and do not exceed the cost of administering the ordinance or regulation.<sup>25</sup>

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

### **Definitions and Legislative Intent**

**Section 1** amends the following definitions in s. 507.01, F.S.:

- “Contract for service” or “bill of lading” means a written document prepared by a registered mover which is approved and electronically acknowledged or signed by the shipper in writing before the performance of any service by the mover and which authorizes the named mover to perform the services and lists all costs associated with the household move and accessorial services to be performed;
- “Estimate” means a written document prepared by a registered mover that sets forth the total costs and describes the basis of those costs, related to a shipper’s household move, including, but not limited to, the loading, transportation or shipment, and unloading of household goods and accessorial services; and
- “Moving broker” or “broker” means a person who, for compensation, arranges with a registered mover for loading, transporting or shipping, or unloading of household goods as part of a household move or who, for compensation, refers a shipper to a registered mover.

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<sup>19</sup> Office of the Attorney General, *Attorney General Moody Shuts Down Moving Scams and Recovers Millions for Consumers Duped by Malicious Movers* (Mar. 2, 2021), available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/0BFF0224649D124D8525868C005A765F?Open&> (last visited Mar. 24, 2023).

<sup>20</sup> Section 507.13, F.S.

<sup>21</sup> Broward County Government, *Movers*, available at <https://www.broward.org/Consumer/ConsumerProtection/Movers/Pages/default.aspx> (last visited Mar. 24, 2023).

<sup>22</sup> Miami-Dade County, *Moving Companies—Laws & Tips*, available at <https://www.miamidade.gov/global/economy/consumer-protection/moving-companies.page#:~:text=Movers%20must%20insure%20your%20property,the%20value%20of%20your%20property.&text=The%20amount%20of%20added%20value%20you%20purchase%20is%20up%20to%20you>. (last visited Mar. 24, 2023).

<sup>23</sup> Palm Beach County, *Moving*, available at <https://discover.pbcgov.org/publicsafety/consumeraffairs/pages/moving.aspx> (last visited Mar. 24, 2023).

<sup>24</sup> Pinellas County, *Moving*, available at <https://www.pinellascounty.org/consumer/moving.htm> (last visited Mar. 24, 2023).

<sup>25</sup> Section 507.13, F.S.

**Section 2** amends s. 507.02, F.S., to provide that the bill is intended to establish the law of Florida governing the brokering of movers of household goods by moving brokers.

### **Mover Registration**

**Section 3** amends s. 507.03, F.S., to clarify that “broker” means “moving broker.”

The bill clarifies that each estimate, contract, or advertisement of a mover must include a required phrase.

The bill provides that any document from a moving broker must include the phrase “...(NAME OF FIRM)... is registered with the State of Florida as a Moving Broker. Fla. Moving Broker Registration No. ....”

The bill provides that each advertisement of a moving broker must include the phrase “Fla. Moving Broker Reg. No. .... (NAME OF MOVING BROKER)... is a moving broker. ... (NAME OF MOVING BROKER)... is paid by a shipper to arrange, or offer to arrange, the transportation of property by a registered mover.”

The bill requires each moving broker to provide the Department of Agriculture and Consumer Services (Department) with a complete list of registered movers that the moving broker has contracted or is affiliated with, advertises on behalf of, arranges moves for, or refers shippers to, including each mover’s complete name, address, telephone number, email address, and registration number and the name of each mover’s owners, corporate officers, and directors. Additionally, a moving broker must notify the department of any changes to the provided information, and the department must publish and maintain a list of all moving brokers and the registered movers each moving broker is contracted with on its website.

The bill provides that a person may not hold themselves out to be a mover or moving broker without first registering with the department.

The bill requires the department to immediately issue a cease and desist order to a person upon finding that such person is operating as a mover or moving broker without registering.

Additionally, the department may seek an immediate injunction from the appropriate circuit court that prohibits the person from operating in Florida until the person complies with the registration requirement, a civil penalty not to exceed \$5,000, and court costs.

### **Insurance Requirement**

**Section 4** amends the insurance requirements in s. 507.04, F.S. The bill authorizes a mover that operates two or fewer vehicles, in lieu of maintaining liability insurance coverage, to maintain one of the following alternative coverages:

- A performance bond in the amount of \$50,000, up from the current \$25,000, for which the surety of the bond must be a surety company authorized to conduct business in Florida; or
- A certificate of deposit in a Florida banking institution in the amount of \$50,000, up from the current \$25,000.

The bill also requires a moving broker to maintain one of the above listed coverages.

The bill requires the department to immediately suspend a mover's or moving broker's registration if the mover or moving broker fails to maintain the required performance bond, certificate of deposit, or the appropriate insurance. In such cases, the mover or moving broker must immediately cease operating as a mover or moving broker in Florida. Additionally, the department may seek an immediate injunction from the appropriate circuit court that prohibits the person from operating in Florida until the person complies with the aforementioned requirements, a civil penalty not to exceed \$5,000, and court costs.

### **Estimates and Contracts for Service**

**Section 5** amends s. 507.05, F.S., to require that an estimate and a contract must be prepared by a registered mover and provided to a prospective shipper in writing, and the shipper, mover, and moving broker must sign or electronically acknowledge and date the estimate and contract.

The bill requires the estimate and contract for service to include the following:

- The name, telephone number, and physical address where the mover's and moving broker's employees are available during normal business hours;
- The date the estimate and contract were prepared by the mover and the proposed date or dates of the shipper's household move, including, but not limited to, loading, transportation, shipment, and unloading of household goods and accessorial services;
- The name and address of the shipper, the addresses where the articles are to be picked up and delivered, and a telephone number where the shipper may be reached;
- The name, telephone number, and physical address of the location where the household goods will be held pending further transportation, including situations in which the mover retains possession of household goods pending resolution of a fee dispute with the shipper;
- An itemized breakdown and description and total of all costs and services for loading, transportation or shipment, unloading, and accessorial services to be provided during a household move or storage of household goods, including the fees of a moving broker, if used; and
- Acceptable forms of payment, which must be clearly and conspicuously disclosed to the shipper on the binding estimate and the contract for services.

### **Moving Brokers**

**Section 6** creates s. 507, 056, F.S., to provide requirements specific to moving brokers.

The bill establishes that a moving broker may only arrange with a registered mover for the loading, transportation, shipment, or unloading of household goods as part of a household move or refer a shipper to a registered mover. Moving brokers may not give a verbal estimate or prepare a written estimate or contract for services that sets forth the total costs and describes the basis of those costs relating to a shipper's household move, including, but not limited to, the loading, transportation, shipment, or unloading of household goods and accessorial services.

The bill provides that before providing any service to a prospective shipper, a moving broker must disclose to the shipper that the broker may only arrange, or offer to arrange, the transportation of property by a registered mover. Additionally, a moving broker's fees may not



include the cost of the shipper's household move, including, but not limited to, the loading, transportation, shipment, or unloading of household goods and accessorial services.

The bill requires any document provided to a shipper by a moving broker to include the following:

- The name of the moving broker and the moving broker's registration number;
- The following statement displayed at the top of the document: "... (Name of Moving Broker)... is not a mover. ... (Name of Moving Broker)... is paid by the shipper to arrange, or offer to arrange, the transportation of property by a registered mover. The moving broker's fees do not include the cost of the shipper's household move, including, but not limited to, the loading, transportation, shipment, or unloading of household goods and accessorial services;"
- The name, telephone number, and physical address where the moving broker's employees are available during normal business hours;
- An itemized breakdown and description and total of all costs for the moving broker's fees to arrange with a registered mover for the loading, transportation, shipment, or unloading of household goods as part of a household move or to refer the shipper to a registered mover;
- A list of all of the registered movers the moving broker has contracted with or is affiliated with, advertises on behalf of, arranges moves for, or refers shippers to, including each mover's complete name, address, telephone number, email address, Florida Intrastate Registration Number, and the name of each mover's owners, corporate officers, and directors; and
- A list of acceptable forms of payment, which must include all of the forms of payment listed in at least two of the following subparagraphs:
  - Cash, cashier's check, money order, or traveler's check;
  - Valid personal check, showing upon its face the name and address of the shipper or authorized representative; and
  - Valid credit card, which shall include, but not be limited to, Visa or MasterCard.

## **Violations and Penalties**

**Section 7** prohibits a moving broker from providing an estimate or entering into a contract or agreement for moving, loading, shipping, transporting, or unloading services with a shipper which was not prepared and electronically acknowledged or signed by a mover who is registered with the department.

**Section 8** provides that upon notification and subsequent written verification by a law enforcement agency, a court, a state attorney, or the Department of Law Enforcement, the department must immediately suspend a registration or the processing of an application for a registration if the registrant, applicant, or officer or director of the registrant or applicant is formally charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property or a crime arising from conduct during a movement of household goods until final disposition of the case or removal or resignation of that officer or director.

**Sections 9 and 10** make conforming changes to ss. 507.10 and 507.11, F.S., accordingly, to incorporate amendments made elsewhere in the bill.

**Effective Date**

**Section 11** creates an effective date of July 1, 2023.

**Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

**IV. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The public may see a faster resolution to moving disputes that arise due to the provisions in the bill.

C. Government Sector Impact:

The Department will have to incorporate the changes made by the bill.

**V. Technical Deficiencies:**

None.

**VI. Related Issues:**

The bill provides that upon notification and subsequent written verification by a law enforcement agency, a court, a state attorney, or the Department of Law Enforcement that a registrant,

applicant, or officer or director of the registrant or applicant is formally charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion, the Department of Agriculture and Consumer Services (Department) is required to suspend a registration or the processing of an application for registration until final disposition of the case or removal or resignation of that officer or director. However, it is unclear if the Department is receiving notification and subsequent written verification by a law enforcement agency, a court, a state attorney, or the Department of Law Enforcement, or alternatively, if the Department is receiving notification from any person or entity, and then getting a subsequent written verification from one of the aforementioned entities.

**VII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 507.01, 507.02, 507.03, 507.04, 507.05, 507.056, 507.07, 507.09, 507.10, 507.11.

This bill creates s. 507.056 of the Florida Statutes.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

By Senator Hooper

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1 A bill to be entitled  
 2 An act relating to household moving services; amending  
 3 s. 507.01, F.S.; revising definitions; amending s.  
 4 507.02, F.S.; providing construction; amending s.  
 5 507.03, F.S.; revising requirements for estimates,  
 6 contracts, and advertisements; conforming a cross-  
 7 reference; revising requirements relating to lists  
 8 provided to the Department of Agriculture and Consumer  
 9 Services by moving brokers; requiring the department  
 10 to publish and maintain a specified list on its  
 11 website; prohibiting certain persons from operating as  
 12 or holding themselves out to be a mover or moving  
 13 broker without registering with the department;  
 14 requiring the department to issue cease and desist  
 15 orders to certain persons under certain circumstances;  
 16 authorizing the department to seek an immediate  
 17 injunction under certain circumstances; amending s.  
 18 507.04, F.S.; revising alternative coverage  
 19 requirements; requiring the department to immediately  
 20 suspend a mover's or moving broker's registration  
 21 under certain circumstances; authorizing the  
 22 department to seek an immediate injunction under  
 23 certain circumstances; amending s. 507.05, F.S.;  
 24 revising requirements for contracts and estimates for  
 25 prospective shippers; creating s. 507.056, F.S.;  
 26 providing limitations and prohibitions for moving  
 27 brokers; requiring moving brokers to make a specified  
 28 disclosure to shippers before providing any services;  
 29 prohibiting moving brokers' fees from including

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30 certain costs; requiring that documents provided to  
 31 shippers by moving brokers contain specified  
 32 information; amending s. 507.07, F.S.; providing that  
 33 it is a violation of ch. 507, F.S., for moving brokers  
 34 to provide estimates or enter into contracts or  
 35 agreements that were not prepared and signed or  
 36 electronically acknowledged by a mover; amending s.  
 37 507.09, F.S.; conforming a cross-reference; requiring  
 38 the department, upon verification by certain entities,  
 39 to immediately suspend a registration or the  
 40 processing of an application for a registration in  
 41 certain circumstances; amending s. 507.10, F.S.;  
 42 conforming a cross-reference; amending s. 507.11,  
 43 F.S.; conforming provisions to changes made by the  
 44 act; providing an effective date.

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

48 Section 1. Subsections (4), (6), and (10) of section  
 49 507.01, Florida Statutes, are amended to read:

50 507.01 Definitions.—As used in this chapter, the term:

51 (4) "Contract for service" or "bill of lading" means a  
 52 written document prepared by a registered mover which is  
 53 approved and electronically acknowledged or signed by the  
 54 shipper in writing before the performance of any service by the  
 55 mover and which authorizes services from the named mover to  
 56 perform and lists the services and lists all costs associated  
 57 with the household move and accessorial services to be  
 58 performed.

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(6) "Estimate" means a written document prepared by a registered mover that sets forth the total costs and describes the basis of those costs, relating to a shipper's household move, including, but not limited to, the loading, transportation or shipment, and unloading of household goods and accessorial services.

(10) "Moving broker" or "broker" means a person who, for compensation, arranges with a registered mover for loading, transporting or shipping, or unloading of ~~for another person to load, transport or ship, or unload~~ household goods as part of a household move or who, for compensation, refers a shipper to a registered mover by telephone, postal or electronic mail, Internet website, or other means.

Section 2. Present paragraph (b) of subsection (1) of section 507.02, Florida Statutes, is redesignated as paragraph (c), and a new paragraph (b) is added to that subsection, to read:

507.02 Construction; intent; application.—

(1) This chapter shall be construed liberally to:

(b) Establish the law of this state governing the brokering of moves of household goods by moving brokers.

Section 3. Subsections (1), (2), (5), (6), (7), (9), and (11) of section 507.03, Florida Statutes, are amended, and subsections (12) and (13) are added to that section, to read:

507.03 Registration.—

(1) Each mover and moving broker must register with the department, providing its legal business and trade name, mailing address, and business locations; the full names, addresses, and telephone numbers of its owners, ~~or~~ corporate officers, and

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directors and the Florida agent of the corporation; a statement whether it is a domestic or foreign corporation, its state and date of incorporation, its charter number, and, if a foreign corporation, the date it registered with the Department of State; the date on which the mover or moving broker registered its fictitious name if the mover or moving broker is operating under a fictitious or trade name; the name of all other corporations, business entities, and trade names through which each owner of the mover or moving broker operated, was known, or did business as a mover or moving broker within the preceding 5 years; and proof of the insurance or alternative coverages required under s. 507.04.

(2) A certificate evidencing proof of registration shall be issued by the department and must be prominently displayed in the mover's or moving broker's primary place of business.

(5) (a) Each estimate or contract of a mover ~~or moving broker~~ must include the phrase "... (NAME OF FIRM) ... is registered with the State of Florida as a Mover ~~or Moving Broker~~. Fla. Mover Registration No. ...."

(b) Any document from a moving broker must include the phrase "... (NAME OF FIRM) ... is registered with the State of Florida as a Moving Broker. Fla. Moving Broker Registration No. ...."

(6) (a) Each advertisement of a mover ~~or moving broker~~ must include the phrase "Fla. Mover Reg. No. ...." or "Fla. IM No. ...." Each of the mover's vehicles must clearly and conspicuously display a sign on the driver's side door which includes at least one of these phrases in lettering of at least 1.5 inches in height.

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(b) Each advertisement of a moving broker must include the phrase "Fla. Moving Broker Reg. No. .... (NAME OF MOVING BROKER)... is a moving broker. ... (NAME OF MOVING BROKER)... is paid by a shipper to arrange, or offer to arrange, the transportation of property by a registered mover."

(7) A registration is not valid for any mover or moving broker transacting business at any place other than that designated in the mover's or moving broker's application, unless the department is first notified in writing before any change of location. A registration issued under this chapter is not assignable, and the mover or moving broker may not conduct business under more than one name except as registered. A mover or moving broker desiring to change its registered name or location or designated agent for service of process at a time other than upon renewal of registration must notify the department of the change.

(9) The department shall deny or refuse to renew the registration of a mover or a moving broker or deny a registration or renewal request by any of the mover's or moving broker's directors, officers, owners, or general partners if the mover or moving broker has not satisfied a civil penalty or administrative fine for a violation of s. 507.07(10) ~~or 507.07(9)~~.

(11) ~~At the request of the department,~~ Each moving broker shall provide the department with a complete list of the registered movers that the moving broker has contracted or is affiliated with, advertises on behalf of, arranges moves for, or refers shippers to, including each mover's complete name, address, telephone number, ~~and~~ e-mail address, and registration

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number and the name of each mover's owners, corporate officers, and directors ~~owner or other principal~~. A moving broker must notify the department of any changes to the provided information. The department shall publish and maintain a list of all moving brokers and the registered movers each moving broker is contracted with on its website.

(12) A person required to register pursuant to this section may not operate as or hold itself out to be a mover or moving broker without first registering with the department pursuant to this section.

(13) The department must immediately issue a cease and desist order to a person upon finding that such person is operating as mover or moving broker without registering pursuant to this section. In addition, and notwithstanding the availability of any administrative relief under chapter 120, the department may seek from the appropriate circuit court an immediate injunction prohibiting the person from operating in this state until the person complies with this section, a civil penalty not to exceed \$5,000, and court costs.

Section 4. Present subsections (3), (4), and (5) of section 507.04, Florida Statutes, are redesignated as subsections (4), (5), and (6), respectively, a new subsection (3) is added to that section, and subsection (1) and present subsections (4) and (5) of that section are amended, to read:

507.04 Required insurance coverages; liability limitations; valuation coverage.—

(1) LIABILITY INSURANCE.—

(a)1. Except as provided in paragraph (b), each mover operating in this state must maintain current and valid

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liability insurance coverage of at least \$10,000 per shipment for the loss or damage of household goods resulting from the negligence of the mover or its employees or agents.

2. The mover must provide the department with evidence of liability insurance coverage before the mover is registered with the department under s. 507.03. All insurance coverage maintained by a mover must remain in effect throughout the mover's registration period. A mover's failure to maintain insurance coverage in accordance with this paragraph constitutes an immediate threat to the public health, safety, and welfare.

(b) A mover that operates two or fewer vehicles, in lieu of maintaining the liability insurance coverage required under paragraph (a), may, ~~and each moving broker must,~~ maintain one of the following alternative coverages:

1. A performance bond in the amount of \$50,000 ~~\$25,000~~, for which the surety of the bond must be a surety company authorized to conduct business in this state; or

2. A certificate of deposit in a Florida banking institution in the amount of \$50,000 ~~\$25,000~~.

(c) A moving broker must maintain one of the following coverages:

1. A performance bond in the amount of \$50,000, for which the surety of the bond must be a surety company authorized to conduct business in this state; or

2. A certificate of deposit in a Florida banking institution in the amount of \$50,000.

The original bond or certificate of deposit must be filed with the department and must designate the department as the sole

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beneficiary. The department must use the bond or certificate of deposit exclusively for the payment of claims to consumers who are injured by the fraud, misrepresentation, breach of contract, misfeasance, malfeasance, or financial failure of the mover or moving broker or by a violation of this chapter by the mover or moving broker. Liability for these injuries may be determined in an administrative proceeding of the department or through a civil action in a court of competent jurisdiction. However, claims against the bond or certificate of deposit must only be paid, in amounts not to exceed the determined liability for these injuries, by order of the department in an administrative proceeding. The bond or certificate of deposit is subject to successive claims, but the aggregate amount of these claims may not exceed the amount of the bond or certificate of deposit.

(3) REGISTRATION SUSPENSION.—The department must immediately suspend a mover's or moving broker's registration if the mover or moving broker fails to maintain the required performance bond or the certificate of deposit under subsection (1) or the insurance required under subsection (2), and the mover or moving broker must immediately cease operating as a mover or moving broker in this state. In addition, and notwithstanding the availability of any administrative relief pursuant to chapter 120, the department may seek from a circuit court an immediate injunction prohibiting the mover or moving broker from operating in this state until the mover or moving broker complies with subsections (1) and (2), a civil penalty not to exceed \$5,000, and court costs.

(5) ~~(4)~~ LIABILITY LIMITATIONS; VALUATION RATES.—A mover may not limit its liability for the loss or damage of household

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goods to a valuation rate that is less than 60 cents per pound per article. A provision of a contract for moving services is void if the provision limits a mover's liability to a valuation rate that is less than the minimum rate under this subsection. If a mover limits its liability for a shipper's goods, the mover must disclose the limitation, including the valuation rate, to the shipper in writing at the time that the estimate and contract for services are executed and before any moving or accessorial services are provided. The disclosure must also inform the shipper of the opportunity to purchase valuation coverage if the mover offers that coverage under subsection (6) ~~(5)~~.

~~(6)(5)~~ VALUATION COVERAGE.—A mover may offer valuation coverage to compensate a shipper for the loss or damage of the shipper's household goods that are lost or damaged during a household move. If a mover offers valuation coverage, the coverage must indemnify the shipper for at least the minimum valuation rate required under subsection ~~(5)~~ ~~(4)~~. The mover must disclose the terms of the coverage to the shipper in writing at the time that the estimate and contract for services are executed and before any moving or accessorial services are provided. The disclosure must inform the shipper of the cost of the valuation coverage, the valuation rate of the coverage, and the opportunity to reject the coverage. If valuation coverage compensates a shipper for at least the minimum valuation rate required under subsection ~~(5)~~ ~~(4)~~, the coverage satisfies the mover's liability for the minimum valuation rate.

Section 5. Section 507.05, Florida Statutes, is amended to read:

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

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507.05 Estimates and contracts for service.—Before providing any moving or accessorial services, an estimate and a contract and estimate must be prepared by a registered mover and provided to a prospective shipper in writing, and the shipper, mover, and moving broker, if applicable, must sign or electronically acknowledge and date the estimate and contract. ~~At a minimum, the estimate and contract for service must be signed and dated by the shipper and the mover, and~~ must include:

(1) The name, telephone number, and physical address where the mover's and moving broker's employees are available during normal business hours.

(2) The date the estimate and contract were ~~or estimate is prepared by the mover and the any~~ proposed date or dates of the shipper's household move, including, but not limited to, loading, transportation, shipment, and unloading of household goods and accessorial services.

(3) The name and address of the shipper, the addresses where the articles are to be picked up and delivered, and a telephone number where the shipper may be reached.

(4) The name, telephone number, and physical address of the any location where the household goods will be held pending further transportation, including situations in which ~~where~~ the mover retains possession of household goods pending resolution of a fee dispute with the shipper.

(5) An itemized breakdown and description and total of all costs and services for loading, transportation or shipment, unloading, and accessorial services to be provided during a household move or storage of household goods, including the fees of a moving broker, if used.

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



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291 (6) Acceptable forms of payment, which must be clearly and  
 292 conspicuously disclosed to the shipper on the binding estimate  
 293 and the contract for services. A mover must ~~shall~~ accept at  
 294 least a minimum of two of the three following forms of payment:

295 (a) Cash, cashier's check, money order, or traveler's  
 296 check;

297 (b) Valid personal check, showing upon its face the name  
 298 and address of the shipper or authorized representative; or

299 (c) Valid credit card, which shall include, but not be  
 300 limited to, Visa or MasterCard.

301

302 A mover must clearly and conspicuously disclose to the shipper  
 303 in the estimate and contract for services the forms of payments  
 304 the mover will accept, including the forms of payment described  
 305 in paragraphs (a)-(c).

306 Section 6. Section 507.056, Florida Statutes, is created to  
 307 read:

308 507.056 Moving brokers; services.—

309 (1) A moving broker may only arrange with a registered  
 310 mover for the loading, transportation, shipment, or unloading of  
 311 household goods as part of a household move or refer a shipper  
 312 to a registered mover. Moving brokers may not give a verbal  
 313 estimate or prepare a written estimate or contract for services  
 314 that sets forth the total costs and describes the basis of those  
 315 costs relating to a shipper's household move, including, but not  
 316 limited to, the loading, transportation, shipment, or unloading  
 317 of household goods and accessorial services.

318 (2) Before providing any service to a prospective shipper,  
 319 a moving broker must disclose to the shipper that the broker may

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320 only arrange, or offer to arrange, the transportation of  
 321 property by a registered mover. A moving broker's fees may not  
 322 include the cost of the shipper's household move, including, but  
 323 not limited to, the loading, transportation, shipment, or  
 324 unloading of household goods and accessorial services. Any  
 325 document provided to a shipper by a moving broker must include  
 326 all of the following:

327 (a) The name of the moving broker and the moving broker's  
 328 registration number.

329 (b) The following statement displayed at the top of the  
 330 document: "... (Name of Moving Broker) ... is not a mover.  
 331 ... (Name of Moving Broker) ... is paid by the shipper to arrange,  
 332 or offer to arrange, the transportation of property by a  
 333 registered mover. The moving broker's fees do not include the  
 334 cost of the shipper's household move, including, but not limited  
 335 to, the loading, transportation, shipment, or unloading of  
 336 household goods and accessorial services."

337 (c) The name, telephone number, and physical address where  
 338 the moving broker's employees are available during normal  
 339 business hours.

340 (d) An itemized breakdown and description and total of all  
 341 costs for the moving broker's fees to arrange with a registered  
 342 mover for the loading, transportation, shipment, or unloading of  
 343 household goods as part of a household move or to refer the  
 344 shipper to a registered mover.

345 (e) A list of all of the registered movers the moving  
 346 broker has contracted with or is affiliated with, advertises on  
 347 behalf of, arranges moves for, or refers shippers to, including  
 348 each mover's complete name, address, telephone number, e-mail

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address, Florida Intrastate Registration Number, and the name of each mover's owners, corporate officers, and directors.

(f) A list of acceptable forms of payment, which must include all of the forms of payment listed in at least two of the following subparagraphs:

1. Cash, cashier's check, money order, or traveler's check.

2. Valid personal check, showing upon its face the name and address of the shipper or authorized representative.

3. Valid credit card, which shall include, but not be limited to, Visa or MasterCard.

Section 7. Present subsections (8) and (9) of section 507.07, Florida Statutes, are redesignated as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

507.07 Violations.—It is a violation of this chapter:

(8) For a moving broker to provide an estimate or enter into a contract or agreement for moving, loading, shipping, transporting, or unloading services with a shipper which was not prepared and electronically acknowledged or signed by a mover who is registered with the department pursuant to this chapter.

Section 8. Section 507.09, Florida Statutes, is amended to read:

507.09 Administrative remedies; penalties.—

(1) The department may enter an order doing one or more of the following if the department finds that a mover or moving broker, or a person employed or contracted by a mover or broker, has violated or is operating in violation of this chapter or the rules or orders issued pursuant to this chapter:

(a) Issuing a notice of noncompliance under s. 120.695.

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(b) Imposing an administrative fine in the Class II category pursuant to s. 570.971 for each act or omission. However, the department must impose an administrative fine in the Class IV category for each violation of s. 507.07(10) ~~s. 507.07(9)~~ if the department does not seek a civil penalty for the same offense.

(c) Directing that the person cease and desist specified activities.

(d) Refusing to register or revoking or suspending a registration.

(e) Placing the registrant on probation, subject to the conditions specified by the department.

(2) The department, upon notification and subsequent written verification by a law enforcement agency, a court, a state attorney, or the Department of Law Enforcement, must immediately suspend a registration or the processing of an application for a registration if the registrant, applicant, or officer or director of the registrant or applicant is formally charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property or a crime arising from conduct during a movement of household goods until final disposition of the case or removal or resignation of that officer or director.

(3) The administrative proceedings ~~that which~~ could result in the entry of an order imposing any of the penalties specified in subsection (1) or subsection (2) are governed by chapter 120.

(4) ~~(3)~~ The department may adopt rules under ss. 120.536(1) and 120.54 to administer this chapter.

Section 9. Subsection (2) of section 507.10, Florida

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Statutes, is amended to read:

507.10 Civil penalties; remedies.—

(2) The department may seek a civil penalty in the Class II category pursuant to s. 570.971 for each violation of this chapter. However, the department must seek a civil penalty in the Class IV category for each violation of s. 507.07(10) ~~s. 507.07(9)~~ if the department does not impose an administrative fine for the same offense.

Section 10. Subsection (1) of section 507.11, Florida Statutes, is amended to read:

507.11 Criminal penalties.—

(1) The refusal of a mover or a mover's employee, agent, or contractor to comply with an order from a law enforcement officer to relinquish a shipper's household goods after the officer determines that the shipper has tendered payment of the amount of a written estimate or contract, or after the officer determines that the mover did not produce a signed or electronically acknowledged binding estimate or contract for service upon which demand is being made for payment, is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A mover's compliance with an order from a law enforcement officer to relinquish goods to a shipper is not a waiver or finding of fact regarding any right to seek further payment from the shipper.

Section 11. This act shall take effect July 1, 2023.

3/27/23  
Meeting Date  
Commerce & Tourism  
Committee  
Name Gloria Rugh Phone 850-877-7131  
Address 319 Ross Rd Email gloria@amwathmovers.com  
TLH FL 32305  
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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

S-001 (08/10/2021)

3/27/2023  
Meeting Date  
Commerce  
Committee  
Name JIM DUNCAN Phone 850-545-6067  
Address 1645 COPPERFIELD CIR Email jim.duncan@hub  
TALLA FL 32312  
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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

S-001 (08/10/2021)

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

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

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

---

BILL: CS/SB 1108

INTRODUCER: Commerce and Tourism Committee and Senator Hooper

SUBJECT: Fees/Moving Brokers

DATE: March 28, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	<b>Fav/CS</b>
2.			AEG	
3.			FP	

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1108 requires registration fees to be calculated at the rate of \$600 per year, per moving broker. Currently, s. 507.03, F.S., provides that each mover and moving broker must register with the Department of Agriculture and Consumer Services (Department) and registration fees are calculated at the rate of \$300 per year per mover or moving broker. All amounts collected are deposited by the Chief Financial Officer to the credit of the Department's General Inspection Trust Fund.

SB 1106 is a linked bill that amends ch. 507, F.S., to broaden protections for consumers who use intrastate moving services.

See Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 1106 or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

**II. Present Situation:**

**Florida (Intrastate) Mover Regulations**

Chapter 507, F.S., governs the loading, transportation, shipment, unloading, and affiliated storage of household goods as part of intrastate household moves. The chapter applies to any

mover or moving broker engaged in intrastate transportation or shipment of household goods that originates and terminates in Florida.<sup>1</sup> These regulations co-exist with federal law, which governs interstate moving of household goods.<sup>2</sup>

A “mover” is a person who, for compensation, contracts for or engages in the loading, transportation, shipment, or unloading of household goods as part of a household move.<sup>3</sup> A “moving broker” arranges for another person to load, transport, ship, or unload household goods as part of a household move or who refers a shipper to a mover by telephone, postal, or electronic mail, website, or other means.<sup>4</sup>

Movers and moving brokers who do business in Florida must register annually with the Department of Agriculture and Consumer Services (Department).<sup>5</sup> As of March 21, 2023, there were 1,792 movers and 48 moving brokers with active Florida registrations.<sup>6</sup> In order to obtain a registration certificate, the mover or moving broker must file an application, pay a \$300 annual registration fee, and meet certain statutory qualifications, including proof of insurance coverage.<sup>7</sup>

### III. Effect of Proposed Changes:

The bill requires registration fees to be calculated at the rate of \$600 per year per moving broker.

The bill is effective on the same date that SB 1106 or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>1</sup> Section 507.02, F.S.

<sup>2</sup> Interstate movers in the U.S. must be licensed by the Department of Transportation’s Federal Motor Carrier Safety Administration (FMCSA).

<sup>3</sup> Section 507.01(9), F.S.

<sup>4</sup> Section 507.01(10), F.S.

<sup>5</sup> Florida Department of Agriculture and Consumer Services (FDACS), *Moving Companies: Who has to Register?*, available at <https://www.fdacs.gov/Business-Services/Moving-Companies> (last visited Mar. 28, 2023).

<sup>6</sup> FDACS, *License/Complaint Lookup*, available at <https://csapp.fdacs.gov/cspublicapp/businesssearch/businesssearch.aspx> (last visited Mar. 28, 2023). Search by “program.”

<sup>7</sup> Section 507.03, F.S.

**D. State Tax or Fee Increases:**

Section 19, Art. VII of the State Constitution limits the authority of the legislature to enact legislation that imposes or raises a state tax or fee by requiring such legislation to be approved by a 2/3 vote of each chamber of the legislature. Such state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject. For purposes of this limitation, the term “fee” is defined, in pertinent part, to mean any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

**E. Other Constitutional Issues:**

None.

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

The bill requires registration fees to be calculated at the rate of \$600 per year, per moving broker. Currently, the fee for a moving broker is \$300 per year.

**B. Private Sector Impact:**

Beginning July 1, 2023, moving brokers in Florida will be required to pay registration fees at the rate of \$600 per year per moving broker.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

As required for all fee bills linked to a substantive bill, a technical amendment is required to insert the number of the linked bill SB 1106. Staff has prepared the required technical amendment to insert the linked bill number into the bill.

**VIII. Statutes Affected:**

This bill substantially amends section 507.03 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 on March 27, 2023:**

The committee substitute provides that the bill will take effect on the same date that SB 1106 or similar legislation takes effect.

**B. Amendments:**

None.

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

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552372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete lines 17 - 18  
and insert:  
Section 2. This act shall take effect on the same date that  
SB 1106 or similar legislation takes effect, if such legislation

By Senator Hooper

21-02078-23

20231108\_\_

A bill to be entitled

An act relating to fees; amending s. 507.03, F.S.;  
revising registration fees for moving brokers;  
providing a contingent effective date.

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

Section 1. Paragraph (a) of subsection (3) of section  
507.03, Florida Statutes, is amended to read:

507.03 Registration.—

(3) (a) Registration fees shall be calculated at the rate of  
\$300 per year per mover and \$600 per year per ~~or~~ moving broker.  
All amounts collected shall be deposited by the Chief Financial  
Officer to the credit of the General Inspection Trust Fund of  
the department for the sole purpose of administration of this  
chapter.

Section 2. This act shall take effect on the same date that  
SB \_\_\_\_ or similar legislation takes effect, if such legislation  
is adopted in the same legislative session or an extension  
thereof and becomes a law.

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

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

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

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BILL: CS/SB 1664

INTRODUCER: Commerce and Tourism Committee and Senator Hooper

SUBJECT: Economic Development

DATE: March 28, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Fav/CS
2.			ATD	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1664 modifies provisions related to economic development and the Department of Economic Opportunity (DEO), including:

- Requiring the Secretary of the DEO to appoint deputy secretaries for the Division of Strategic Business Development, the Division of Community Development, and the Division of Workforce Services; and to appoint directors for the Division of Finance and Administration and the Division of Information Technology;
- Revising the list of local governments affected by Naval Support Activity Orlando to include Lake, Marion, and Sumter Counties and Groveland, Howey-in-the-Hills, Leesburg, and Wildwood to encourage compatible land use;
- Exempting any loan made with funds administered by the DEO from the documentary stamp tax;
- Specifying that funding provided under the Regional Rural Development Grant Program are not matching grants and removing the requirement that an applicant must show proof that each local government and the private sector made a financial or in-kind commitment to the regional organization in order to receive funding;
- Removing the requirement that repaid funds from the Rural Community Development Revolving Loan Fund be matched in order to be retained to fund future loans;
- Revising the uses of the Rural Infrastructure Fund to remove the requirement that grants be linked to financing specific projects; specifies that funds may not be used to serve any retail end user that already has access to broadband Internet service; increases the proportion of an infrastructure project that may be covered by the grant from 50 percent to 75 percent and

increase the maximum grant for infrastructure feasibility studies and certain other activities to \$300,000 for all projects; removes the local match requirement for surveys, feasibility studies, and other activities related to the identification and preclearance review of land which is suitable for preclearance review; and removes the requirement that a grant for an employment project create a minimum number of jobs;

- Specifying that the term “public infrastructure projects” includes projects for workforce housing in terms of awards that may be provided through Triumph Gulf Coast, Inc.;
- Clarifying a public records exemption;
- Deleting the July 1, 2023 repeal of the Florida Development Finance Corporation;
- Renaming the Florida Defense Support Task Force the Florida Defense Support Council; and
- Requiring, rather than authorizing, the DEO to adopt rules related to the Everglades Restoration Agricultural Community Employment Training Program, and providing that the DEO must use program funds to provide grants to stimulate and support employer-based training programs and institution-based training programs that seek to match persons to nonagricultural employment opportunities in the Everglades Agricultural Area and certain rural areas of opportunity.

The bill exempts loans made with funds administered by the DEO from the documentary stamp tax, which could result in a positive fiscal impact for loan recipients. The bill does not affect state revenues or expenditures relating to the Rural Development Grants Program, Rural Community Development Revolving Loan Fund, and the Rural Infrastructure Fund. However, the removal of match requirements and the increase in allowable grant awards under the Rural Infrastructure Fund may limit the total number of grants awarded if funding of these programs remains unchanged. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2023.

## **II. Present Situation:**

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

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

### **Department of Economic Opportunity (DEO) (Section 1)**

#### Present Situation

The Department of Economic Opportunity (DEO) is tasked with assisting the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians.<sup>1</sup> The DEO must also ensure that the state’s goals and policies relating to economic development, workforce development,

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<sup>1</sup> Section 20.60(4), F.S.

community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.<sup>2</sup>

To achieve these goals, the Legislature established seven divisions and offices within the DEO:

- Strategic Business Development
- Community Development
- Workforce Services
- Finance and Administration
- Division of Information Technology
- Office of the Secretary
- Office of Economic Accountability and Transparency<sup>3</sup>

The seven divisions and offices help fulfill the DEO's statutorily mandated responsibilities, which include:

- Facilitating the direct involvement of the Governor and the Lieutenant Governor in economic development and workforce development projects designed to create, expand, and retain businesses in Florida, to recruit business from around the world, and to facilitate other job-creating efforts.
- Recruiting new businesses to this state and promote the expansion of existing businesses by expediting permitting and location decisions, worker placement and training, and incentive awards.
- Promoting viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities.
- Ensuring that the state's goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.
- Managing the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs in areas including, but not limited to, tourism; international trade and investment; business recruitment, creation, retention, and expansion; minority and small business development; rural community development; and the development and promotion of professional and amateur sporting events.
- Coordinating with state agencies on the processing of state development approvals or permits to minimize the duplication of information provided by the applicant and the time before approval or disapproval.<sup>4</sup>

The Secretary may create offices within the Office of the Secretary and within the divisions to promote efficient and effective operation of the DEO.<sup>5</sup>

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<sup>2</sup> OPPAGA, *Program Summary: Department of Economic Opportunity*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=6101> (last visited March 24, 2023).

<sup>3</sup> Section 20.60(3), F.S.

<sup>4</sup> Section 20.60(4), F.S.

<sup>5</sup> Section 20.60(3)(b), F.S.

### Effect of Proposed Changes

**Section 1** amends s. 20.60(3)(b), F.S., to require the Secretary of the DEO to appoint deputy secretaries for the Division of Strategic Business Development, the Division of Community Development, and the Division of Workforce Services. The Secretary is also required to appoint directors for the Division of Finance and Administration and the Division of Information Technology.

### **Compatibility of Development with Military Installations (Section 2)**

#### Present Situation

Section 163.3175(2), F.S., identifies the major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others, and identifies the local governments proximate to these installations that are required to address compatibility of land development with military installations in their comprehensive plans.

Currently, there are 16 military installations that cooperate with local governments to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in Florida.<sup>6</sup> Included on the list is Naval Support Activity Orlando, including Bugg Spring and Naval Ordnance Test unit associated with Orange County and the city of Orlando.

#### Effect of Proposed Changes

**Section 2** amends s. 163.3175(2), F.S., to revise the list of local governments affected by Naval Support Activity Orlando to include Lake, Marion, and Sumter Counties and Groveland, Howey-in-the-Hills, Leesburg, and Wildwood.

The bill also amends s. 163.3175(3), F.S., to rename the Florida Defense Support Task Force the Florida Defense Support Council to conform to the changes made in section 12 of the bill.

### **Tax Exemptions for Certain Loans (Section 3)**

#### Present Situation

Florida levies a documentary stamp tax on certain documents executed, delivered, or recorded in Florida. The most common examples are documents that transfer an interest in Florida real property, such as deeds; and mortgages and written obligations to pay money, such as promissory notes.<sup>7</sup>

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<sup>6</sup> See s. 163.3175(2)(a)-(p), F.S., which lists each affected military installation and its related communities.

<sup>7</sup> Florida Department of Revenue, *Florida Documentary Stamp Tax*, available at [https://floridarevenue.com/taxes/taxesfees/pages/doc\\_stamp.aspx](https://floridarevenue.com/taxes/taxesfees/pages/doc_stamp.aspx) (last visited March 24, 2023).

The tax on deeds and other documents related to real property is 70 cents per \$100,<sup>8</sup> and the tax on bonds, debentures, certificates of indebtedness, promissory notes, nonnegotiable notes, and other written obligations to pay money is 35 cents per \$100.<sup>9</sup> Documentary stamp taxes levied on promissory notes, nonnegotiable notes, and written obligations may not exceed \$2,450.<sup>10</sup>

Chapter 201, F.S., provides that certain transactions are exempt from the documentary stamp tax. Notably, s. 201.25, F.S., exempts loans made by the Small Business Emergency Bridge Loan Program in response to a disaster for which the Governor declares a state of emergency, any loan made by the Agricultural Economic Development Program<sup>11</sup> used to aid agricultural producers who experienced losses from a natural disaster or a socioeconomic condition or event, and any federal loan that is related to a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36, F.S.

### Effect of Proposed Changes

**Section 3** amends s. 201.25, F.S., to exempt any loan made with funds administered by the DEO from the documentary stamp tax.

## **Regional Rural Development Grants Program (Section 4)**

### Present Situation

The Regional Rural Development Grants Program was established to provide funding, through matching grants, to build the professional capacity of regionally based economic development organizations located in rural communities. The concept of building the “professional capacity” of an economic development organization includes hiring professional staff to develop, deliver, and provide economic development professional services. Professional services includes technical assistance, education and leadership development, marketing, and project recruitment.<sup>12</sup>

Applications submitted to the DEO for funding through this program must provide proof:<sup>13</sup>

- Of official commitments of support from each of the units of local government represented by the regional organization;
- That each local government has made a financial or in-kind commitments to the regional organization;
- That the private sector has made financial or in-kind commitments to the regional organization;
- That the regional organization is in existence and actively involved in economic development activities serving the region; and
- Of the manner in which the organization coordinates its efforts with those other local and state organizations.

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<sup>8</sup> Section 201.02(1)(a), F.S.

<sup>9</sup> Sections 201.07 and 201.08(1)(b), F.S.

<sup>10</sup> Section 201.08(1)(a), F.S.

<sup>11</sup> See Section 570.82, F.S.

<sup>12</sup> Section 288.018(1)(b), F.S.

<sup>13</sup> Section 288.018(2), F.S.

An organization may receive up to \$50,000 a year or \$250,000 if located in a rural area of opportunity (RAO).<sup>14</sup> Grants must be matched by an amount of non-state resources equal to 25 percent of the state contribution. The DEO is authorized to spend up to \$750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund to carry out this program.<sup>15</sup>

#### Effect of Proposed Changes

**Section 4** amends s. 288.018, F.S., to specify that funding provided under the program is not required to be matched. The bill eliminates the requirement that grant funds received by a regional economic development organization must be matched each year by nonstate resources in an amount equal to 25 percent of the state contributions. The bill also removes the requirement that an applicant must show proof that each local government and the private sector made a financial or in-kind commitment to the regional organization in order to receive funding.

#### **Rural Community Development Revolving Loan Fund (Section 5)**

##### Present Situation

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.<sup>16</sup>

The program provides term loans to local governments, or economic development organizations substantially underwritten by a unit of local government, within counties with populations of 75,000 or fewer or a contiguous county of 125,000 or fewer.<sup>17</sup>

Loan repayments are generally returned to the loan fund to be made available to other applicants, but repayments made by an applicant in an RAO may be retained by the applicant if the repayments are dedicated and matched to fund regionally based economic development organizations representing the RAO and if retention of funds is approved by the DEO.<sup>18</sup>

##### Effect of Proposed Changes

**Section 5** amends s. 288.065, F.S., to remove the requirement that funds be matched by the local government, or an economic development organization substantially underwritten by a local government, as long as the funds are retained for the purpose of funding regionally based economic development organizations representing the RAO.

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<sup>14</sup> Section 288.018(1)(c), F.S.

<sup>15</sup> Section 288.018(4), F.S.

<sup>16</sup> Section 288.065(1), F.S.

<sup>17</sup> Section 288.065(2)(a), F.S.

<sup>18</sup> Section 288.065(2)(c), F.S.



## **Rural Infrastructure Fund (Section 6)**

### Present Situation

The Rural Infrastructure Fund is a grant program created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities.<sup>19</sup> The program provides access to federal and state infrastructure funding programs, including, but not limited to, those offered by the United States Departments of Agriculture and Commerce.<sup>20</sup> The program funds total infrastructure project grants, infrastructure feasibility grants, and preclearance review grants.

The DEO may award grants for up to 50 percent of the total infrastructure project cost.<sup>21</sup> Projects must be related to specific job-creation or job-retention opportunities. Additionally, projects may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth or reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities, and improving the access availability of broadband Internet service.

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites, upgrades to or development of public tourism infrastructure, and improvements to broadband Internet service and access in unserved or underserved rural communities.<sup>22</sup> Infrastructure can include public or public-private partnership facilities, like storm water systems, telecommunication, broadband, roads, and nature-based tourism.<sup>23</sup>

The infrastructure feasibility grant provides awards of up to 30 percent of the total project costs for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities.<sup>24</sup> Maximum awards are dependent on the number of jobs that a business commits to create and may be up to \$300,000 if the project is located in a RAO. The total project participation grant may be used in conjunction with the infrastructure feasibility grant.

The preclearance review grant provides awards to help a local government participate in expedited permitting processes through technical assistance in preparing permit applications and local comprehensive plan amendments.<sup>25</sup> Grants may be used for surveys, feasibility studies, and other activities related to the identification and preclearance review of land use modifications. Grants are limited to \$75,000 and must be matched 50 percent with local funds. However, projects in a RAO may receive up to \$300,000 and must be matched 33 percent with local funds.<sup>26</sup>

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<sup>19</sup> See s. 288.0655, F.S.

<sup>20</sup> Section 288.0655(2)(b), F.S.

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

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

<sup>23</sup> Broadband Internet service must be provided in partnership with one or more dealers of communications services. Section 288.0655(2)(b), F.S.

<sup>24</sup> Section 288.0655(2)(c), F.S.

<sup>25</sup> Section 288.0655(2)(e), F.S. See s. 403.9739(18), F.S., for the expedited permitting process.

<sup>26</sup> Section 288.0655(2)(e), F.S.

Grant applications are reviewed and certified by the DEO in consultation with Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission.<sup>27</sup> Reviews include an evaluation of the economic benefit of the projects and their long-term viability.

A total of \$30 million in funding was made through the Rural Infrastructure Fund for Fiscal Year 2022-2023. Twenty-five million was available for eligible rural communities statewide and an additional \$5 million was available specifically for Florida Panhandle counties.<sup>28</sup>

### Effect of Proposed Changes

**Section 6** amends s. 288.0655, F.S., to increase the maximum grant award from 50 percent to 75 percent of the total infrastructure cost, or up to 100 percent of the total infrastructure project cost for a project that is located in a rural community<sup>29</sup> or a RAO and that is also located in a fiscally constrained county.<sup>30</sup> The bill removes the requirement that projects must be linked to financing specific projects.

The bill increases the maximum grant for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities to \$300,000 for all projects. It removes the limitation that the grant not exceed 30 percent of the total project cost.

The bill removes the local match requirement for surveys, feasibility studies, and other activities related to the identification and preclearance review of land which is suitable for preclearance review. It also removes the requirement that a grant for an employment project create or retain a minimum number of jobs.

The bill also specifies that funds may not be used to serve any retail end user that already has access to broadband Internet service.

### **Confidentiality of Records (Section 7)**

#### Present Situation

Section 288.075, F.S., provides for a number of temporary public records exemptions for information held by an economic development agency, including:

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<sup>27</sup> Section 288.0655(3), F.S.

<sup>28</sup> Department of Economic Opportunity, *Rural Infrastructure Fund*, available at <https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-infrastructure-fund> (last visited March 24, 2023).

<sup>29</sup> “Rural community” means (1) A county with a population of 75,000 or fewer; (2) A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; (3) A municipality within a county described in subparagraph 1. or subparagraph 2; or (4) An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the department. Section 288.0656(2)(e), F.S.

<sup>30</sup> A fiscally constrained country is any county that is entirely within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1. Section 218.67(1), F.S.

- Information concerning a corporation's plans to relocate or expand any of its business activities in the state for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed;
- Proprietary confidential business information, until the information becomes publicly available or is no longer treated by the proprietor as confidential;
- Specific sales, employee wage, and tax information the administration of an economic incentive program for qualified businesses for the duration of the incentive agreement or upon termination of the agreement; and
- Certain information held by an economic development agency pursuant to its administration of a state or federal funded small business loan program.

Section 288.075(1)(a), F.S., defines an "economic development agency" as:

- The Department of Economic Opportunity;
- Any industrial development authority created in accordance with part III of chapter 159, F.S., or by special law;
- Space Florida;
- The public economic development agency of a county or municipality or, if the county or municipality does not have a public economic development agency, the county or municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or municipality or the responsibilities related thereto;
- Any research and development authority created in accordance of part V of chapter 159, F.S.; or
- Any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county.

### Effect of Proposed Changes

**Section 7** amends s. 288.075(1)(a), F.S. to provide that the public economic development agency of a county or municipality or the county or municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or municipality are considered an economic development agency for purposes of the public records exemption.

### **Triumph Gulf Coast, Inc. (Section 8)**

#### Present Situation

Pursuant to the Gulf Coast Economic Corridor Act,<sup>31</sup> Triumph Gulf Coast, Inc.,<sup>32</sup> a nonprofit corporation, oversees the expenditure of the immediate transfer of 75 percent of all funds recovered by the Attorney General<sup>33</sup> for economic damages to the state that resulted from the

<sup>31</sup> Chapter 2013-39, s. 51, Laws of Fla.

<sup>32</sup> Section 288.8013, F.S., establishes the corporation.

<sup>33</sup> Following the oil spill, the State of Florida sued B.P. for the economic damages it sustained; entered into a settlement agreement whereby the State will receive a total of \$2 Billion dollars over an 18 year period. Attorney General Pam Bondi received BP's initial settlement payment of \$400 million in July of 2016, and the funds were placed into the state General Revenue Fund. Thirteen subsequent settlement payments are scheduled to be paid annually to the state in the amount of \$106,666,666 from 2019 until 2033. See s. 288.8013(2), F.S.

2010 Deepwater Horizon oil spill. Triumph Gulf Coast, Inc., must use the funds for the recovery, diversification, and enhancement of the following eight counties disproportionately affected by the oil spill: Bay, Escambia, Gulf, Franklin, Okaloosa, Santa Rosa, Wakulla, and Walton.<sup>34</sup>

The awards for projects or programs within the boundaries of each disproportionately affected county are based on the following minimum allocations:

- At least 40 percent of the moneys transferred to Triumph Gulf Coast, Inc., before July, 2017, must be allocated equally among the eight disproportionately affected counties based on a minimum allocation of at least 5 percent per county.
- For each subsequent transfer of funds to Triumph Gulf Coast, Inc., at least 32 percent of the moneys must be allocated equally among the eight disproportionately affected counties based on a minimum allocation of at least 4 percent per county.<sup>35</sup>

Awards may be provided for:

- Ad valorem tax rate reduction within disproportionately affected counties;
- Local match requirements for Rural Infrastructure Fund projects in the disproportionately affected counties;
- Public infrastructure projects for construction, expansion, or maintenance which are shown to enhance economic recovery, diversification, and enhancement of the disproportionately affected counties;
- Grants to local governments in the disproportionately affected counties to establish and maintain equipment and trained personnel for local action plans of response to respond to disasters, such as plans created for the Coastal Impacts Assistance Program;
- Grants to support programs that prepare students for future occupations and careers at K-20 institutions that have campuses in the disproportionately affected counties. Eligible programs include those that increase students' technology skills and knowledge; encourage industry certifications; provide rigorous, alternative pathways for students to meet high school graduation requirements; strengthen career readiness initiatives; fund high-demand programs of emphasis at the bachelor's and master's level designated by the Board of Governors; and, similar to or the same as talent retention programs created by the Chancellor of the State University System and the Commission of Education, encourage students with interest or aptitude for science, technology, engineering, mathematics, and medical disciplines to pursue postsecondary education at a state university or a Florida College System institution within the disproportionately affected counties;
- Grants to support programs that provide participants in the disproportionately affected counties with transferable, sustainable workforce skills that are not confined to a single employer; and
- Grants to Visit Florida for the purpose of advertising and promoting tourism and Fresh From Florida, and grants to promote workforce and infrastructure, on behalf of all of the disproportionately affected counties.<sup>36</sup>

For Fiscal Year 2022-2023, funds were deposited into the Rebuild Florida Revolving Loan Fund program (rebranded as Rebuild Florida Business Loan Fund) to assist businesses impacted by

<sup>34</sup> Triumph Gulf Coast, Inc., *Home*, available at <https://www.myfloridatriumph.com/> (last visited March 28, 2023).

<sup>35</sup> Section 288.8013(2)(b), F.S.

<sup>36</sup> Section 288.8017(1), F.S.

Hurricane Michael. Funds are designated specifically for businesses located in Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty, Taylor, Wakulla and Washington counties.<sup>37</sup>

### Effect of Proposed Changes

**Section 8** amends s. 288.8017, F.S., to specify that the awards that may be given for public infrastructure projects includes projects for workforce housing.

## **Florida Development Finance Corporation (Section 9)**

### Present Situation

#### *Operation*

The Florida Development Finance Corporation (FDFC) is a statewide development financing authority created by the Legislature in 1993.<sup>38</sup> The original purpose of the FDFC was to foster the growth of manufacturing and other strong job-creating businesses in Florida by brokering private-activity bond financing through inter-local agreements with counties, municipalities, and other local political subdivisions.<sup>39</sup>

In the 2010 legislative session, the FDFC's responsibilities were broadened to allow it to participate in a federal Department of Energy guaranteed loan program for the development of renewable energy infrastructure projects, and related energy projects that may be eligible under federal law.<sup>40</sup> The FDFC has the power to function within the corporate limits of any public agency including local governments with which it enters into an inter-local agreement.<sup>41</sup>

Pursuant to s. 288.9605, F.S., the FDFC operates as a conduit bond issuer that issues bonds on behalf of borrowers. While the FDFC functions as a mechanism to help borrowers access capital markets, it does not take on responsibility of debt repayment, even when a borrower fails to repay. Conversely, the FDFC does not guarantee the bonds it issues but certain borrowers may opt in to the guaranty fund established by the FDFC pursuant to s. 288.9607, F.S., which guarantees that the bonds issued will be repaid. This guaranty fund consists of premiums paid by businesses that wish to participate in the fund and by a property interest in the infrastructure built with the insured bond's proceeds.<sup>42</sup>

A majority of the FDFC's financial assistance results from the issuance of municipal bonds, of which it may issue either a taxable revenue bond or a tax-exempt bond.<sup>43</sup> The bonds issued can

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<sup>37</sup> Section 288.80125(3), F.S.

<sup>38</sup> Chapter 288, Part X, F.S. The corporation was created as a "public body corporate and politic" meaning that it is a legal entity or corporation with a public function. Ch. 93-187, ss. 24-45, Laws of Fla.

<sup>39</sup> Section 288.9602, F.S., generally expresses the legislative intent of the FDFC.

<sup>40</sup> Sections 2-10, ch. 2010-139, Laws of Fla.

<sup>41</sup> Section 288.9605(2)(e), F.S.

<sup>42</sup> The guaranty may not exceed 5 percent of the aggregate principal amount of bonds or other indebtedness relating to any capital project. Section 288.9607, F.S.

<sup>43</sup> Florida Development Finance Corporation, *About Us*, available at <https://www.fdfcbonds.com/about> (last visited March 24, 2023).

provide financing for projects that further public purposes and are issued on behalf of a range of organizations.

Tax exempt bonds, known also as private activity bonds, require additional borrower qualification processes, including approval pursuant to the Tax Equity and Fiscal Responsibility Act of 1986 (TEFRA) and allocation from the Florida State Board of Administration's Division of Bond Finance. These bonds are more lucrative financing options because they tend to have a lower interest rate than bank loans or taxable fixed-income securities, and investors benefit by not paying income taxes on interest payments.<sup>44</sup> The FDFC helps its borrowers pursue private activity bonds by assisting them with the additional qualification processes.<sup>45</sup>

During fiscal year 2021-2022, the FDFC facilitated the authorization and issuance of 24 private activity bonds totaling \$2,107,659,000. The borrowers served by these bonds include 11 charter schools, four senior living facilities, four healthcare facilities, two transportation facilities, two not-for-profits, and one private school.<sup>46</sup>

The FDFC also administers the Property Assessed Clean Energy (PACE) program, for which it may issue bonds and other financial assistance that supports energy conservation.<sup>47</sup> PACE allows for the repayment of debt to be paid through a property tax bill and typical measures funded by the program include HVAC, elevators, lighting, solar, and water fixtures.<sup>48</sup> The PACE program issued \$37,535,012 in financing for seven projects in fiscal year 2021-2022.<sup>49</sup>

### ***Governance and Administration***

The FDFC is governed by a seven-member board of directors. The Secretary of the DEO must serve as chair of the board of directors, and the director of the Division of Bond Finance of the State Board of Administration must serve as a director on the board of directors. The remaining five directors must be appointed by the Governor and confirmed by the Senate for four-year terms.<sup>50</sup> At least three of the appointed directors must have experience in finance, and one of the directors must have experience in economic development.<sup>51</sup>

The FDFC stands repealed on July 1, 2023.<sup>52</sup>

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<sup>44</sup> Grant A. Driessen, Congressional Research Service, *Private Activity Bonds: An Introduction* (January 31, 2022), available at <https://crsreports.congress.gov/product/pdf/RL/RL31457>, (last visited March 24, 2023).

<sup>45</sup> Florida Development Finance Corporation, *Private Activity Bonds*, available at <https://www.fdfcbonds.com/pab> (last visited March 24, 2023).

<sup>46</sup> Florida Development Finance Corporation, *2021-2022 Annual Report*. (On file with the Senate Commerce and Tourism Committee).

<sup>47</sup> Florida Development Finance Corporation, *Property Assessed Clean Energy "PACE" – Commercial PACE*, available at <https://www.fdfcbonds.com/cpace> (last visited March 24, 2023).

<sup>48</sup> *Id.*

<sup>49</sup> *Supra* note 45.

<sup>50</sup> Section 288.9604(2), F.S.

<sup>51</sup> *Id.*

<sup>52</sup> Chapter 2020-30, Laws of Fla.

Effect of Proposed Changes

**Section 9** amends s. 288.9604, F.S., to delete the July 1, 2023, repeal of the FDFC.

**Florida Defense Support Task Force (Section 12)**Present Situation

In 2011,<sup>53</sup> the Legislature created the Florida Defense Support Task Force (task force) with the mission to make recommendations to preserve and protect military installations to support the state's position in research and development related to or arising out of military missions and contracting, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.<sup>54</sup>

The task force is comprised of the Governor, or his or her designee, and 12 members representing defense-related industries or communities that host military bases and installations.<sup>55</sup>

The DEO is required to contract with the task force for the expenditure of appropriated funds, which may be used by the task force for:

- Economic and product research and development;
- Joint planning with host communities to accommodate military missions and prevent base encroachment;
- Advocacy on the state's behalf with federal civilian and military officials;
- Assistance to school districts in providing a smooth transition for large numbers of additional military-related students;
- Job training and placement for military spouses in communities with high proportions of active duty military personnel; and
- Promotion of the state to military and related contractors and employers.<sup>56</sup>

A "task force" is defined as an advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years, and appointed to study a specific problem and recommend a solution or policy alternative with respect to the problem. Its existence terminates upon the completion of its assignment.<sup>57</sup>

A "council" or "advisory council" is defined as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.<sup>58</sup>

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<sup>53</sup> Chapter 2011-76, s. 38, Laws of Fla.

<sup>54</sup> Section 288.987(2), F.S.

<sup>55</sup> Section 288.987(3), F.S.

<sup>56</sup> Section 299.987(7), F.S.

<sup>57</sup> Section 20.03(8), F.S.

<sup>58</sup> Section 20.03(7), F.S.

The Florida Defense Support Task Force was statutorily enacted in 2011 and has exceeded the three-year timeframe pursuant to the “task force” definition.

#### Effect of Proposed Changes

**Section 12** amends s. 288.987, F.S., to rename the Florida Defense Support Task Force the Florida Defense Support Council.

### **Everglades Restoration Agricultural Community Employment Training Program (Section 13)**

#### Present Situation

The Everglades Restoration Agricultural Community Employment Training Program (program) requires the DEO, in cooperation with CareerSource Florida, Inc., to use funds to provide grants to stimulate and support training and employment programs that seek to match persons who complete such training programs to nonagricultural employment opportunities in areas of high agricultural unemployment. The program also provides other training, educational, and information services necessary to stimulate the creation of jobs in the areas of high agricultural unemployment.<sup>59</sup>

Funds may be used for grants for tuition for public or private technical or vocational programs and matching grants to employers to conduct employer-based training programs, or for the purchase of equipment to be used for training purposes, the hiring of instructors, or any other purpose directly associated with the program.<sup>60</sup>

The DEO is prohibited from awarding a grant to any given training program which exceeds 50 percent of the total cost of the program, unless the training program is located within a RAO, in which case the grant may exceed 50 percent of the total cost of the program and up to 100 percent.<sup>61</sup> Matching contributions may include in-kind services, including, but not limited to, the provision of training instructors, equipment, and training facilities.

The DEO may grant up to 100 percent of the tuition for a participant who resides, and has resided for at least three of the last five immediately preceding years, within the Everglades Agricultural Area (EAA)<sup>62</sup> and in counties that provide for water storage and dispersed water storage that are located in RAOs.<sup>63</sup>

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<sup>59</sup> Section 446.71(1), F.S.

<sup>60</sup> Section 446.71(3), F.S.

<sup>61</sup> Section 446.71(4), F.S.

<sup>62</sup> The Everglades Agricultural Area is an approximately 1,160 square-mile area south of Lake Okeechobee of productive agricultural land. *See* s. 373.4592(15), F.S., for the property description. *See also* Lake Okeechobee Business Alliance, *The Everglades Agricultural Area*, available at <http://www.lakeoalliance.org/everglades-agricultural-area#:~:text=The%20Everglades%20Everglades%20Agricultural%20Area,vibrant%20and%20sustianable%20local%20economics>. (last visited March 24, 2023).

<sup>63</sup> Section 446.71(6), F.S.



Programs established in the EAA must include opportunities to obtain the qualifications and skills necessary for jobs related to federal and state restoration projects, the Airglades Airport in Hendry County, or an inland port in Palm Beach County, or other industries with verifiable, demonstrated interest in operating within the EAA, as well as in counties that provide for water storage and dispersed water storage that are located in RAOs.<sup>64</sup>

The DEO is required to adopt rules to implement the program.

In 2022, the Legislature awarded more than \$700,000 to the program.<sup>65</sup>

#### Effect of Proposed Changes

**Section 13** amends s. 446.71, F.S., to specify that the DEO, in cooperation with CareerSource Florida, Inc., must use program funds to provide grants to stimulate and support employer-based training programs and institution-based training programs to match persons to nonagricultural employment opportunities in the EAA and any RAOs which include DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee. Grants must be prioritized for the employer-based training programs. Program funds may also be used to provide other training, educational, and information services necessary to stimulate the creation of jobs within the same areas. The DEO must consider the location of the training program in proximity to the program's intended participants.

Program funds may be used to provide tuition for institution-based training programs, rather than public or private technical or vocational programs as provided in current law, or any other purpose directly associated with the employer-based training program or institution-based training program. The DEO must set aside up to 50 percent of the funds for employer-based training programs for the first six months of each fiscal year. Any unused funds may be used for the institution-based training programs.

The DEO must prioritize grants to employer-based training programs. However, grants may not be awarded to an employer-based training program if the grant exceeds 50 percent of the total cost of the program except that if the employer-based training program is in a RAO, then the DEO may grant an award up to 100 percent of the program costs.

A grant of up to 100 percent may be awarded for an institution-based training program participant who has lived within the EAA or in any RAO in the designated counties and cities listed above for the past 12 months.

The bill clarifies that employer based training programs established in the EAA or in any RAO in the designated counties and cities listed above must include opportunities to obtain the qualifications and skills necessary for jobs related to federal and state restoration projects, the Airglades Airport in Hendry County, or an inland port in Palm Beach County, or other industries

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<sup>64</sup> Section 446.71(7), F.S.

<sup>65</sup> Department of Economic Opportunity, DEO Press Releases, *Governor DeSantis Awards More Than \$700,000 for Workforce Training in Everglades Agricultural Communities*, available at [https://www.floridajobs.org/news-center/DEO-Press/2022/04/18/governor-desantis-awards-more-than-\\$700-000-for-workforce-training-in-everglades-agricultural-communities](https://www.floridajobs.org/news-center/DEO-Press/2022/04/18/governor-desantis-awards-more-than-$700-000-for-workforce-training-in-everglades-agricultural-communities) (last visited March 24, 2023).

with verifiable, demonstrated interest in operating within the EAA or in any RAO in the designated counties and cities listed above.

The bill authorizes, rather than requires, the DEO to adopt rules to administer the program.

The bill defines an “employer-based training program” as a program established by, or to be established by, a business in the state that provides training for in-demand nonagricultural occupations for its employees.

The bill defines an “institution-based training program” as a certificate program or other program of study provided by a public or private university, college, or technical or vocational training institution which provides training for in-demand nonagricultural occupations.

### **Miscellaneous Provisions**

**Section 10** amends s. 288.980, F.S., to update a cross reference.

**Section 11** amends s. 288.985, F.S., to update a cross reference.

**Section 14** amends s. 695.03, F.S., to require the Secretary of the DEO, rather than the Governor, to appoint commissioners of deeds who authenticate acknowledgements in certain real estate transactions.

**Section 15** reenacts s. 288.106(2), F.S., to incorporate the amendment made in section 7, relating to the term “economic development agency.”

**Section 16** provides the bill takes effect July 1, 2023.

## **IV. Constitutional Issues:**

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

None.

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

None.

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

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

The bill exempts any loans made with funds administered by the DEO from documentary stamp taxes, which may result in a positive fiscal impact for loan recipients.

**C. Government Sector Impact:**

The bill does not affect state revenues or expenditures relating to the Rural Development Grants Program, Rural Community Development Revolving Loan Fund, and the Rural Infrastructure Fund. However, the removal of match requirements and the increase in allowable grant awards under the Rural Infrastructure Fund may limit the total number of grants awarded if funding of these programs remains unchanged.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill amends 288.075, F.S., to provide that the public economic development agency of a county or municipality *or* the county municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or municipality are considered an economic development agency for purposes of the public records exemption. If the intent of the bill is to exempt both entities then the word “or” on line 258 is unclear.

**VIII. Statutes Affected:**

This bill substantially amends sections 20.60, 163.3175, 201.25, 288.018, 288.065, 288.0655, 288.075, 288.8017, 288.9604, 288.980, 288.985, 288.987, 446.71, 695.03, and 288.106 of the Florida Statutes.

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

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

**CS by Commerce and Tourism on March 27, 2023:**

The amendment makes the following changes:

- Specifies that Rural Infrastructure Funds may not be used to serve any retail end user that already has access to broadband Internet service;
- Specifies that the term “public infrastructure projects” includes projects for workforce housing in terms of awards that may be provided through Triumph Gulf Coast, Inc.; and

- Deletes a section relating to the makeup of the Space Florida board of directors.

**B. Amendments:**

None.

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

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LEGISLATIVE ACTION

	Senate	House
Comm: RCS	.	.
03/27/2023	.	.
	.	.
	.	.

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

Senate Amendment (with title amendment)

Delete lines 172 - 687  
and insert:  
comparable communities. Eligible uses of funds include, and  
improving access to and the availability of broadband Internet  
service; however, the funds may not be used to serve any retail  
end user that already has access to broadband Internet service.

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10 Eligible uses of funds also shall include improvements to public  
11 infrastructure for industrial or commercial sites, upgrades to  
12 or development of public tourism infrastructure, and  
13 improvements to broadband Internet service and access in  
14 unserved or underserved rural communities; however, the funds  
15 may not be used to serve any retail end user that already has  
16 access to broadband Internet service. Improvements to broadband  
17 Internet service and access must be conducted through a  
18 partnership or partnerships with one or more dealers, as defined  
19 in s. 202.11(2), and the partnership or partnerships must be  
20 established through a competitive selection process that is  
21 publicly noticed. Authorized infrastructure may include the  
22 following public or public-private partnership facilities: storm  
23 water systems; telecommunications facilities; broadband  
24 facilities; roads or other remedies to transportation  
25 impediments; nature-based tourism facilities; or other physical  
26 requirements necessary to facilitate tourism, trade, and  
27 economic development activities in the community. Authorized  
28 infrastructure may also include publicly or privately owned  
29 self-powered nature-based tourism facilities, publicly owned  
30 telecommunications facilities, and broadband facilities, and  
31 additions to the distribution facilities of the existing natural  
32 gas utility as defined in s. 366.04(3)(c), the existing electric  
33 utility as defined in s. 366.02, or the existing water or  
34 wastewater utility as defined in s. 367.021(12), or any other  
35 existing water or wastewater facility, which owns a gas or  
36 electric distribution system or a water or wastewater system in  
37 this state where:  
38 1. A contribution-in-aid of construction is required to

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39 serve public or public-private partnership facilities under the  
40 tariffs of any natural gas, electric, water, or wastewater  
41 utility as defined herein; and

42 2. Such utilities as defined herein are willing and able to  
43 provide such service.

44 (c) ~~To facilitate timely response and induce the location~~  
45 ~~or expansion of specific job creating opportunities, The~~  
46 department may award grants of up to \$300,000 for infrastructure  
47 feasibility studies, design and engineering activities, or other  
48 infrastructure planning and preparation activities. ~~Authorized~~  
49 ~~grants shall be up to \$50,000 for an employment project with a~~  
50 ~~business committed to create at least 100 jobs; up to \$150,000~~  
51 ~~for an employment project with a business committed to create at~~  
52 ~~least 300 jobs; and up to \$300,000 for a project in a rural area~~  
53 ~~of opportunity. Grants awarded under this paragraph may be used~~  
54 ~~in conjunction with grants awarded under paragraph (b), provided~~  
55 ~~that the total amount of both grants does not exceed 30 percent~~  
56 ~~of the total project cost.~~ In evaluating applications under this  
57 paragraph, the department shall consider the extent to which the  
58 application seeks to minimize administrative and consultant  
59 expenses.

60 (e) To enable local governments to access the resources  
61 available pursuant to s. 403.973(18), the department may award  
62 grants for surveys, feasibility studies, and other activities  
63 related to the identification and preclearance review of land  
64 which is suitable for preclearance review. Authorized grants  
65 under this paragraph do not require a local match and may not  
66 exceed \$75,000 each, except in the case of a project in a rural  
67 area of opportunity, in which case the grant may not exceed

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68 \$300,000. ~~Any funds awarded under this paragraph must be matched~~  
69 ~~at a level of 50 percent with local funds, except that any funds~~  
70 ~~awarded for a project in a rural area of opportunity must be~~  
71 ~~matched at a level of 33 percent with local funds. If an~~  
72 ~~application for funding is for a catalyst site, as defined in s.~~  
73 ~~288.0656, the requirement for local match may be waived pursuant~~  
74 ~~to the process in s. 288.06561.~~ In evaluating applications under  
75 this paragraph, the department shall consider the extent to  
76 which the application seeks to minimize administrative and  
77 consultant expenses.

78 (3) The department, in consultation with Enterprise  
79 Florida, Inc., the Florida Tourism Industry Marketing  
80 Corporation, the Department of Environmental Protection, and the  
81 Florida Fish and Wildlife Conservation Commission, as  
82 appropriate, shall review and certify applications pursuant to  
83 s. 288.061. The review shall include an evaluation of the  
84 economic benefit ~~of the projects and their~~ long-term viability.  
85 The department shall have final approval for any grant under  
86 this section.

87 Section 7. Paragraph (a) of subsection (1) of section  
88 288.075, Florida Statutes, is amended to read:  
89 288.075 Confidentiality of records.—

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

91 (a) "Economic development agency" means:

92 1. The Department of Economic Opportunity;

93 2. Any industrial development authority created in  
94 accordance with part III of chapter 159 or by special law;

95 3. Space Florida created in part II of chapter 131;

96 4. The public economic development agency of a county or

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97 municipality or, ~~if the county or municipality does not have a~~  
98 ~~public economic development agency,~~ the county or municipal  
99 officers or employees assigned the duty to promote the general  
100 business interests or industrial interests of that county or  
101 municipality or the responsibilities related thereto;

102 5. Any research and development authority created in  
103 accordance with part V of chapter 159; or

104 6. Any private agency, person, partnership, corporation, or  
105 business entity when authorized by the state, a municipality, or  
106 a county to promote the general business interests or industrial  
107 interests of the state or that municipality or county.

108 Section 8. Subsection (1) of section 288.8017, Florida  
109 Statutes, is amended to read:

110 288.8017 Awards.—

111 (1) Triumph Gulf Coast, Inc., shall make awards from  
112 available funds to projects or programs that meet the priorities  
113 for economic recovery, diversification, and enhancement of the  
114 disproportionately affected counties. Awards may be provided for  
115 any of the following:

116 (a) Ad valorem tax rate reduction within disproportionately  
117 affected counties.†

118 (b) Local match requirements ~~of s. 288.0655~~ for projects in  
119 the disproportionately affected counties.†

120 (c) Public infrastructure projects for construction,  
121 expansion, or maintenance which are shown to enhance economic  
122 recovery, diversification, and enhancement of the  
123 disproportionately affected counties. For the purposes of this  
124 paragraph, the term "public infrastructure projects" includes  
125 projects for workforce housing.†

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126 (d) Grants to local governments in the disproportionately  
127 affected counties to establish and maintain equipment and  
128 trained personnel for local action plans of response to respond  
129 to disasters, such as plans created for the Coastal Impacts  
130 Assistance Program.†

131 (e) Grants to support programs that prepare students for  
132 future occupations and careers at K-20 institutions that have  
133 campuses in the disproportionately affected counties. Eligible  
134 programs include those that increase students' technology skills  
135 and knowledge; encourage industry certifications; provide  
136 rigorous, alternative pathways for students to meet high school  
137 graduation requirements; strengthen career readiness  
138 initiatives; fund high-demand programs of emphasis at the  
139 bachelor's and master's level designated by the Board of  
140 Governors; and, similar to or the same as talent retention  
141 programs created by the Chancellor of the State University  
142 System and the Commission of Education, encourage students with  
143 interest or aptitude for science, technology, engineering,  
144 mathematics, and medical disciplines to pursue postsecondary  
145 education at a state university or a Florida College System  
146 institution within the disproportionately affected counties.†

147 (f) Grants to support programs that provide participants in  
148 the disproportionately affected counties with transferable,  
149 sustainable workforce skills that are not confined to a single  
150 employer.† ~~and~~

151 (g) Grants to the tourism entity created under s. 288.1226  
152 for the purpose of advertising and promoting tourism and Fresh  
153 From Florida, and grants to promote workforce and  
154 infrastructure, on behalf of all of the disproportionately

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155 affected counties.

156 Section 9. Subsection (5) of section 288.9604, Florida  
157 Statutes, is amended to read:

158 288.9604 Creation of the corporation.—

159 ~~(5) This section is repealed July 1, 2023, and July 1 of~~  
160 ~~every fourth year thereafter, unless reviewed and saved from~~  
161 ~~repeal by the Legislature.~~

162 Section 10. Paragraph (b) of subsection (2) of section  
163 288.980, Florida Statutes, is amended to read:

164 288.980 Military base retention; legislative intent; grants  
165 program.—

166 (2)

167 (b)1. The department shall annually request military  
168 installations in the state to provide the department with a list  
169 of base buffering encroachment lands for fee simple or less-  
170 than-fee simple acquisitions before October 1.

171 2. The department shall submit the list of base buffering  
172 encroachment lands to the Florida Defense Support Council Task  
173 Force created in s. 288.987.

174 3. The Florida Defense Support Council Task Force shall,  
175 annually by December 1, review the list of base buffering  
176 encroachment lands submitted by the military installations and  
177 provide its recommendations for ranking the lands for  
178 acquisition to the department.

179 4. The department shall annually submit the list of base  
180 buffering encroachment lands provided by the Florida Defense  
181 Support Council Task Force to the Board of Trustees of the  
182 Internal Improvement Trust Fund, which may acquire the lands  
183 pursuant to s. 253.025. At a minimum, the annual list must

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184 contain for each recommended land acquisition:

185 a. A legal description of the land and its property  
186 identification number;

187 b. A detailed map of the land; and

188 c. A management and monitoring agreement to ensure the land  
189 serves a base buffering purpose.

190 Section 11. Subsection (1) and paragraph (a) of subsection  
191 (2) of section 288.985, Florida Statutes, are amended to read:  
192 288.985 Exemptions from public records and public meetings  
193 requirements.—

194 (1) The following records held by the Florida Defense  
195 Support Council Task Force are exempt from s. 119.07(1) and s.  
196 24(a), Art. I of the State Constitution:

197 (a) That portion of a record which relates to strengths and  
198 weaknesses of military installations or military missions in  
199 this state relative to the selection criteria for the  
200 realignment and closure of military bases and missions under any  
201 United States Department of Defense base realignment and closure  
202 process.

203 (b) That portion of a record which relates to strengths and  
204 weaknesses of military installations or military missions in  
205 other states or territories and the vulnerability of such  
206 installations or missions to base realignment or closure under  
207 the United States Department of Defense base realignment and  
208 closure process, and any agreements or proposals to relocate or  
209 realign military units and missions from other states or  
210 territories.

211 (c) That portion of a record which relates to the state's  
212 strategy to retain its military bases during any United States

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213 Department of Defense base realignment and closure process and  
214 any agreements or proposals to relocate or realign military  
215 units and missions.

216 (2) (a) Meetings or portions of meetings of the Florida  
217 Defense Support Council Task Force, or a workgroup of the  
218 council task force, at which records are presented or discussed  
219 that are exempt under subsection (1) are exempt from s. 286.011  
220 and s. 24(b), Art. I of the State Constitution.

221 Section 12. Section 288.987, Florida Statutes, is amended  
222 to read:

223 288.987 Florida Defense Support Council Task Force.—

224 (1) The Florida Defense Support Council Task Force is  
225 created.

226 (2) The mission of the council task force is to make  
227 recommendations to preserve and protect military installations  
228 to support the state's position in research and development  
229 related to or arising out of military missions and contracting,  
230 and to improve the state's military-friendly environment for  
231 servicemembers, military dependents, military retirees, and  
232 businesses that bring military and base-related jobs to the  
233 state.

234 (3) The council task force shall be comprised of the  
235 Governor or his or her designee, and 12 members appointed as  
236 follows:

237 (a) Four members appointed by the Governor.

238 (b) Four members appointed by the President of the Senate.

239 (c) Four members appointed by the Speaker of the House of  
240 Representatives.

241 (d) Appointed members must represent defense-related

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242 industries or communities that host military bases and  
243 installations. All appointments must be made by August 1, 2011.  
244 Members shall serve for a term of 4 years, with the first term  
245 ending July 1, 2015. However, if members of the Legislature are  
246 appointed to the council task force, those members shall serve  
247 until the expiration of their legislative term and may be  
248 reappointed once. A vacancy shall be filled for the remainder of  
249 the unexpired term in the same manner as the initial  
250 appointment. All members of the council are eligible for  
251 reappointment. A member who serves in the Legislature may  
252 participate in all council task force activities but may only  
253 vote on matters that are advisory.

254 (4) The President of the Senate and the Speaker of the  
255 House of Representatives shall each designate one of their  
256 appointees to serve as chair of the council task force. The  
257 chair shall rotate each July 1. The appointee designated by the  
258 President of the Senate shall serve as initial chair. If the  
259 Governor, instead of his or her designee, participates in the  
260 activities of the council task force, then the Governor shall  
261 serve as chair.

262 (5) The Secretary of Economic Opportunity, or his or her  
263 designee, shall serve as the ex officio, nonvoting executive  
264 director of the council task force.

265 (6) The council task force shall submit an annual progress  
266 report and work plan to the Governor, the President of the  
267 Senate, and the Speaker of the House of Representatives each  
268 February 1.

269 (7) The department shall contract with the council task  
270 force for expenditure of appropriated funds, which may be used

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271 by the council task force for economic and product research and  
272 development, joint planning with host communities to accommodate  
273 military missions and prevent base encroachment, advocacy on the  
274 state's behalf with federal civilian and military officials,  
275 assistance to school districts in providing a smooth transition  
276 for large numbers of additional military-related students, job  
277 training and placement for military spouses in communities with  
278 high proportions of active duty military personnel, and  
279 promotion of the state to military and related contractors and  
280 employers. The council task force may annually spend up to  
281 \$250,000 of funds appropriated to the department for the council  
282 task force for staffing and administrative expenses of the  
283 council task force, including travel and per diem costs incurred  
284 by council task force members who are not otherwise eligible for  
285 state reimbursement.

286 Section 13. Section 446.71, Florida Statutes, is amended to  
287 read:

288 446.71 Everglades Restoration Agricultural Community  
289 Employment Training Program.—

290 (1) The Department of Economic Opportunity, in cooperation  
291 with the state board as defined in s. 445.002, shall establish  
292 the Everglades Restoration Agricultural Community Employment  
293 Training Program within the Department of Economic Opportunity.  
294 The Department of Economic Opportunity shall use funds  
295 appropriated to the program by the Legislature to provide grants  
296 to stimulate and support training and employment programs that  
297 seek to match persons who complete such training programs to  
298 nonagricultural employment opportunities in areas of high  
299 agricultural unemployment, and to provide other training,

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300 ~~educational, and information services necessary to stimulate the~~  
301 ~~creation of jobs in the areas of high agricultural unemployment.~~  
302 ~~In determining whether to provide funds to a particular program,~~  
303 ~~the Department of Economic Opportunity shall consider the~~  
304 ~~location of the program in proximity to the program's intended~~  
305 ~~participants.~~

306 (2) The Legislature supports projects that improve the  
307 economy in the Everglades Agricultural Area. In recognition of  
308 the employment opportunities and economic development generated  
309 by new and expanding industries in the area, such as the  
310 Airglades Airport in Hendry County and the development of an  
311 inland port in Palm Beach County, the Legislature finds that  
312 training the citizens of the state to fill the needs of these  
313 industries significantly enhances the economic viability of the  
314 region.

315 (2) As used in this section, the term:

316 (a) "Department" means the Department of Economic  
317 Opportunity.

318 (b) "Employer-based training program" means a program  
319 established by, or to be established by, a business in this  
320 state that provides training for in-demand nonagricultural  
321 occupations for its employees.

322 (c) "Everglades Agricultural Area" has the same meaning as  
323 in s. 373.4592(15).

324 (d) "Institution-based training program" means a  
325 certificate program or other program of study provided by a  
326 public or private university, college, or technical or  
327 vocational training institution which provides training for in-  
328 demand nonagricultural occupations.

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329 (e) "Program" means the Everglades Restoration Agricultural  
330 Community Employment Training Program.  
331 (3) The department, in cooperation with the state board as  
332 defined in s. 445.002, shall establish the Everglades  
333 Restoration Agricultural Community Employment Training Program.  
334 The department shall use funds appropriated to the program by  
335 the Legislature to provide grants to stimulate and support  
336 employer-based training programs and institution-based training  
337 programs that seek to match persons who complete such training  
338 programs to nonagricultural employment opportunities in the  
339 Everglades Agricultural Area and any rural area of opportunity  
340 as defined in s. 288.0656(2), which includes DeSoto, Glades,  
341 Hardee, Hendry, Highlands, and Okeechobee Counties and the  
342 cities of Belle Glade, Immokalee, Pahokee, and South Bay. The  
343 department shall use program funds to provide training,  
344 educational, and information services necessary to stimulate the  
345 creation of jobs in the Everglades Agricultural Area and in any  
346 rural area of opportunity as defined in s. 288.0656(2), which  
347 includes DeSoto, Glades, Hardee, Hendry, Highlands, and  
348 Okeechobee Counties and the cities of Belle Glade, Immokalee,  
349 Pahokee, and South Bay. In determining whether to provide funds  
350 to a particular employer-based training program or institution-  
351 based training program, the department must consider the  
352 location of such training program in proximity to the program's  
353 intended participants.  
354 (4) Program funds may be used to provide ~~for grants for~~  
355 tuition for institution-based training ~~public or private~~  
356 ~~technical or vocational programs.~~ Program funds may also be used  
357 ~~for and~~ matching grants to employers to conduct employer-based

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358 training programs. Funds may be used, ~~or~~ for the purchase of  
359 equipment necessary ~~to be used~~ for training purposes, the hiring  
360 of instructors, or any other purpose directly associated with  
361 the employer-based training programs or institution-based  
362 training programs. For the first 6 months of each fiscal year,  
363 the department shall set aside up to 50 percent of the funds  
364 appropriated to the program by the Legislature to fund employer-  
365 based training programs. At the end of the 6-month period, any  
366 unused funds from the set-aside funds may be used to provide  
367 funding for institution-based training programs ~~program~~.  
368 (5)(4) The department of Economic Opportunity may not award  
369 a grant to any employer-based ~~given~~ training program if the  
370 grant ~~which~~ exceeds 50 percent of the total cost of the program.  
371 If, ~~unless~~ the employer-based training program is located within  
372 a rural area of opportunity, the department may award a grant of  
373 ~~in which case the grant may exceed 50 percent of the total cost~~  
374 ~~of the program and~~ up to 100 percent of program costs. Employer  
375 matching contributions may include in-kind services, including,  
376 but not limited to, the provision of training instructors,  
377 equipment, and training facilities. The department must  
378 prioritize grants to employer-based training programs that are  
379 located in the Everglades Agricultural Area or in any rural area  
380 of opportunity as defined in s. 288.0656(2), which includes  
381 DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee  
382 Counties and the cities of Belle Glade, Immokalee, Pahokee, and  
383 South Bay.  
384 (6)(5) Before awarding a grant pursuant to ~~granting a~~  
385 ~~request for funds made in accordance with this section,~~ the  
386 department of Economic Opportunity shall enter into a grant

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387 agreement with the employer or ~~requester of funds and the~~  
388 institution receiving funding through the program. Such  
389 agreement must include all of the following information:  
390 (a) An identification of the personnel necessary to conduct  
391 the instructional program, the qualifications of such personnel,  
392 and the respective responsibilities of the parties for paying  
393 costs associated with the employment of such personnel.  
394 (b) An identification of the estimated length of the  
395 instructional program.  
396 (c) An identification of all direct, training-related  
397 costs, including tuition and fees, curriculum development, books  
398 and classroom materials, and overhead or indirect costs.  
399 (d) An identification of special program requirements that  
400 are not otherwise addressed in the agreement.  
401 (7)(6) The department of Economic Opportunity may grant up  
402 to 100 percent of the tuition for ~~an institution-based~~ a  
403 training program participant who currently resides, and has  
404 resided for the preceding 12 months ~~at least 3 of the 5~~  
405 ~~immediately preceding years,~~ within the Everglades Agricultural  
406 Area ~~or in any rural area of opportunity as defined in s.~~  
407 ~~288.0656(2), which includes DeSoto, Glades, Hardee, Hendry,~~  
408 ~~Highlands, and Okeechobee Counties and the cities of Belle~~  
409 ~~Glade, Immokalee, Pahokee, and South Bay, as described in s.~~  
410 ~~373.4592 and in counties that provides provide for water storage~~  
411 ~~and dispersed water storage that are located in rural areas of~~  
412 ~~opportunity as described in s. 288.0656.~~  
413 (8)(7) Employer-based training programs established in the  
414 Everglades Agricultural Area ~~or in any rural area of opportunity~~  
415 ~~as defined in s. 288.0656(2), which includes DeSoto, Glades,~~

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416 Hardee, Hendry, Highlands, and Okeechobee Counties and the  
417 cities of Belle Glade, Immokalee, Pahokee, and South Bay, must  
418 include opportunities to obtain the qualifications and skills  
419 necessary for jobs related to federal and state restoration  
420 projects, the Airglades Airport in Hendry County, an inland port  
421 in Palm Beach County, or other industries with a verifiable,  
422 demonstrated interest in operating within the Everglades  
423 Agricultural Area ~~or in any rural area of opportunity as defined~~  
424 ~~in s. 288.0656(2), which includes DeSoto, Glades, Hardee,~~  
425 ~~Hendry, Highlands, and Okeechobee Counties and the cities of~~  
426 ~~Belle Glade, Immokalee, Pahokee, and South Bay, and in counties~~  
427 ~~that provides provide for water storage and dispersed water~~  
428 ~~storage that are located in rural areas of opportunity as~~  
429 ~~described in s. 288.0656.~~  
430 (9)(8) The department ~~may~~ of Economic Opportunity shall  
431 adopt rules to implement this section.  
432 Section 14. Subsections (2) and (3) of section 695.03,  
433 Florida Statutes, are amended to read:  
434 695.03 Acknowledgment and proof; validation of certain  
435 acknowledgments; legalization or authentication before foreign  
436 officials.-To entitle any instrument concerning real property to  
437 be recorded, the execution must be acknowledged by the party  
438 executing it, proved by a subscribing witness to it, or  
439 legalized or authenticated in one of the following forms:  
440 (2) OUTSIDE THIS STATE BUT WITHIN THE UNITED STATES.-An  
441 acknowledgment or a proof taken, administered, or made outside  
442 of this state but within the United States may be taken,  
443 administered, or made by or before a civil-law notary of this  
444 state or a commissioner of deeds appointed by the Secretary of

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445 ~~the Department of Economic Opportunity Governor of this state;~~ a  
446 judge or clerk of any court of the United States or of any  
447 state, territory, or district; by or before a United States  
448 commissioner or magistrate; or by or before any notary public,  
449 justice of the peace, master in chancery, or registrar or  
450 recorder of deeds of any state, territory, or district having a  
451 seal, and the certificate of acknowledgment or proof must be  
452 under the seal of the court or officer, as the case may be. If  
453 the acknowledgment or proof is taken, administered, or made by  
454 or before a notary public who does not affix a seal, it is  
455 sufficient for the notary public to type, print, or write by  
456 hand on the instrument, "I am a Notary Public of the State of  
457 ... (state) ..., and my commission expires on ... (date) ...."  
458 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN  
459 COUNTRIES.—An acknowledgment, an affidavit, an oath, a  
460 legalization, an authentication, or a proof taken, administered,  
461 or made outside the United States or in a foreign country may be  
462 taken, administered, or made by or before a commissioner of  
463 deeds appointed by the ~~Secretary of the Department Economic~~  
464 ~~Opportunity Governor of this state~~ to act in such country;  
465 before a notary public of such foreign country or a civil-law  
466 notary of this state or of such foreign country who has an  
467 official seal; before an ambassador, envoy extraordinary,  
468 minister plenipotentiary, minister, commissioner, charge  
469 d'affaires, consul general, consul, vice consul, consular agent,  
470 or other diplomatic or consular officer of the United States  
471 appointed to reside in such country; or before a military or  
472 naval officer authorized by 10 U.S.C. s. 1044a to perform the  
473 duties of notary public, and the certificate of acknowledgment,

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474 legalization, authentication, or proof must be under the seal of  
475 the officer. A certificate legalizing or authenticating the  
476 signature of a person executing an instrument concerning real  
477 property and to which a civil-law notary or notary public of  
478 that country has affixed her or his official seal is sufficient  
479 as an acknowledgment. For the purposes of this section, the term  
480 "civil-law notary" means a civil-law notary as defined in  
481 chapter 118 or an official of a foreign country who has an  
482 official seal and who is authorized to make legal or lawful the  
483 execution of any document in that jurisdiction, in which  
484 jurisdiction the affixing of her or his official seal is deemed  
485 proof of the execution of the document or deed in full  
486 compliance with the laws of that jurisdiction.  
487 Section 15. For the purpose of incorporating the amendment  
488 made by this act to section 288.075, Florida Statutes, in a  
489 reference thereto, paragraph (b) of subsection (2) of section  
490 288.106, Florida Statutes, is reenacted to read:  
491 288.106 Tax refund program for qualified target industry  
492 businesses.—  
493 (2) DEFINITIONS.—As used in this section:  
494 (b) "Authorized local economic development agency" means a  
495 public or private entity, including an entity defined in s.  
496 288.075, authorized by a county or municipality to promote the  
497 general business or industrial interests of that county or  
498 municipality.  
499  
500 ===== T I T L E A M E N D M E N T =====  
501 And the title is amended as follows:  
502 Delete lines 22 - 40

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503 and insert:  
504 288.8017, F.S.; specifying that the term "public  
505 infrastructure projects" includes projects for  
506 workforce housing; conforming provisions to changes  
507 made by the act; amending s. 288.9604, F.S.; deleting  
508 the future repeal of provisions governing the Florida  
509 Development Finance Corporation; amending ss. 288.980  
510 and 288.985, F.S.; conforming provisions to changes  
511 made by the act; amending s. 288.987, F.S.; renaming  
512 the Florida Defense Support Task Force as the Florida  
513 Defense Support Council; amending s. 446.71, F.S.;  
514 revising requirements relating to the Everglades  
515 Restoration Agricultural Community Employment Training  
516 Program; defining terms; authorizing, rather than  
517 requiring, the department to adopt rules; amending s.  
518 695.03, F.S.; requiring the Secretary of the  
519 Department of Economic Opportunity, rather than the  
520 Governor, to appoint certain commissioners of deeds;  
521 reenacting s. 288.106(2)(b), F.S., relating to the tax  
522 refund

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By Senator Hooper

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1 A bill to be entitled  
 2 An act relating to economic development; amending s.  
 3 20.60, F.S.; requiring the Secretary of Economic  
 4 Opportunity to appoint deputy secretaries and  
 5 directors for specified divisions of the Department of  
 6 Economic Opportunity; amending s. 163.3175, F.S.;  
 7 revising the list of local governments affected by  
 8 Naval Support Activity Orlando; conforming a provision  
 9 to changes made by the act; amending s. 201.25, F.S.;  
 10 exempting loans made with funds administered by the  
 11 Department of Economic Opportunity from certain taxes;  
 12 amending s. 288.018, F.S.; revising requirements  
 13 relating to the Florida Rural Development Grants  
 14 Program; amending s. 288.065, F.S.; removing a  
 15 requirement that certain repayments under the Rural  
 16 Community Development Revolving Loan Fund be matched;  
 17 amending s. 288.0655, F.S.; revising grant  
 18 requirements and authorizations relating to the Rural  
 19 Infrastructure Fund; revising limits on grant awards;  
 20 amending s. 288.075, F.S.; revising the definition of  
 21 the term "economic development agency"; amending s.  
 22 288.8017, F.S.; conforming provisions to changes made  
 23 by the act; amending s. 288.9604, F.S.; deleting a  
 24 future repeal of the Florida Development Finance  
 25 Corporation; amending ss. 288.980 and 288.985, F.S.;  
 26 conforming provisions to changes made by the act;  
 27 amending s. 288.987, F.S.; renaming the Florida  
 28 Defense Support Task Force as the Florida Defense  
 29 Support Council; amending s. 331.3081, F.S.; revising

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

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30 the composition of Space Florida's board of directors;  
 31 providing requirements for appointments to and  
 32 vacancies on the board; amending s. 446.71, F.S.;  
 33 revising requirements relating to the Everglades  
 34 Restoration Agricultural Community Employment Training  
 35 Program; defining terms; authorizing, rather than  
 36 requiring, the department to adopt rules; amending s.  
 37 695.03, F.S.; requiring the Secretary of Economic  
 38 Opportunity, rather than the Governor, to appoint  
 39 certain commissioners of deeds; reenacting s.  
 40 288.106(2)(c), F.S., relating to the tax refund  
 41 program for qualified target industry businesses, to  
 42 incorporate the amendment made to s. 288.075, F.S., in  
 43 a reference thereto; providing an effective date.  
 44

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

46  
 47 Section 1. Paragraph (b) of subsection (3) of section  
 48 20.60, Florida Statutes, is amended to read:  
 49 20.60 Department of Economic Opportunity; creation; powers  
 50 and duties.—  
 51 (3)  
 52 (b) The secretary:  
 53 1. May create offices within the Office of the Secretary  
 54 and within the divisions established in paragraph (a) to promote  
 55 efficient and effective operation of the department.  
 56 2. Shall appoint deputy secretaries for the Division of  
 57 Strategic Business Development, the Division of Community  
 58 Development, and the Division of Workforce Services and

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directors for the Division of Finance and Administration and the Division of Information Technology ~~a director for each division~~, who shall directly administer his or her division and be responsible to the secretary.

Section 2. Paragraph (i) of subsection (2) and subsection (3) of section 163.3175, Florida Statutes, are amended to read:

163.3175 Legislative findings on compatibility of development with military installations; exchange of information between local governments and military installations.—

(2) Certain major military installations, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others. Consequently, this section and the provisions in s.

163.3177(6)(a), relating to compatibility of land development with military installations, apply to specific affected local governments in proximity to and in association with specific military installations, as follows:

(i) Naval Support Activity Orlando, including Bugg Spring and Naval Ordnance Test Unit, associated with Lake, Marion, Orange, and Sumter Counties and Groveland, Howey-in-the-Hills, Leesburg, County and Orlando, and Wildwood.

(3) The Florida Defense Support Council ~~Task Force~~ may recommend to the Legislature changes to the military installations and local governments specified in subsection (2) based on a military base's potential for impacts from encroachment, and incompatible land uses and development.

Section 3. Subsection (4) is added to section 201.25, Florida Statutes, to read:

201.25 Tax exemptions for certain loans.—There shall be

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exempt from all taxes imposed by this chapter:

(4) Any loan made with funds administered by the Department of Economic Opportunity.

Section 4. Paragraphs (b), (c), and (d) of subsection (1) and paragraphs (b) and (c) of subsection (2) of section 288.018, Florida Statutes, are amended to read:

288.018 Regional Rural Development Grants Program.—

(1)

(b) The department shall establish a ~~matching~~ grant program to provide funding to regional economic development organizations for the purpose of building the professional capacity of those organizations. Building the professional capacity of a regional economic development organization includes hiring professional staff to develop, deliver, and provide needed economic development professional services, including technical assistance, education and leadership development, marketing, and project recruitment. ~~Matching~~ Grants may also be used by a regional economic development organization to provide technical assistance to local governments, local economic development organizations, and existing and prospective businesses.

(c) A regional economic development organization may apply annually to the department for a ~~matching~~ grant. The department is authorized to approve, on an annual basis, grants to such regional economic development organizations. The maximum amount an organization may receive in any year will be \$50,000, or \$250,000 for any three regional economic development organizations that serve an entire region of a rural area of opportunity designated pursuant to s. 288.0656(7) if they are

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recognized by the department as serving such a region.

~~(d) Grant funds received by a regional economic development organization must be matched each year by nonstate resources in an amount equal to 25 percent of the state contribution.~~

(2) In approving the participants, the department shall consider the demonstrated need of the applicant for assistance and require the following:

~~(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.~~

~~(c) Demonstration that the private sector has made financial or in-kind commitments to the regional organization.~~

Section 5. Paragraph (c) of subsection (2) of section

288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2)

(c) All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. However, in a rural area of opportunity designated by the Governor, and upon approval by the department, repayments of principal and interest may be retained by the applicant if such repayments are dedicated and matched to fund regionally based economic development organizations representing the rural area of opportunity.

Section 6. Subsection (1), paragraphs (b), (c), and (e) of subsection (2), and subsection (3) of section 288.0655, Florida Statutes, are amended to read:

288.0655 Rural Infrastructure Fund.—

(1) There is created within the department the Rural

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Infrastructure Fund to facilitate the planning, preparing, and financing of infrastructure ~~projects~~ in rural communities which will encourage job creation, capital investment, and the strengthening and diversification of rural economies by promoting tourism, trade, and economic development.

(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 Department of Agriculture and the United States Department of Commerce, and state programs, including those offered by Rural Economic Development Initiative agencies, and to facilitate local government or private infrastructure funding efforts, the department may award grants for up to 75 ~~50~~ percent of the total infrastructure ~~project~~ cost or up to 100 percent of the total infrastructure project cost for a project located in a rural community or a rural area of opportunity as those terms are defined in s. 288.0656(2) which is also located in a fiscally constrained county as described in s. 218.67(1). Eligible projects must be related to specific job creation or job-retention opportunities. Eligible uses of funds ~~projects may~~ ~~also~~ include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth, reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities, and improving access to and the availability of broadband Internet service. Eligible uses of funds shall include improvements to public infrastructure for

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175 industrial or commercial sites, upgrades to or development of  
 176 public tourism infrastructure, and improvements to broadband  
 177 Internet service and access in unserved or underserved rural  
 178 communities. Improvements to broadband Internet service and  
 179 access must be conducted through a partnership or partnerships  
 180 with one or more dealers, as defined in s. 202.11(2), and the  
 181 partnership or partnerships must be established through a  
 182 competitive selection process that is publicly noticed.  
 183 Authorized infrastructure may include the following public or  
 184 public-private partnership facilities: storm water systems;  
 185 telecommunications facilities; broadband facilities; roads or  
 186 other remedies to transportation impediments; nature-based  
 187 tourism facilities; or other physical requirements necessary to  
 188 facilitate tourism, trade, and economic development activities  
 189 in the community. Authorized infrastructure may also include  
 190 publicly or privately owned self-powered nature-based tourism  
 191 facilities, publicly owned telecommunications facilities, and  
 192 broadband facilities, and additions to the distribution  
 193 facilities of the existing natural gas utility as defined in s.  
 194 366.04(3)(c), the existing electric utility as defined in s.  
 195 366.02, or the existing water or wastewater utility as defined  
 196 in s. 367.021(12), or any other existing water or wastewater  
 197 facility, which owns a gas or electric distribution system or a  
 198 water or wastewater system in this state where:

199 1. A contribution-in-aid of construction is required to  
 200 serve public or public-private partnership facilities under the  
 201 tariffs of any natural gas, electric, water, or wastewater  
 202 utility as defined herein; and

203 2. Such utilities as defined herein are willing and able to

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204 provide such service.

205 (c) ~~To facilitate timely response and induce the location~~  
 206 ~~or expansion of specific job creating opportunities,~~ The  
 207 department may award grants of up to \$300,000 for infrastructure  
 208 feasibility studies, design and engineering activities, or other  
 209 infrastructure planning and preparation activities. Authorized  
 210 ~~grants shall be up to \$50,000 for an employment project with a~~  
 211 ~~business committed to create at least 100 jobs; up to \$150,000~~  
 212 ~~for an employment project with a business committed to create at~~  
 213 ~~least 300 jobs; and up to \$300,000 for a project in a rural area~~  
 214 ~~of opportunity.~~ Grants awarded under this paragraph may be used  
 215 in conjunction with grants awarded under paragraph (b), provided  
 216 that the total amount of both grants does not exceed 30 percent  
 217 of the total project cost. In evaluating applications under this  
 218 paragraph, the department shall consider the extent to which the  
 219 application seeks to minimize administrative and consultant  
 220 expenses.

221 (e) To enable local governments to access the resources  
 222 available pursuant to s. 403.973(18), the department may award  
 223 grants for surveys, feasibility studies, and other activities  
 224 related to the identification and preclearance review of land  
 225 which is suitable for preclearance review. Authorized grants  
 226 under this paragraph do not require a local match and may not  
 227 ~~exceed \$75,000 each, except in the case of a project in a rural~~  
 228 ~~area of opportunity, in which case the grant may not exceed~~  
 229 ~~\$300,000. Any funds awarded under this paragraph must be matched~~  
 230 ~~at a level of 50 percent with local funds, except that any funds~~  
 231 ~~awarded for a project in a rural area of opportunity must be~~  
 232 ~~matched at a level of 33 percent with local funds. If an~~

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~~application for funding is for a catalyst site, as defined in s. 288.0656, the requirement for local match may be waived pursuant to the process in s. 288.06561.~~ In evaluating applications under this paragraph, the department shall consider the extent to which the application seeks to minimize administrative and consultant expenses.

(3) The department, in consultation with Enterprise Florida, Inc., the Florida Tourism Industry Marketing Corporation, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission, as appropriate, shall review and certify applications pursuant to s. 288.061. The review shall include an evaluation of the economic benefit ~~of the projects and their~~ long-term viability. The department shall have final approval for any grant under this section.

Section 7. Paragraph (a) of subsection (1) of section 288.075, Florida Statutes, is amended to read:

288.075 Confidentiality of records.—

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

(a) "Economic development agency" means:

1. The Department of Economic Opportunity;
2. Any industrial development authority created in accordance with part III of chapter 159 or by special law;
3. Space Florida created in part II of chapter 331;
4. The public economic development agency of a county or municipality or, ~~if the county or municipality does not have a public economic development agency,~~ the county or municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or

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municipality or the responsibilities related thereto;

5. Any research and development authority created in accordance with part V of chapter 159; or

6. Any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county.

Section 8. Subsection (1) of section 288.8017, Florida Statutes, is amended to read:

288.8017 Awards.—

(1) Triumph Gulf Coast, Inc., shall make awards from available funds to projects or programs that meet the priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties. Awards may be provided for:

(a) Ad valorem tax rate reduction within disproportionately affected counties;

(b) Local match requirements ~~of s. 288.0655~~ for projects in the disproportionately affected counties;

(c) Public infrastructure projects for construction, expansion, or maintenance which are shown to enhance economic recovery, diversification, and enhancement of the disproportionately affected counties;

(d) Grants to local governments in the disproportionately affected counties to establish and maintain equipment and trained personnel for local action plans of response to respond to disasters, such as plans created for the Coastal Impacts Assistance Program;

(e) Grants to support programs that prepare students for

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future occupations and careers at K-20 institutions that have campuses in the disproportionately affected counties. Eligible programs include those that increase students' technology skills and knowledge; encourage industry certifications; provide rigorous, alternative pathways for students to meet high school graduation requirements; strengthen career readiness initiatives; fund high-demand programs of emphasis at the bachelor's and master's level designated by the Board of Governors; and, similar to or the same as talent retention programs created by the Chancellor of the State University System and the Commission of Education, encourage students with interest or aptitude for science, technology, engineering, mathematics, and medical disciplines to pursue postsecondary education at a state university or a Florida College System institution within the disproportionately affected counties;

(f) Grants to support programs that provide participants in the disproportionately affected counties with transferable, sustainable workforce skills that are not confined to a single employer; and

(g) Grants to the tourism entity created under s. 288.1226 for the purpose of advertising and promoting tourism and Fresh From Florida, and grants to promote workforce and infrastructure, on behalf of all of the disproportionately affected counties.

Section 9. Subsection (5) of section 288.9604, Florida Statutes, is amended to read:

288.9604 Creation of the corporation.—

~~(5) This section is repealed July 1, 2023, and July 1 of every fourth year thereafter, unless reviewed and saved from~~

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~~repeal by the Legislature.~~

Section 10. Paragraph (b) of subsection (2) of section 288.980, Florida Statutes, is amended to read:

288.980 Military base retention; legislative intent; grants program.—

(2)

(b)1. The department shall annually request military installations in the state to provide the department with a list of base buffering encroachment lands for fee simple or less-than-fee simple acquisitions before October 1.

2. The department shall submit the list of base buffering encroachment lands to the Florida Defense Support Council ~~Task Force~~ created in s. 288.987.

3. The Florida Defense Support Council ~~Task Force~~ shall, annually by December 1, review the list of base buffering encroachment lands submitted by the military installations and provide its recommendations for ranking the lands for acquisition to the department.

4. The department shall annually submit the list of base buffering encroachment lands provided by the Florida Defense Support Council ~~Task Force~~ to the Board of Trustees of the Internal Improvement Trust Fund, which may acquire the lands pursuant to s. 253.025. At a minimum, the annual list must contain for each recommended land acquisition:

a. A legal description of the land and its property identification number;

b. A detailed map of the land; and

c. A management and monitoring agreement to ensure the land serves a base buffering purpose.

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Section 11. Subsection (1) and paragraph (a) of subsection (2) of section 288.985, Florida Statutes, are amended to read:

288.985 Exemptions from public records and public meetings requirements.—

(1) The following records held by the Florida Defense Support Council ~~Task Force~~ are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) That portion of a record which relates to strengths and weaknesses of military installations or military missions in this state relative to the selection criteria for the realignment and closure of military bases and missions under any United States Department of Defense base realignment and closure process.

(b) That portion of a record which relates to strengths and weaknesses of military installations or military missions in other states or territories and the vulnerability of such installations or missions to base realignment or closure under the United States Department of Defense base realignment and closure process, and any agreements or proposals to relocate or realign military units and missions from other states or territories.

(c) That portion of a record which relates to the state's strategy to retain its military bases during any United States Department of Defense base realignment and closure process and any agreements or proposals to relocate or realign military units and missions.

(2) (a) Meetings or portions of meetings of the Florida Defense Support Council ~~Task Force~~, or a workgroup of the council ~~task force~~, at which records are presented or discussed

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that are exempt under subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

Section 12. Section 288.987, Florida Statutes, is amended to read:

288.987 Florida Defense Support Council ~~Task Force~~.—

(1) The Florida Defense Support Council ~~Task Force~~ is created.

(2) The mission of the council ~~task force~~ is to make recommendations to preserve and protect military installations to support the state's position in research and development related to or arising out of military missions and contracting, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.

(3) The council ~~task force~~ shall be comprised of the Governor or his or her designee, and 12 members appointed as follows:

(a) Four members appointed by the Governor.

(b) Four members appointed by the President of the Senate.

(c) Four members appointed by the Speaker of the House of Representatives.

(d) Appointed members must represent defense-related industries or communities that host military bases and installations. All appointments must be made by August 1, 2011. Members shall serve for a term of 4 years, with the first term ending July 1, 2015. However, if members of the Legislature are appointed to the council ~~task force~~, those members shall serve until the expiration of their legislative term and may be



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reappointed once. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the initial appointment. All members of the council are eligible for reappointment. A member who serves in the Legislature may participate in all council ~~task force~~ activities but may only vote on matters that are advisory.

(4) The President of the Senate and the Speaker of the House of Representatives shall each designate one of their appointees to serve as chair of the council ~~task force~~. The chair shall rotate each July 1. The appointee designated by the President of the Senate shall serve as initial chair. If the Governor, instead of his or her designee, participates in the activities of the council ~~task force~~, then the Governor shall serve as chair.

(5) The Secretary of Economic Opportunity, or his or her designee, shall serve as the ex officio, nonvoting executive director of the council ~~task force~~.

(6) The council ~~task force~~ shall submit an annual progress report and work plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives each February 1.

(7) The department shall contract with the council ~~task force~~ for expenditure of appropriated funds, which may be used by the council ~~task force~~ for economic and product research and development, joint planning with host communities to accommodate military missions and prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing a smooth transition for large numbers of additional military-related students, job

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training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The council ~~task force~~ may annually spend up to \$250,000 of funds appropriated to the department for the council ~~task force~~ for staffing and administrative expenses of the council ~~task force~~, including travel and per diem costs incurred by council ~~task force~~ members who are not otherwise eligible for state reimbursement.

Section 13. Section 331.3081, Florida Statutes, is amended to read:

331.3081 Board of directors.—

(1) Space Florida shall be governed by a 14-member ~~13-member~~ independent board of directors that consists of the members appointed to the board of directors of Enterprise Florida, Inc., by the Governor, the President of the Senate, and the Speaker of the House of Representatives pursuant to s. 288.901(5)(a)8. ~~and the Governor, who shall serve ex officio, or who may appoint a designee to serve, as the chair and a voting member of the board, the secretary of the Department of Economic Opportunity, six members appointed by the Governor, three members appointed by the President of the Senate, and three members appointed by the Speaker of the House of Representatives.~~

(2) In making their appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall ensure that the composition of the board of directors reflects this state's aerospace industry and is representative of the intent, duties, and purpose of Space

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Florida.

(3) Members appointed before July 1, 2023, shall continue to serve for the remainder of their current term. As the terms of such members expire, successors must be appointed to 4-year terms.

(4) A vacancy on the board of directors must be filled for the remainder of the unexpired term in the same manner as the original appointment.

Section 14. Section 446.71, Florida Statutes, is amended to read:

446.71 Everglades Restoration Agricultural Community Employment Training Program.—

~~(1) The Department of Economic Opportunity, in cooperation with the state board as defined in s. 445.002, shall establish the Everglades Restoration Agricultural Community Employment Training Program within the Department of Economic Opportunity. The Department of Economic Opportunity shall use funds appropriated to the program by the Legislature to provide grants to stimulate and support training and employment programs that seek to match persons who complete such training programs to nonagricultural employment opportunities in areas of high agricultural unemployment, and to provide other training, educational, and information services necessary to stimulate the creation of jobs in the areas of high agricultural unemployment. In determining whether to provide funds to a particular program, the Department of Economic Opportunity shall consider the location of the program in proximity to the program's intended participants.~~

~~(2)~~ The Legislature supports projects that improve the

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economy in the Everglades Agricultural Area. In recognition of the employment opportunities and economic development generated by new and expanding industries in the area, such as the Airglades Airport in Hendry County and the development of an inland port in Palm Beach County, the Legislature finds that training the citizens of the state to fill the needs of these industries significantly enhances the economic viability of the region.

(2) As used in this section, the term:

(a) "Department" means the Department of Economic Opportunity.

(b) "Employer-based training program" means a program established by, or to be established by, a business in this state that provides training for in-demand nonagricultural occupations for its employees.

(c) "Everglades Agricultural Area" has the same meaning as in s. 373.4592(15).

(d) "Institution-based training program" means a certificate program or other program of study provided by a public or private university, college, or technical or vocational training institution which provides training for in-demand nonagricultural occupations.

(e) "Program" means the Everglades Restoration Agricultural Community Employment Training Program.

(3) The department, in cooperation with the state board as defined in s. 445.002, shall establish the Everglades Restoration Agricultural Community Employment Training Program. The department shall use funds appropriated to the program by the Legislature to provide grants to stimulate and support

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employer-based training programs and institution-based training programs that seek to match persons who complete such training programs to nonagricultural employment opportunities in the Everglades Agricultural Area and any rural areas of opportunity as designated by the Governor pursuant to s. 288.0656(2)(d) which include DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee. The department shall use program funds to provide other training, educational, and information services necessary to stimulate the creation of jobs in the Everglades Agricultural Area and in any rural areas of opportunity as designated by the Governor pursuant to s. 288.0656(2)(d) which include DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee. In determining whether to provide funds to a particular employer-based training program or institution-based training program, the department must consider the location of such training program in proximity to the program's intended participants.

(4) Program funds may be used to provide ~~for grants for~~ tuition for ~~public or private technical or vocational~~ institution-based training programs. Program funds may also be used ~~for and~~ matching grants to employers to conduct employer-based training programs. Funds may be used, ~~or~~ for the purchase of equipment ~~necessary to be used~~ for training purposes, the hiring of instructors, or any other purpose directly associated with the employer-based training program or institution-based training program. For the first 6 months of each fiscal year, the department shall set aside up to 50 percent of the funds

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appropriated to the program by the Legislature to fund employer-based training programs. At the end of the 6-month period, any unused funds from the set-aside funds may be used to provide funding for institution-based training programs.

~~(5)(4)~~ The department ~~of Economic Opportunity~~ may not award a grant to any employer-based ~~given~~ training program if the grant ~~which~~ exceeds 50 percent of the total cost of the program. ~~However, if, unless~~ the employer-based training program is located within a rural area of opportunity, the department may award a grant of ~~in which case the grant may exceed 50 percent of the total cost of the program and~~ up to 100 percent of program costs. Employer matching contributions may include in-kind services, including, but not limited to, the provision of training instructors, equipment, and training facilities. The department must prioritize grants to employer-based training programs that are located in the Everglades Agricultural Area or in any rural areas of opportunity as designated by the Governor pursuant to s. 288.0656(2)(d) which include DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee.

~~(6)(5)~~ Before awarding a grant pursuant to ~~granting a request for funds made in accordance with~~ this section, the department ~~of Economic Opportunity~~ shall enter into a grant agreement with the employer or requester of funds ~~and the~~ institution receiving funding through the program. Such agreement must include all of the following information:

(a) An identification of the personnel necessary to conduct the instructional program, the qualifications of such personnel, and the respective responsibilities of the parties for paying

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costs associated with the employment of such personnel.

(b) An identification of the estimated length of the instructional program.

(c) An identification of all direct, training-related costs, including tuition and fees, curriculum development, books and classroom materials, and overhead or indirect costs.

(d) An identification of special program requirements that are not otherwise addressed in the agreement.

~~(7)(6)~~ The department ~~of Economic Opportunity~~ may grant up to 100 percent of the tuition for an institution-based a training program participant who currently resides, and has resided for the preceding 12 months ~~at least 3 of the 5 immediately preceding years~~, within the Everglades Agricultural Area or in any rural areas of opportunity as designated by the Governor pursuant to s. 288.0656(2)(d), which include DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee, as described in s. 373.4592 and in counties that provide for water storage and dispersed water storage ~~that are located in rural areas of opportunity as described in s. 288.0656.~~

~~(8)(7)~~ Employer-based training programs established in the Everglades Agricultural Area or in any rural areas of opportunity as designated by the Governor pursuant to s. 288.0656(2)(d), which include DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee, must include opportunities to obtain the qualifications and skills necessary for jobs related to federal and state restoration projects, the

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Airglades Airport in Hendry County, an inland port in Palm Beach County, or other industries with a verifiable, demonstrated interest in operating within the Everglades Agricultural Area or in any rural areas of opportunity as designated by the Governor pursuant to s. 288.0656(2)(d), which include DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee, and in counties that provide for water storage and dispersed water storage that are located in rural areas of opportunity as described in s. 288.0656.

~~(9)(8)~~ The department may ~~of Economic Opportunity~~ shall adopt rules to implement this section.

Section 15. Subsections (2) and (3) of section 695.03, Florida Statutes, are amended to read:

695.03 Acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign officials.—To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party executing it, proved by a subscribing witness to it, or legalized or authenticated in one of the following forms:

(2) OUTSIDE THIS STATE BUT WITHIN THE UNITED STATES.—An acknowledgment or a proof taken, administered, or made outside of this state but within the United States may be taken, administered, or made by or before a civil-law notary of this state or a commissioner of deeds appointed by the Secretary of Economic Opportunity ~~Governor of this state~~; a judge or clerk of any court of the United States or of any state, territory, or district; by or before a United States commissioner or magistrate; or by or before any notary public, justice of the

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peace, master in chancery, or registrar or recorder of deeds of any state, territory, or district having a seal, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. If the acknowledgment or proof is taken, administered, or made by or before a notary public who does not affix a seal, it is sufficient for the notary public to type, print, or write by hand on the instrument, "I am a Notary Public of the State of ...(state)..., and my commission expires on ...(date)..."

(3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN COUNTRIES.—An acknowledgment, an affidavit, an oath, a legalization, an authentication, or a proof taken, administered, or made outside the United States or in a foreign country may be taken, administered, or made by or before a commissioner of deeds appointed by the Secretary of Economic Opportunity ~~Governor of this state~~ to act in such country; before a notary public of such foreign country or a civil-law notary of this state or of such foreign country who has an official seal; before an ambassador, envoy extraordinary, minister plenipotentiary, minister, commissioner, charge d'affaires, consul general, consul, vice consul, consular agent, or other diplomatic or consular officer of the United States appointed to reside in such country; or before a military or naval officer authorized by 10 U.S.C. s. 1044a to perform the duties of notary public, and the certificate of acknowledgment, legalization, authentication, or proof must be under the seal of the officer. A certificate legalizing or authenticating the signature of a person executing an instrument concerning real property and to which a civil-law notary or notary public of that country has

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affixed her or his official seal is sufficient as an acknowledgment. For the purposes of this section, the term "civil-law notary" means a civil-law notary as defined in chapter 118 or an official of a foreign country who has an official seal and who is authorized to make legal or lawful the execution of any document in that jurisdiction, in which jurisdiction the affixing of her or his official seal is deemed proof of the execution of the document or deed in full compliance with the laws of that jurisdiction.

Section 16. For the purpose of incorporating the amendment made by this act to section 288.075, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 288.106, Florida Statutes, is reenacted to read:

288.106 Tax refund program for qualified target industry businesses.—

(2) DEFINITIONS.—As used in this section:

(c) "Average private sector wage in the area" means the statewide private sector average wage or the average of all private sector wages and salaries in the county or in the standard metropolitan area in which the business is located.

Section 17. This act shall take effect July 1, 2023.

The Florida Senate  
**APPEARANCE RECORD**

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

3-27-23

Meeting Date

Commerce and Tourism

Committee

1664

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Chris Doolin

Phone

850-508-5492

Address

1018 Thomasville Rd 102B

Email

cdoolin@doolinandassoc.com

Street

Tall.

Fla

32303

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

SMALL COUNTY COALITION

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

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

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

3/27/23

Meeting Date

Commerce & Tourism

Committee

SB 1664

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Cardyn Johnson

Phone

521-1200

Address

136 S Bronough St

Email

cjohnson@flchamber.com

Street

Tallahassee

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

FL Chamber of  
Commerce

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

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

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S-001 (08/10/2021)

## The Florida Senate

## APPEARANCE RECORD

3.27.23

Meeting Date

COMMERCE

Committee

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

1664

Bill Number or Topic

Amendment Barcode (if applicable)

Name ROD BAILEY OPPORTUNITY FL Phone 850 633 4119

Address 4636 Hwy Email ROD@OPPORTUNITYFLORIDA.COM

MARIANNA FL 32446

City State Zip

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

## PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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S-001 (08/10/2021)

## The Florida Senate

## APPEARANCE RECORD

3/27/23

Meeting Date

Commerce &amp; Tourism

Committee

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

1664

Bill Number or Topic

Amendment Barcode (if applicable)

Name JEFF SCALA Phone (850) 487-0697

Address 100 S Monroe Email jscala@fl-counties.com

Tallahassee FL 32301

City State Zip

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

## PLEASE CHECK ONE OF THE FOLLOWING:

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

Florida Association of Counties

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

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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

3/27/23

Meeting Date

1664

Bill Number or Topic

Commerce - Tourism

Committee

Amendment Barcode (if applicable)

Name Kasey Denny

Phone 9544956333

Address 301 N Olive Ave

Email kdenny@pbccgov.org

Street

West Palm Beach FL 33401

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

Palm Beach County

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

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

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

S-001 (08/10/2021)





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE GRUTERS  
22nd District

**COMMITTEES:**  
Regulated Industries, *Chair*  
Appropriations  
Appropriations Committee on Agriculture,  
Environment, and General Government  
Appropriations Committee on Health  
and Human Services  
Commerce and Tourism  
Community Affairs  
Transportation

**SELECT COMMITTEE:**  
Select Committee on Resiliency

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversight,  
*Alternating Chair*

March 6, 2023

The Honorable Jay Trumbull, Chair  
Committee on Commerce and Tourism  
310 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Trumbull:

I am writing to request that Senate Bill 442, Secondhand Dealers to be placed on the agenda of the next Commerce & Tourism committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

Joe Gruters

Cc: Todd McKay, Staff Director  
Renita Hayes, Committee Administrative Assistant

**REPLY TO:**

- ☐ 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- ☐ 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

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

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore



The Florida Senate

## Committee Agenda Request

Senator Shevrin D. "Shev" Jones  
218 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

**To:** Chair Jay Trumbull  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** February 16, 2023

I respectfully request that **SB 490: Family and Household Members of Homicide Victims and Deceased Minors**, and **SB 492: Public Records/Requesting Specified Leave Relating to a Homicide**, be placed on the:

- ☒ Committee agenda at your earliest possible convenience.
- ☐ Next committee agenda.

Senator Shevrin Jones  
Florida Senate, District 34

File signed original with committee office

S-020 (03/2004)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Health Policy, Chair  
Judiciary, Vice Chair  
Appropriations Committee on Education  
Appropriations Committee on Health  
and Human Services  
Banking and Insurance  
Fiscal Policy  
Rules  
Transportation

**JOINT COMMITTEE:**  
Joint Administrative Procedures Committee

**SENATOR COLLEEN BURTON**  
12th District

March 15, 2023

The Honorable Jay Trumbull  
Appropriations Committee on Commerce and Tourism  
310 The Knott  
404 South Monroe Street  
Tallahassee, FL 32399

Chair Trumbull,

I respectfully request SB 532: Money Services Businesses be placed on the Committee on Commerce and Tourism agenda at your earliest convenience.

Thank you for your consideration.

Regards,

Colleen Burton  
State Senator, District 12

CC: Todd McKay, Staff Director  
Renita Hayes, Administrative Assistant

**REPLY TO:**

- ☐ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
- ☐ 318 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

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

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore



The Florida Senate

## Committee Agenda Request

**To:** Senator Jay Trumbull, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** March 20, 2023

I respectfully request that **Senate Bill #626**, relating to Broadband Internet Service Providers be placed on the:

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

Senator Nick DiCeglie  
Florida Senate, District 18

File signed original with committee office

S-020 (03/2004)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jay Trumbull, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** March 14, 2023

I respectfully request that **Senate Bill #728**, relating to Liveries, be placed on the:

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

Senator Ileana Garcia  
Florida Senate, District 36

File signed original with committee office

S-020 (03/2004)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JENNIFER BRADLEY  
6th District

March 15, 2023

Senator Jay Trumbull, Chairman  
Senate Committee on Commerce and Tourism  
320 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Trumbull:

I respectfully request that Senate Bill 770 be placed on the committee's agenda at your earliest convenience. This bill relates to the residential real estate listing agreements.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

cc: Todd McKay, Staff Director  
Renita Hayes, Administrative Assistant

REPLY TO:  
☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085  
☐ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

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

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore

COMMITTEES:  
Appropriations Committee on Criminal  
and Civil Justice, *Chair*  
Criminal Justice, *Vice Chair*  
Appropriations  
Appropriations Committee on Health  
and Human Services  
Children, Families, and Elder Affairs  
Community Affairs  
Regulated Industries

SELECT COMMITTEE:  
Select Committee on Resiliency



**SENATOR Alexis M. Calatayud**  
38th District

## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Community Affairs, Chair  
Appropriations Committee on Education  
Appropriations Committee of Health and Human  
Services  
Education Pre-K 12  
Fiscal Policy  
Health Policy  
Military and Veterans Affairs, Space and Domestic  
Security  
Select Committee on Resiliency

March 8th, 2023

Honorable Senator Jay Trumbull  
Chair  
Committee on Commerce and Tourism

Honorable Chair Trumbull,

I respectfully request SB 752 Temporary Commercial Kitchens be placed on the next committee agenda.

This bill requests defining the term "temporary commercial kitchen"; authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to adopt by rule operational requirements for temporary commercial kitchens.

Sincerely,

*Alexis M. Calatayud*

Senator Alexis M. Calatayud  
Florida Senate, District 39

CC: Todd McKay, Staff Director  
Renita Hayes, Committee Administrative Assistant

REPLY TO:  
□ 11011 SW 101st St, STE 5101, Miami Florida 33176 (305) 596-3002  
□ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038  
Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**Kathleen Passidomo**  
President of the Senate

**Dennis Baxley**  
President Pro Tempore



The Florida Senate

## Committee Agenda Request

**To:** Senator Jay Trumbull, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** March 13, 2023

I respectfully request that **Senate Bill #1458**, relating to Roller Skating Rink Safety, be placed on the:

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

*Clay Yarborough*  
Senator Clay Yarborough  
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)

## Hayes, Renita

**From:** Dixon, Caroline  
**Sent:** Monday, March 27, 2023 12:31 PM  
**To:** McKay, Todd; Hayes, Renita  
**Subject:** Senator Hooper's Delayed Arrival

Good afternoon,

Just wanted to give you both a heads-up –

Senator Hooper will be presenting a bill in Health Policy in the Knott building at the same time Commerce and Tourism begins this afternoon. He has been instructed to go to Health Policy first, and then will head straight back to Commerce and Tourism when he's finished his presentation.

If you have any questions, please don't hesitate to reach out.

Thank you,

*Caroline Dixon, J.M.*  
District Senior Legislative Aide  
Florida Senator Ed Hooper  
District 21

(727) 771-2102  
3450 East Lake Road, Suite 305  
Palm Harbor, FL 34685

(850) 487-5021  
408 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

## CourtSmart Tag Report

**Room:** SB 110 **Case No.:** **Type:**  
**Caption:** Senate Commerce Committee **Judge:**

**Started:** 3/27/2023 3:03:08 PM  
**Ends:** 3/27/2023 4:09:10 PM **Length:** 01:06:03

**3:03:08 PM** Chair Trumbull calls meeting to order  
**3:03:17 PM** Roll call  
**3:03:21 PM** A quorum is present  
**3:03:38 PM** Chair Trumbull speaks  
**3:03:48 PM** Tab 3 - CS/SB 752 on Temporary Commercial Kitchens by Senator Calatayud temporarily postponed  
**3:04:01 PM** Senator Garcia explains Tab 2 - SB 728 on Liveries  
**3:04:22 PM** Chair Trumbull speaks  
**3:05:22 PM** Amendment Barcode 462846 by Senator Garcia explained  
**3:05:58 PM** Questions? None  
**3:06:07 PM** Debate? None  
**3:06:10 PM** Senator Garcia waives close  
**3:06:14 PM** Amendment 462846 adopted  
**3:06:22 PM** Public Testimony:  
**3:06:27 PM** Peggy Matthews with American Watercraft Association  
**3:07:23 PM** Maya Schilder with Xtreme H20 Sports  
**3:10:57 PM** Question by Senator Stewart  
**3:12:18 PM** Maya Schilder responds  
**3:12:21 PM** Debate? None  
**3:12:25 PM** Senator Garcia closes on SB 728  
**3:15:53 PM** Roll call  
**3:17:04 PM** Bill passes; reported favorably  
**3:17:15 PM** Tab 5 - SB 1458 on Roller Skating Rink Safety by Senator Yarborough  
**3:17:24 PM** Senator Yarborough explains SB 1458  
**3:18:26 PM** Amendment 903660 explained by Senator Yarborough  
**3:19:18 PM** Questions? None  
**3:19:20 PM** Public Testimony on Amendment:  
**3:19:28 PM** Laura Youmans with Florida Justice Association waives in support  
**3:19:39 PM** Senator Yarborough waives close on amendment  
**3:19:44 PM** Amendment adopted  
**3:19:49 PM** Questions on bill?  
**3:19:55 PM** Senator Stewart  
**3:20:10 PM** Senator Yarborough waives close on SB 1458  
**3:20:20 PM** Public Testimony:  
**3:20:22 PM** Bobby Bentley with Roller Skating Association  
**3:20:51 PM** Alicia Caridi speaking in support of bill  
**3:23:36 PM** Question by Senator Torres  
**3:24:42 PM** Alicia Caridi answers  
**3:24:47 PM** Senator Torres speaks  
**3:25:13 PM** Alicia Caridi answers  
**3:25:18 PM** Debate?  
**3:25:41 PM** Senator Stewart  
**3:25:57 PM** Senator Yarborough closes on SB 1458  
**3:26:13 PM** Roll call  
**3:26:27 PM** Bill passes; reported favorably  
**3:26:46 PM** Tab 1 CS/SB 532 - Money Services Businesses by Senator Burton  
**3:26:55 PM** Senator Burton explains CS/SB 532  
**3:27:27 PM** Questions? None  
**3:28:26 PM** Public Testimony:  
**3:28:30 PM** Ash Mason with Office of Financial Regulation waives in support  
**3:28:35 PM** Debate? None  
**3:28:37 PM** Senator Burton waives close  
**3:28:38 PM** Roll call

**3:28:41 PM** Bill passes; reported favorably  
**3:28:59 PM** Tab 6 - SB 442 on Secondhand Dealer by Senator Gruters  
**3:29:20 PM** Senator Gruters explains SB 442  
**3:29:39 PM** Questions? None  
**3:29:50 PM** Public Testimony:  
**3:29:52 PM** Mark Anderson with David Reynolds Jewelry and Coin waives in support  
**3:29:56 PM** Emilie Socash with David Reynolds Jewelry and Coin waives in support  
**3:30:01 PM** Debate?  
**3:30:05 PM** Senator DiCeglie  
**3:30:14 PM** Senator Gruters closes on bill  
**3:30:45 PM** Roll call  
**3:30:56 PM** Bill passes, reported favorably  
**3:31:11 PM** Tab 7 - SB 490 on Family and Household Members of Homicide Victims and Deceased Minors by Senator Jones  
**3:31:17 PM** Senator Jones explains SB 490  
**3:32:08 PM** Chair speaks  
**3:32:12 PM** Senator Jones explains Amendment 811428  
**3:32:20 PM** Questions?  
**3:32:25 PM** Public Testimony?  
**3:32:29 PM** No public testimony  
**3:32:31 PM** Debate? None  
**3:32:35 PM** Senator Jones waives close on Amendment 811428  
**3:32:40 PM** Amendment 811428 adopted  
**3:32:51 PM** Questions on bill?  
**3:33:02 PM** Public Testimony:  
**3:33:06 PM** Patricia Ward speaks in support  
**3:34:46 PM** Pastor Jearlyn Dennie waives in support  
**3:35:46 PM** Subash Kateel waives in support  
**3:35:50 PM** Michele Combs with Christian Coalition of Florida waives in support  
**3:35:55 PM** Debate?  
**3:36:00 PM** Senator Jones closes on bill  
**3:36:17 PM** Roll call  
**3:36:41 PM** Bill passes; reported favorably  
**3:36:59 PM** Motion by Senator Jones to temporarily postpone SB 492  
**3:37:21 PM** Motion approved by Chair Trumbull  
**3:37:25 PM** Tab 10 - SB 1106 on Household Moving Services by Senator Hooper  
**3:37:28 PM** Senator Hooper explains SB 1106  
**3:38:59 PM** Questions? None  
**3:40:05 PM** Public Testimony:  
**3:40:09 PM** Jim Duncan waives in support  
**3:40:12 PM** Gloria Pugh waives in support  
**3:40:21 PM** Debate?  
**3:40:30 PM** Senator Wright  
**3:40:38 PM** Senator Hooper closes on bill  
**3:41:25 PM** Roll call  
**3:41:59 PM** Bill passes; reported favorably  
**3:42:08 PM** Tab 11 SB 1108 on Fees/Moving Brokers by Senator Hooper  
**3:42:17 PM** Senator Hooper explains SB 1108  
**3:42:37 PM** Senator Hooper explains Amendment 552372  
**3:42:52 PM** Questions? None  
**3:42:54 PM** Debate? None  
**3:42:58 PM** Senator Hooper waives close on amendment  
**3:43:03 PM** Amendment adopted  
**3:43:05 PM** Questions on bill? None  
**3:43:12 PM** Debate on bill? None  
**3:43:15 PM** Senator Hooper waives close on bill  
**3:43:18 PM** Roll call  
**3:43:29 PM** Bill passed; reported favorably  
**3:43:38 PM** Tab 12 SB 1664 on Economic Development by Senator Hooper  
**3:43:54 PM** Senator Hooper explains SB 1664  
**3:45:07 PM** Senator Hooper explains amendment 424206  
**3:46:33 PM** Questions? None

**3:47:05 PM** Public Testimony? None  
**3:47:13 PM** Debate? None  
**3:47:17 PM** Senator Hooper waives close on amendment and amendment adopted  
**3:47:22 PM** Questions on bill? None  
**3:47:28 PM** Public Testimony:  
**3:47:32 PM** Kasey Denny with Palm Beach County waives in support  
**3:47:37 PM** Jeff Scala with Florida Association of Counties waives in support  
**3:47:40 PM** Roy Baker with Opportunity Florida waives in support  
**3:47:45 PM** Carolyn Johnson with Florida Chamber of Commerce waives in support  
**3:47:50 PM** Chris Doolin with Small County Coalition waives in support  
**3:47:54 PM** Debate? None  
**3:47:56 PM** Senator Hooper waives close on bill  
**3:48:01 PM** Roll call  
**3:48:04 PM** Bill passes; reported favorably  
**3:48:20 PM** Tab 9 - CS/SB 626 on Broadband Internet Service Providers  
**3:48:25 PM** Senator DiCeglie explains CS/SB 626  
**3:50:19 PM** Questions?  
**3:51:19 PM** Senator Hooper  
**3:51:47 PM** Senator DeCeglie answers  
**3:52:12 PM** Public Testimony:  
**3:53:07 PM** Marva Johnson with Charter Communications waives in support  
**3:53:11 PM** Charlie Dudley with Florida Internet and Television Association speaks against  
**3:56:34 PM** Drew Love with Florida Electric Cooperatives waives in support  
**3:57:35 PM** Karen Murillo with AARP waives in support  
**3:57:40 PM** Floyd Self with Charter Today  
**3:59:12 PM** Debate?  
**3:59:23 PM** Senator Stewart  
**3:59:56 PM** Senator Torres  
**4:00:33 PM** Senator Jones  
**4:00:43 PM** Senator Hooper  
**4:01:19 PM** Senator DeCeglie closes on bill  
**4:02:21 PM** Roll call  
**4:03:16 PM** Bill passes; reported favorably  
**4:03:36 PM** Tab 4 - SB 770 on Residential Real Estate Listing Agreements  
**4:03:48 PM** Senator Bradley explains SB 770  
**4:04:44 PM** Senator Bradley explains amendment 559776  
**4:06:08 PM** Questions? None  
**4:06:14 PM** Appearance Forms? None  
**4:06:20 PM** Debate? None  
**4:06:22 PM** Senator Bradley waives close on amendment  
**4:06:28 PM** Amendment adopted  
**4:06:31 PM** Questions on bill? None  
**4:06:36 PM** Public Testimony:  
**4:06:41 PM** Beau Beaubien with MV Realty  
**4:06:47 PM** James Merritt waives in support  
**4:07:18 PM** Libby Guzzo with Attorney General waives in support  
**4:07:21 PM** Karen Murill with AARP waives in support  
**4:07:26 PM** Ryan Patmintra with Zillow waives in support  
**4:07:31 PM** Debate?  
**4:07:35 PM** Senator Gruters  
**4:07:46 PM** Senator Bradley closes on bill  
**4:08:07 PM** Roll call  
**4:08:12 PM** Bill passes; reported favorably  
**4:08:31 PM** Chair Trumbull asks if there are any votes after and other committee business  
**4:08:40 PM** Senator Rodriguez motions to vote after on SB 728  
**4:08:49 PM** Chair Trumbull adopts motion  
**4:08:53 PM** Senator Jones moves to adjourn; meeting adjourned