

Tab 1	SB 262 by Berman; Identical to H 00385 Trusts
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Tab 2	SB 300 by Rouson; Identical to H 00373 Public Records/Appellate Court Clerks and their Spouses and Children
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Tab 3	SB 302 by Rouson; Similar to H 00155 Public Records/Judicial Qualifications Commission
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Tab 4	SB 322 by Rodriguez; Similar to H 00213 Property Rights
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188398	A	S	RCS	JU, Rodriguez	btw L.311 - 312:	02/18 05:00 PM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Yarborough, Chair
Senator Burton, Vice Chair

MEETING DATE: Tuesday, February 18, 2025
TIME: 4:00—6:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Yarborough, Chair; Senator Burton, Vice Chair; Senators DiCeglie, Gaetz, Hooper, Leek, Osgood, Passidomo, Polsky, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 262 Berman (Identical H 385)	Trusts; Revising how an authorized trustee may exercise the power to invade principal as an authorized trustee administering a trust; providing that property devised to or from a revocable trust which is devised, given, or distributed to a donee by a settlor during the settlor's lifetime is treated as a satisfaction of devise to that donee if certain criteria are met; providing that homestead property transferred by one or both settlor spouses to community property will not be treated as a change of ownership for the purposes of reassessing the property, etc. JU 02/18/2025 Fav/CS CA RC	Fav/CS Yeas 9 Nays 0
2	SB 300 Rouson (Identical H 373)	Public Records/Appellate Court Clerks and their Spouses and Children; Defining the term "appellate court"; providing an exemption from public records requirements for the personal identifying and location information of current appellate court clerks and the spouses and children of such appellate court clerks; providing for future legislative review and repeal of the exemption; providing for retroactive application of the exemption; providing a statement of public necessity, etc. JU 02/18/2025 Favorable GO RC	Favorable Yeas 9 Nays 1
3	SB 302 Rouson (Similar H 155)	Public Records/Judicial Qualifications Commission; Providing an exemption from public records requirements for the personal identifying and location information of current and former employees of the Judicial Qualifications Commission and the personal identifying and location information of the spouses and children of such employees; providing for legislative review and repeal of the exemption; providing for retroactive application of the exemption; providing a statement of public necessity, etc. JU 02/18/2025 Favorable GO RC	Favorable Yeas 9 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 18, 2025, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 322 Rodriguez (Similar H 213)	Property Rights; Authorizing a property owner or his or her authorized agent to request the sheriff in the county in which the owner's commercial real property is located to immediately remove persons unlawfully occupying the owner's commercial real property, under certain conditions; authorizing the sheriff to arrest an unauthorized person for legal cause; authorizing the owner or agent to request that the sheriff stand by while the owner or agent takes possession of the commercial real property; prohibiting unlawfully detaining, or occupying or trespassing upon, commercial real property intentionally and causing a specified amount of damage, etc. JU 02/18/2025 Fav/CS CJ RC	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 262

INTRODUCER: Judiciary Committee and Senator Berman

SUBJECT: Trusts

DATE: February 19, 2025 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 262 amends the Florida Trust Code. The Code governs the creation of trusts and the authority and responsibilities of trustees to manage property held in trust for the benefit of others. The changes in the bill are intended to clarify existing law while also incorporating language from the Florida Probate Code to treat gifts of trust assets made during a settlor's lifetime in the same manner that gifts are treated when made from a decedent's assets before his or her death.

The bill clarifies existing law relating to trust decanting, which refers to pouring trust assets into a new trust. Trust decanting is often appropriate due to changes in circumstances, administrative ease, or changes in tax laws.

Under the trust decanting provisions of the bill, a trustee is expressly authorized to modify the terms of a first trust to create or fund a second trust as a means of making distributions to beneficiaries. Additionally, the bill expressly states that a trustee who is authorized to invade the principal of a trust to create or fund a second trust is not considered to be the settlor of the second trust. This change ensures that a trustee will not be disqualified from serving as a trustee of a second trust as the result of having created or funded the second trust from the assets of the first trust.

With regard to a former trustee's liability and successor trustees' responsibilities, the bill clarifies that a person in a fiduciary relationship to a beneficiary may not bring an action on behalf of a beneficiary if the beneficiary is barred from bringing the claim or action.

The bill adopts nearly identical provisions contained in the Florida Probate Code to clarify when an “ademption by satisfaction” occurs with assets from a trust. The phrase “ademption by satisfaction” as used in the Florida Probate Code refers to the cancellation of a gift or distribution of an asset because the asset has already been given to the intended recipient. Often, property is missing from a trust at the settlor’s death because the settlor gave the property to someone during the settlor’s lifetime or because the property was distributed to someone from a revocable trust during the settlor’s lifetime. Under the bill, these gifts from a trust will be considered satisfied or adeemed only if a written statement is made, either in the terms of the trust, in a contemporaneous statement that the gift is to be deducted from the devise, or when the recipient acknowledges in writing that the gift has been satisfied.

The definitions of “community property” and “community property trust” are amended by the bill to clarify that transferring homestead property into a community trust is not a change of ownership for the purpose of reassessing the value of homestead property. This clarification will prevent property appraisers from reassessing the value of a home which will likely result in higher property taxes.

The bill takes effect upon becoming a law.

II. Present Situation:

Trusts

Background

In its most basic form, a trust is a legally binding relationship in which a person who owns property gives that property to a second person to hold and manage for the benefit of a third person. The settlor is the person who originally owned the property and creates the trust. The trustee is the person who holds legal title to the trust property and manages it with powers and responsibilities established in the terms of the trust. The beneficiary is the person for whom the property is held and who benefits from the trust.¹

Trusts are generally used for estate and financial planning purposes. They allow people to avoid probate proceedings and reduce certain tax obligations while also protecting assets from creditors and abuse.² When a trust is established pursuant to the terms of someone’s will and takes effect upon his or her death, it is called a testamentary trust. In contrast, when a trust is created during someone’s life, it is called an inter vivos or living trust.³

¹Restatement (Third) of Trusts s. 3 (2003); BLACK’S LAW DICTIONARY (12th ed. 2024); 55A FLA. JUR 2D TRUSTS s. 114 *Trusts, Generally* (2024).

² Alan S. Gassman, Brock Exline, and Peter Farrell, *Designing Trust Systems for Florida Residents: Planning Strategies, Things You Should Know, and Traps for the Unwary*, Florida Bar Journal, vol. 97, No. 4, July/August 2023, <https://www.floridabar.org/the-florida-bar-journal/designing-trust-systems-for-florida-residents-planning-strategies-things-you-should-know-and-traps-for-the-unwary/>.

³ BLACK’S LAW DICTIONARY (12th ed. 2024).

The Florida Trust Code is contained in chapter 736, F.S. It became effective in 2007 and applies to express trusts,⁴ charitable or noncharitable trusts, and trusts created pursuant to a law, judgment, or decree that requires the trust to be administered in the manner of an express trust.⁵

A Trustee’s Power to Invade the Principal in a Trust, Section 736.04117, F.S.

Trust Decanting

In the realm of trust law, “decanting” is a legal term which describes the act of a trustee pouring assets from one trust into another trust. This procedure is deemed to be a useful mechanism that provides a trustee with the opportunity to remedy problems that arise when administering a trust or address changes that occur with time. Decanting might be used to alter a trustee’s power, increase the protection of assets, correct a scrivener’s error, or revise distributions from the trust to encompass special needs provisions.⁶ Decanting is also used to update the terms of a trust or adjust provisions to take advantage of changes in tax laws.

Definition of an Authorized Trustee - Section 736.04117(1)(b), F.S.

An “authorized trustee” has the power to invade the principal of a trust for decanting purposes. An “authorized trustee” is defined in statute to be “a trustee, other than the settlor or a beneficiary, who has the power to invade the principal of a trust.”⁷ Currently, if an authorized trustee executes a trust instrument that creates a second trust or appoints assets to the second trust, he or she might technically meet the elements of the definition of a “settlor” as defined in s. 736.0103(21), F.S. If the trustee is the settlor of the second trust, the trustee could be precluded from being an authorized trustee for the second trust.⁸

Distribution from a First Trust to a Second Trust or Supplemental Needs Trust - s. 736.04117(2)(a), (3), and 4(a), F.S.

Three very similar provisions in s. 736.04117, F.S., address an authorized trustee’s authority to invade the principal of a first trust, either with or without absolute power to invade, and make distributions to a second trust or a supplemental needs trust.⁹ However, none of the three statutes expressly states that the trustee has the authority to *modify* the first trust under the grant of discretion authorized in statute as a means of creating or funding a second trust. If a trustee is expressly granted the authority to structure the decanting as a *modification*, he or she can avoid

⁴ An express trust is a trust created intentionally by a settlor, generally declared in writing, as distinguished from an implied or constructive trust that is “implied” by circumstances and often involves a court’s intervention to correct a wrong. BLACK’S LAW DICTIONARY (12th ed. 2024); Cornell Law School, Legal information Institute, https://www.law.cornell.edu/wex/express_trust.

⁵ Sections 736.0101 and 736.0102, F.S.

⁶ Amy J. Fanzlaw, *New Opportunities to Decant in Florida, Part I: Recent Changes to the Trust Decanting Statute*, Florida Bar Journal, Vol. 93, No. 5, September/October 2019, <https://www.floridabar.org/the-florida-bar-journal/new-opportunities-to-decant-in-florida-part-irecent-changes-to-the-trust-decanting-statute/>.

⁷ Section 736.04117(1)(b), F.S. The decanting statute was added to the Florida Trust Code in 2007.

⁸ Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper on the Revision to Subsections (1)(b), (2)(a), (3), (4)(a), (8)(d), (11) and (12) of 736.04117 of the Florida Statutes* (2024) (on file with the Senate Committee on Judiciary).

⁹ A supplemental needs trust is defined in statute to mean “a trust that the authorized trustee believes would not be considered a resource for purposes of determining whether the beneficiary who has a disability is eligible for government benefits.” Section 736.04117(1)(j), F.S.

doing additional administrative tasks such as retitling the assets and obtaining a new EIN, or employer identification number, from the IRS.

A Trustee’s Requirement to Provide Written Notice Before Invading the Principal of a Trust – s. 736.04117(8)(d), F.S.

Currently, an authorized trustee is required to provide written notice, known as a decanting notice, as to how he or she intends to exercise power to invade the principal of a trust. This notice must be provided to certain enumerated parties 60 days before the effective date of the exercise of that power. Some authorized trustees include on the notice a statement from a statutory form that actions for a breach of trust “may be subject to a 6-month statute of limitations from the receipt of the trust accounting or other written report.”¹⁰ This statement can be confusing to both beneficiaries and trustees because the earliest date that the statute of limitations could begin to run is either when the actual decanting occurs, a time period that is no sooner than the earlier of 60 days after the delivery of the notice or when notice is waived. This confusion could be resolved if language is added to clarify that a notice of a proposed decanting is not a trust disclosure document.

Protection of Successor Trustees – s. 736.08125, F.S.

The Florida Trust Code provides that a successor trustee is not personally liable for the actions taken by a former trustee. Additionally, the successor trustee does not have a duty to initiate an action against any former trustee or file a claim against any former trustee’s estate under certain enumerated circumstances.¹¹ However, s. 736.08125(3), F.S., states that “Nothing in this section affects any liability of the prior trustee or the right of the successor trustee or any beneficiary to pursue an action or claim against the prior trustee.” Some practitioners suggest that the statute does not absolutely prohibit a successor trustee from bringing an action against a former trustee even when all of the beneficiaries are barred from bringing an action. This produces confusion for practitioners and can lead to conflicting applications of the statute. One group believes that a successor trustee is barred when the beneficiaries are barred. Another group interprets the statute to say that a successor trustee is permitted to bring a claim even if the beneficiaries are barred from that action.¹²

Ademption by Satisfaction

The word “adeem” is a verb that means to revoke, cancel, or withdraw an item.¹³ In probate legal terms, “ademption by satisfaction” occurs when specific property granted under the terms of a will is no longer in the testator’s estate when he or she dies because the gift was satisfied during the testator’s life. An example would be that a decedent bequeathed her car to a particular beneficiary in her will. However, the decedent did not own a car when she died, therefore, the gift of the car would be “adeemed.” The result is that the beneficiary would not inherit the car.¹⁴

¹⁰ Section 736.1008(4)(a) and (c), F.S.

¹¹ Section 736.08125(1)(a) – (e), F.S.

¹² Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper: Former Trustee Liability* (2024) (on file with the Senate Committee on Judiciary).

¹³ “Adeem.” Merriam-Webster.com Legal Dictionary, Merriam-Webster, <https://www.merriam-webster.com/legal/adeem>.

¹⁴ Law.Com, Services & Resources Legal Dictionary, <https://dictionary.law.com/Default.aspx?selected=2322>; Smith Gambrell Russell Newsletter, *To Adeem or Not to Adeem ... That Is the Question*, Issue 4/Spring 2012,

An “Ademption by Satisfaction” statute is contained in the Florida Probate Code¹⁵ but there is no comparable statute in the Florida Trust Code. The provision in the Probate Code states that property given to someone in the testator’s lifetime is treated as a satisfaction of a devise¹⁶ of the gift to that person, in whole or in part only if:

- The will provides for deduction of the lifetime gift,
- The testator declares in a contemporaneous writing that the gift is to be deducted from the devise or is in satisfaction of the devise, or
- The devisee, or recipient, acknowledges in writing that the gift is in satisfaction.

To summarize the intent of the statute, property that is given to someone during a testator’s life satisfies the intent of the will to make a devise *only if* the testator’s will provides for that or when the testator or recipient acknowledges it to be so in a written statement.

Community Property Trust Act – s. 736.1502, F.S.

The Florida Community Property Trust Act was created in 2021 and is contained within Part XV of ch. 736.¹⁷ The Act permits a married couple to form a joint trust that holds their assets which generally may be used for their benefit while both spouses are living. Perhaps the most important benefit is the savings of substantial income tax when the first spouse dies.¹⁸ Although the state permits the formation of a community property trust, Florida is not a community property state. Florida is among the 41 states that follow the common law which holds that each spouse is recognized as an individual who has separate legal and property rights.¹⁹

Definition of “Community Property”

The term “community property” is defined in s. 736.1502(1), F.S. to mean

[T]he property and the appreciation of and income from the property owned by a qualified trustee of a community property trust during the marriage of the settlor spouses. The property owned by a community property trust pursuant to this part

https://www.sgrlaw.com/newsletter/newsletters/trusts_estates_trends/trustsnestatestrends_spring201/1834-2/#:~:text=Ademption%20is%20a%20legal%20term,adeemed%2C%20and%20the%20gift%20fails.

¹⁵ The Florida Probate Code is contained in chapters 731-735, F.S.

Section 732.609, F.S. For purposes of part satisfaction, property given during the testator’s lifetime is valued at the time the devisee came into possession or enjoyment of the property or at the time of the death of the testator, whichever occurs first.

¹⁶ “Devise” means the act of giving property by a will. (BLACK’S LAW DICTIONARY (12th ed. 2024)).

¹⁷ Ch. 2021-183, ss. 29-40, Laws of Fla.

¹⁸ Joseph M. Percopo, *Understanding the New Florida Community Property Trust, Part I*, The Florida Bar Journal, July/August 2022, <https://www.floridabar.org/the-florida-bar-journal/understanding-the-new-florida-community-property-trust-part-i/>; Joseph M. Percopo, *Understanding the New Florida Community Property Trust, Part II*, The Florida Bar Journal, September/October 2022, <https://www.floridabar.org/the-florida-bar-journal/understanding-the-new-florida-community-property-trust-part-ii/>.

¹⁹ In a community property state, property that is acquired during the course of the marriage is owned equally by the spouses. If the couple divorces, the assets acquired during the marriage are divided equally between the spouses. According to the IRS, there are nine community property states in the country: Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, Washington, and Wisconsin. IRS, Internal Revenue Manual, 25.18.1 *Basic Principles of Community Property Law*, (May 2023) https://www.irs.gov/irm/part25/irm_25-018-001.

and the appreciation of and income from such property *shall be deemed to be* community property for purposes of general law.

The inclusion of the phrase “shall be deemed” has caused concern among some professionals as being inconsistent with other provisions in the Community Property Trust Act. In contrast, s. 736.1505(3), F.S., states that “All property owned by a community property trust *is* community property under the laws of the state during the marriage of the settlor spouses.”

Definition of “Community Property Trust”

“Community property trust” is defined as

[A]n express trust that complies with s. 736.1503 and is *created on or after* July 1, 2021.

The phrase “created on or after” July 1, 2021 has also caused concern among professionals who work in this area.²⁰ Some married couples have already established community property trusts or joint revocable trusts before July 1, 2021, in another state before moving to Florida and becoming residents. In order to qualify their trust as a community property trust in this state, the couples want to amend or restate the terms of their existing trust. By adding the language “amended, restated, or modified” the provision is clarified so that a couple who amends, restates, or modifies their existing trust, if it meets the additional statutory requirements, would meet the requirement of s. 736.1502(2), F.S., because the trust would be created on the date of the amendment, restatement, or modification even though the original community trust was created earlier.

Homestead Property – s. 736.151, F.S.

Homestead property is protected under the State Constitution in three specific ways. The property is:

- Exempt from forced sale by creditors.²¹
- Given an exemption from property taxes.²²
- Protected with certain restrictions should a homestead owner attempt to devise or alienate the property if the owner is survived by a spouse or minor child.²³

The Florida Trust Code currently recognizes that homestead property placed in a community property trust retains its homestead nature and receives the appropriate exemptions. The statute also states that property acquired in the name of the trustee may initially qualify as the settlor spouses’ homestead if that property would qualify as the settlor spouses’ homestead if title was held outside of the trust in one or both of the spouses’ individual names.²⁴

²⁰ Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper on Minor Clarifications to the Florida Community Property Trust Act* (2024) (on file with the Senate Committee on Judiciary).

²¹ FLA. CONST. art. X, s. 4(a).

²² FLA. CONST. art. VII, s. 6.

²³ FLA. CONST. art. X, s. 4(c).

²⁴ Section 736.151(1), F.S.

The concern has been raised that a county property appraiser might believe that transferring the homestead property into a community property trust is technically a change of ownership.²⁵ The result is that the property appraiser would reassess the value of the property for property tax purposes and the homeowner would pay higher taxes.

III. Effect of Proposed Changes:

Section 1 – A Trustee’s Power to Invade the Principal in a Trust

Authorized Trustee - s. 736.04117(1)(b), F.S.

This section is revised to clarify that an “authorized trustee” will not be considered a settlor of a second trust even if he or she created the trust instrument that governs the second trust or made a distribution of assets from the first trust to the second trust. In order to determine the settlor’s intent for a second trust or a modification of the first trust, consideration may be given to the intent of a settlor of the first trust, the settlor of the second trust, or the authorized trustee.²⁶

Distribution from a First Trust to a Second Trust or Supplemental Needs Trust - s.736.04117(2)(a), (3), and (4)(a), F.S.

Each of these three provisions is amended with identical language to expressly permit the trustee to modify the terms of a first trust. This will permit the trustee to avoid certain administrative tasks such as retitling assets and obtaining a new EIN or employer identification number from the IRS.

Notice Provision – s. 736.04117(8)(d), F.S.

The revisions to this paragraph clarify that an authorized trustee’s notice to invade the principal of the first trust *is not a trust disclosure document* and does not limit a beneficiary’s right to object to the trustee’s power to invade principal of the trust except as otherwise stated in the statutes. The revision also clarifies that a trust disclosure document pertaining to the distribution does not start a limitations period unless the trust disclosure document is provided after the effective date of the exercise of the trustee’s power to invade the principal.

Application – s. 736.04117(12), F.S.

Newly created s. 736.04117(12), F.S., is added to the decanting provisions to state that the decanting statute applies to all trusts that are governed by Florida law or any trusts that have a principal place of administration within the state. This clarifies which state’s laws govern when a trust originated in another state but is now operational in this state.

²⁵ Real Property, Probate, and Trust Law (RPPTL) Section of The Florida Bar, *White Paper on Minor Clarifications to the Florida Community Property Trust Act* (2024) (on file with the Senate Committee on Judiciary).

²⁶ The language governing intent is drawn from the Uniform Law Commission’s *Uniform Trust Decanting Act*, Section 25 (2015).

**Section 2 – Protection of Successor Trustees – s. 736.08125(3), F.S. and
Section 3 – Claims Against Former Trustees - s. 736.10085, F.S.**

The bill resolves the confusion surrounding a former trustee's liability and when an action may be brought against him or her. This is accomplished by creating a new s. 736.10085, F.S., and cross-referencing it in the existing s. 736.08125(3), F.S., which defines the bases for a former trustee's liability.

If a beneficiary is barred from bringing certain claims or actions against a former trustee, a fiduciary acting on the beneficiary's behalf is also barred. Fiduciaries do not have an independent right to bring a claim or action against a former trustee if the beneficiary is barred from bringing the claim or action.

Section 4 – Ademption by Satisfaction in a Revocable Trust – s. 736.10085, F.S.

The bill creates an "ademption by satisfaction" provision in the Trust Code that is very similar to, and modeled after, the provision contained in the Probate Code. The newly created statute governs property that is devised to or from a revocable trust²⁷ that a settlor gave to someone during the settlor's lifetime or property that is distributed to someone from a revocable trust during the settlor's lifetime.

These gifts made during a settlor's lifetime are treated as a satisfaction of a devise to the person, in whole or in part, upon the settlor's death if any of these circumstances apply:

- The terms of the trust instrument provide for the deduction of the lifetime gift or distribution.
- The settlor or the trustee declares in a contemporaneous writing that the gift or distribution is to be deducted from the devise or is in satisfaction of the devise.
- The devisee acknowledges in writing that the gift or distribution is in satisfaction of the devise.

When a part satisfaction occurs, the property distributed or given during the settlor's lifetime is to be valued at the time the devisee came into possession or enjoyment of the property or at the time of the death of the settlor, whichever occurs first.

This new "Ademption by Satisfaction" statute applies to revocable trusts that become irrevocable on or after July 1, 2025.

Section 5 – Community Property Trust Act – s. 736.1502, F.S.

Definition of "Community Property"

The term "community property" is amended in s. 736.1502(1), F.S., to delete the phrase "shall be deemed" to clarify that any asset that is held in a community property trust is community property.

²⁷ A "revocable trust" means a trust that is revocable by the settlor without the consent of the trustee or a person holding an adverse interest. Section 736.0103(20), F.S.

Definition of “Community Property Trust”

The definition of “community property trust” is amended and the phrase “amended, restated, or modified” is added.

By adding the language “amended, restated, or modified” the provision is clarified so that a couple who amends, restates, or modifies their existing trust, if it meets the additional statutory requirements, would meet the requirement of s. 736.1502(2), F.S., because the trust would be *created* on the date of the amendment, restatement, or modification even though the original community trust was created earlier.

Section 6 – Homestead Property – s. 736.151(3), F.S.

The addition of this new subsection to the homestead property statute clarifies that transferring homestead property into a community property trust is *not* a change of ownership for the purpose of reassessing the value of the homestead property. As such, the property appraiser may not reassess the value of the home. It should be treated as a qualified transfer between spouses, which is permitted in existing s. 193.155(3)(a)2., F.S.²⁸

Section 7 – Retroactive Applicability of the Amendments

The bill provides that amendments made to s. 736.04117, F.S., a trustee’s power to invade the principal in a trust, s. 736.1502, F.S., the Community Property Trust Act, involving the definitions of community property and community property trust, as well as s. 736.151, F.S., the transfer of homestead property are remedial. The amendments apply to all trusts that are created before, on, or after the effective date of the bill.

These amendments are designed to be remedial in nature, not substantive changes to existing law, and will take effect when the bill becomes a law.

Section 8 – Effective Date

The bill takes effect upon becoming law.

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

None.

B. Public Records/Open Meetings Issues:

None.

²⁸ Section 193.155(3)(a)2., F.S. states that when a “Legal or equitable title is changed or transferred between husband and wife, including a change or transfer to a surviving spouse ...” it is not a change of ownership for purposes of homestead assessments.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Retroactivity

Three provisions in this bill apply retroactively: s.736.04117, F.S., relating to a trustee's power to invade the principal in a trust, s. 736.1502(2), F.S., relating to community property trusts, and s. 736.151, F.S., relating to homestead property.

State statutes are presumed to apply prospectively and not retroactively. In essence, statutes generally apply to actions that occur on or after the effective date of an act, not before the legislation becomes effective. In general, laws that are remedial or procedural may be applied retroactively. However, substantive laws may not be applied retroactively even if the Legislature intends that they apply retroactively, if the "laws impair vested rights, create new obligations, or impose new penalties."²⁹ The changes to the Trust Code appear to be clarifying provisions and remedial in nature such that their retroactive application should not be unconstitutional.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The provisions in the bill are designed to bring clarity to settlors, trustees, and beneficiaries. As such, this could result in a financial savings to those people because they will not have to pay fees for legal research to resolve ambiguous language that currently exists in the statutes.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

²⁹ *Patronis v. United Insurance Company of America*, 299 So 3d. 1152, 1156 (Fla. 1st DCA 2020) (quoting *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55, 61 (Fla. 1995).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 736.04117, 736.08125, 736.1502, and 736.151.

This bill creates the following sections of the Florida Statutes: 736.10085, 736.1110.

This bill creates one undesignated section of Florida Law.

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

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

CS by Judiciary on February 18, 2025:

The committee substitute makes technical changes to the underlying bill by:

- Removing the retroactive application language of amendments made to s. 736.04117, F.S., and including that language in the retroactive application of other statutes in Section 7 and stating that the changes are remedial.
- Deleting as unnecessary Section 8, the directive to the Division of Law Revision to make technical changes to the bill to provide a chapter number and effective date.

B. Amendments:

None.



762740

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2025	.	
	.	
	.	
	.	

The Committee on Judiciary (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 146 - 222
and insert:

(12) APPLICATION.—This section applies to all trusts that are governed by the laws of this state or that have a principal place of administration within this state.

Section 2. Subsection (3) of section 736.08125, Florida Statutes, is amended to read:

736.08125 Protection of successor trustees.—

(3) Except as provided in s. 736.10085, ~~nothing in this~~



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12 section does not affect ~~affects~~ any liability of the prior
13 trustee or the right of the successor trustee or any beneficiary
14 to pursue an action or claim against the prior trustee.

15 Section 3. Section 736.10085, Florida Statutes, is created
16 to read:

17 736.10085 Claims against former trustees.—An action or
18 claim by a successor trustee or other person acting on behalf of
19 the trust against a prior trustee is barred to the same extent
20 that the action or claim would be barred if brought by the
21 beneficiary whose interests are represented by the successor
22 trustee or other person acting on behalf of the trust.

23 Section 4. Section 736.1110, Florida Statutes, is created
24 to read:

25 736.1110 Ademption by satisfaction.—

26 (1) Property devised to or from a revocable trust which a
27 settlor gave to a donee during the settlor's lifetime or which
28 is distributed from a revocable trust to a donee during the
29 settlor's lifetime is to be treated as a satisfaction of a
30 devise to that donee, in whole or in part, upon the settlor's
31 death, if any of the following circumstances applies:

32 (a) The trust instrument provides for the deduction of the
33 lifetime gift or distribution.

34 (b) The settlor or the trustee of the revocable trust
35 declares in a contemporaneous writing that the gift or
36 distribution is to be deducted from the devise or is in
37 satisfaction of the devise.

38 (c) The devisee acknowledges in writing that the gift or
39 distribution is in satisfaction of the devise.

40 (2) For purposes of part satisfaction, property distributed



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41 or given during the settlor's lifetime is valued at the time the
42 devisee came into possession or enjoyment of the property or at
43 the time of the death of the settlor, whichever occurs first.

44 (3) This section applies to revocable trusts that become
45 irrevocable on or after July 1, 2025.

46 Section 5. Subsections (1) and (2) of section 736.1502,
47 Florida Statutes, are amended to read:

48 736.1502 Definitions.—Unless the context otherwise
49 requires, as used in this part:

50 (1) "Community property" means the property and the
51 appreciation of and income from the property owned by a
52 qualified trustee of a community property trust during the
53 marriage of the settlor spouses. The property owned by a
54 community property trust pursuant to this part and the
55 appreciation of and income from such property are ~~shall be~~
56 ~~deemed to be~~ community property for purposes of general law.

57 (2) "Community property trust" means an express trust that
58 complies with s. 736.1503 and is created, amended, restated, or
59 modified on or after July 1, 2021.

60 Section 6. Subsection (3) is added to section 736.151,
61 Florida Statutes, to read:

62 736.151 Homestead property.—

63 (3) A transfer of homestead property by one or both of the
64 settlor spouses to a community property will not be treated as a
65 change of ownership for purposes of reassessing the property and
66 instead qualifies as a change or transfer of legal or equitable
67 title between spouses as described in s. 193.155(3)(a)2.

68 Section 7. The amendments made by this act to ss.
69 736.04117, 736.1502, and 736.151, Florida Statutes, are remedial



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70 and apply to trusts created before, on, or after the effective
71 date of this act.

72

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

74 And the title is amended as follows:

75 Delete lines 37 - 38

76 and insert:

77 construction and retroactive application; providing

By Senator Berman

26-00259B-25

2025262__

1 A bill to be entitled
 2 An act relating to trusts; amending s. 736.04117,
 3 F.S.; revising the definition of the term "authorized
 4 trustee"; revising how an authorized trustee may
 5 exercise the power to invade principal as an
 6 authorized trustee administering a trust; providing
 7 that notice of such exercise by an authorized trustee
 8 is not a trust disclosure document; providing that a
 9 trust disclosure document may not commence a
 10 limitations period unless such trust disclosure
 11 document is provided after the effective date of the
 12 exercise of the power to invade principal by an
 13 authorized trustee; providing applicability; amending
 14 s. 736.08125, F.S.; providing an exception with regard
 15 to protection of successor trustees; creating s.
 16 736.10085, F.S.; barring certain actions initiated by
 17 specified parties against prior trustees; creating s.
 18 736.1110, F.S.; providing that property devised to or
 19 from a revocable trust which is devised, given, or
 20 distributed to a donee by a settlor during the
 21 settlor's lifetime is treated as a satisfaction of
 22 devise to that donee if certain criteria are met;
 23 providing that property distributed or given to a
 24 devisee during a settlor's lifetime is to be valued at
 25 the time the devisee came into possession or enjoyment
 26 of the property, or at the time of the death of the
 27 settlor, whichever occurs first; providing
 28 applicability; amending s. 736.1502, F.S.; revising
 29 the definitions of the terms "community property" and

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30 "community property trust"; amending s. 736.151, F.S.;
 31 providing that homestead property transferred by one
 32 or both settlor spouses to community property will not
 33 be treated as a change of ownership for the purposes
 34 of reassessing the property; providing that such
 35 transfer qualifies as a change or transfer of legal or
 36 equitable title between spouses; providing
 37 construction and retroactive application; providing a
 38 directive to the Division of Law Revision; providing
 39 an effective date.

40
 41 Be It Enacted by the Legislature of the State of Florida:

42
 43 Section 1. Paragraph (b) of subsection (1), paragraph (a)
 44 of subsection (2), subsection (3), paragraph (a) of subsection
 45 (4), and paragraph (d) of subsection (8) of section 736.04117,
 46 Florida Statutes, are amended, and subsection (12) is added to
 47 that section, to read:
 48 736.04117 Trustee's power to invade principal in trust.—
 49 (1) DEFINITIONS.—As used in this section, the term:
 50 (b) "Authorized trustee" means a trustee, other than the
 51 settlor or a beneficiary, who has the power to invade the
 52 principal of a trust. For the purposes of this section, an
 53 authorized trustee will not be considered a settlor of a second
 54 trust, even if the authorized trustee created the trust
 55 instrument governing the second trust or made a distribution of
 56 assets from the first trust to the second trust. In determining
 57 settlor intent with respect to a second trust or a modification
 58 of the first trust, the intent of a settlor of the first trust,

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59 a settlor of the second trust, or the authorized trustee may be
60 considered.

61 (2) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN
62 AUTHORIZED TRUSTEE HAS ABSOLUTE POWER TO INVADE.—

63 (a) Unless a trust instrument expressly provides otherwise,
64 an authorized trustee who has absolute power under the terms of
65 the trust to invade its principal, referred to in this section
66 as the "first trust," to make current distributions to or for
67 the benefit of one or more beneficiaries may instead exercise
68 such power by modifying the terms of the first trust or by
69 appointing all or part of the principal of the trust subject to
70 such power in favor of a trustee of one or more other trusts,
71 whether created under the same trust instrument as the first
72 trust or a different trust instrument, including a trust
73 instrument created for the purposes of exercising the power
74 granted by this section, each referred to in this section as the
75 "second trust," for the current benefit of one or more of such
76 beneficiaries only if:

77 1. The beneficiaries of the second trust include only
78 beneficiaries of the first trust; and

79 2. The second trust does not reduce any vested interest.

80 (3) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN
81 AUTHORIZED TRUSTEE DOES NOT HAVE ABSOLUTE POWER TO INVADE.—
82 Unless the trust instrument expressly provides otherwise, an
83 authorized trustee who has a power, other than an absolute
84 power, under the terms of a first trust to invade principal to
85 make current distributions to or for the benefit of one or more
86 beneficiaries may instead exercise such power by modifying the
87 terms of the first trust or by appointing all or part of the

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88 principal of the first trust subject to such power in favor of a
89 trustee of one or more second trusts. If the authorized trustee
90 exercises such power:

91 (a) The second trusts, in the aggregate, ~~must shall~~ grant
92 each beneficiary of the first trust beneficial interests in the
93 second trusts which are substantially similar to the beneficial
94 interests of the beneficiary in the first trust.

95 (b) If the first trust grants a power of appointment to a
96 beneficiary of the first trust, the second trust ~~must shall~~
97 grant such power of appointment in the second trust to such
98 beneficiary, and the class of permissible appointees ~~must shall~~
99 be the same as in the first trust.

100 (c) If the first trust does not grant a power of
101 appointment to a beneficiary of the first trust, the second
102 trust may not grant a power of appointment in the second trust
103 to such beneficiary.

104 (d) Notwithstanding paragraphs (a), (b), and (c), the term
105 of the second trust may extend beyond the term of the first
106 trust, and, for any period after the first trust would have
107 otherwise terminated, in whole or in part, under the provisions
108 of the first trust, the trust instrument of the second trust
109 may, with respect to property subject to such extended term:

110 1. Include language providing the trustee with the absolute
111 power to invade the principal of the second trust during such
112 extended term; and

113 2. Create a power of appointment, if the power holder is a
114 current beneficiary of the first trust, or expand the class of
115 permissible appointees in favor of which a power of appointment
116 may be exercised.

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117 (4) DISTRIBUTION FROM FIRST TRUST TO SUPPLEMENTAL NEEDS
118 TRUST.-

119 (a) Notwithstanding subsections (2) and (3), unless the
120 trust instrument expressly provides otherwise, an authorized
121 trustee who has the power under the terms of a first trust to
122 invade the principal of the first trust to make current
123 distributions to or for the benefit of a beneficiary with a
124 disability may instead exercise such power by modifying the
125 terms of the first trust or by appointing all or part of the
126 principal of the first trust in favor of a trustee of a second
127 trust that is a supplemental needs trust if:

128 1. The supplemental needs trust benefits the beneficiary
129 with a disability;

130 2. The beneficiaries of the second trust include only
131 beneficiaries of the first trust; and

132 3. The authorized trustee determines that the exercise of
133 such power will further the purposes of the first trust.

134 (8) NOTICE.-

135 (d) The authorized trustee's notice under this subsection
136 is not a trust disclosure document as defined in s. 736.1008(4)
137 and does not limit the right of any beneficiary to object to the
138 exercise of the authorized trustee's power to invade principal
139 except as otherwise provided in other applicable provisions of
140 this code. With respect to the exercise of the authorized
141 trustee's power to invade principal, such trust disclosure
142 document will not commence a limitations period unless the trust
143 disclosure document is provided after the effective date of the
144 exercise of such power to invade principal by the authorized
145 trustee.

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146 (12) APPLICATION.-

147 (a) This section applies to all trusts that are governed by
148 the laws of this state or that have a principal place of
149 administration within this state.

150 (b) The amendments to this section by this act apply to all
151 trusts created before, on, or after the effective date of this
152 act.

153 Section 2. Subsection (3) of section 736.08125, Florida
154 Statutes, is amended to read:

155 736.08125 Protection of successor trustees.-

156 (3) Except as provided in s. 736.10085, ~~nothing in~~ this
157 section does not affect ~~affects~~ any liability of the prior
158 trustee or the right of the successor trustee or any beneficiary
159 to pursue an action or claim against the prior trustee.

160 Section 3. Section 736.10085, Florida Statutes, is created
161 to read:

162 736.10085 Claims against former trustees.-An action or
163 claim by a successor trustee or other person acting on behalf of
164 the trust against a prior trustee is barred to the same extent
165 that the action or claim would be barred if brought by the
166 beneficiary whose interests are represented by the successor
167 trustee or other person acting on behalf of the trust.

168 Section 4. Section 736.1110, Florida Statutes, is created
169 to read:

170 736.1110 Ademption by satisfaction.-

171 (1) Property devised to or from a revocable trust which a
172 settlor gave to a donee during the settlor's lifetime or which
173 is distributed from a revocable trust to a donee during the
174 settlor's lifetime is to be treated as a satisfaction of a

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175 devise to that donee, in whole or in part, upon the settlor's
176 death, if any of the following circumstances applies:

177 (a) The trust instrument provides for the deduction of the
178 lifetime gift or distribution.

179 (b) The settlor or the trustee of the revocable trust
180 declares in a contemporaneous writing that the gift or
181 distribution is to be deducted from the devise or is in
182 satisfaction of the devise.

183 (c) The devisee acknowledges in writing that the gift or
184 distribution is in satisfaction of the devise.

185 (2) For purposes of part satisfaction, property distributed
186 or given during the settlor's lifetime is valued at the time the
187 devisee came into possession or enjoyment of the property or at
188 the time of the death of the settlor, whichever occurs first.

189 (3) This section applies to revocable trusts that become
190 irrevocable on or after July 1, 2025.

191 Section 5. Subsections (1) and (2) of section 736.1502,
192 Florida Statutes, are amended to read:

193 736.1502 Definitions.—Unless the context otherwise
194 requires, as used in this part:

195 (1) "Community property" means the property and the
196 appreciation of and income from the property owned by a
197 qualified trustee of a community property trust during the
198 marriage of the settlor spouses. The property owned by a
199 community property trust pursuant to this part and the
200 appreciation of and income from such property are shall be
201 deemed to be community property for purposes of general law.

202 (2) "Community property trust" means an express trust that
203 complies with s. 736.1503 and is created, amended, restated, or

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204 modified on or after July 1, 2021.

205 Section 6. Subsection (3) is added to section 736.151,
206 Florida Statutes, to read:

207 736.151 Homestead property.—

208 (3) A transfer of homestead property by one or both of the
209 settlor spouses to a community property will not be treated as a
210 change of ownership for purposes of reassessing the property and
211 instead qualifies as a change or transfer of legal or equitable
212 title between spouses as described in s. 193.155(3) (a)2.

213 Section 7. The amendments made to ss. 736.1502 and 736.151,
214 Florida Statutes, as created by this act, are intended to
215 clarify existing law and shall apply to all community property
216 trusts created before, on, or after the effective date of this
217 act.

218 Section 8. The Division of Law Revision is directed to
219 replace, respectively, the phrase "this act" wherever it occurs
220 in this act with the assigned chapter number of this act and the
221 phrase "the effective date of this act" wherever it occurs in
222 this act with the date this act becomes a law.

223 Section 9. This act shall take effect upon becoming a law.

**ESTATE & TRUST TAX PLANNING COMMITTEE OF THE
REAL PROPERTY, PROBATE AND TRUST LAW SECTION OF THE FLORIDA BAR**

**WHITE PAPER ON MINOR CLARIFICATIONS
TO THE FLORIDA COMMUNITY PROPERTY TRUST ACT**

I. SUMMARY

The Florida Community Property Trust Act (Part XV of the Florida Trust Code, Section 736.1501, *et. al.*) was signed into law by Governor Ron DeSantis on June 29, 2021, after being unanimously approved by both houses of the Florida Legislature. The bill had an effective date of July 1, 2021 and is now law in the State of Florida.

The Florida Community Property Trust Act (the “Act”) permits married couples to create a certain type of Florida trust to hold community property. Historically, Florida has been a common law jurisdiction and did not allow for married couples who reside in the state to create or own community property. The Act changed the law in Florida so that married couples can own community property as long as it is held in a Florida community property trust (“FCPT”) which meets the requirements contained in the statutes. Allowing married couples to own community property can have significant tax benefits for the settlor spouses.

FCPTs are now frequently recommended and used by Florida attorneys as part of the estate planning process for married couples. Due to the increased usage of FCPTs, several practitioners approached the original drafting committee for the Real Property, Probate and Trust Law (“RPPTL”) Section of The Florida Bar with suggestions for minor clarifications to the language of the Florida Community Property Trust Act. The proposed legislation includes those requested clarifications which the original RPPTL Section drafting committee determined would improve the statutory framework and operation of the Act.

II. SECTION-BY-SECTION ANALYSIS

A. Section 736.1502(1)

1. Current Situation: Section 736.1502 is the definitional section of the Act and contains seven definitions which are specific to it - “community property”, “community property trust”, “decree,” “dissolution”, “during marriage”, “qualified trustee”, and “settlor spouses”. In particular, Section 736.1502(1) defines “community property” as “the property and the appreciation of and income from the property owned by a qualified trustee of a community property trust during the marriage of the settlor spouses. The property owned by a community property trust pursuant to this part and the appreciation of and income from such property shall be deemed to be community property for purposes of general law.” The “shall be *deemed to be* community property” language was inadvertently added to the Act during the bill drafting process. This is not consistent with the Act which provides that the assets held in a FCPT are community

property and not “deemed to be” community property for all purposes of Florida law. In particular, this language conflicts with other statutory provisions contained in the Act¹.

2. Effect of Proposed Changes: The proposal will strike the “deemed to be” language which was inadvertently included in the Act. This will clarify that any assets held in a FCPT *shall be* community property under the laws of the State of Florida. This will also bring Section 736.1502(1) in line with other statutory provisions contained in the Act.

B. Section 736.1502(2)

1. Current Situation: Again, Section 736.1502 is the definitional section of the Act. Section 736.1502(2) defines “community property trust” as an “express trust that complies with s. 736.1503 and is created on or after July 1, 2021.” The language which provides that a FCPT has to be “created on or after” the effective date of the Act has caused some confusion for practitioners. Many married couples move to the State of Florida and already have community property trusts or joint revocable trusts in existence at the time that they become residents. Those married couples typically want to amend or restate the existing trust in order to qualify it as FCPT. The drafting committee reviewed this issue during the original legislative process and determined that an amendment or restatement of an existing joint trust would meet the requirement of Section 1502(2) since the FCPT aspect of the trust would be created on the date of the amendment or restatement, even though the original trust was established at an earlier date. There are other examples of this interpretation of “create” or “created” throughout the Florida Trust Code. However, there is no harm in clarifying the language to make it abundantly clear that an existing trust which is amended, restated, or modified after the effective date of the Act will qualify as a FCPT

2. Effect of Proposed Changes: The proposal will clarify that a FCPT can be created through the amendment, restatement or modification of an existing trust, as long as it meets the other requirements found in the Act.

C. Section 736.151(3)

1. Current Situation: Many married couples in Florida are transferring their Florida homestead property to FCPTs. Section 736.151 specifically addresses the transfer of homestead property to a FCPT. The Act includes provisions which provide that homestead property transferred to a FCPT retains its homestead character (i.e., the property tax exemption including the Save Our Homes cap, the protection from creditors, and the restrictions on devise). The section also specifically provides that property acquired in the name of the trustee of the FCPT may initially qualify as the settlor spouses’ homestead, provided that the property would qualify as the settlor spouses’ homestead if title was held outside of the trust in one or both of the spouses’ individual names. This is a vast improvement over existing Florida law. Some practitioners have, however, inquired as to whether county property appraisers will take the position that the transfer of homestead property to a FCPT is a change of ownership for purposes of reassessing the value of the homestead for property tax purposes. While this issue is specifically addressed in an existing

¹ Section 736.1505(3) - “(3) All property owned by a community property trust is community property under the laws of the state during the marriage of the settlor spouses.”

statute, Section 193.155(3)(a)2², it would be helpful to practitioners to reiterate the statutory exception to the reassessment of homestead property in the Act.

2. Effect of Proposed Changes: The proposal adds a new subsection (3) to Section 736.151, which will clarify and confirm that a transfer of homestead property to a FCPT is not a change of ownership for purposes of reassessing the value for purposes of property taxes and shall be treated as a qualified transfer between spouses, as set forth in Section 193.155(3)(a)2.

D. Effective Date

Since the proposed revisions to the Act are intended to clarify existing Florida law and are remedial in nature, the legislation will apply to all FCPTs created on, before, or after the effective date. The legislation will take effect upon becoming law.

III. FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS

This proposal will not have a fiscal impact on state or local governments.

IV. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

This proposal will not have a direct economic impact on the private sector.

V. CONSTITUTIONAL ISSUES

The proposed legislation is clarifying in nature. There are no known constitutional issues.

VI. OTHER INTERESTED PARTIES

The proponents of the legislation have not identified any other interested parties.

² Section 193.155(3)(a)2 (in pertinent part) – “For the purpose of this section, a change of ownership means any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person, except if any of the following apply: 2. Legal or equitable title is changed or transferred between husband and wife, including a change or transfer to a surviving spouse or a transfer due to a dissolution of marriage.”

**TRUST LAW COMMITTEE OF THE
REAL PROPERTY, PROBATE AND TRUST LAW SECTION OF THE FLORIDA BAR**

**WHITE PAPER ON THE REVISIONS TO
SUBSECTIONS (1)(b), (2)(a), (3), (4)(a), (8)(d), (11) AND (12) OF 736.04117 OF THE
FLORIDA STATUTES**

I. SUMMARY

A. Section 736.04117(1)(b). The proposed legislation provides that an authorized trustee is not treated as a settlor for purposes of Section 736.04117, even if the authorized trustee created the trust instrument or made a distribution of assets to it. The proposal also clarifies that for purposes of determining settlor intent with respect to a second trust or modifications to the first trust, the intent of the settlor of the first trust, a settlor of the second trust, and the authorized trustee may be considered.

B. Section 736.04117(2)(a), (3) and (4)(a). The proposed legislation clarifies that a trustee's power to invade principal in trust pursuant to Section 736.04117(2)(a), (3) and (4)(a) of the Florida Statutes can be exercised to modify the terms of the first trust or to distribute to a new trust.

C. Section 736.04117(8)(d). The proposed legislation also clarifies that the notice required by Section 736.04117(8)(d) of the Florida Statutes is not a trust disclosure document within the meaning of Section 736.1008(4)(a) and that a trust disclosure document cannot be provided to a beneficiary before the distribution in further trust occurs.

D. Section 736.04117(11). The proposed legislation clarifies that the decanting statute applies to any trust that is governed by Florida law or has its principal place of administration in Florida.

II. SECTION BY SECTION ANALYSIS

A. Section 736.04117(1)(b)

1. Current Situation: Under current law, an authorized trustee who executes the trust instrument creating the second trust or appoints assets to the second trust may meet the definition of "settlor" in Section 736.0103(21), which would preclude that trustee from being an authorized trustee for the second trust.

2. Effect of Proposed Changes: The proposal will add language to Section 736.04117(1)(b) to make it clear that the authorized trustee of the first trust will not be treated as the settlor of the second trust for purposes of Section 736.04117. The proposal also includes language to confirm that when determining the intent of the settlor, the intent of the settlor of the first trust, the intent of the settlor of the second trust, and the authorized trustee's intent may be considered. This language concerning intent is adopted from Section 25 of the Uniform Trust Decanting Act. The goal is to have the language operate as envisioned by that act, including the commentary to that act.

B. Section 736.04117(2)(a), (3), and (4)(a)

1. Current Situation: With respect to the identical revisions to paragraphs (2)(a), (3) and (4)(a) of Section 736.04117, the statute does not currently expressly state that the trustee has the power to modify the first trust in the exercise of discretion pursuant to Section 736.04117. Structuring a decanting as a modification avoids the need to retitle assets, obtain a new EIN, and redo Subchapter S elections. Making the authority to modify express in the statute may be necessary to avoid a termination for purposes of special needs trusts pursuant to the rules of the Social Security Administration.

2. Effect of Proposed Changes: As to paragraphs (2)(a), (3) and (4)(a) of Section 736.04117 of the Florida Statutes, the proposal will revise the statute to include express authority that the trustee's power under Section 736.04117 can be exercised by modifying the terms of the first trust. The revisions to each paragraph are identical.

C. Section 736.04117(8)(d)

1. Current Situation: With respect to the revisions to paragraph (8)(d) of Section 736.04117, some trustees include on the decanting notice a six-month limitation notice that states that actions for breach of trust "may be subject to a 6-month statute of limitations from the receipt of the trust accounting or other written report." *See* form of limitations notice in Fla. Stat. §736.1008(4)(c). This is misleading (to beneficiaries and trustees) because the soonest the statute of limitations could begin to run is when the decanting occurs, which is no sooner than the earlier of 60 days after the delivery of the notice or when notice is waived. The revisions to paragraph (8)(d) clarify that a trust disclosure document that starts the limitations period cannot be provided to a beneficiary prior to the distribution in further trust.

2. Effect of Proposed Changes: As to paragraph (8)(d) of Section 736.04117 of the Florida Statutes, the proposal will clarify that the notice required under paragraph (8)(d) is not a trust disclosure document and that a trust disclosure document related to the distribution in further trust cannot be provided to a beneficiary prior to the distribution in further trust.

D. Section 736.04117(11)

1. Current Situation: Under common law, administrative matters of a trust are governed by the law of the principal place of administration. The exercise of discretion by a trustee is considered an administrative matter.

2. Effect of Proposed Changes: A new Subsection (11) is added. The proposal provides that the decanting statute will apply to any trust that is governed by Florida law or has its principal place of administration in Florida.

E. Section 736.04117(12)

Current Subsection (11) is renumbered as Subsection (12).

III. FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS

This proposal will not have a fiscal impact on state or local governments.

IV. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

This section explains the economic costs and benefits to members of the private sector resulting from passage of the proposal.

V. CONSTITUTIONAL ISSUES

The proposed legislation is clarifying in nature. There are no known constitutional issues.

VI. OTHER INTERESTED PARTIES

The proposal has been shared with the Estate & Trust Tax Planning Committee and the Probate & Trust Litigation Committee of the Real Property, Probate and Trust Law Section of the Florida Bar. The proposal will be shared with the Tax Law Section of the Florida Bar and the Florida Bankers Association.

WHITE PAPER

FORMER TRUSTEE LIABILITY

A. SUMMARY

This legislation clarifies that a successor trustee may not bring an action against a prior trustee if the trust beneficiaries are barred from bringing the action. The bill does not have a fiscal impact on state funds.

B. CURRENT SITUATION

Fla. Stat. § 736.08125(3) currently implies that a successor trustee may pursue actions or claims against a prior trustee, even when the successor is not obligated to do so, pursuant to Fla. Stat. § 736.08125. The statute does not clearly prohibit a successor trustee (or other fiduciary) from bringing a claim or action against a former trustee even if all the beneficiaries are otherwise barred from bringing that claim or action. This results in inconsistent application by practitioners. Some practitioners believe that a successor fiduciary is already barred when the beneficiaries, on whose behalf the successor is acting, are barred. However, others read the statutes to allow a successor fiduciary to bring a claim or action against a former trustee even if the beneficiaries are barred.

This proposal is intended to eliminate the uncertainty among practitioners and provide clarity regarding the authority of a successor fiduciary to bring a claim or action against a former trustee.

C. EFFECT OF PROPOSED CHANGES

Section 1: 736.08125(3) is being amended to say: Except as provided in s. 736.10085, nothing in this section affects any liability of the prior trustee or the right of the successor trustee or any beneficiary to pursue an action or the claim against the prior trustee.

The purpose of this amendment is to create a reference to the newly created Fla. Stat. § 736.10085 which limits actions or claims against a former trustee, as well as the liability of a successor fiduciary when that successor is not permitted to bring such actions or claims.

Section 2: Fla. Stat. § 736.10085 is created as follows: An action or claim by a successor trustee or other person acting on behalf of the trust against a prior trustee is barred to the same extent that the action or claim would be barred if brought by the beneficiary whose interests are represented by the successor trustee or other person acting on behalf of the trust.

This new statute clarifies that when beneficiaries are barred from bringing certain claims or actions, the fiduciaries acting on their behalf are also barred. Fiduciaries, who are acting on behalf of or for the benefit of others, do not have an independent right to bring claims or actions against a former trustee if the beneficiary is barred from bringing the claim or action.

D. FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS

The proposal does not have a fiscal impact on state or local governments.

E. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

This proposal is intended to benefit members of the private sector by limiting litigation in trust matters.

F. CONSTITUTIONAL ISSUES

The proposal does not have any constitutional issues.

G. OTHER INTERESTED PARTIES

Florida Bankers Association

Trial Lawyers



The Florida Senate

Committee Agenda Request

To: Senator Clay Yarborough, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 4, 2025

I respectfully request that **Senate Bill #262**, relating to Trusts, be placed on the:

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

A handwritten signature in cursive script that reads "Lori Berman", followed by a horizontal line extending to the right.

Senator Lori Berman
Florida Senate, District 26

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 Judiciary

BILL: SB 300

INTRODUCER: Senator Rouson

SUBJECT: Public Records/Appellate Court Clerks and their Spouses and Children

DATE: February 17, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 300 exempts, from public records copying and inspection requirements, certain identifying information of current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel, and their spouses and children. The exemption restricts access to their information in the public records which may identify or locate them. Specifically, the bill exempts from public disclosure the following information:

- The home addresses, telephone numbers, dates of birth, and photographs of current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel.
- Names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel.
- The names and locations of schools and day care facilities attended by the children of current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel.

This exemption applies to information held by an agency before, on, or after July 1, 2025. It is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also extends, by one year, the repeal date for the existing exemption in s. 119.071(4)(d)2., F.S., applicable to current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel, and their spouses and children, from October 2, 2029, to October 2, 2030. The bill provides a statement of public necessity as required by the State Constitution. Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage. The bill is not expected to impact state or local government revenues and expenditures.

The bill takes effect July 1, 2025.

II. Present Situation:

Access to Public Records – Generally

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

¹ FLA. CONST. art. I, s. 24(a).

² *Id.* See also, *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

Clerks of the Appellate Court

The Florida Supreme Court²⁷ and each district court of appeal²⁸ are required to appoint a clerk who holds office at the pleasure of the respective courts. The office of the clerk of the Supreme Court is located in the Supreme Court Building.²⁹ The office of the clerk of the district court of appeal is in the headquarters of each district court.³⁰

The clerk of the Supreme Court³¹ and the clerks of the district courts of appeal³² are required to perform such duties as the courts direct. All books, papers, records, files, and seals must be kept in the clerks' offices and in their custody.³³

Additionally, the clerk of each court is required to:

- Keep a docket or equivalent electronic record of all cases that are brought for review to or that originate in the court.³⁴
- Issue such mandates or process as may be directed by the court and notify attorneys of record of such issuance or of the rendition of any final judgment.³⁵
- Return to the clerk of the lower court the original papers or files transmitted to the court for use in the cause.³⁶

Clerks of the Circuit Court

Each county in Florida has a clerk of the circuit court, a quasi-judicial officer³⁷ selected pursuant to the constitutional provision concerning the election of county officers.³⁸ The office of the clerk of the circuit court derives its powers and authority from the State Constitution.³⁹ The clerk, when acting under the authority of his or her constitutionally granted powers concerning judicial records and other matters related to the administrative operation of the courts, is an arm of the judicial branch and is subject to the oversight and control of the Florida Supreme Court.⁴⁰

Clerks of the circuit court play a vital role in the state's judicial system. They perform at least 14 key functions:⁴¹

- Attend court hearings and trials.
- File indictments, information, and verdicts.

²⁷ FLA. CONST. art V, s. 3(c).

²⁸ FLA. CONST. art V, s. 4(c).

²⁹ Section 25.211, F.S.

³⁰ Section 35.23, F.S.

³¹ FLA. CONST. art V, s. 3(c).

³² FLA. CONST. art V, s. 4(c).

³³ Sections 25.221 and 35.24, F.S.

³⁴ Fla. R. Gen. Prac. & Jud. Admin. 2.205(b)(3); Fla. R. Gen. Prac. & Jud. Admin. 2.210(b)(2).

³⁵ Fla. R. Gen. Prac. & Jud. Admin. 2.205(b)(5); Fla. R. Gen. Prac. & Jud. Admin. 2.210(b)(4).

³⁶ Fla. R. Gen. Prac. & Jud. Admin. 2.205(b)(6); Fla. R. Gen. Prac. & Jud. Admin. 2.210(b)(5).

³⁷ *Givens v. Holmes*, 241 So. 3d 232, 236 (Fla. 2d DCA 2018).

³⁸ FLA. CONST. art. V, s. 16.

³⁹ *Givens*, 241 So. 3d at 236.

⁴⁰ *Times Pub. Co. v. Ake*, 660 So. 2d 255, 255 (Fla. 1995).

⁴¹ MGT Consulting Group, *Florida Clerks of Court Study* (Nov. 15, 2019), available at <https://oppaga.fl.gov/Documents/Reports/19-CLERKS.pdf>; see also Florida Court Clerks & Comptrollers, *Role of the Clerk and Comptroller*, <https://www.flclerks.com/page/RoleoftheClerk> (last visited Feb. 10, 2025).

- Process all civil and criminal cases.
- Prepare appellate records.
- Manage juries.
- Collect and disburse fines, court costs, forfeitures, fees, and service charges.
- Conduct mortgage foreclosure sales.
- Maintain custody of all evidence and exhibits entered by the court.
- Assist in completing paperwork required to file a Small Claims action.
- Assist in completing paperwork required to file petitions for protective injunctions (domestic, repeat, sexual, and dating violence).
- Issue process service documents.
- Maintain the court registry.
- Audit guardianship reports.
- Audit child support payments.

Deputy Clerks of the Circuit Court

The clerk of the circuit court may appoint a deputy or deputies, for whose acts the clerk is liable. The deputies have the same powers that clerk may exercise, except for the power to appoint a deputy or deputies.⁴²

III. Effect of Proposed Changes:

The bill amends s. 119.071(4)(d)1., F.S., to exempt certain information relating to current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel from public records disclosure requirements.⁴³ The following information will be exempt:

- The home addresses, telephone numbers, dates of birth, and photographs of current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel.
- Names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel.
- The names and locations of schools and day care facilities attended by the children of current clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel.

For purposes of the bill, “appellate court” means the Florida Supreme Court or a district court of appeal. The exemption applies to information held by an agency before, on, or after July 1, 2025.

The bill revises the statute to provide that this new exemption is subject to the Open Government Sunset Review Act⁴⁴ and will be repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also extends, by one year, the repeal date for the existing exemption applicable to current clerks of the circuit court, deputy clerks of the

⁴² Section 28.06, F.S.

⁴³ Section 119.07(1), F.S.; FLA. CONST. art I, s. 24(a).

⁴⁴ See s. 119.15, F.S.

circuit court, and clerk of the circuit court personnel, and their spouses and children, from October 2, 2029 to October 2, 2030.

The bill includes a public necessity statement, as required by the State Constitution. The public necessity statement provides that while performing their duties to issue court orders, maintain case dockets, answer telephone calls, respond to correspondence, and interact with visitors to the courthouse, appellate court clerks may incur the ill will of litigants and their associates and families. As a result, current appellate court clerks and their spouses and children may be targets for acts of revenge. If such identifying and location information is released, the safety of current appellate court clerks and their spouses and children could be seriously jeopardized. For this reason, the bill provides that it is a public necessity that such information be exempt from public records requirements.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds to process requests for exemptions (except perhaps to a de minimis extent), reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel, and their spouses and children; thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 3 of the bill contains a statement of public necessity for appellate court clerks and their spouses and children. However, neither deputy clerks of the appellate court, nor clerk of the appellate court personnel, nor their spouses and children, are directly addressed. The public necessity statement should be revised to also justify the inclusion of deputy clerks of the appellate court, clerk of the appellate court personnel, and their spouses and children, as within the scope of the public records exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel, and their spouses and children. This bill exempts records pertaining to the clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel, and their spouses and children, from the public records requirements.

Enacted last year,⁴⁵ CS/HB 983 created a public records exemption for clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel, and their spouses and children. The bill amends this public records exemption to also include appellate clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel, and their spouses and children. Notably, CS/HB 983's companion bill in the Senate, CS/SB 1176, did not include clerk of the circuit court personnel or their spouses and children within the scope of the exemption.

Although both existing law and the bill include a public records exemption for clerk of the appellate and circuit courts personnel and their spouses and children, it is unclear whether including these categories of individuals might render the exemption overly broad. The term "personnel" is undefined and could include persons (e.g. building maintenance staff, custodians, receptionists, etc.) whose responsibilities will not incur the "ill will of litigants and their associates and families" as contemplated by the public necessity statement.

Consequently, there are arguments that both existing law and the bill are broader than necessary to accomplish the purpose of the law.

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.

⁴⁵ See Ch. 2024-239, L.O.F.

B. Private Sector Impact:

The private sector will be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

This bill may have a minimal negative fiscal impact on agencies holding records that contain personal identifying information of clerks of the appellate court, deputy clerks of the appellate court, and clerk of the appellate court personnel, and their spouses and children, because staff responsible for complying with public records requests may require training related to the new public record exemption. Additionally, agencies may incur costs associated with redacting the exempt information prior to releasing a record. However, the costs should be absorbed as part of the day-to-day responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 119.071 and 744.21031 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.



158546

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/18/2025	.	
	.	
	.	
	.	

The Committee on Judiciary (Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete line 352

and insert:

I of the State Constitution. An exemption requested under this sub-subparagraph expires the earlier of the date that the clerk, deputy clerk, or clerk of court personnel to whom the exemption relates is no longer employed as clerk, deputy clerk or clerk of court personnel or 2 years after an individual requests the maintenance of the exemption from an agency. An exemption requested under this sub-subparagraph before July 1,



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12 2025, expires on July 1, 2027. An exemption request may be
13 renewed at any time for additional 2-year time periods if the
14 clerk, deputy clerk, or clerk of court personnel to whom the
15 exemption relates qualifies for the exemption. This sub-
16 subparagraph is subject to

17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete line 7

21 and insert:

22 spouses and children of such appellate court clerks;
23 providing for the expiration and renewal of exemption
24 requests;

By Senator Rouson

16-00394A-25

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; defining the term "appellate court";
 4 providing an exemption from public records
 5 requirements for the personal identifying and location
 6 information of current appellate court clerks and the
 7 spouses and children of such appellate court clerks;
 8 providing for future legislative review and repeal of
 9 the exemption; providing for retroactive application
 10 of the exemption; amending s. 744.21031, F.S.;
 11 conforming a cross-reference; providing a statement of
 12 public necessity; providing an effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Paragraph (d) of subsection (4) of section
 17 119.071, Florida Statutes, is amended to read:
 18 119.071 General exemptions from inspection or copying of
 19 public records.—
 20 (4) AGENCY PERSONNEL INFORMATION.—
 21 (d)1. For purposes of this paragraph, the term:
 22 a. "Appellate court" means the Florida Supreme Court or a
 23 district court of appeal.
 24 b. "Home addresses" means the dwelling location at which an
 25 individual resides and includes the physical address, mailing
 26 address, street address, parcel identification number, plot
 27 identification number, legal property description, neighborhood
 28 name and lot number, GPS coordinates, and any other descriptive
 29 property information that may reveal the home address.

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

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30 ~~c.e.~~ "Judicial assistant" means a court employee assigned
 31 to the following class codes: 8140, 8150, 8310, and 8320.
 32 ~~d.e.~~ "Telephone numbers" includes home telephone numbers,
 33 personal cellular telephone numbers, personal pager telephone
 34 numbers, and telephone numbers associated with personal
 35 communications devices.
 36 2.a. The home addresses, telephone numbers, dates of birth,
 37 and photographs of active or former sworn law enforcement
 38 personnel or of active or former civilian personnel employed by
 39 a law enforcement agency, including correctional and
 40 correctional probation officers, personnel of the Department of
 41 Children and Families whose duties include the investigation of
 42 abuse, neglect, exploitation, fraud, theft, or other criminal
 43 activities, personnel of the Department of Health whose duties
 44 are to support the investigation of child abuse or neglect, and
 45 personnel of the Department of Revenue or local governments
 46 whose responsibilities include revenue collection and
 47 enforcement or child support enforcement; the names, home
 48 addresses, telephone numbers, photographs, dates of birth, and
 49 places of employment of the spouses and children of such
 50 personnel; and the names and locations of schools and day care
 51 facilities attended by the children of such personnel are exempt
 52 from s. 119.07(1) and s. 24(a), Art. I of the State
 53 Constitution.
 54 b. The home addresses, telephone numbers, dates of birth,
 55 and photographs of current or former nonsworn investigative
 56 personnel of the Department of Financial Services whose duties
 57 include the investigation of fraud, theft, workers' compensation
 58 coverage requirements and compliance, other related criminal

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 59 activities, or state regulatory requirement violations; the
 60 names, home addresses, telephone numbers, dates of birth, and
 61 places of employment of the spouses and children of such
 62 personnel; and the names and locations of schools and day care
 63 facilities attended by the children of such personnel are exempt
 64 from s. 119.07(1) and s. 24(a), Art. I of the State
 65 Constitution.

66 c. The home addresses, telephone numbers, dates of birth,
 67 and photographs of current or former nonsworn investigative
 68 personnel of the Office of Financial Regulation's Bureau of
 69 Financial Investigations whose duties include the investigation
 70 of fraud, theft, other related criminal activities, or state
 71 regulatory requirement violations; the names, home addresses,
 72 telephone numbers, dates of birth, and places of employment of
 73 the spouses and children of such personnel; and the names and
 74 locations of schools and day care facilities attended by the
 75 children of such personnel are exempt from s. 119.07(1) and s.
 76 24(a), Art. I of the State Constitution.

77 d. The home addresses, telephone numbers, dates of birth,
 78 and photographs of current or former firefighters certified in
 79 compliance with s. 633.408; the names, home addresses, telephone
 80 numbers, photographs, dates of birth, and places of employment
 81 of the spouses and children of such firefighters; and the names
 82 and locations of schools and day care facilities attended by the
 83 children of such firefighters are exempt from s. 119.07(1) and
 84 s. 24(a), Art. I of the State Constitution.

85 e. The home addresses, dates of birth, and telephone
 86 numbers of current or former justices of the Supreme Court,
 87 district court of appeal judges, circuit court judges, and

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 88 county court judges and current judicial assistants; the names,
 89 home addresses, telephone numbers, dates of birth, and places of
 90 employment of the spouses and children of current or former
 91 justices and judges and current judicial assistants; and the
 92 names and locations of schools and day care facilities attended
 93 by the children of current or former justices and judges and
 94 current judicial assistants are exempt from s. 119.07(1) and s.
 95 24(a), Art. I of the State Constitution. This sub-subparagraph
 96 is subject to the Open Government Sunset Review Act in
 97 accordance with s. 119.15 and shall stand repealed on October 2,
 98 2028, unless reviewed and saved from repeal through reenactment
 99 by the Legislature.

100 f. The home addresses, telephone numbers, dates of birth,
 101 and photographs of current or former state attorneys, assistant
 102 state attorneys, statewide prosecutors, or assistant statewide
 103 prosecutors; the names, home addresses, telephone numbers,
 104 photographs, dates of birth, and places of employment of the
 105 spouses and children of current or former state attorneys,
 106 assistant state attorneys, statewide prosecutors, or assistant
 107 statewide prosecutors; and the names and locations of schools
 108 and day care facilities attended by the children of current or
 109 former state attorneys, assistant state attorneys, statewide
 110 prosecutors, or assistant statewide prosecutors are exempt from
 111 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

112 g. The home addresses, dates of birth, and telephone
 113 numbers of general magistrates, special magistrates, judges of
 114 compensation claims, administrative law judges of the Division
 115 of Administrative Hearings, and child support enforcement
 116 hearing officers; the names, home addresses, telephone numbers,

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117 dates of birth, and places of employment of the spouses and
 118 children of general magistrates, special magistrates, judges of
 119 compensation claims, administrative law judges of the Division
 120 of Administrative Hearings, and child support enforcement
 121 hearing officers; and the names and locations of schools and day
 122 care facilities attended by the children of general magistrates,
 123 special magistrates, judges of compensation claims,
 124 administrative law judges of the Division of Administrative
 125 Hearings, and child support enforcement hearing officers are
 126 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 127 Constitution.

128 h. The home addresses, telephone numbers, dates of birth,
 129 and photographs of current or former human resource, labor
 130 relations, or employee relations directors, assistant directors,
 131 managers, or assistant managers of any local government agency
 132 or water management district whose duties include hiring and
 133 firing employees, labor contract negotiation, administration, or
 134 other personnel-related duties; the names, home addresses,
 135 telephone numbers, dates of birth, and places of employment of
 136 the spouses and children of such personnel; and the names and
 137 locations of schools and day care facilities attended by the
 138 children of such personnel are exempt from s. 119.07(1) and s.
 139 24(a), Art. I of the State Constitution.

140 i. The home addresses, telephone numbers, dates of birth,
 141 and photographs of current or former code enforcement officers;
 142 the names, home addresses, telephone numbers, dates of birth,
 143 and places of employment of the spouses and children of such
 144 personnel; and the names and locations of schools and day care
 145 facilities attended by the children of such personnel are exempt

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146 from s. 119.07(1) and s. 24(a), Art. I of the State
 147 Constitution.

148 j. The home addresses, telephone numbers, places of
 149 employment, dates of birth, and photographs of current or former
 150 guardians ad litem, as defined in s. 39.01; the names, home
 151 addresses, telephone numbers, dates of birth, and places of
 152 employment of the spouses and children of such persons; and the
 153 names and locations of schools and day care facilities attended
 154 by the children of such persons are exempt from s. 119.07(1) and
 155 s. 24(a), Art. I of the State Constitution.

156 k. The home addresses, telephone numbers, dates of birth,
 157 and photographs of current or former juvenile probation
 158 officers, juvenile probation supervisors, detention
 159 superintendents, assistant detention superintendents, juvenile
 160 justice detention officers I and II, juvenile justice detention
 161 officer supervisors, juvenile justice residential officers,
 162 juvenile justice residential officer supervisors I and II,
 163 juvenile justice counselors, juvenile justice counselor
 164 supervisors, human services counselor administrators, senior
 165 human services counselor administrators, rehabilitation
 166 therapists, and social services counselors of the Department of
 167 Juvenile Justice; the names, home addresses, telephone numbers,
 168 dates of birth, and places of employment of spouses and children
 169 of such personnel; and the names and locations of schools and
 170 day care facilities attended by the children of such personnel
 171 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 172 Constitution.

173 l. The home addresses, telephone numbers, dates of birth,
 174 and photographs of current or former public defenders, assistant

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 175 public defenders, criminal conflict and civil regional counsel,
 176 and assistant criminal conflict and civil regional counsel; the
 177 names, home addresses, telephone numbers, dates of birth, and
 178 places of employment of the spouses and children of current or
 179 former public defenders, assistant public defenders, criminal
 180 conflict and civil regional counsel, and assistant criminal
 181 conflict and civil regional counsel; and the names and locations
 182 of schools and day care facilities attended by the children of
 183 current or former public defenders, assistant public defenders,
 184 criminal conflict and civil regional counsel, and assistant
 185 criminal conflict and civil regional counsel are exempt from s.
 186 119.07(1) and s. 24(a), Art. I of the State Constitution.

187 m. The home addresses, telephone numbers, dates of birth,
 188 and photographs of current or former investigators or inspectors
 189 of the Department of Business and Professional Regulation; the
 190 names, home addresses, telephone numbers, dates of birth, and
 191 places of employment of the spouses and children of such current
 192 or former investigators and inspectors; and the names and
 193 locations of schools and day care facilities attended by the
 194 children of such current or former investigators and inspectors
 195 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 196 Constitution.

197 n. The home addresses, telephone numbers, and dates of
 198 birth of county tax collectors; the names, home addresses,
 199 telephone numbers, dates of birth, and places of employment of
 200 the spouses and children of such tax collectors; and the names
 201 and locations of schools and day care facilities attended by the
 202 children of such tax collectors are exempt from s. 119.07(1) and
 203 s. 24(a), Art. I of the State Constitution.

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 204 o. The home addresses, telephone numbers, dates of birth,
 205 and photographs of current or former personnel of the Department
 206 of Health whose duties include, or result in, the determination
 207 or adjudication of eligibility for social security disability
 208 benefits, the investigation or prosecution of complaints filed
 209 against health care practitioners, or the inspection of health
 210 care practitioners or health care facilities licensed by the
 211 Department of Health; the names, home addresses, telephone
 212 numbers, dates of birth, and places of employment of the spouses
 213 and children of such personnel; and the names and locations of
 214 schools and day care facilities attended by the children of such
 215 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 216 the State Constitution.

217 p. The home addresses, telephone numbers, dates of birth,
 218 and photographs of current or former impaired practitioner
 219 consultants who are retained by an agency or current or former
 220 employees of an impaired practitioner consultant whose duties
 221 result in a determination of a person's skill and safety to
 222 practice a licensed profession; the names, home addresses,
 223 telephone numbers, dates of birth, and places of employment of
 224 the spouses and children of such consultants or their employees;
 225 and the names and locations of schools and day care facilities
 226 attended by the children of such consultants or employees are
 227 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 228 Constitution.

229 q. The home addresses, telephone numbers, dates of birth,
 230 and photographs of current or former emergency medical
 231 technicians or paramedics certified under chapter 401; the
 232 names, home addresses, telephone numbers, dates of birth, and

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233 places of employment of the spouses and children of such
 234 emergency medical technicians or paramedics; and the names and
 235 locations of schools and day care facilities attended by the
 236 children of such emergency medical technicians or paramedics are
 237 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 238 Constitution.

239 r. The home addresses, telephone numbers, dates of birth,
 240 and photographs of current or former personnel employed in an
 241 agency's office of inspector general or internal audit
 242 department whose duties include auditing or investigating waste,
 243 fraud, abuse, theft, exploitation, or other activities that
 244 could lead to criminal prosecution or administrative discipline;
 245 the names, home addresses, telephone numbers, dates of birth,
 246 and places of employment of spouses and children of such
 247 personnel; and the names and locations of schools and day care
 248 facilities attended by the children of such personnel are exempt
 249 from s. 119.07(1) and s. 24(a), Art. I of the State
 250 Constitution.

251 s. The home addresses, telephone numbers, dates of birth,
 252 and photographs of current or former directors, managers,
 253 supervisors, nurses, and clinical employees of an addiction
 254 treatment facility; the home addresses, telephone numbers,
 255 photographs, dates of birth, and places of employment of the
 256 spouses and children of such personnel; and the names and
 257 locations of schools and day care facilities attended by the
 258 children of such personnel are exempt from s. 119.07(1) and s.
 259 24(a), Art. I of the State Constitution. For purposes of this
 260 sub-subparagraph, the term "addiction treatment facility" means
 261 a county government, or agency thereof, that is licensed

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262 pursuant to s. 397.401 and provides substance abuse prevention,
 263 intervention, or clinical treatment, including any licensed
 264 service component described in s. 397.311(27).

265 t. The home addresses, telephone numbers, dates of birth,
 266 and photographs of current or former directors, managers,
 267 supervisors, and clinical employees of a child advocacy center
 268 that meets the standards of s. 39.3035(2) and fulfills the
 269 screening requirement of s. 39.3035(3), and the members of a
 270 Child Protection Team as described in s. 39.303 whose duties
 271 include supporting the investigation of child abuse or sexual
 272 abuse, child abandonment, child neglect, and child exploitation
 273 or to provide services as part of a multidisciplinary case
 274 review team; the names, home addresses, telephone numbers,
 275 photographs, dates of birth, and places of employment of the
 276 spouses and children of such personnel and members; and the
 277 names and locations of schools and day care facilities attended
 278 by the children of such personnel and members are exempt from s.
 279 119.07(1) and s. 24(a), Art. I of the State Constitution.

280 u. The home addresses, telephone numbers, places of
 281 employment, dates of birth, and photographs of current or former
 282 staff and domestic violence advocates, as defined in s.
 283 90.5036(1)(b), of domestic violence centers certified by the
 284 Department of Children and Families under chapter 39; the names,
 285 home addresses, telephone numbers, places of employment, dates
 286 of birth, and photographs of the spouses and children of such
 287 personnel; and the names and locations of schools and day care
 288 facilities attended by the children of such personnel are exempt
 289 from s. 119.07(1) and s. 24(a), Art. I of the State
 290 Constitution.

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291 v. The home addresses, telephone numbers, dates of birth,
 292 and photographs of current or former inspectors or investigators
 293 of the Department of Agriculture and Consumer Services; the
 294 names, home addresses, telephone numbers, dates of birth, and
 295 places of employment of the spouses and children of current or
 296 former inspectors or investigators; and the names and locations
 297 of schools and day care facilities attended by the children of
 298 current or former inspectors or investigators are exempt from s.
 299 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 300 sub-subparagraph is subject to the Open Government Sunset Review
 301 Act in accordance with s. 119.15 and shall stand repealed on
 302 October 2, 2028, unless reviewed and saved from repeal through
 303 reenactment by the Legislature.

304 w. The home addresses, telephone numbers, dates of birth,
 305 and photographs of current county attorneys, assistant county
 306 attorneys, deputy county attorneys, city attorneys, assistant
 307 city attorneys, and deputy city attorneys; the names, home
 308 addresses, telephone numbers, photographs, dates of birth, and
 309 places of employment of the spouses and children of current
 310 county attorneys, assistant county attorneys, deputy county
 311 attorneys, city attorneys, assistant city attorneys, and deputy
 312 city attorneys; and the names and locations of schools and day
 313 care facilities attended by the children of current county
 314 attorneys, assistant county attorneys, deputy county attorneys,
 315 city attorneys, assistant city attorneys, and deputy city
 316 attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of
 317 the State Constitution. This exemption does not apply to a
 318 county attorney, assistant county attorney, deputy county
 319 attorney, city attorney, assistant city attorney, or deputy city

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320 attorney who qualifies as a candidate for election to public
 321 office. This sub-subparagraph is subject to the Open Government
 322 Sunset Review Act in accordance with s. 119.15 and shall stand
 323 repealed on October 2, 2029, unless reviewed and saved from
 324 repeal through reenactment by the Legislature.

325 x. The home addresses, telephone numbers, dates of birth,
 326 and photographs of current or former commissioners of the
 327 Florida Gaming Control Commission; the names, home addresses,
 328 telephone numbers, dates of birth, photographs, and places of
 329 employment of the spouses and children of such current or former
 330 commissioners; and the names and locations of schools and day
 331 care facilities attended by the children of such current or
 332 former commissioners are exempt from s. 119.07(1) and s. 24(a),
 333 Art. I of the State Constitution. This sub-subparagraph is
 334 subject to the Open Government Sunset Review Act in accordance
 335 with s. 119.15 and shall stand repealed on October 2, 2029,
 336 unless reviewed and saved from repeal through reenactment by the
 337 Legislature.

338 y. The home addresses, telephone numbers, dates of birth,
 339 and photographs of current clerks of the appellate and circuit
 340 courts court, deputy clerks of the appellate and circuit courts
 341 court, and clerk of the appellate and circuit courts court
 342 personnel; the names, home addresses, telephone numbers, dates
 343 of birth, and places of employment of the spouses and children
 344 of current clerks of the appellate and circuit courts court,
 345 deputy clerks of the appellate and circuit courts court, and
 346 clerk of the appellate and circuit courts court personnel; and
 347 the names and locations of schools and day care facilities
 348 attended by the children of current clerks of the appellate and

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349 circuit ~~courts court~~, deputy clerks of the appellate and circuit
 350 courts court, and clerk of the appellate and circuit courts
 351 ~~court~~ personnel are exempt from s. 119.07(1) and s. 24(a), Art.
 352 I of the State Constitution. This sub-subparagraph is subject to
 353 the Open Government Sunset Review Act in accordance with s.
 354 119.15 and shall stand repealed on October 2, 2030 ~~2029~~, unless
 355 reviewed and saved from repeal through reenactment by the
 356 Legislature.

357 3. An agency that is the custodian of the information
 358 specified in subparagraph 2. and that is not the employer of the
 359 officer, employee, justice, judge, or other person specified in
 360 subparagraph 2. must maintain the exempt status of that
 361 information only if the officer, employee, justice, judge, other
 362 person, or employing agency of the designated employee submits a
 363 written and notarized request for maintenance of the exemption
 364 to the custodial agency. The request must state under oath the
 365 statutory basis for the individual's exemption request and
 366 confirm the individual's status as a party eligible for exempt
 367 status.

368 4.a. A county property appraiser, as defined in s.
 369 192.001(3), or a county tax collector, as defined in s.
 370 192.001(4), who receives a written and notarized request for
 371 maintenance of the exemption pursuant to subparagraph 3. must
 372 comply by removing the name of the individual with exempt status
 373 and the instrument number or Official Records book and page
 374 number identifying the property with the exempt status from all
 375 publicly available records maintained by the property appraiser
 376 or tax collector. For written requests received on or before
 377 July 1, 2021, a county property appraiser or county tax

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378 collector must comply with this sub-subparagraph by October 1,
 379 2021. A county property appraiser or county tax collector may
 380 not remove the street address, legal description, or other
 381 information identifying real property within the agency's
 382 records so long as a name or personal information otherwise
 383 exempt from inspection and copying pursuant to this section is
 384 not associated with the property or otherwise displayed in the
 385 public records of the agency.

386 b. Any information restricted from public display,
 387 inspection, or copying under sub-subparagraph a. must be
 388 provided to the individual whose information was removed.

389 5. An officer, an employee, a justice, a judge, or other
 390 person specified in subparagraph 2. may submit a written request
 391 for the release of his or her exempt information to the
 392 custodial agency. The written request must be notarized and must
 393 specify the information to be released and the party authorized
 394 to receive the information. Upon receipt of the written request,
 395 the custodial agency must release the specified information to
 396 the party authorized to receive such information.

397 6. The exemptions in this paragraph apply to information
 398 held by an agency before, on, or after the effective date of the
 399 exemption.

400 7. Information made exempt under this paragraph may be
 401 disclosed pursuant to s. 28.2221 to a title insurer authorized
 402 pursuant to s. 624.401 and its affiliates as defined in s.
 403 624.10; a title insurance agent or title insurance agency as
 404 defined in s. 626.841(1) or (2), respectively; or an attorney
 405 duly admitted to practice law in this state and in good standing
 406 with The Florida Bar.

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407 8. The exempt status of a home address contained in the
 408 Official Records is maintained only during the period when a
 409 protected party resides at the dwelling location. Upon
 410 conveyance of real property after October 1, 2021, and when such
 411 real property no longer constitutes a protected party's home
 412 address as defined in sub-subparagraph 1.b. 1.a., the protected
 413 party must submit a written request to release the removed
 414 information to the county recorder. The written request to
 415 release the removed information must be notarized, must confirm
 416 that a protected party's request for release is pursuant to a
 417 conveyance of his or her dwelling location, and must specify the
 418 Official Records book and page, instrument number, or clerk's
 419 file number for each document containing the information to be
 420 released.

421 9. Upon the death of a protected party as verified by a
 422 certified copy of a death certificate or court order, any party
 423 can request the county recorder to release a protected
 424 decedent's removed information unless there is a related request
 425 on file with the county recorder for continued removal of the
 426 decedent's information or unless such removal is otherwise
 427 prohibited by statute or by court order. The written request to
 428 release the removed information upon the death of a protected
 429 party must attach the certified copy of a death certificate or
 430 court order and must be notarized, must confirm the request for
 431 release is due to the death of a protected party, and must
 432 specify the Official Records book and page number, instrument
 433 number, or clerk's file number for each document containing the
 434 information to be released. A fee may not be charged for the
 435 release of any document pursuant to such request.

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436 Section 2. Paragraph (c) of subsection (1) of section
 437 744.21031, Florida Statutes, is amended to read:
 438 744.21031 Public records exemption.—
 439 (1) For purposes of this section, the term:
 440 (c) "Telephone numbers" has the same meaning as provided in
 441 s. 119.071(4)(d)1.d. s. 119.071(4)(d)1.e.

442 Section 3. The Legislature finds that it is a public
 443 necessity that the home addresses, telephone numbers, dates of
 444 birth, and photographs of current appellate court clerks; the
 445 names, home addresses, telephone numbers, dates of birth, and
 446 places of employment of the spouses and children of such
 447 appellate court clerks; and the names and locations of schools
 448 and day care facilities attended by the children of such
 449 appellate court clerks be made exempt from s. 119.07(1), Florida
 450 Statutes, and s. 24(a), Article I of the State Constitution.
 451 While performing their duties to issue court orders, maintain
 452 case dockets, answer telephone calls, respond to correspondence,
 453 and interact with visitors to the courthouse, appellate court
 454 clerks may incur the ill will of litigants and their associates
 455 and families. As a result, current appellate court clerks and
 456 their spouses and children may be targets for acts of revenge.
 457 If such identifying and location information is released, the
 458 safety of current appellate court clerks and their spouses and
 459 children could be seriously jeopardized. For this reason, the
 460 Legislature finds that it is a public necessity that such
 461 information be made exempt from public records requirements.

462 Section 4. This act shall take effect July 1, 2025.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Agriculture
Appropriations Committee on Criminal and
Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Ethics and Elections
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR DARRYL ERVIN ROUSON

16th District

February 5, 2025

Senator Clay Yarborough
Chair, Committee on Judiciary
515 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Yarborough,

I write today respectfully requesting that SB 300, Public Records/Appellate Court Clerks and, SB 302, Public Records/Judicial Qualifications Commission, be added to the agenda of a forthcoming meeting of the Committee on Judiciary for consideration. I look forward to the opportunity to present SB 300 and SB 302 to the committee. I am available for any questions you may have about this legislation.

Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 302

INTRODUCER: Senator Rouson

SUBJECT: Public Records/Judicial Qualifications Commission

DATE: February 17, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 302 exempts, from public records copying and inspection requirements, certain identifying information of current and former employees of the Judicial Qualifications Commission and their spouses and children. The exemption restricts access to their information in the public records which may identify or locate them.

Specifically, the bill exempts from public disclosure the following information:

- Home addresses, telephone numbers, dates of birth, and photographs of current and former employees of the Commission.
- Names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of current and former employees of the Commission.
- The names and locations of schools and day care facilities attended by the children of current and former employees of the Commission.

This exemption applies to information held by an agency before, on, or after July 1, 2025. It is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution. Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage. The bill is not expected to impact state or local government revenues and expenditures.

The bill takes effect July 1, 2025.

II. Present Situation:

Access to Public Records – Generally

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public

¹ FLA. CONST. art. I, s. 24(a).

² *Id.* See also, *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of such exemption on October 2 of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption, and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

Judicial Qualifications Commission

The Judicial Qualifications Commission is an independent state agency²⁷ created by the State Constitution.²⁸ It is charged with investigating allegations of judicial misconduct and disability

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Florida Judicial Qualifications Commission (FJQC), *Home*, <https://floridajqc.com/> (last visited Feb. 10, 2025).

²⁸ FLA. CONST. art. V, s. 12(a).

against state judges.²⁹ It has jurisdiction to review complaints about judges of county and circuit courts and district courts of appeal, as well as justices of the State Supreme Court.³⁰

In 1990, the Commission was divided into an investigative panel and a hearing panel.³¹ The investigative panel functions much like a grand jury and investigates allegations of judicial misconduct. If probable cause is found and formal charges are filed, then the hearing panel serves as a special master making findings of fact and recommendations to the State Supreme Court as to the appropriate discipline.³²

The Commission is comprised of 6 judges, 4 members of The Florida Bar, and 5 laypersons selected by the Governor.³³ The chair of the Commission selects 9 members to serve on the investigative panel and 6 members to serve on the hearing panel.³⁴ The Commission also employs a staff of 3 people, including an executive director, a general counsel, and an assistant general counsel.³⁵

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(4)(d)2., F.S., to exempt certain information relating to current and former employees of the Judicial Qualifications Commission from public records disclosure requirements.³⁶ The following information will be exempt:

- The home addresses, telephone numbers, dates of birth, and photographs of current and former employees of the Commission.
- The names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of current and former employees of the Commission.
- The names and locations of schools and day care facilities attended by the children of current and former employees of the Commission.

The exemption applies to information held by an agency before, on, or after July 1, 2025.

The bill provides that this exemption is subject to the Open Government Sunset Review Act³⁷ and will be repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides the public necessity statement, as required by the State Constitution. The public necessity statement provides that the responsibilities of the Judicial Qualifications Commission include the investigation of allegations of judicial misconduct which are routinely received from criminal and civil litigants who are dissatisfied with adverse results in judicial

²⁹ FJQC, *Home*, <https://floridajqc.com/> (last visited Feb. 10, 2025).

³⁰ FJQC, *Frequently Asked Questions*, <https://floridajqc.com/faq/> (last visited Feb. 10, 2025).

³¹ FLA. CONST. art. V, s. 12(b); *see also* FJQC, *About*, <https://floridajqc.com/about/> (last visited Feb. 10, 2025).

³² *Id.*

³³ FLA. CONST. art. V, s. 12(a)(1); *see also* FJQC, *About*, <https://floridajqc.com/about/> (last visited Feb. 10, 2025).

³⁴ FLA. CONST. art. V, s. 12(f)(2); *see also* FJQC, *About*, <https://floridajqc.com/about/> (last visited Feb. 10, 2025).

³⁵ FJQC, *Commission Staff*, <https://floridajqc.com/commission-staff/> (last visited Feb. 10, 2025).

³⁶ Section 119.07(1), F.S.; FLA. CONST. art. I, s. 24(a).

³⁷ *See* s. 119.15, F.S.

proceedings. When the Commission, after review and investigation of complaints, does not discipline a judge or does not take the complainant's preferred course of action against a judge, dissatisfied litigants sometimes turn their ire toward Commission employees as part of their campaign against the actions of the judge in the underlying litigation. Employees of the Commission have been subject to acts of intimidation by such dissatisfied litigants, including online doxing of staff members, posting of false and defamatory statements concerning employees on social media, threatening e-mails and telephone calls, and inappropriate contact regarding Commission affairs at the personal residences of employees and employees' family members. These acts of intimidation have placed Commission employees in fear of harm by disgruntled litigants who seek punishment of judges by the Commission for unfavorable litigation results. The release of personal identifying and location information of current or former employees of the Commission and their family members may place them at risk of physical harm and harassment. The risk of harm and harassment outweighs any public benefit that may be derived from the public disclosure of such information.

Section 3 provides that the bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds to process requests for exemptions (except perhaps to a de minimis extent), reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for current and former employees of the Judicial Qualifications Commission and their spouses and children, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect current and former Judicial Qualifications

Commission employees and their spouses and children. This bill exempts only current and former Commission employees and their spouses and children from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

C. Government Sector Impact:

This bill may have a minimal negative fiscal impact on agencies holding records that contain personal identifying information of current and former Judicial Qualifications Commission employees and their spouses and children, because staff responsible for complying with public records requests may require training related to the new public record exemption. Additionally, agencies may incur costs associated with redacting the exempt information prior to releasing a record. However, the costs should be absorbed as part of the day-to-day responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Rouson

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for the personal identifying and
 5 location information of current and former employees
 6 of the Judicial Qualifications Commission and the
 7 personal identifying and location information of the
 8 spouses and children of such employees; providing for
 9 legislative review and repeal of the exemption;
 10 providing for retroactive application of the
 11 exemption; providing a statement of public necessity;
 12 providing an effective date.

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

15
 16 Section 1. Paragraph (d) of subsection (4) of section
 17 119.071, Florida Statutes, is amended to read:

18 119.071 General exemptions from inspection or copying of
 19 public records.—

20 (4) AGENCY PERSONNEL INFORMATION.—

21 (d)1. For purposes of this paragraph, the term:

22 a. "Home addresses" means the dwelling location at which an
 23 individual resides and includes the physical address, mailing
 24 address, street address, parcel identification number, plot
 25 identification number, legal property description, neighborhood
 26 name and lot number, GPS coordinates, and any other descriptive
 27 property information that may reveal the home address.

28 b. "Judicial assistant" means a court employee assigned to
 29 the following class codes: 8140, 8150, 8310, and 8320.

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30 c. "Telephone numbers" includes home telephone numbers,
 31 personal cellular telephone numbers, personal pager telephone
 32 numbers, and telephone numbers associated with personal
 33 communications devices.

34 2.a. The home addresses, telephone numbers, dates of birth,
 35 and photographs of active or former sworn law enforcement
 36 personnel or of active or former civilian personnel employed by
 37 a law enforcement agency, including correctional and
 38 correctional probation officers, personnel of the Department of
 39 Children and Families whose duties include the investigation of
 40 abuse, neglect, exploitation, fraud, theft, or other criminal
 41 activities, personnel of the Department of Health whose duties
 42 are to support the investigation of child abuse or neglect, and
 43 personnel of the Department of Revenue or local governments
 44 whose responsibilities include revenue collection and
 45 enforcement or child support enforcement; the names, home
 46 addresses, telephone numbers, photographs, dates of birth, and
 47 places of employment of the spouses and children of such
 48 personnel; and the names and locations of schools and day care
 49 facilities attended by the children of such personnel are exempt
 50 from s. 119.07(1) and s. 24(a), Art. I of the State
 51 Constitution.

52 b. The home addresses, telephone numbers, dates of birth,
 53 and photographs of current or former nonsworn investigative
 54 personnel of the Department of Financial Services whose duties
 55 include the investigation of fraud, theft, workers' compensation
 56 coverage requirements and compliance, other related criminal
 57 activities, or state regulatory requirement violations; the
 58 names, home addresses, telephone numbers, dates of birth, and

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59 places of employment of the spouses and children of such
60 personnel; and the names and locations of schools and day care
61 facilities attended by the children of such personnel are exempt
62 from s. 119.07(1) and s. 24(a), Art. I of the State
63 Constitution.

64 c. The home addresses, telephone numbers, dates of birth,
65 and photographs of current or former nonsworn investigative
66 personnel of the Office of Financial Regulation's Bureau of
67 Financial Investigations whose duties include the investigation
68 of fraud, theft, other related criminal activities, or state
69 regulatory requirement violations; the names, home addresses,
70 telephone numbers, dates of birth, and places of employment of
71 the spouses and children of such personnel; and the names and
72 locations of schools and day care facilities attended by the
73 children of such personnel are exempt from s. 119.07(1) and s.
74 24(a), Art. I of the State Constitution.

75 d. The home addresses, telephone numbers, dates of birth,
76 and photographs of current or former firefighters certified in
77 compliance with s. 633.408; the names, home addresses, telephone
78 numbers, photographs, dates of birth, and places of employment
79 of the spouses and children of such firefighters; and the names
80 and locations of schools and day care facilities attended by the
81 children of such firefighters are exempt from s. 119.07(1) and
82 s. 24(a), Art. I of the State Constitution.

83 e. The home addresses, dates of birth, and telephone
84 numbers of current or former justices of the Supreme Court,
85 district court of appeal judges, circuit court judges, and
86 county court judges and current judicial assistants; the names,
87 home addresses, telephone numbers, dates of birth, and places of

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88 employment of the spouses and children of current or former
89 justices and judges and current judicial assistants; and the
90 names and locations of schools and day care facilities attended
91 by the children of current or former justices and judges and
92 current judicial assistants are exempt from s. 119.07(1) and s.
93 24(a), Art. I of the State Constitution. This sub-subparagraph
94 is subject to the Open Government Sunset Review Act in
95 accordance with s. 119.15 and shall stand repealed on October 2,
96 2028, unless reviewed and saved from repeal through reenactment
97 by the Legislature.

98 f. The home addresses, telephone numbers, dates of birth,
99 and photographs of current or former state attorneys, assistant
100 state attorneys, statewide prosecutors, or assistant statewide
101 prosecutors; the names, home addresses, telephone numbers,
102 photographs, dates of birth, and places of employment of the
103 spouses and children of current or former state attorneys,
104 assistant state attorneys, statewide prosecutors, or assistant
105 statewide prosecutors; and the names and locations of schools
106 and day care facilities attended by the children of current or
107 former state attorneys, assistant state attorneys, statewide
108 prosecutors, or assistant statewide prosecutors are exempt from
109 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

110 g. The home addresses, dates of birth, and telephone
111 numbers of general magistrates, special magistrates, judges of
112 compensation claims, administrative law judges of the Division
113 of Administrative Hearings, and child support enforcement
114 hearing officers; the names, home addresses, telephone numbers,
115 dates of birth, and places of employment of the spouses and
116 children of general magistrates, special magistrates, judges of

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 117 compensation claims, administrative law judges of the Division
 118 of Administrative Hearings, and child support enforcement
 119 hearing officers; and the names and locations of schools and day
 120 care facilities attended by the children of general magistrates,
 121 special magistrates, judges of compensation claims,
 122 administrative law judges of the Division of Administrative
 123 Hearings, and child support enforcement hearing officers are
 124 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 125 Constitution.

126 h. The home addresses, telephone numbers, dates of birth,
 127 and photographs of current or former human resource, labor
 128 relations, or employee relations directors, assistant directors,
 129 managers, or assistant managers of any local government agency
 130 or water management district whose duties include hiring and
 131 firing employees, labor contract negotiation, administration, or
 132 other personnel-related duties; the names, home addresses,
 133 telephone numbers, dates of birth, and places of employment of
 134 the spouses and children of such personnel; and the names and
 135 locations of schools and day care facilities attended by the
 136 children of such personnel are exempt from s. 119.07(1) and s.
 137 24(a), Art. I of the State Constitution.

138 i. The home addresses, telephone numbers, dates of birth,
 139 and photographs of current or former code enforcement officers;
 140 the names, home addresses, telephone numbers, dates of birth,
 141 and places of employment of the spouses and children of such
 142 personnel; and the names and locations of schools and day care
 143 facilities attended by the children of such personnel are exempt
 144 from s. 119.07(1) and s. 24(a), Art. I of the State
 145 Constitution.

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 146 j. The home addresses, telephone numbers, places of
 147 employment, dates of birth, and photographs of current or former
 148 guardians ad litem, as defined in s. 39.01; the names, home
 149 addresses, telephone numbers, dates of birth, and places of
 150 employment of the spouses and children of such persons; and the
 151 names and locations of schools and day care facilities attended
 152 by the children of such persons are exempt from s. 119.07(1) and
 153 s. 24(a), Art. I of the State Constitution.

154 k. The home addresses, telephone numbers, dates of birth,
 155 and photographs of current or former juvenile probation
 156 officers, juvenile probation supervisors, detention
 157 superintendents, assistant detention superintendents, juvenile
 158 justice detention officers I and II, juvenile justice detention
 159 officer supervisors, juvenile justice residential officers,
 160 juvenile justice residential officer supervisors I and II,
 161 juvenile justice counselors, juvenile justice counselor
 162 supervisors, human services counselor administrators, senior
 163 human services counselor administrators, rehabilitation
 164 therapists, and social services counselors of the Department of
 165 Juvenile Justice; the names, home addresses, telephone numbers,
 166 dates of birth, and places of employment of spouses and children
 167 of such personnel; and the names and locations of schools and
 168 day care facilities attended by the children of such personnel
 169 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 170 Constitution.

171 l. The home addresses, telephone numbers, dates of birth,
 172 and photographs of current or former public defenders, assistant
 173 public defenders, criminal conflict and civil regional counsel,
 174 and assistant criminal conflict and civil regional counsel; the

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175 names, home addresses, telephone numbers, dates of birth, and
 176 places of employment of the spouses and children of current or
 177 former public defenders, assistant public defenders, criminal
 178 conflict and civil regional counsel, and assistant criminal
 179 conflict and civil regional counsel; and the names and locations
 180 of schools and day care facilities attended by the children of
 181 current or former public defenders, assistant public defenders,
 182 criminal conflict and civil regional counsel, and assistant
 183 criminal conflict and civil regional counsel are exempt from s.
 184 119.07(1) and s. 24(a), Art. I of the State Constitution.

185 m. The home addresses, telephone numbers, dates of birth,
 186 and photographs of current or former investigators or inspectors
 187 of the Department of Business and Professional Regulation; the
 188 names, home addresses, telephone numbers, dates of birth, and
 189 places of employment of the spouses and children of such current
 190 or former investigators and inspectors; and the names and
 191 locations of schools and day care facilities attended by the
 192 children of such current or former investigators and inspectors
 193 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 194 Constitution.

195 n. The home addresses, telephone numbers, and dates of
 196 birth of county tax collectors; the names, home addresses,
 197 telephone numbers, dates of birth, and places of employment of
 198 the spouses and children of such tax collectors; and the names
 199 and locations of schools and day care facilities attended by the
 200 children of such tax collectors are exempt from s. 119.07(1) and
 201 s. 24(a), Art. I of the State Constitution.

202 o. The home addresses, telephone numbers, dates of birth,
 203 and photographs of current or former personnel of the Department

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204 of Health whose duties include, or result in, the determination
 205 or adjudication of eligibility for social security disability
 206 benefits, the investigation or prosecution of complaints filed
 207 against health care practitioners, or the inspection of health
 208 care practitioners or health care facilities licensed by the
 209 Department of Health; the names, home addresses, telephone
 210 numbers, dates of birth, and places of employment of the spouses
 211 and children of such personnel; and the names and locations of
 212 schools and day care facilities attended by the children of such
 213 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 214 the State Constitution.

215 p. The home addresses, telephone numbers, dates of birth,
 216 and photographs of current or former impaired practitioner
 217 consultants who are retained by an agency or current or former
 218 employees of an impaired practitioner consultant whose duties
 219 result in a determination of a person's skill and safety to
 220 practice a licensed profession; the names, home addresses,
 221 telephone numbers, dates of birth, and places of employment of
 222 the spouses and children of such consultants or their employees;
 223 and the names and locations of schools and day care facilities
 224 attended by the children of such consultants or employees are
 225 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 226 Constitution.

227 q. The home addresses, telephone numbers, dates of birth,
 228 and photographs of current or former emergency medical
 229 technicians or paramedics certified under chapter 401; the
 230 names, home addresses, telephone numbers, dates of birth, and
 231 places of employment of the spouses and children of such
 232 emergency medical technicians or paramedics; and the names and

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233 locations of schools and day care facilities attended by the
 234 children of such emergency medical technicians or paramedics are
 235 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 236 Constitution.

237 r. The home addresses, telephone numbers, dates of birth,
 238 and photographs of current or former personnel employed in an
 239 agency's office of inspector general or internal audit
 240 department whose duties include auditing or investigating waste,
 241 fraud, abuse, theft, exploitation, or other activities that
 242 could lead to criminal prosecution or administrative discipline;
 243 the names, home addresses, telephone numbers, dates of birth,
 244 and places of employment of spouses and children of such
 245 personnel; and the names and locations of schools and day care
 246 facilities attended by the children of such personnel are exempt
 247 from s. 119.07(1) and s. 24(a), Art. I of the State
 248 Constitution.

249 s. The home addresses, telephone numbers, dates of birth,
 250 and photographs of current or former directors, managers,
 251 supervisors, nurses, and clinical employees of an addiction
 252 treatment facility; the home addresses, telephone numbers,
 253 photographs, dates of birth, and places of employment of the
 254 spouses and children of such personnel; and the names and
 255 locations of schools and day care facilities attended by the
 256 children of such personnel are exempt from s. 119.07(1) and s.
 257 24(a), Art. I of the State Constitution. For purposes of this
 258 sub-subparagraph, the term "addiction treatment facility" means
 259 a county government, or agency thereof, that is licensed
 260 pursuant to s. 397.401 and provides substance abuse prevention,
 261 intervention, or clinical treatment, including any licensed

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262 service component described in s. 397.311(27).

263 t. The home addresses, telephone numbers, dates of birth,
 264 and photographs of current or former directors, managers,
 265 supervisors, and clinical employees of a child advocacy center
 266 that meets the standards of s. 39.3035(2) and fulfills the
 267 screening requirement of s. 39.3035(3), and the members of a
 268 Child Protection Team as described in s. 39.303 whose duties
 269 include supporting the investigation of child abuse or sexual
 270 abuse, child abandonment, child neglect, and child exploitation
 271 or to provide services as part of a multidisciplinary case
 272 review team; the names, home addresses, telephone numbers,
 273 photographs, dates of birth, and places of employment of the
 274 spouses and children of such personnel and members; and the
 275 names and locations of schools and day care facilities attended
 276 by the children of such personnel and members are exempt from s.
 277 119.07(1) and s. 24(a), Art. I of the State Constitution.

278 u. The home addresses, telephone numbers, places of
 279 employment, dates of birth, and photographs of current or former
 280 staff and domestic violence advocates, as defined in s.
 281 90.5036(1)(b), of domestic violence centers certified by the
 282 Department of Children and Families under chapter 39; the names,
 283 home addresses, telephone numbers, places of employment, dates
 284 of birth, and photographs of the spouses and children of such
 285 personnel; and the names and locations of schools and day care
 286 facilities attended by the children of such personnel are exempt
 287 from s. 119.07(1) and s. 24(a), Art. I of the State
 288 Constitution.

289 v. The home addresses, telephone numbers, dates of birth,
 290 and photographs of current or former inspectors or investigators

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291 of the Department of Agriculture and Consumer Services; the
 292 names, home addresses, telephone numbers, dates of birth, and
 293 places of employment of the spouses and children of current or
 294 former inspectors or investigators; and the names and locations
 295 of schools and day care facilities attended by the children of
 296 current or former inspectors or investigators are exempt from s.
 297 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 298 sub-subparagraph is subject to the Open Government Sunset Review
 299 Act in accordance with s. 119.15 and shall stand repealed on
 300 October 2, 2028, unless reviewed and saved from repeal through
 301 reenactment by the Legislature.

302 w. The home addresses, telephone numbers, dates of birth,
 303 and photographs of current county attorneys, assistant county
 304 attorneys, deputy county attorneys, city attorneys, assistant
 305 city attorneys, and deputy city attorneys; the names, home
 306 addresses, telephone numbers, photographs, dates of birth, and
 307 places of employment of the spouses and children of current
 308 county attorneys, assistant county attorneys, deputy county
 309 attorneys, city attorneys, assistant city attorneys, and deputy
 310 city attorneys; and the names and locations of schools and day
 311 care facilities attended by the children of current county
 312 attorneys, assistant county attorneys, deputy county attorneys,
 313 city attorneys, assistant city attorneys, and deputy city
 314 attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of
 315 the State Constitution. This exemption does not apply to a
 316 county attorney, assistant county attorney, deputy county
 317 attorney, city attorney, assistant city attorney, or deputy city
 318 attorney who qualifies as a candidate for election to public
 319 office. This sub-subparagraph is subject to the Open Government

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320 Sunset Review Act in accordance with s. 119.15 and shall stand
 321 repealed on October 2, 2029, unless reviewed and saved from
 322 repeal through reenactment by the Legislature.

323 x. The home addresses, telephone numbers, dates of birth,
 324 and photographs of current or former commissioners of the
 325 Florida Gaming Control Commission; the names, home addresses,
 326 telephone numbers, dates of birth, photographs, and places of
 327 employment of the spouses and children of such current or former
 328 commissioners; and the names and locations of schools and day
 329 care facilities attended by the children of such current or
 330 former commissioners are exempt from s. 119.07(1) and s. 24(a),
 331 Art. I of the State Constitution. This sub-subparagraph is
 332 subject to the Open Government Sunset Review Act in accordance
 333 with s. 119.15 and shall stand repealed on October 2, 2029,
 334 unless reviewed and saved from repeal through reenactment by the
 335 Legislature.

336 y. The home addresses, telephone numbers, dates of birth,
 337 and photographs of current clerks of the circuit court, deputy
 338 clerks of the circuit court, and clerk of the circuit court
 339 personnel; the names, home addresses, telephone numbers, dates
 340 of birth, and places of employment of the spouses and children
 341 of current clerks of the circuit court, deputy clerks of the
 342 circuit court, and clerk of the circuit court personnel; and the
 343 names and locations of schools and day care facilities attended
 344 by the children of current clerks of the circuit court, deputy
 345 clerks of the circuit court, and clerk of the circuit court
 346 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 347 the State Constitution. This sub-subparagraph is subject to the
 348 Open Government Sunset Review Act in accordance with s. 119.15

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349 and shall stand repealed on October 2, 2029, unless reviewed and
350 saved from repeal through reenactment by the Legislature.

351 z. The home addresses, telephone numbers, dates of birth,
352 and photographs of current and former employees of the Judicial
353 Qualifications Commission; the names, home addresses, telephone
354 numbers, dates of birth, photographs, and places of employment
355 of the spouses and children of current and former employees of
356 the Judicial Qualifications Commission; and the names and
357 locations of schools and day care facilities attended by the
358 children of current and former employees of the Judicial
359 Qualifications Commission are exempt from s. 119.07(1) and s.
360 24(a), Art. I of the State Constitution. This sub-subparagraph
361 is subject to the Open Government Sunset Review Act in
362 accordance with s. 119.15 and shall stand repealed on October 2,
363 2030, unless reviewed and saved from repeal through reenactment
364 by the Legislature.

365 3. An agency that is the custodian of the information
366 specified in subparagraph 2. and that is not the employer of the
367 officer, employee, justice, judge, or other person specified in
368 subparagraph 2. must maintain the exempt status of that
369 information only if the officer, employee, justice, judge, other
370 person, or employing agency of the designated employee submits a
371 written and notarized request for maintenance of the exemption
372 to the custodial agency. The request must state under oath the
373 statutory basis for the individual's exemption request and
374 confirm the individual's status as a party eligible for exempt
375 status.

376 4.a. A county property appraiser, as defined in s.
377 192.001(3), or a county tax collector, as defined in s.

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378 192.001(4), who receives a written and notarized request for
379 maintenance of the exemption pursuant to subparagraph 3. must
380 comply by removing the name of the individual with exempt status
381 and the instrument number or Official Records book and page
382 number identifying the property with the exempt status from all
383 publicly available records maintained by the property appraiser
384 or tax collector. For written requests received on or before
385 July 1, 2021, a county property appraiser or county tax
386 collector must comply with this sub-subparagraph by October 1,
387 2021. A county property appraiser or county tax collector may
388 not remove the street address, legal description, or other
389 information identifying real property within the agency's
390 records so long as a name or personal information otherwise
391 exempt from inspection and copying pursuant to this section is
392 not associated with the property or otherwise displayed in the
393 public records of the agency.

394 b. Any information restricted from public display,
395 inspection, or copying under sub-subparagraph a. must be
396 provided to the individual whose information was removed.

397 5. An officer, an employee, a justice, a judge, or other
398 person specified in subparagraph 2. may submit a written request
399 for the release of his or her exempt information to the
400 custodial agency. The written request must be notarized and must
401 specify the information to be released and the party authorized
402 to receive the information. Upon receipt of the written request,
403 the custodial agency must release the specified information to
404 the party authorized to receive such information.

405 6. The exemptions in this paragraph apply to information
406 held by an agency before, on, or after the effective date of the

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

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407 exemption.

408 7. Information made exempt under this paragraph may be
 409 disclosed pursuant to s. 28.2221 to a title insurer authorized
 410 pursuant to s. 624.401 and its affiliates as defined in s.
 411 624.10; a title insurance agent or title insurance agency as
 412 defined in s. 626.841(1) or (2), respectively; or an attorney
 413 duly admitted to practice law in this state and in good standing
 414 with The Florida Bar.

415 8. The exempt status of a home address contained in the
 416 Official Records is maintained only during the period when a
 417 protected party resides at the dwelling location. Upon
 418 conveyance of real property after October 1, 2021, and when such
 419 real property no longer constitutes a protected party's home
 420 address as defined in sub-subparagraph 1.a., the protected party
 421 must submit a written request to release the removed information
 422 to the county recorder. The written request to release the
 423 removed information must be notarized, must confirm that a
 424 protected party's request for release is pursuant to a
 425 conveyance of his or her dwelling location, and must specify the
 426 Official Records book and page, instrument number, or clerk's
 427 file number for each document containing the information to be
 428 released.

429 9. Upon the death of a protected party as verified by a
 430 certified copy of a death certificate or court order, any party
 431 can request the county recorder to release a protected
 432 decedent's removed information unless there is a related request
 433 on file with the county recorder for continued removal of the
 434 decedent's information or unless such removal is otherwise
 435 prohibited by statute or by court order. The written request to

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436 release the removed information upon the death of a protected
 437 party must attach the certified copy of a death certificate or
 438 court order and must be notarized, must confirm the request for
 439 release is due to the death of a protected party, and must
 440 specify the Official Records book and page number, instrument
 441 number, or clerk's file number for each document containing the
 442 information to be released. A fee may not be charged for the
 443 release of any document pursuant to such request.

444 Section 2. The Legislature finds that it is a public
 445 necessity that the home addresses, telephone numbers, dates of
 446 birth, and photographs of current or former employees of the
 447 Judicial Qualifications Commission; the names, home addresses,
 448 telephone numbers, dates of birth, photographs, and places of
 449 employment of the spouses and children of current or former
 450 employees of the Judicial Qualifications Commission; and the
 451 names and locations of schools and day care facilities attended
 452 by the children of current or former employees of the Judicial
 453 Qualifications Commission be made exempt from s. 119.07(1),
 454 Florida Statutes, and s. 24(a), Article I of the State
 455 Constitution. The responsibilities of the Judicial
 456 Qualifications Commission include the investigation of
 457 allegations of judicial misconduct which are routinely received
 458 from criminal and civil litigants who are dissatisfied with
 459 adverse results in judicial proceedings. When the commission,
 460 after review and investigation of such complaints, does not
 461 discipline a judge or does not take the complainant's preferred
 462 course of action against a judge, dissatisfied litigants
 463 sometimes turn their ire toward commission employees as part of
 464 their campaign against the actions of the judge in the

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465 underlying litigation. Employees of the commission have been
466 subject to acts of intimidation by such dissatisfied litigants,
467 including online doxing of staff members, posting of false and
468 defamatory statements concerning employees on social media,
469 threatening e-mails and telephone calls, and inappropriate
470 contact regarding commission affairs at the personal residences
471 of employees and employees' family members. These acts of
472 intimidation have commission employees in fear of harm by
473 disgruntled litigants who seek punishment of judges by the
474 commission for unfavorable litigation results. The Legislature
475 finds that the release of personal identifying and location
476 information of current or former employees of the Judicial
477 Qualifications Commission and their family members may place
478 them at risk of physical harm and harassment and that the risk
479 of such harm and harassment outweighs any public benefit that
480 may be derived from the public disclosure of such information.

481 Section 3. This act shall take effect July 1, 2025.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Agriculture
Appropriations Committee on Criminal and
Civil Justice
Appropriations Committee on Health and
Human Services
Children, Families, and Elder Affairs
Ethics and Elections
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR DARRYL ERVIN ROUSON

16th District

February 5, 2025

Senator Clay Yarborough
Chair, Committee on Judiciary
515 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Yarborough,

I write today respectfully requesting that SB 300, Public Records/Appellate Court Clerks and, SB 302, Public Records/Judicial Qualifications Commission, be added to the agenda of a forthcoming meeting of the Committee on Judiciary for consideration. I look forward to the opportunity to present SB 300 and SB 302 to the committee. I am available for any questions you may have about this legislation.

Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 322

INTRODUCER: Judiciary Committee and Senator Rodriguez

SUBJECT: Property Rights

DATE: February 19, 2025 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Fav/CS
2.			CJ	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 322 creates a nonjudicial procedure for a property owner to request that the county sheriff remove an unauthorized person from commercial real property. This procedure is similar to procedures in existing law for the removal of an unauthorized person from a residential property. It provides that an owner of commercial property may request that the sheriff immediately remove an unauthorized person from the owner's property. An unauthorized person is someone not authorized to occupy the property who is not a current or former tenant.

An owner must contact the sheriff and file a complaint under penalty of perjury listing the relevant facts that show eligibility for relief. The complaint form is in the bill. If the complaint shows that the owner is eligible for relief and the sheriff can verify ownership of the property, the sheriff must remove the unauthorized person. The property owner must pay the sheriff the civil eviction fee plus an hourly rate if a deputy must stand by and keep the peace while the unauthorized person is removed.

A person wrongfully removed pursuant to this procedure has a cause of action against the owner for three times the fair market rent, damages, costs, and attorney fees.

Additionally, the bill expands crimes relating to unlawfully occupying a residential dwelling or fraudulently advertising residential property for sale or lease to include commercial properties.

The procedures in the bill are similar to procedures enacted during the 2024 Legislative Session for the removal of an unauthorized person from a residential dwelling. The bill also amends that 2024 enactment to add an express grant of authority to a sheriff to use reasonably necessary force to enter a property and corrects a cross-reference.

The bill is effective July 1, 2025.

II. Present Situation:

The Founders of this country recognized that the protection of private property is indispensable to the promotion of individual freedom.¹ John Adams said that “[p]roperty must be secured, or liberty cannot exist.”² The right to exclude others is “one of the most treasured” rights of property ownership.³ The right to exclude is “universally held to be a fundamental element of the property right,” and is “one of the most essential sticks in the bundle of rights that are commonly characterized as property.”⁴

A squatter is a person who unlawfully occupies real property and refuses to leave when asked. By refusing to leave, the squatter violates the landowner’s right to exclude and the landowner’s freedom to enjoy the property as he or she wants.

Legal Remedies to Remove a Squatter

The existing legal remedies to remove a squatter are:

Criminal Trespass

Section 810.08, F.S., provides that a person commits the criminal offense of trespass in a structure or conveyance if the person:

without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.⁵

Where a criminal trespass is occurring, a law enforcement officer arrests the trespasser and immediately restores the real property owner to possession of the real property, without cost.

However, where the criminal trespass offense is not readily observable because the trespasser claims ownership or lease rights, a law enforcement officer may decline to arrest or remove the person from the property and view the dispute as a “civil matter.” In that situation, the law enforcement officer will not force the unwanted person to surrender possession of the property without a court order.

¹ *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063, 2071, 210 L. Ed. 2d 369 (2021).

² *Id.*, citing *Discourses on Davila*, in 6 Works of John Adams 280 (C. Adams ed. 1851).

³ *Cedar Point Nursery*, citing *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 435 (1982).

⁴ *Cedar Point Nursery* at 2072; citing *Kaiser Aetna v. United States*, 444 U.S. 164, 176, 179–180 (1979).

⁵ Section 810.08(1), F.S.

Civil Action for Unlawful Detainer

“Unlawful detention” means possessing real property, even if the possession is temporary or applies only to a portion of the real property, without the consent of a person entitled to possession of the real property or after the withdrawal of consent by such person.⁶

Where an unlawful detention occurs, the person entitled to possession may bring a civil action for unlawful detainer. An unlawful detainer action is filed in county court⁷ and is entitled to the summary procedure of s. 51.011, F.S., for expedited review by the court.⁸ If the person to be served is not found at the usual place of residence, the process server may serve a summons by posting a copy in a conspicuous place on the property.⁹

If the owner or rightful resident prevails in the action, the clerk of court will issue a writ of possession to the sheriff describing the premises and commanding the Sheriff to put him or her in possession of the property.¹⁰ In addition to the delay caused by the time it takes to obtain and serve a writ of possession, the property owner or rightful resident must pay a number of fees and costs.

Civil Action for Landlord-Tenant Eviction

Some landowners looking to remove a squatter treat the person like a tenant and use the existing landlord-tenant eviction process. Eviction of a tenant can be for violation of lease terms, expiration of the lease, or nonpayment of rent. First, the landlord must deliver or post a notice to vacate by a date certain (3 days for non-payment of rent, 7 days for any other cause). If the tenant does not vacate (or cure the problem), the landlord may file a civil action for eviction.

An eviction action is filed in county court¹¹ and is entitled to the summary procedure of s. 51.011, F.S., for expedited review by the court. At this point forward, the court procedure for eviction is the same as an action for unlawful detainer (see previous section).

Transient Occupant Law (nonjudicial remedy)

In 2015, the Legislature addressed squatters by creating a nonjudicial civil remedy for removal by law enforcement officers of a transient occupant to address squatters.¹² It was amended in 2018.¹³ A transient occupant is “a person whose residency in real property intended for residential use has occurred for a brief length of time, is not pursuant to a lease, and whose

⁶ Section 82.01(4), F.S.

⁷ Section 34.011(2), F.S.

⁸ Section 82.03(4), F.S. Under the summary procedure of s. 51.011, F.S., all defenses of law or fact are required to be contained in the defendant’s answer which must be filed within five days after service of process of the plaintiff’s complaint. If the answer incorporates a counterclaim, the plaintiff must include all defenses of law or fact in his or her answer to the counterclaim and serve it within five days after service of the counterclaim. No other pleadings are permitted, and all defensive motions, including motions to quash, are heard by the court prior to trial. Postponements are not permitted for discovery, and the procedure also provides for an immediate trial, if requested.

⁹ Section 82.05, F.S.

¹⁰ Section 82.091, F.S.

¹¹ Section 34.011(2), F.S.

¹² Chapter 2015-89, Laws of Fla.; codified as s. 82.035, F.S.

¹³ Chapters 2018-83 and 2018-94, Laws of Fla.

occupancy was intended as transient in nature.” The statute lists the following factors for consideration of whether an occupancy was intended as transient:

- The person does not have an ownership interest, financial interest, or leasehold interest in the property entitling him or her to occupancy of the property.
- The person does not have any property utility subscriptions.
- The person cannot produce documentation, correspondence, or identification cards sent or issued by a government agency, including, but not limited to, the Department of Highway Safety and Motor Vehicles or the supervisor of elections, which show that the person used the property address as an address of record with the agency within the previous 12 months.
- The person pays minimal or no rent for his or her stay at the property.
- The person does not have a designated space of his or her own, such as a room, at the property.
- The person has minimal, if any, personal belongings at the property.
- The person has an apparent permanent residence elsewhere.¹⁴

If the property owner is able to convince the law enforcement officer that an occupant of the property qualifies as a transient occupant, and if the owner has asked the transient occupant to leave, the law enforcement officer may direct the transient occupant to immediately leave.¹⁵

The property owner initiates the process by contacting a law enforcement agency. The property owner must file an affidavit that sets forth the facts and addresses each of the factors listed above.¹⁶ No fees are required.

A person wrongfully removed pursuant to this statute has a cause of action for wrongful removal against the person who requested the removal and may recover injunctive relief and compensatory damages. However, a wrongfully removed person does not have a cause of action against the law enforcement officer or the agency employing the law enforcement officer absent a showing of bad faith by the law enforcement officer.¹⁷ The statute includes process and procedure regarding the personal property of the transient occupant.¹⁸

2024 New Process for Removal of Unauthorized Person from Residential Property

Legislation enacted during the 2024 Legislative Session provides that an owner of residential property finding an unauthorized person residing on his or her property may request the sheriff to immediately remove the unauthorized person. The owner must show entitlement to relief in a sworn application. The legislation addressed the perceived ineffectiveness of other legal remedies, but only applies to residential property.¹⁹

¹⁴ Section 82.035(1)(a), F.S.

¹⁵ Section 82.035(3), F.S.

¹⁶ *Id.*

¹⁷ Section 82.035(3)(b), F.S.

¹⁸ Section 82.035(5), F.S.

¹⁹ Chapter 2024-44, Laws of Fla.

Criminal Laws That May Apply to Squatters

Florida criminalizes various behaviors related to fraudulently obtaining or damaging property that a person does not own. In addition to criminal trespass (discussed above), criminal laws that may apply to a squatter include:

Criminal Mischief

Section 806.13, F.S., provides criminal penalties for acts of criminal mischief.

A person commits criminal mischief if he or she willfully and maliciously injures or damages by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto. If the damage to the property is:

- Two-hundred dollars or less, it is a second degree misdemeanor.²⁰
- Greater than \$200 but less than \$1,000, it is a first degree misdemeanor.
- One thousand dollars or greater, or if there is interruption or impairment of a business operation or public communications, transportation, supply of water, gas or power, or other public service which costs \$1,000 or more in labor and supplies to restore, it is a third degree felony.²¹

The 2024 squatters legislation created a new criminal offense providing that a person who unlawfully detains or occupies or trespasses upon a residential dwelling and who intentionally damages the dwelling causing \$1,000 or more in damages commits a felony of the second degree.²²

False Statements

The 2024 squatters legislation created a new criminal offense providing that a person who, with the intent to detain or remain upon real property, knowingly and willfully presents to another person a false document purporting to be a valid lease agreement, deed, or other instrument conveying real property rights commits a misdemeanor of the first degree.²³

Fraudulent Sale or Lease of Real Property

The 2024 squatters legislation created the criminal offense of Fraudulent Sale or Lease of Residential Real Property. A person who lists or advertises residential real property for sale knowing that he or she has no legal title or authority to sell the property or rents or leases the property to another person knowing that he or she has no lawful ownership in the property or leasehold interest in the property, commits a felony of the first degree.²⁴

²⁰ *Id.* A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. Sections 775.082 and 775.083, F.S.

²¹ A third degree felony is punishable by up to 5 years' incarceration and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

²² Section 806.13(4), F.S. A second degree felony is punishable by up to 15 years' incarceration and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²³ Section 817.03(2), F.S.

²⁴ Section 817.0311, F.S. A first degree felony is punishable by up to 30 years' incarceration and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

Ineffectiveness of Existing Remedies to Address Unauthorized Persons

Existing legal remedies to remove a squatter are considered ineffective by some members of the public.²⁵ The 2024 squatters legislation only applies to residential property, effectively excluding commercial real property. Squatters go so far as to publish videos on how to avoid law enforcement officers and how to destroy a home while squatting.²⁶ A squatter confronted by a law enforcement officer may present a false deed, false lease, or other false or fraudulent document to avoid summary removal under the transient occupant law or arrest on a trespass charge. Some people thought to be unlawful squatters have been victims of a scam artist who falsely leased or sold the property after falsely claiming to be the owner or an authorized agent of the property owner.²⁷ Some landowners have resorted to dangerous self-help eviction because they believed current law inadequate.²⁸ Squatters have caused significant damage to properties.²⁹

III. Effect of Proposed Changes:

Civil Remedy to Remove Unauthorized Persons from Commercial Property

The bill creates s. 82.037, F.S., to provide a limited alternative remedy to remove unauthorized persons from commercial real property. The remedy is a nonjudicial process that closely follows the 2024 law limited to residential real property.

A property owner or his or her authorized agent may request the sheriff of the county in which the property is located to immediately remove a person or persons unlawfully occupying a commercial property if all of the following are met:

- The person requesting relief is the property owner or authorized agent of the property owner;
- The real property that is being occupied includes commercial real property;
- An unauthorized person or persons have unlawfully entered and remain or continue to reside on the property owner's commercial real property;
- The real property was not open to members of the public at the time the unauthorized person or persons entered;
- The owner has directed the unauthorized person or persons to leave the real property;
- The unauthorized person or persons are not current or former tenants pursuant to a written or oral rental agreement authorized by the property owner;
- There is no pending litigation related to the real property between the property owner and any known unauthorized person.

²⁵ Andrew Mark Miller, *Squatters torment homeowners across US with no resolution in sight: 'It's a problem,'* FOX NEWS (Mar. 21, 2023), <https://www.foxnews.com/us/squatters-torment-homeowners-across-u-s-with-no-resolution-sight-problem>.

²⁶ Your Homeless Friend Kai, *How to squat. How to live rent free,* YOUTUBE, <https://www.youtube.com/watch?v=6qZxirdaBFs> [warning - foul language] (last visited Feb. 14, 2025).

²⁷ Testimony by representatives of the Seminole County Sheriff before the Senate Judiciary Committee, February 11, 2025.

²⁸ Outside the Box with Flash, *How I removed squatters in less than a day* YOUTUBE <https://www.youtube.com/watch?v=uhz5r1JKwjs> (last visited Jan. 31, 2024); Emma Colton, *Armed Florida man confronts squatter who took over house while he was overseas: police,* FOX NEWS (Jan 15, 2023), <https://www.foxnews.com/us/armed-florida-man-confronts-squatter-who-took-over-house-while-he-was-overseas-police>.

²⁹ Kassy Dillon, *Army reservist battles squatter living in home after she was called up for active duty,* FOX NEWS (Sept. 17, 2023), <https://www.foxnews.com/media/army-reservist-battles-squatter-renting-home-called-active-duty>; Andrew Mark Miller, *Squatters torment homeowners across US with no resolution in sight: 'It's a problem,'* FOX NEWS (Mar. 21, 2023), <https://www.foxnews.com/us/squatters-torment-homeowners-across-u-s-with-no-resolution-sight-problem>.

The bill creates a complaint form for use in requesting relief. Upon receipt of the complaint, the bill requires the sheriff to verify the identity of the person submitting the complaint and verify that the person is the record owner of the real property or the authorized agent of the owner and appears otherwise entitled to relief.

If verified, the sheriff must serve on the unlawful occupants a notice to immediately vacate and must then put the owner in possession of the real property. Service may be accomplished by hand delivery of the notice to an occupant or by posting the notice on the front door or entrance of the dwelling. The sheriff must also attempt to verify the identities of all persons occupying the dwelling and note the identities on the return of service. If appropriate, the sheriff may arrest any person found in the dwelling for trespass, outstanding warrants, or any other legal cause. The owner of the property expressly grants the sheriff the authority to enter the property using reasonably necessary force, search the property, and remove any unauthorized person.

The sheriff is entitled to the same fee for service of the notice to immediately vacate as if the sheriff were serving a writ of possession under s. 30.231, F.S. Currently, that fee is \$90. After the sheriff serves the notice to immediately vacate, the property owner or authorized agent may request that the sheriff stand by to keep the peace while the property owner or agent of the owner changes the locks and removes the personal property of the unlawful occupants from the premises to or near the property line. When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by to keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. This rate varies by county. The sheriff is not liable to the unlawful occupant or any other party for loss, destruction, or damage. The property owner or his or her authorized agent is not liable to an unlawful occupant or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

A person may bring a civil cause of action for wrongful removal under this section. A person harmed by a wrongful removal pursuant to this section may be restored to possession of the real property and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the dwelling, court costs, and reasonable attorney fees. The court must advance the cause on the calendar.

The bill provides that it does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft, or other crimes.

Criminal Offenses Related to Commercial Real Property

The bill expands the third degree felony offense at s. 806.13(4), F.S., of detaining, occupying or trespassing on a residential property causing damage in excess of \$1,000, to include commercial property.

The bill expands the first degree felony offense at s. 817.0311, F.S., of fraudulently advertising, selling or leasing residential real property while knowing that he or she has no lawful real estate

interest to sell or lease the property, by deleting the word “residential” to make the offense apply to the fraudulent advertising, sale or lease of any form of real property.

Amendment to 2024 Act Regarding Residential Properties

The bill also amends the complaint form created by the similar 2024 act regarding residential properties to expressly authorize a sheriff to use reasonable force to enter a property. In addition, the cross-reference to the penalty for perjury in the form is corrected from referencing s. 837.02, F.S. (perjury in an official proceeding) to s. 92.525, F.S. (perjury by false written declaration).

Effective Date

The bill is effective July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may reduce costs that the private sector would otherwise incur to remove squatters from commercial properties.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 82.036, 806.13 and 817.0311.

This bill creates section 82.037 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 775.0837 and 895.02.

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 Judiciary on February 18, 2025:

The committee substitute added express authority in the complaint form for the sheriff to use reasonable force to enter a property and corrected a cross-reference. The committee substitute also made these changes to existing law related to the removal of an unauthorized person from a residential property.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2025	.	
	.	
	.	
	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment

Delete lines 115 - 124

and insert:

property. I authorize the Sheriff to enter the property using reasonably necessary force, search the property, and remove any unauthorized person.

11.A copy of my valid government-issued identification is attached, or I am an agent of the property owner, and documents evidencing my authority to act on the property owner's



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11 behalf are attached.

12

13 I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT, AND EACH
14 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
15 MADE IN THIS COMPLAINT ARE BEING MADE UNDER PENALTY OF
16 PERJURY, PUNISHABLE AS PROVIDED IN SECTION 92.525, FLORIDA
17 STATUTES.



188398

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2025	.	
	.	
	.	
	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 311 and 312
insert:

Section 6. Subsection (3) of section 82.036, Florida Statutes, is amended to read:

82.036 Limited alternative remedy to remove unauthorized persons from residential real property.—

(3) To request the immediate removal of an unlawful occupant of a residential dwelling, the property owner or his or



11 her authorized agent must submit a complaint by presenting a
12 completed and verified Complaint to Remove Persons Unlawfully
13 Occupying Residential Real Property to the sheriff of the county
14 in which the real property is located. The submitted complaint
15 must be in substantially the following form:

16
17 COMPLAINT TO REMOVE PERSONS UNLAWFULLY
18 OCCUPYING RESIDENTIAL REAL PROPERTY
19

20 I, the owner or authorized agent of the owner of the real
21 property located at, declare under the penalty of
22 perjury that (initial each box):

- 23 1. I am the owner of the real property or the
24 authorized agent of the owner of the real property.
- 25 2. I purchased the property on
- 26 3. The real property is a residential dwelling.
- 27 4. An unauthorized person or persons have unlawfully
28 entered and are remaining or residing unlawfully on the real
29 property.
- 30 5. The real property was not open to members of the
31 public at the time the unauthorized person or persons entered.
- 32 6. I have directed the unauthorized person or persons
33 to leave the real property, but they have not done so.
- 34 7. The person or persons are not current or former
35 tenants pursuant to any valid lease authorized by the property
36 owner, and any lease that may be produced by an occupant is
37 fraudulent.
- 38 8. The unauthorized person or persons sought to be
39 removed are not an owner or a co-owner of the property and have



188398

40 not been listed on the title to the property unless the person
41 or persons have engaged in title fraud.

42 9. The unauthorized person or persons are not
43 immediate family members of the property owner.

44 10. There is no litigation related to the real
45 property pending between the property owner and any person
46 sought to be removed.

47 11. I understand that a person or persons removed from
48 the property pursuant to this procedure may bring a cause of
49 action against me for any false statements made in this
50 complaint, or for wrongfully using this procedure, and that as a
51 result of such action I may be held liable for actual damages,
52 penalties, costs, and reasonable attorney fees.

53 12. I am requesting the sheriff to immediately remove
54 the unauthorized person or persons from the residential
55 property. I authorize the Sheriff to enter the property using
56 reasonably necessary force, search the property, and remove any
57 unauthorized person.

58 13. A copy of my valid government-issued
59 identification is attached, or I am an agent of the property
60 owner, and documents evidencing my authority to act on the
61 property owner's behalf are attached.

62
63 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH
64 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
65 MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY,
66 PUNISHABLE AS PROVIDED IN SECTION 92.525 ~~837.02~~, FLORIDA
67 STATUTES.
68



188398

69 ... (Signature of Property Owner or Agent of Owner) ...

70

71

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

73 And the title is amended as follows:

74 Delete line 36

75 and insert:

76 references thereto; amending s. 82.036; specifying a

77 requirement for the complaint to remove an

78 unauthorized person from residential property;

79 correcting a cross-reference in the complaint;

80 providing an effective date.

By Senator Rodriguez

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1 A bill to be entitled
 2 An act relating to property rights; creating s.
 3 82.037, F.S.; authorizing a property owner or his or
 4 her authorized agent to request the sheriff in the
 5 county in which the owner's commercial real property
 6 is located to immediately remove persons unlawfully
 7 occupying the owner's commercial real property, under
 8 certain conditions; requiring such owners or agents to
 9 submit a specified completed and verified complaint;
 10 specifying requirements for the complaint; specifying
 11 requirements for the sheriff; authorizing the sheriff
 12 to arrest an unauthorized person for legal cause;
 13 providing that sheriffs are entitled to a specified
 14 fee for service of the required notice to vacate
 15 immediately; authorizing the owner or agent to request
 16 that the sheriff stand by while the owner or agent
 17 takes possession of the commercial real property;
 18 authorizing the sheriff to charge a reasonable hourly
 19 rate; providing that the sheriff is not liable to any
 20 party for loss, destruction, or damage; providing that
 21 the property owner or agent is not liable to any party
 22 for the loss or destruction of, or damage to, personal
 23 property unless it was wrongfully removed; providing
 24 civil remedies; providing construction; amending s.
 25 806.13, F.S.; prohibiting unlawfully detaining, or
 26 occupying or trespassing upon, commercial real
 27 property intentionally and causing a specified amount
 28 of damage; providing criminal penalties; amending s.
 29 817.0311, F.S.; prohibiting listing or advertising for

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

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30 sale, or renting or leasing, real property under
 31 certain circumstances; providing criminal penalties;
 32 reenacting ss. 775.0837(1)(c) and 895.02(8)(a), F.S.,
 33 relating to habitual misdemeanor offenders and
 34 definitions, respectively, to incorporate the
 35 amendments made to ss. 806.13 and 817.0311, F.S., in
 36 references thereto; providing an effective date.
 37

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

39
 40 Section 1. Section 82.037, Florida Statutes, is created to
 41 read:

42 82.037 Limited alternative remedy to remove unauthorized
 43 persons from commercial real property.—

44 (1) A property owner or his or her authorized agent may
 45 request from the sheriff of the county in which the owner's
 46 commercial real property is located the immediate removal of any
 47 person unlawfully occupying the commercial real property
 48 pursuant to this section if all of the following conditions are
 49 met:

50 (a) The requesting person is the property owner or
 51 authorized agent of the property owner.

52 (b) The real property that is being occupied includes
 53 commercial property.

54 (c) An unauthorized person or persons have unlawfully
 55 entered and remain in or continue to occupy the property owner's
 56 commercial real property.

57 (d) The commercial real property was not open to members of
 58 the public at the time the unauthorized person or persons

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59 entered.

60 (e) The property owner has directed the unauthorized person
61 or persons to leave the commercial real property.

62 (f) The unauthorized person or persons are not current or
63 former tenants pursuant to a written or oral rental agreement
64 authorized by the property owner.

65 (g) There is no litigation related to the commercial real
66 property pending between the property owner and any known
67 unauthorized person.

68 (2) To request the immediate removal of an unlawful
69 occupant of commercial real property, the property owner or his
70 or her authorized agent must submit a complaint by presenting a
71 completed and verified Complaint to Remove Persons Unlawfully
72 Occupying Commercial Real Property to the sheriff of the county
73 in which the real property is located. The submitted complaint
74 must be in substantially the following form:

75
76 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
77 COMMERCIAL REAL PROPERTY

78
79 I, the owner or authorized agent of the owner of the
80 commercial real property located at ... address of property ...,
81 declare under penalty of perjury that (initial each box):

82 1.I am the owner of the commercial real property or
83 the authorized agent of the owner of the commercial real
84 property.

85 2.I purchased the commercial real property on ... date
86 of purchase

87 3.An unauthorized person or persons have unlawfully

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88 entered and remain on the commercial real property.

89 4.The commercial real property was not open to members
90 of the public at the time the unauthorized person or persons
91 entered.

92 5.I have directed the unauthorized person or persons
93 to leave the commercial real property, but they have not done
94 so.

95 6.The unauthorized person or persons are not current
96 or former tenants pursuant to any valid lease authorized by the
97 property owner, and any lease that may be produced by an
98 occupant is fraudulent.

99 7.The unauthorized person or persons sought to be
100 removed are not an owner or co-owner of the commercial real
101 property and have not been listed on the title to the commercial
102 real property unless the person or persons have engaged in title
103 fraud.

104 8.There is no litigation related to the commercial
105 real property pending between the property owner and any person
106 sought to be removed.

107 9.I understand that any person removed from the
108 commercial real property pursuant to this procedure may bring a
109 cause of action against me for any false statements made in this
110 complaint, or for wrongfully using this procedure, and that as a
111 result of such action I may be held liable for actual damages,
112 penalties, costs, and reasonable attorney fees.

113 10.I request that the sheriff immediately remove the
114 unauthorized person or persons from the commercial real
115 property.

116 11.A copy of my valid government-issued identification

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

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 117 is attached, or I am an agent of the property owner, and
 118 documents evidencing my authority to act on the property owner's
 119 behalf are attached.

120
 121 I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT, AND EACH
 122 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
 123 MADE IN THIS COMPLAINT ARE BEING MADE UNDER PENALTY OF PERJURY,
 124 PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

125
 126 ...(Signature of the Property Owner or Agent of Owner...)
 127

128 (3) Upon receipt of the complaint, the sheriff shall verify
 129 that the person submitting the complaint is the record owner of
 130 the commercial real property or the authorized agent of the
 131 owner and appears otherwise entitled to relief under this
 132 section. If verified, the sheriff must, without delay, serve a
 133 notice to vacate immediately on all the unlawful occupants and
 134 must put the owner in possession of the commercial real
 135 property. Service may be accomplished by hand delivery of the
 136 notice to an occupant or by posting the notice on the front door
 137 or entrance of the commercial real property. The sheriff shall
 138 also attempt to verify the identities of all persons occupying
 139 the commercial real property and note their identities on the
 140 return of service. If appropriate, the sheriff may arrest any
 141 person found in the commercial real property for trespass,
 142 outstanding warrants, or any other legal cause.

143 (4) The sheriff is entitled to the same fee for service of
 144 the notice to vacate immediately as if the sheriff were serving
 145 a writ of possession under s. 30.231. After the sheriff serves

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 146 the notice to vacate immediately, the property owner or
 147 authorized agent may request that the sheriff stand by to keep
 148 the peace while the property owner or agent of the owner changes
 149 the locks and removes the personal property of the unauthorized
 150 person or persons to or near the property line. When such a
 151 request is made, the sheriff may charge a reasonable hourly
 152 rate, and the person requesting the sheriff is responsible for
 153 paying such hourly rate. The sheriff is not liable to the
 154 unauthorized person or persons or any other party for loss,
 155 destruction, or damage to their personal property. The property
 156 owner or his or her authorized agent is not liable to an
 157 unauthorized person or persons or any other party for the loss,
 158 destruction, or damage to their personal property unless the
 159 removal was not in accordance with this section.

160 (5) A person may bring a civil cause of action for wrongful
 161 removal under this section. A person harmed by a wrongful
 162 removal under this section may be restored to possession of the
 163 commercial real property and may recover actual costs and
 164 damages incurred, statutory damages equal to triple the fair
 165 market rent of the commercial real property, court costs, and
 166 reasonable attorney fees. The court shall advance the cause on
 167 the calendar.

168 (6) This section does not limit the rights of a property
 169 owner or limit the authority of a law enforcement officer to
 170 arrest any unauthorized person for trespassing, vandalism,
 171 theft, or other crimes.

172 Section 2. Subsection (4) of section 806.13, Florida
 173 Statutes, is amended to read:

174 806.13 Criminal mischief; penalties; penalty for minor.—

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175 (4) A person who unlawfully detains or occupies or
 176 trespasses upon a residential dwelling or commercial real
 177 property and who intentionally damages the dwelling or the
 178 commercial real property causing \$1,000 or more in damages
 179 commits a felony of the second degree, punishable as provided in
 180 s. 775.082, s. 775.083, or s. 775.084.

181 Section 3. Section 817.0311, Florida Statutes, is amended
 182 to read:

183 817.0311 Fraudulent sale or lease of ~~residential~~ real
 184 property.—A person who lists or advertises ~~residential~~ real
 185 property for sale knowing that the purported seller has no legal
 186 title or authority to sell the property, or rents or leases the
 187 property to another person knowing that he or she has no lawful
 188 ownership in the property or leasehold interest in the property,
 189 commits a felony of the first degree, punishable as provided in
 190 s. 775.082, s. 775.083, or s. 775.084.

191 Section 4. For the purpose of incorporating the amendments
 192 made by this act to sections 806.13 and 817.0311, Florida
 193 Statutes, in references thereto, paragraph (c) of subsection (1)
 194 of section 775.0837, Florida Statutes, is reenacted to read:

195 775.0837 Habitual misdemeanor offenders.—

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

197 (c) "Specified misdemeanor offense" means those misdemeanor
 198 offenses described in chapter 741, chapter 784, chapter 790,
 199 chapter 796, chapter 800, chapter 806, chapter 810, chapter 812,
 200 chapter 817, chapter 831, chapter 832, chapter 843, chapter 856,
 201 chapter 893, or chapter 901.

202 Section 5. For the purpose of incorporating the amendment
 203 made by this act to sections 806.13 and 817.0311, Florida

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204 Statutes, in references thereto, paragraph (a) of subsection (8)
 205 of section 895.02, Florida Statutes, is reenacted to read:

206 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

207 (8) "Racketeering activity" means to commit, to attempt to
 208 commit, to conspire to commit, or to solicit, coerce, or
 209 intimidate another person to commit:

210 (a) Any crime that is chargeable by petition, indictment,
 211 or information under the following provisions of the Florida
 212 Statutes:

213 1. Section 210.18, relating to evasion of payment of
 214 cigarette taxes.

215 2. Section 316.1935, relating to fleeing or attempting to
 216 elude a law enforcement officer and aggravated fleeing or
 217 eluding.

218 3. Chapter 379, relating to the illegal sale, purchase,
 219 collection, harvest, capture, or possession of wild animal life,
 220 freshwater aquatic life, or marine life, and related crimes.

221 4. Section 403.727(3)(b), relating to environmental
 222 control.

223 5. Section 409.920 or s. 409.9201, relating to Medicaid
 224 fraud.

225 6. Section 414.39, relating to public assistance fraud.

226 7. Section 440.105 or s. 440.106, relating to workers'
 227 compensation.

228 8. Section 443.071(4), relating to creation of a fictitious
 229 employer scheme to commit reemployment assistance fraud.

230 9. Section 465.0161, relating to distribution of medicinal
 231 drugs without a permit as an Internet pharmacy.

232 10. Section 499.0051, relating to crimes involving

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233 contraband, adulterated, or misbranded drugs.

234 11. Part IV of chapter 501, relating to telemarketing.

235 12. Chapter 517, relating to sale of securities and

236 investor protection.

237 13. Section 550.235 or s. 550.3551, relating to dogracing

238 and horseracing.

239 14. Chapter 550, relating to jai alai frontons.

240 15. Section 551.109, relating to slot machine gaming.

241 16. Chapter 552, relating to the manufacture, distribution,

242 and use of explosives.

243 17. Chapter 560, relating to money transmitters, if the

244 violation is punishable as a felony.

245 18. Chapter 562, relating to beverage law enforcement.

246 19. Section 624.401, relating to transacting insurance

247 without a certificate of authority, s. 624.437(4)(c)1., relating

248 to operating an unauthorized multiple-employer welfare

249 arrangement, or s. 626.902(1)(b), relating to representing or

250 aiding an unauthorized insurer.

251 20. Section 655.50, relating to reports of currency

252 transactions, when such violation is punishable as a felony.

253 21. Chapter 687, relating to interest and usurious

254 practices.

255 22. Section 721.08, s. 721.09, or s. 721.13, relating to

256 real estate timeshare plans.

257 23. Section 775.13(5)(b), relating to registration of

258 persons found to have committed any offense for the purpose of

259 benefiting, promoting, or furthering the interests of a criminal

260 gang.

261 24. Section 777.03, relating to commission of crimes by

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262 accessories after the fact.

263 25. Chapter 782, relating to homicide.

264 26. Chapter 784, relating to assault and battery.

265 27. Chapter 787, relating to kidnapping, human smuggling,

266 or human trafficking.

267 28. Chapter 790, relating to weapons and firearms.

268 29. Chapter 794, relating to sexual battery, but only if

269 such crime was committed with the intent to benefit, promote, or

270 further the interests of a criminal gang, or for the purpose of

271 increasing a criminal gang member's own standing or position

272 within a criminal gang.

273 30. Former s. 796.03, former s. 796.035, s. 796.04, s.

274 796.05, or s. 796.07, relating to prostitution.

275 31. Chapter 806, relating to arson and criminal mischief.

276 32. Chapter 810, relating to burglary and trespass.

277 33. Chapter 812, relating to theft, robbery, and related

278 crimes.

279 34. Chapter 815, relating to computer-related crimes.

280 35. Chapter 817, relating to fraudulent practices, false

281 pretenses, fraud generally, credit card crimes, and patient

282 brokering.

283 36. Chapter 825, relating to abuse, neglect, or

284 exploitation of an elderly person or disabled adult.

285 37. Section 827.071, relating to commercial sexual

286 exploitation of children.

287 38. Section 828.122, relating to fighting or baiting

288 animals.

289 39. Chapter 831, relating to forgery and counterfeiting.

290 40. Chapter 832, relating to issuance of worthless checks

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291 and drafts.

292 41. Section 836.05, relating to extortion.

293 42. Chapter 837, relating to perjury.

294 43. Chapter 838, relating to bribery and misuse of public

295 office.

296 44. Chapter 843, relating to obstruction of justice.

297 45. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or

298 s. 847.07, relating to obscene literature and profanity.

299 46. Chapter 849, relating to gambling, lottery, gambling or

300 gaming devices, slot machines, or any of the provisions within

301 that chapter.

302 47. Chapter 874, relating to criminal gangs.

303 48. Chapter 893, relating to drug abuse prevention and

304 control.

305 49. Chapter 896, relating to offenses related to financial

306 transactions.

307 50. Sections 914.22 and 914.23, relating to tampering with

308 or harassing a witness, victim, or informant, and retaliation

309 against a witness, victim, or informant.

310 51. Sections 918.12 and 918.13, relating to tampering with

311 jurors and evidence.

312 Section 6. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Clay Yarborough, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 3, 2025

I respectfully request that **Senate Bill #322**, relating to Property Rights, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 40

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 2/18/2025 4:00:47 PM

Ends: 2/18/2025 4:17:19 PM Length: 00:16:33

4:00:47 PM Chairs Yarborough calls meeting to order
4:00:51 PM Roll call
4:01:08 PM Chair Yarborough makes opening remarks
4:01:29 PM Tab 2: SB 300 Public Records/Appellate Court Clerks by Senator Rouson
4:01:33 PM Chair Yarborough recognizes Senator Rouson
4:01:42 PM Senator Rouson explains the bill
4:02:55 PM Amendment 158546 withdrawn
4:03:02 PM Questions on the bill
4:03:13 PM Public testimony
4:03:22 PM Debate
4:03:24 PM Senator Leek
4:04:13 PM Senator Rouson waives close on bill
4:04:20 PM Roll call
4:04:42 PM Chair Yarborough reports the bill
4:04:51 PM Tab 3: SB 302 Public Records/Judicial Qualifications Commission by Senator Rouson
4:04:54 PM Chair Yarborough recognizes Senator Rouson
4:05:00 PM Senator Rouson explains the bill
4:05:30 PM Questions on the bill
4:06:45 PM Public testimony
4:06:56 PM Senator Rouson waives close on bill
4:07:03 PM Roll call
4:07:22 PM Chair Yarborough reports the bill
4:07:32 PM Tab 1: SB 262 Trusts by Senator Berman
4:07:36 PM Chair Yarborough recognizes Senator Berman
4:07:44 PM Senator Berman explains the bill
4:10:41 PM Amendment 762740
4:10:48 PM Senator Berman explains the amendment
4:10:55 PM Questions on the amendment
4:11:00 PM Senator Berman waives close on amendment
4:11:04 PM Chair Yarborough reports amendment
4:11:24 PM Questions on bill
4:11:32 PM Public testimony
4:11:45 PM Senator Berman waives close on bill
4:11:56 PM Roll call
4:12:19 PM Chair Yarborough reports the bill
4:12:35 PM Recording Paused
4:13:48 PM Recording Resumed
4:13:52 PM Tab 4: SB 322 Property Rights by Senator Rodriguez
4:13:56 PM Chair Yarborough recognizes Senator Rodriguez
4:14:02 PM Senator Rodriguez explains the bill
4:14:29 PM Amendment 188398
4:14:37 PM Senator Rodriguez explains the amendment

4:14:55 PM Questions on amendment 188398
4:15:09 PM Senator Rodriguez waives close on amendment
4:15:11 PM Chair Yarborough reports the amendment
4:15:18 PM Amendment 696666
4:15:25 PM Senator Rodriguez explains the amendment
4:15:40 PM Questions on amendment 696666
4:15:50 PM Senator Rodriguez waives close on amendment
4:15:55 PM Chair Yarborough reports the amendment
4:15:57 PM Questions on bill
4:16:04 PM Public testimony
4:16:17 PM Senator Rodriguez waives close on bill
4:16:23 PM Roll call
4:16:40 PM Chair Yarborough reports on the bill
4:16:50 PM Senator Trumbull moves to record a missed vote
4:17:09 PM Senator Osgood moves to adjourn meeting
4:17:12 PM Meeting Adjourned