

Tab 1	SB 222 by Gruters; (Identical to H 00267) Swimming Pool Specialty Contracting Services					
Tab 2	CS/SB 280 by CA, Hutson; (Similar to H 00403) Local Ordinances					
235072	D	S	RCS	RC, Hutson	Delete everything after	01/20 11:49 AM
943740	AA	S	RCS	RC, Hutson	Delete L.115 - 234:	01/20 11:49 AM
Tab 3	CS/SB 336 by JU, Berman; (Identical to CS/H 00519) Uniform Commercial Code					
Tab 4	SB 352 by Hooper; (Similar to CS/CS/H 00263) Construction Liens					
454972	A	S	WD	RC, Hooper	Delete L.19:	01/20 11:55 AM
Tab 5	CS/SB 444 by CF, Perry (CO-INTRODUCERS) Book; (Similar to H 00379) Lewd or Lascivious Molestation					
Tab 6	SB 542 by Rodriguez; (Similar to H 00411) Evidentiary Standards for Actions Arising During an Emergency					
Tab 7	SB 546 by Gruters; (Similar to CS/H 00123) Consumer Finance Loans					
Tab 8	CS/SB 1006 by AG, Burgess; (Identical to H 00567) State Symbols					
110796	A	S	UNFAV	RC, Brandes	btw L.34 - 35:	01/20 12:04 PM
656326	A	S	L WD	RC, Gruters	Before L.31:	01/20 12:04 PM
Tab 9	SB 1658 by Bean; (Compare to H 01295) Executive Appointments					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Passidomo, Chair
Senator Garcia, Vice Chair

MEETING DATE: Thursday, January 20, 2022
TIME: 9:30—11:00 a.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Passidomo, Chair; Senator Garcia, Vice Chair; Senators Albritton, Baxley, Bean, Book, Boyd, Bracy, Brandes, Diaz, Farmer, Gibson, Gruters, Hutson, Mayfield, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 222 Gruters (Identical H 267)	Swimming Pool Specialty Contracting Services; Authorizing certain persons under the supervision of specified licensed contractors to perform certain specialty contracting services for commercial or residential swimming pools, interactive water features, hot tubs, and spas; providing that such supervision does not require a direct contract between those persons, etc. RI 11/02/2021 Favorable CA 01/12/2022 Favorable RC 01/20/2022 Favorable	Favorable Yeas 15 Nays 0
2	CS/SB 280 Community Affairs / Hutson (Similar H 403)	Local Ordinances; Authorizing courts to assess and award reasonable attorney fees and costs and damages in certain civil actions filed against local governments; requiring a board of county commissioners to prepare a business impact estimate before the enactment of a proposed ordinance; requiring a governing body of a municipality to prepare a business impact estimate before the enactment of a proposed ordinance, etc. CA 01/12/2022 Fav/CS RC 01/20/2022 Fav/CS	Fav/CS Yeas 14 Nays 2
3	CS/SB 336 Judiciary / Berman (Identical CS/H 519)	Uniform Commercial Code; Providing that certain restrictions on the effectiveness of terms in specified agreements and the effectiveness of certain rules of law, statutes, or regulations related to the discharge of account debtors and certain restrictions on the assignment of promissory notes, health-care-insurance receivables, and certain general intangibles, respectively, do not apply to a security interest in an ownership interest in a general partnership, a limited partnership, or a limited liability company, etc. CM 11/02/2021 Favorable JU 01/10/2022 Fav/CS RC 01/20/2022 Favorable	Favorable Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 20, 2022, 9:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 352 Hooper (Similar CS/H 263)	Construction Liens; Revising the threshold for determining whether certain direct contracts to repair or replace an existing heating or air-conditioning system are exempt from specified notice of commencement and applicability of lien requirements for authorities issuing building permits, etc. CA 11/03/2021 Favorable RI 01/11/2022 Favorable RC 01/20/2022 Favorable	Favorable Yeas 15 Nays 0
5	CS/SB 444 Children, Families, and Elder Affairs / Perry (Similar H 379, Compare S 878)	Lewd or Lascivious Molestation; Specifying what constitutes the crime of lewd or lascivious molestation upon a person 16 years of age or older, etc. CJ 11/30/2021 Favorable CF 01/11/2022 Fav/CS RC 01/20/2022 Favorable	Favorable Yeas 13 Nays 0
6	SB 542 Rodriguez (Similar H 411)	Evidentiary Standards for Actions Arising During an Emergency; Defining the term "engaged individual"; prohibiting certain actions taken by a business during a public health emergency from being used as evidence in certain civil causes of action, etc. CM 11/30/2021 Favorable JU 01/10/2022 Favorable RC 01/20/2022 Favorable	Favorable Yeas 15 Nays 0
7	SB 546 Gruters (Similar CS/H 123)	Consumer Finance Loans; Authorizing an applicant for a license to make and collect loans under the Florida Consumer Finance Act to provide certain documents in lieu of evidence of liquid assets; prohibiting a person licensed to make and collect consumer finance loans from charging prepayment penalties for loans; authorizing a licensee or an applicant for a license to make and collect consumer finance loans to provide a surety bond, certificate of deposit, or letter of credit in lieu of evidence of liquid assets; modifying grounds for denial of license or disciplinary action for certain violations of the Florida Consumer Finance Act, etc. BI 12/01/2021 Favorable CM 01/10/2022 Favorable RC 01/20/2022 Favorable	Favorable Yeas 16 Nays 0
8	CS/SB 1006 Agriculture / Burgess (Identical H 567)	State Symbols; Designating strawberry shortcake as the official state dessert, etc. AG 01/13/2022 Fav/CS RC 01/20/2022 Favorable	Favorable Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 20, 2022, 9:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 1658 Bean (Compare H 1295) (If Received)	Executive Appointments; Removing the requirement that appointment of the Secretary of Environmental Protection be subject to the concurrence of three members of the Cabinet, etc. EN 01/18/2022 Temporarily Postponed RC 01/20/2022 Not Received	Not Received

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 Rules

BILL: SB 222

INTRODUCER: Senator Gruters

SUBJECT: Swimming Pool Specialty Contracting Services

DATE: January 19, 2022

REVISED: _____

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

I. Summary:

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

The bill is effective July 1, 2022.

II. Present Situation:

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

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

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

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

² See s. 489.101, F.S.

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

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

Construction Contracting

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

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.⁶

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

⁵ See s. 489.107, F.S.

⁶ Section 489.105(3), F.S.

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

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

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

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

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

Swimming Pool/Spa Contractors

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

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

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

⁷ Section 489.507, F.S.

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

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

¹⁰ Section 455.227(2), F.S.

¹¹ Section 489.105(3)(q), F.S.

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

¹³ *Id.*

¹⁴ *Id.*

- Swimming Pool Piping; and
- Swimming Pool Finishes.

Certification and Registration of Contractors

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

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

Fees for Certification and Registration

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

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

Subcontractors

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

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

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

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

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

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

¹⁸ *Id.*

¹⁹ *Id.*

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

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

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

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

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

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

The Florida Building Code

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

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

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

²³ Section 489.113(2), F.S.

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

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

²⁶ Section 489.117(4)(d), F.S.

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

²⁸ *Id.* at 1037.

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

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

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

III. Effect of Proposed Changes:

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

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

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

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

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

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

³¹ See s. 553.72(1), F.S.

³² See s. 553.72(3), F.S.

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

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

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

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

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

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

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

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

None.

B. Private Sector Impact:

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

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

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.117 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Gruters

23-00126A-22

2022222__

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

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

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

16 489.117 Registration; specialty contractors.—
 17 (4)

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

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

23-00126A-22

2022222__

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

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill #222**, relating to Swimming Pool Specialty Contracting Services, be placed on the:

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

Problem being addressed: Authorizing certain persons under the supervision of specified licensed contractors to perform certain specialty contracting services.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: John B. Phelps, Staff Director
Tom Yeatman, Deputy Staff Director
Cynthia Futch, Committee Administrative Assistant

The Florida Senate

APPEARANCE RECORD

SB 222

1/20/2022

Meeting Date

Bill Number or Topic

Rules Committee

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

Committee

Amendment Barcode (if applicable)

Name Deidre Bedford

Phone 941-312-3348

Address 423 19th St. Ct. W.

Email deidre@wcppools.com

Street

Bradenting

FL

34205

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 222

1/20/2022

Meeting Date

Rules Committee

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Dallas Thiesen Phone 941-952-9293

Address 2555 Porter Lake Drive Email dallas@floridapool.com

Street

Sarasota FL 34240

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Swimming Pool Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 222

1/20/2022

Meeting Date

Rules Committee

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Ryan Roby

Phone 813-247-6681

Address 4910 Adamo Drive

Email ryan.robby@hajoca.com

Street

Tampa

FL

33605

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

11/20/22

Meeting Date

222

Bill Number or Topic

Rules

Committee

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

Amendment Barcode (if applicable)

Name Phillip Suderman

Phone _____

Address _____

Email _____

Street

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Americans for
Prosperity

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/20/22

Meeting Date

Rules

Committee

222

Bill Number or Topic

Amendment Barcode (if applicable)

850-545-8911

Name Jim Magill

Phone

Address 215 S. Monroe

Email JAMES.MAGILL@BIPR.COM

Street

JM

City

FL

State

32301

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FINCH A PENNY

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

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

The Florida Senate
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 Rules

BILL: CS/CS/SB 280

INTRODUCER: Rules Committee; Community Affairs Committee; and Senator Hutson

SUBJECT: Local Ordinances

DATE: January 20, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Hackett</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

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

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

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

The bill contains a finding of important state interest.

The bill takes effect October 1, 2022.

II. Present Situation:

Local Ordinances

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

Procedures for Enacting Ordinances

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

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

Emergency Ordinances

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

Local Government Authority

The Florida Constitution grants local governments broad authority to take actions furthering citizens' health, welfare, safety, and quality of life. This "home rule" authority includes legislative powers to enact local laws. Specifically, non-charter county governments may

¹ Section 125.66(2), F.S.

² *Id.*

³ Section 166.041(3)(a), F.S.

⁴ Section 166.041(4), F.S.

⁵ Section 125.66(3), F.S.

⁶ Section 166.041(3)(b), F.S.

⁷ *Supra* notes 5 and 6.

exercise those powers of self-government that are provided by general or special law.⁸ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.⁹ Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.¹⁰

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

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

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

Preemption

An ordinance can be declared invalid on the grounds that it is inconsistent with the State Constitution or Florida Statutes. Inconsistency may be found where a local ordinance is either preempted by or in conflict with the State Constitution or Florida Statutes.¹⁷ Preemption means that a local government is precluded from exercising authority in a particular area, while conflict exists where a municipality has the right to act but such action frustrates the purpose of the state regulation.¹⁸ Express preemption refers to instances where the Legislature has directly written into law that the State intends to occupy a field of law, prohibiting local governments from taking action in that field.¹⁹

⁸ FLA. CONST. art. VIII, s. 1(f).

⁹ FLA. CONST. art. VIII, s. 1(g).

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

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

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

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

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

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

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

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

¹⁸ *Id.*

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

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

Arbitrary and Unreasonable Ordinances: Presumption of Validity

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

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

Attorney Fees For Challenges Based on Express Preemption

Current law provides that in a civil action to challenge the validity of a local ordinance on the grounds that it is expressly preempted by the State Constitution or by state law, the court must assess and award reasonable attorney fees, costs, and damages to the prevailing party, either the challenger or local government.²⁵ The local government can avoid paying attorney fees, costs, and damages if after receiving notices that an ordinance is expressly preempted, the governing body withdraws the proposed ordinance within 30 days.²⁶

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

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

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

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

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

²⁵ Section 57.112, F.S.

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

Priority Docketing

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

III. Effect of Proposed Changes:

Attorney Fees

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

Business Impact Estimate

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

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

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

A business impact estimate is not required for the following types of ordinances:

- Emergency ordinances;

²⁷ Fla. R. Jud. Admin. 2.215(g).

²⁸ Fla. R. Jud. Admin. 2.545(b).

²⁹ Fla. R. Jud. Admin. 2.545(c).

- Growth policy, county and municipal planning, and land development regulations under part II of ch. 163, F.S.;
- Building code ordinances under s. 553.73, F.S.;
- Fire prevention code ordinances under s. 633.202, F.S.;
- Ordinances establishing or terminating Community Development Districts under ss. 190.005 and 190.046, F.S.;
- Ordinances required to comply with federal or state law or regulation;
- Ordinances relating to financial obligations or issuance and refinancing of debt;
- Ordinances related to the adoption of county or municipal budgets or budget amendments; or
- Ordinances required to implement a contract or agreement, to include federal, state, local, or private grants and other financial assistance.

Challenging Ordinances

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

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

An appellate court may lift such stay if the local government prevails in a lower court. In filing such an action, a party certifies that they do not file such a suit for frivolous or improper purposes, and may be subject to sanctions and fees if they do so.

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

Provisions regarding an ordinance's stay and priority docketing for challenges do not apply to:

- Emergency ordinances;
- Growth policy, county and municipal planning, and land development regulations under part II of ch. 163, F.S.;
- Building code ordinances under s. 553.73, F.S.;
- Fire prevention code ordinances under s. 633.202, F.S.;
- Ordinances establishing or terminating Community Development Districts under ss. 190.005 and 190.046, F.S.;
- Ordinances required to comply with federal or state law or regulation;
- Ordinances relating to financial obligations or issuance and refinancing of debt;
- Ordinances related to the adoption of county or municipal budgets or budget amendments; or
- Ordinances required to implement a contract or agreement, to include federal, state, local, or private grants and other financial assistance.

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

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

Section 13 contains a finding of important state interest.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

None of the constitutional exceptions appear to apply.

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

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

B. Public Records/Open Meetings Issues:

None.

³⁰ FLA. CONST. art. VII, s. 18(d).

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

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

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

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

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill does not affect state or local revenue.

B. Private Sector Impact:

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

C. Government Sector Impact:

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Statutes Affected:

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

This bill creates sections 125.675 and 166.0411, Florida Statutes.

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

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

CS/CS by Rules on January 20, 2022:

The CS:

- Clarifies that local governments may have the business impact estimate prepared on their behalf and exempts certain ordinances from the requirement.
- Provides that an appellate court may lift the stay if the local government won in a lower court, and requires a party to certify that they do not file such a suit for frivolous or improper purposes.
- Removes the provision regarding factors to be considered by a court in determining the arbitrary or unreasonable nature of an ordinance, and exempts ordinances that create or terminate a Community Development District from both the business impact estimate and the legal challenges provisions in the bill.

CS by Community Affairs on January 12, 2022:

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

B. Amendments:

None.



235072

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2022	.	
	.	
	.	
	.	

The Committee on Rules (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

57.112 Attorney fees and costs and damages; arbitrary,
unreasonable, or expressly preempted local ordinances actions.-

(1) As used in this section, the term "attorney fees and
costs" means the reasonable and necessary attorney fees and
costs incurred for all preparations, motions, hearings, trials,



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12 and appeals in a proceeding.

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

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

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

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

35 (b) The governing body of the local governmental entity
36 withdraws the proposed ordinance within 30 days; or, in the case
37 of an adopted ordinance, the governing body of a local
38 government notices an intent to repeal the ordinance within 30
39 days of receipt of the notice and repeals the ordinance within
40 30 days thereafter.



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

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

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

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

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

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

65 (2) (a) The regular enactment procedure shall be as follows:
66 The board of county commissioners at any regular or special
67 meeting may enact or amend any ordinance, except as provided in
68 subsection (5) ~~(4)~~, if notice of intent to consider such
69 ordinance is given at least 10 days before such meeting by



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

80 (3) (a) Before the enactment of a proposed ordinance, the
81 board of county commissioners shall prepare or cause to be
82 prepared a business impact estimate in accordance with this
83 subsection. The business impact estimate must be posted on the
84 county's website no later than the date the notice of proposed
85 enactment is published pursuant to paragraph (2) (a) and must
86 include all of the following:

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

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

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

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



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

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

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

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

110 (c) This subsection does not apply to local ordinances
111 enacted to implement the following:

112 1. Part II of chapter 163;

113 2. Section 553.73;

114 3. Section 633.202;

115 4. Ordinances required to comply with federal or state law
116 or regulation;

117 5. Ordinances related to the issuance or refinancing of
118 debt;

119 6. Ordinances related to the adoption of budgets or budget
120 amendments;

121 7. Ordinances required to implement a contract or an
122 agreement, including, but not limited to, any federal, state,
123 local, or private grant, or other financial assistance accepted
124 by a county government; or

125 8. Emergency ordinances.

126 Section 3. Section 125.675, Florida Statutes, is created to
127 read:



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128 125.675 Legal challenges to certain recently enacted
129 ordinances.-

130 (1) A county must suspend enforcement of an ordinance that
131 is the subject of an action, including appeals, challenging the
132 ordinance's validity on the grounds that it is expressly
133 preempted by the State Constitution or by state law or is
134 arbitrary or unreasonable if:

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

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

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

141 (2) When there is an appeal to a case in which the
142 enforcement of an ordinance is suspended under this section, the
143 appellate court may lift the suspension if the local government
144 prevailed in the lower court.

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

149 (4) The signature of an attorney or a party constitutes a
150 certificate that he or she has read the pleading, motion, or
151 other paper and that, to the best of his or her knowledge,
152 information, and belief formed after reasonable inquiry, it is
153 not interposed for any improper purpose, such as to harass or to
154 cause unnecessary delay, or for economic advantage, competitive
155 reasons, or frivolous purposes or needless increase in the cost
156 of litigation. If a pleading, motion, or other paper is signed



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157 in violation of these requirements, the court, upon its own
158 initiative, shall impose upon the person who signed it, a
159 represented party, or both, an appropriate sanction, which may
160 include an order to pay to the other party or parties the amount
161 of reasonable expenses incurred because of the filing of the
162 pleading, motion, or other paper, including reasonable attorney
163 fees.

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

166 (a) Part II of chapter 163;

167 (b) Section 553.73;

168 (c) Section 633.202;

169 (d) Sections 190.005 and 190.046;

170 (e) Ordinances required to comply with federal or state law
171 or regulation;

172 (f) Ordinances related to the issuance or refinancing of
173 debt;

174 (g) Ordinances related to the adoption of budgets or budget
175 amendments;

176 (h) Ordinances required to implement a contract or an
177 agreement, including, but not limited to, any federal, state,
178 local, or private grant, or other financial assistance accepted
179 by a county government; or

180 (i) Emergency ordinances.

181 (6) The court may award attorney fees and costs and damages
182 as provided in s. 57.112.

183 Section 4. Present subsections (4) through (8) of section
184 166.041, Florida Statutes, are redesignated as subsections (5)
185 through (9), respectively, and a new subsection (4) is added to



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186 that section, to read:

187 166.041 Procedures for adoption of ordinances and
188 resolutions.—

189 (4) (a) Before the enactment of a proposed ordinance, the
190 governing body of a municipality shall prepare or cause to be
191 prepared a business impact estimate in accordance with this
192 subsection. The business impact estimate must be posted on the
193 municipality's website no later than the date the notice of
194 proposed enactment is published pursuant to paragraph (3) (a) and
195 must include all of the following:

196 1. A summary of the proposed ordinance, including a
197 statement of the public purpose to be served by the proposed
198 ordinance, such as serving the public health, safety, morals,
199 and welfare of the municipality.

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

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

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

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

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

213 4. Any additional information the governing body determines
214 may be useful.



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215 (b) This subsection may not be construed to require a
216 municipality to procure an accountant or other financial
217 consultant to prepare the business impact estimate required by
218 this subsection.

219 (c) This subsection does not apply to local ordinances
220 enacted to implement the following:

221 1. Part II of chapter 163;

222 2. Section 553.73;

223 3. Section 633.202;

224 4. Ordinances required to comply with federal or state law
225 or regulation;

226 5. Ordinances related to the issuance or refinancing of
227 debt;

228 6. Ordinances related to the adoption of budgets or budget
229 amendments;

230 7. Ordinances required to implement a contract or an
231 agreement, including, but not limited to, any federal, state,
232 local, or private grant, or other financial assistance accepted
233 by a local government; or

234 8. Emergency ordinances.

235 Section 5. Section 166.0411, Florida Statutes, is created
236 to read:

237 166.0411 Legal challenges to certain recently enacted
238 ordinances.—

239 (1) A municipality must suspend enforcement of an ordinance
240 that is the subject of an action, including appeals, challenging
241 the ordinance's validity on the grounds that it is expressly
242 preempted by the State Constitution or by state law or is
243 arbitrary or unreasonable if:



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

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

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

250 (2) When there is an appeal to a case in which the
251 enforcement of an ordinance is suspended under this section, the
252 appellate court may lift the suspension if the local government
253 prevailed in the lower court.

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

258 (4) The signature of an attorney or a party constitutes a
259 certificate that he or she has read the pleading, motion, or
260 other paper and that, to the best of his or her knowledge,
261 information, and belief formed after reasonable inquiry, it is
262 not interposed for any improper purpose, such as to harass or to
263 cause unnecessary delay, or for economic advantage, competitive
264 reasons, or frivolous purposes or needless increase in the cost
265 of litigation. If a pleading, motion, or other paper is signed
266 in violation of these requirements, the court, upon its own
267 initiative, shall impose upon the person who signed it, a
268 represented party, or both, an appropriate sanction, which may
269 include an order to pay to the other party or parties the amount
270 of reasonable expenses incurred because of the filing of the
271 pleading, motion, or other paper, including reasonable attorney
272 fees.



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

275 (a) Part II of chapter 163;

276 (b) Section 553.73;

277 (c) Section 633.202;

278 (d) Sections 190.005 and 190.046;

279 (e) Ordinances required to comply with federal or state law
280 or regulation;

281 (f) Ordinances related to the issuance or refinancing of
282 debt;

283 (g) Ordinances related to the adoption of budgets or budget
284 amendments;

285 (h) Ordinances required to implement a contract or
286 agreement, including, but not limited to, any federal, state,
287 local, or private grant, or other financial assistance accepted
288 by a municipal government; or

289 (i) Emergency ordinances.

290 (6) The court may award attorney fees and costs and damages
291 as provided in s. 57.112.

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

294 163.2517 Designation of urban infill and redevelopment
295 area.—

296 (5) After the preparation of an urban infill and
297 redevelopment plan or designation of an existing plan, the local
298 government shall adopt the plan by ordinance. Notice for the
299 public hearing on the ordinance must be in the form established
300 in s. 166.041(3)(c)2. for municipalities, and s. 125.66(5)(b)2.
301 ~~s. 125.66(4)(b)2.~~ for counties.



302 Section 7. Paragraph (a) of subsection (3) of section
303 163.3181, Florida Statutes, is amended to read:

304 163.3181 Public participation in the comprehensive planning
305 process; intent; alternative dispute resolution.-

306 (3) A local government considering undertaking a publicly
307 financed capital improvement project may elect to use the
308 procedures set forth in this subsection for the purpose of
309 allowing public participation in the decision and resolution of
310 disputes. For purposes of this subsection, a publicly financed
311 capital improvement project is a physical structure or
312 structures, the funding for construction, operation, and
313 maintenance of which is financed entirely from public funds.

314 (a) Prior to the date of a public hearing on the decision
315 on whether to proceed with the proposed project, the local
316 government shall publish public notice of its intent to decide
317 the issue according to the notice procedures described by s.
318 125.66(5)(b)2. ~~s. 125.66(4)(b)2.~~ for a county or s.
319 166.041(3)(c)2.b. for a municipality.

320 Section 8. Paragraph (a) of subsection (4) of section
321 163.3215, Florida Statutes, is amended to read:

322 163.3215 Standing to enforce local comprehensive plans
323 through development orders.-

324 (4) If a local government elects to adopt or has adopted an
325 ordinance establishing, at a minimum, the requirements listed in
326 this subsection, the sole method by which an aggrieved and
327 adversely affected party may challenge any decision of local
328 government granting or denying an application for a development
329 order, as defined in s. 163.3164, which materially alters the
330 use or density or intensity of use on a particular piece of



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331 property, on the basis that it is not consistent with the
332 comprehensive plan adopted under this part, is by an appeal
333 filed by a petition for writ of certiorari filed in circuit
334 court no later than 30 days following rendition of a development
335 order or other written decision of the local government, or when
336 all local administrative appeals, if any, are exhausted,
337 whichever occurs later. An action for injunctive or other relief
338 may be joined with the petition for certiorari. Principles of
339 judicial or administrative res judicata and collateral estoppel
340 apply to these proceedings. Minimum components of the local
341 process are as follows:

342 (a) The local process must make provision for notice of an
343 application for a development order that materially alters the
344 use or density or intensity of use on a particular piece of
345 property, including notice by publication or mailed notice
346 consistent with the provisions of ss. 125.66(5)(b)2. and 3. and
347 166.041(3)(c)2.b. and c. ~~ss. 125.66(4)(b)2. and 3. and~~
348 ~~166.041(3)(c)2.b. and c.~~, and must require prominent posting at
349 the job site. The notice must be given within 10 days after the
350 filing of an application for a development order; however,
351 notice under this subsection is not required for an application
352 for a building permit or any other official action of local
353 government which does not materially alter the use or density or
354 intensity of use on a particular piece of property. The notice
355 must clearly delineate that an aggrieved or adversely affected
356 person has the right to request a quasi-judicial hearing before
357 the local government for which the application is made, must
358 explain the conditions precedent to the appeal of any
359 development order ultimately rendered upon the application, and



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360 must specify the location where written procedures can be
361 obtained that describe the process, including how to initiate
362 the quasi-judicial process, the timeframes for initiating the
363 process, and the location of the hearing. The process may
364 include an opportunity for an alternative dispute resolution.

365 Section 9. Paragraph (c) of subsection (1) of section
366 376.80, Florida Statutes, is amended to read:

367 376.80 Brownfield program administration process.—

368 (1) The following general procedures apply to brownfield
369 designations:

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

372 1. Notification to department following adoption.—A local
373 government with jurisdiction over the brownfield area must
374 notify the department, and, if applicable, the local pollution
375 control program under s. 403.182, of its decision to designate a
376 brownfield area for rehabilitation for the purposes of ss.
377 376.77–376.86. The notification must include a resolution
378 adopted by the local government body. The local government shall
379 notify the department, and, if applicable, the local pollution
380 control program under s. 403.182, of the designation within 30
381 days after adoption of the resolution.

382 2. Resolution adoption.—The brownfield area designation
383 must be carried out by a resolution adopted by the
384 jurisdictional local government, which includes a map adequate
385 to clearly delineate exactly which parcels are to be included in
386 the brownfield area or alternatively a less-detailed map
387 accompanied by a detailed legal description of the brownfield
388 area. For municipalities, the governing body shall adopt the



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389 resolution in accordance with the procedures outlined in s.
390 166.041, except that the procedures for the public hearings on
391 the proposed resolution must be in the form established in s.
392 166.041(3)(c)2. For counties, the governing body shall adopt the
393 resolution in accordance with the procedures outlined in s.
394 125.66, except that the procedures for the public hearings on
395 the proposed resolution shall be in the form established in s.
396 125.66(5)(b) ~~s. 125.66(4)(b)~~.

397 3. Right to be removed from proposed brownfield area.—If a
398 property owner within the area proposed for designation by the
399 local government requests in writing to have his or her property
400 removed from the proposed designation, the local government
401 shall grant the request.

402 4. Notice and public hearing requirements for designation
403 of a proposed brownfield area outside a redevelopment area or by
404 a nongovernmental entity. Compliance with the following
405 provisions is required before designation of a proposed
406 brownfield area under paragraph (2)(a) or paragraph (2)(c):

407 a. At least one of the required public hearings shall be
408 conducted as closely as is reasonably practicable to the area to
409 be designated to provide an opportunity for public input on the
410 size of the area, the objectives for rehabilitation, job
411 opportunities and economic developments anticipated,
412 neighborhood residents' considerations, and other relevant local
413 concerns.

414 b. Notice of a public hearing must be made in a newspaper
415 of general circulation in the area, must be made in ethnic
416 newspapers or local community bulletins, must be posted in the
417 affected area, and must be announced at a scheduled meeting of



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418 the local governing body before the actual public hearing.

419 Section 10. Paragraph (a) of subsection (3) of section
420 497.270, Florida Statutes, is amended to read:

421 497.270 Minimum acreage; sale or disposition of cemetery
422 lands.-

423 (3) (a) If the property to be sold, conveyed, or disposed of
424 under subsection (2) has been or is being used for the permanent
425 interment of human remains, the applicant for approval of such
426 sale, conveyance, or disposition shall cause to be published, at
427 least once a week for 4 consecutive weeks, a notice meeting the
428 standards of publication set forth in s. 125.66(5)(b)2. ~~s.~~
429 ~~125.66(4)(b)2.~~ The notice shall describe the property in
430 question and the proposed noncemetery use and shall advise
431 substantially affected persons that they may file a written
432 request for a hearing pursuant to chapter 120, within 14 days
433 after the date of last publication of the notice, with the
434 department if they object to granting the applicant's request to
435 sell, convey, or dispose of the subject property for noncemetery
436 uses.

437 Section 11. Paragraph (a) of subsection (2) of section
438 562.45, Florida Statutes, is amended to read:

439 562.45 Penalties for violating Beverage Law; local
440 ordinances; prohibiting regulation of certain activities or
441 business transactions; requiring nondiscriminatory treatment;
442 providing exceptions.-

443 (2) (a) Nothing contained in the Beverage Law shall be
444 construed to affect or impair the power or right of any county
445 or incorporated municipality of the state to enact ordinances
446 regulating the hours of business and location of place of



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447 business, and prescribing sanitary regulations therefor, of any
448 licensee under the Beverage Law within the county or corporate
449 limits of such municipality. However, except for premises
450 licensed on or before July 1, 1999, and except for locations
451 that are licensed as restaurants, which derive at least 51
452 percent of their gross revenues from the sale of food and
453 nonalcoholic beverages, pursuant to chapter 509, a location for
454 on-premises consumption of alcoholic beverages may not be
455 located within 500 feet of the real property that comprises a
456 public or private elementary school, middle school, or secondary
457 school unless the county or municipality approves the location
458 as promoting the public health, safety, and general welfare of
459 the community under proceedings as provided in s. 125.66(5) ~~s.~~
460 ~~125.66(4)~~, for counties, and s. 166.041(3)(c), for
461 municipalities. This restriction shall not, however, be
462 construed to prohibit the issuance of temporary permits to
463 certain nonprofit organizations as provided for in s. 561.422.
464 The division may not issue a change in the series of a license
465 or approve a change of a licensee's location unless the licensee
466 provides documentation of proper zoning from the appropriate
467 county or municipal zoning authorities.

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

470 847.0134 Prohibition of adult entertainment establishment
471 that displays, sells, or distributes materials harmful to minors
472 within 2,500 feet of a school.—

473 (1) Except for those establishments that are legally
474 operating or have been granted a permit from a local government
475 to operate as adult entertainment establishments on or before



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476 July 1, 2001, an adult entertainment establishment that sells,
477 rents, loans, distributes, transmits, shows, or exhibits any
478 obscene material, as described in s. 847.0133, or presents live
479 entertainment or a motion picture, slide, or other exhibit that,
480 in whole or in part, depicts nudity, sexual conduct, sexual
481 excitement, sexual battery, sexual bestiality, or
482 sadomasochistic abuse and that is harmful to minors, as
483 described in s. 847.001, may not be located within 2,500 feet of
484 the real property that comprises a public or private elementary
485 school, middle school, or secondary school unless the county or
486 municipality approves the location under proceedings as provided
487 in s. 125.66(5) ~~s. 125.66(4)~~ for counties or s. 166.041(3)(c)
488 for municipalities.

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

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

492

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

494 And the title is amended as follows:

495 Delete everything before the enacting clause
496 and insert:

497 A bill to be entitled
498 An act relating to local ordinances; amending s.
499 57.112, F.S.; authorizing courts to assess and award
500 reasonable attorney fees and costs and damages in
501 certain civil actions filed against local governments;
502 specifying a limitation on awards and a restriction;
503 providing construction and applicability; amending s.
504 125.66, F.S.; requiring a board of county



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505 commissioners to prepare or cause to be prepared a
506 business impact estimate before the enactment of a
507 proposed ordinance; specifying requirements for the
508 posting and content of the estimate; providing
509 construction and applicability; creating s. 125.675,
510 F.S.; requiring a county to suspend enforcement of an
511 ordinance that is the subject of a certain legal
512 action if certain conditions are met; authorizing an
513 appellate court to lift a suspension under certain
514 circumstances; requiring courts to give priority to
515 certain cases; providing construction relating to an
516 attorney's or a party's signature; requiring a court
517 to impose sanctions under certain circumstances;
518 providing applicability; authorizing courts to award
519 attorney fees and costs and damages under certain
520 circumstances; amending s. 166.041, F.S.; requiring a
521 governing body of a municipality to prepare or cause
522 to be prepared a business impact estimate before the
523 enactment of a proposed ordinance; specifying
524 requirements for the posting and content of the
525 estimate; providing construction and applicability;
526 creating s. 166.0411, F.S.; requiring a municipality
527 to suspend enforcement of an ordinance that is the
528 subject of a certain legal action if certain
529 conditions are met; authorizing an appellate court to
530 lift a suspension under certain circumstances;
531 requiring courts to give priority to certain cases;
532 providing construction relating to an attorney's or a
533 party's signature; requiring a court to impose



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534 sanctions under certain circumstances; providing
535 applicability; authorizing courts to award attorney
536 fees and costs and damages under certain
537 circumstances; amending ss. 163.2517, 163.3181,
538 163.3215, 376.80, 497.270, 562.45, and 847.0134, F.S.;
539 conforming cross-references; providing a declaration
540 of important state interest; providing an effective
541 date.



943740

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2022	.	
	.	
	.	
	.	

The Committee on Rules (Hutson) recommended the following:

Senate Amendment to Amendment (235072)

Delete lines 115 - 234

and insert:

4. Sections 190.005 and 190.046;

5. Ordinances required to comply with federal or state law
or regulation;

6. Ordinances related to the issuance or refinancing of
debt;

7. Ordinances related to the adoption of budgets or budget
amendments;



12 8. Ordinances required to implement a contract or an
13 agreement, including, but not limited to, any federal, state,
14 local, or private grant, or other financial assistance accepted
15 by a county government; or

16 9. Emergency ordinances.

17 Section 3. Section 125.675, Florida Statutes, is created to
18 read:

19 125.675 Legal challenges to certain recently enacted
20 ordinances.—

21 (1) A county must suspend enforcement of an ordinance that
22 is the subject of an action, including appeals, challenging the
23 ordinance's validity on the grounds that it is expressly
24 preempted by the State Constitution or by state law or is
25 arbitrary or unreasonable if:

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

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

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

32 (2) When there is an appeal to a case in which the
33 enforcement of an ordinance is suspended under this section, the
34 appellate court may lift the suspension if the local government
35 prevailed in the lower court.

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

40 (4) The signature of an attorney or a party constitutes a



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41 certificate that he or she has read the pleading, motion, or
42 other paper and that, to the best of his or her knowledge,
43 information, and belief formed after reasonable inquiry, it is
44 not interposed for any improper purpose, such as to harass or to
45 cause unnecessary delay, or for economic advantage, competitive
46 reasons, or frivolous purposes or needless increase in the cost
47 of litigation. If a pleading, motion, or other paper is signed
48 in violation of these requirements, the court, upon its own
49 initiative, shall impose upon the person who signed it, a
50 represented party, or both, an appropriate sanction, which may
51 include an order to pay to the other party or parties the amount
52 of reasonable expenses incurred because of the filing of the
53 pleading, motion, or other paper, including reasonable attorney
54 fees.

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

57 (a) Part II of chapter 163;

58 (b) Section 553.73;

59 (c) Section 633.202;

60 (d) Sections 190.005 and 190.046;

61 (e) Ordinances required to comply with federal or state law
62 or regulation;

63 (f) Ordinances related to the issuance or refinancing of
64 debt;

65 (g) Ordinances related to the adoption of budgets or budget
66 amendments;

67 (h) Ordinances required to implement a contract or an
68 agreement, including, but not limited to, any federal, state,
69 local, or private grant, or other financial assistance accepted



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70 by a county government; or

71 (i) Emergency ordinances.

72 (6) The court may award attorney fees and costs and damages
73 as provided in s. 57.112.

74 Section 4. Present subsections (4) through (8) of section
75 166.041, Florida Statutes, are redesignated as subsections (5)
76 through (9), respectively, and a new subsection (4) is added to
77 that section, to read:

78 166.041 Procedures for adoption of ordinances and
79 resolutions.—

80 (4) (a) Before the enactment of a proposed ordinance, the
81 governing body of a municipality shall prepare or cause to be
82 prepared a business impact estimate in accordance with this
83 subsection. The business impact estimate must be posted on the
84 municipality's website no later than the date the notice of
85 proposed enactment is published pursuant to paragraph (3) (a) and
86 must include all of the following:

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

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

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

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



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

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

104 4. Any additional information the governing body determines
105 may be useful.

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

110 (c) This subsection does not apply to local ordinances
111 enacted to implement the following:

112 1. Part II of chapter 163;

113 2. Section 553.73;

114 3. Section 633.202;

115 4. Sections 190.005 and 190.046;

116 5. Ordinances required to comply with federal or state law
117 or regulation;

118 6. Ordinances related to the issuance or refinancing of
119 debt;

120 7. Ordinances related to the adoption of budgets or budget
121 amendments;

122 8. Ordinances required to implement a contract or an
123 agreement, including, but not limited to, any federal, state,
124 local, or private grant, or other financial assistance accepted
125 by a local government; or

126 9. Emergency ordinances.

By the Committee on Community Affairs; and Senator Hutson

578-01973-22

2022280c1

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

Page 1 of 17

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

578-01973-22

2022280c1

30 conditions are met; requiring courts to give priority
 31 to certain cases; specifying factors a court must
 32 consider in determining whether an ordinance is
 33 arbitrary or unreasonable; providing applicability;
 34 authorizing courts to award attorney fees and costs
 35 under certain circumstances; amending ss. 163.2517,
 36 163.3181, 163.3215, 376.80, 497.270, 562.45, and
 37 847.0134, F.S.; conforming cross-references; providing
 38 a declaration of important state interest; providing
 39 an effective date.

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

41
 42 Section 1. Section 57.112, Florida Statutes, is amended to
 43 read:
 44 57.112 Attorney fees and costs and damages; preempted local
 45 actions.—
 46 (1) As used in this section, the term "attorney fees and
 47 costs" means the reasonable and necessary attorney fees and
 48 costs incurred for all preparations, motions, hearings, trials,
 49 and appeals in a proceeding.
 50 (2) If a civil action is filed against a local government
 51 to challenge the adoption or enforcement of a local ordinance on
 52 the grounds that it is expressly preempted by the State
 53 Constitution or by state law, the court shall assess and award
 54 reasonable attorney fees and costs and damages to the prevailing
 55 party.
 56 (3) If a civil action is filed against a local government
 57 to challenge the adoption of a local ordinance on the grounds
 58

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59 that the ordinance is arbitrary or unreasonable, the court may
 60 assess and award reasonable attorney fees and costs and damages
 61 to the complainant if successful. An award of reasonable
 62 attorney fees or costs and damages pursuant to this subsection
 63 may not exceed \$50,000. In addition, a prevailing party may not
 64 recover any attorney fees or costs directly incurred or
 65 associated with litigation to determine an award of reasonable
 66 attorney fees or costs.

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

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

73 (b) The governing body of the local governmental entity
 74 withdraws the proposed ordinance within 30 days; or, in the case
 75 of an adopted ordinance, the governing body of a local
 76 government notices an intent to repeal the ordinance within 30
 77 days of receipt of the notice and repeals the ordinance within
 78 30 days thereafter.

79 (5) (4) The provisions in this section are supplemental to
 80 all other sanctions or remedies available under law or court
 81 rule. However, this section may not be construed to authorize
 82 double recovery if an affected person prevails on a damages
 83 claim brought against a local government pursuant to other
 84 applicable law involving the same ordinance, operative acts, or
 85 transactions.

86 (6) (5) This section does not apply to local ordinances
 87 adopted pursuant to part II of chapter 163, s. 553.73, or s.

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88 633.202.

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

92 (b) The amendments to this section effective October 1,
 93 2022, are prospective in nature and apply only to ordinances
 94 adopted on or after October 1, 2022.

95 Section 2. Present subsections (3) through (6) of section
 96 125.66, Florida Statutes, are redesignated as subsections (4)
 97 through (7), respectively, a new subsection (3) is added to that
 98 section, and paragraph (a) of subsection (2) of that section is
 99 amended, to read:

100 125.66 Ordinances; enactment procedure; emergency
 101 ordinances; rezoning or change of land use ordinances or
 102 resolutions.—

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

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117 ordinance.

118 (3) (a) Before the enactment of a proposed ordinance, the
 119 board of county commissioners shall prepare a business impact
 120 estimate in accordance with this subsection. The business impact
 121 estimate must be posted on the county's website on the same day
 122 the notice of proposed enactment is published pursuant to
 123 paragraph (2) (a) and must include all of the following:

124 1. A summary of the proposed ordinance, including a
 125 statement of the public purpose to be served by the proposed
 126 ordinance, such as serving the public health, safety, morals,
 127 and welfare of the county.

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

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

133 b. Identification of any new charge or fee on businesses
 134 subject to the proposed ordinance or for which businesses will
 135 be financially responsible.

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

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

141 4. Any additional information the board determines may be
 142 useful.

143 (b) This subsection may not be construed to require a
 144 county to procure an accountant or other financial consultant to
 145 prepare the business impact estimate required by this

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146 subsection.

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

149 Section 3. Section 125.675, Florida Statutes, is created to
 150 read:

151 125.675 Legal challenges to certain recently enacted
 152 ordinances.—

153 (1) A county must suspend enforcement of an ordinance that
 154 is the subject of an action, including appeals, challenging the
 155 ordinance's validity on the grounds that it is expressly
 156 preempted by the State Constitution or by state law or is
 157 arbitrary or unreasonable if:

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

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

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

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

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

171 (a) The extent to which the ordinance protects the health,
 172 welfare, safety, and quality of life of the residents of the
 173 county;

174 (b) The impact of the ordinance on the personal rights and

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175 privileges of the residents of the county;
 176 (c) The total economic impact of the ordinance; and
 177 (d) The business impact estimate prepared by the county as
 178 required by s. 125.66(3).
 179 (4) This section does not apply to local ordinances enacted
 180 to implement the following:
 181 (a) Part II of chapter 163;
 182 (b) Section 553.73;
 183 (c) Section 633.202;
 184 (d) Ordinances required to comply with federal or state law
 185 or regulation;
 186 (e) Ordinances related to the issuance or refinancing of
 187 debt;
 188 (f) Ordinances related to the adoption of budgets or budget
 189 amendments; or
 190 (g) Ordinances required to implement a contract or an
 191 agreement, including, but not limited to, any federal, state,
 192 local, or private grant, or other financial assistance accepted
 193 by a county government.
 194 (5) The court may award attorney fees and costs as provided
 195 in s. 57.112.
 196 Section 4. Present subsections (4) through (8) of section
 197 166.041, Florida Statutes, are redesignated as subsections (5)
 198 through (9), respectively, and a new subsection (4) is added to
 199 that section, to read:
 200 166.041 Procedures for adoption of ordinances and
 201 resolutions.—
 202 (4) (a) Before the enactment of a proposed ordinance, the
 203 governing body of a municipality shall prepare a business impact

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204 estimate in accordance with this subsection. The business impact
 205 estimate must be posted on the municipality's website on the
 206 same day the notice of proposed enactment is published pursuant
 207 to paragraph (3) (a) and must include all of the following:
 208 1. A summary of the proposed ordinance, including a
 209 statement of the public purpose to be served by the proposed
 210 ordinance, such as serving the public health, safety, morals,
 211 and welfare of the municipality.
 212 2. An estimate of the direct economic impact of the
 213 proposed ordinance on private for-profit businesses in the
 214 municipality, including the following, if any:
 215 a. An estimate of direct compliance costs businesses may
 216 reasonably incur if the ordinance is enacted;
 217 b. Identification of any new charge or fee on businesses
 218 subject to the proposed ordinance, or for which businesses will
 219 be financially responsible; and
 220 c. An estimate of the municipality's regulatory costs,
 221 including an estimate of revenues from any new charges or fees
 222 that will be imposed on businesses to cover such costs.
 223 3. A good faith estimate of the number of businesses likely
 224 to be impacted by the ordinance.
 225 4. Any additional information the governing body determines
 226 may be useful.
 227 (b) This subsection may not be construed to require a
 228 municipality to procure an accountant or other financial
 229 consultant to prepare the business impact estimate required by
 230 this subsection.
 231 (c) This subsection does not apply to an emergency
 232 ordinance enacted pursuant to this section.

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232 Section 5. Section 166.0411, Florida Statutes, is created
 233 to read:
 234 166.0411 Legal challenges to certain recently enacted
 235 ordinances.—
 236 (1) A municipality must suspend enforcement of an ordinance
 237 that is the subject of an action, including appeals, challenging
 238 the ordinance’s validity on the grounds that it is expressly
 239 preempted by the State Constitution or by state law or is
 240 arbitrary or unreasonable if:
 241 (a) The action was filed with the court no later than 90
 242 days after the adoption of the ordinance;
 243 (b) The complainant requests suspension in the initial
 244 complaint or petition, citing this section; and
 245 (c) The municipality has been served with a copy of the
 246 complaint or petition.
 247 (2) The court shall give cases in which the enforcement of
 248 an ordinance is suspended under this section priority over other
 249 pending cases and shall render a preliminary or final decision
 250 on the validity of the ordinance as expeditiously as possible.
 251 (3) In determining whether an ordinance is arbitrary or
 252 unreasonable, the court shall consider, but is not limited to,
 253 the following factors:
 254 (a) The extent to which the ordinance protects the health,
 255 welfare, safety, and quality of life of the residents of the
 256 municipality;
 257 (b) The impact of the ordinance on the personal rights and
 258 privileges of the residents of the municipality;
 259 (c) The total economic impact of the ordinance; and
 260 (d) The business impact estimate prepared by the
 261

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262 municipality as required by s. 166.041(4).
 263 (4) This section does not apply to local ordinances enacted
 264 to implement the following:
 265 (a) Part II of chapter 163;
 266 (b) Section 553.73;
 267 (c) Section 633.202;
 268 (d) Ordinances required to comply with federal or state law
 269 or regulation;
 270 (e) Ordinances related to the issuance or refinancing of
 271 debt;
 272 (f) Ordinances related to the adoption of budgets or budget
 273 amendments; or
 274 (g) Ordinances required to implement a contract or
 275 agreement, including, but not limited to, any federal, state,
 276 local, or private grant, or other financial assistance accepted
 277 by a municipal government.
 278 (5) The court may award attorney fees and costs as provided
 279 in s. 57.112.
 280 Section 6. Subsection (5) of section 163.2517, Florida
 281 Statutes, is amended to read:
 282 163.2517 Designation of urban infill and redevelopment
 283 area.—
 284 (5) After the preparation of an urban infill and
 285 redevelopment plan or designation of an existing plan, the local
 286 government shall adopt the plan by ordinance. Notice for the
 287 public hearing on the ordinance must be in the form established
 288 in s. 166.041(3)(c)2. for municipalities, and s. 125.66(5)(b)2.
 289 ~~s. 125.66(4)(b)2.~~ for counties.
 290 Section 7. Paragraph (a) of subsection (3) of section

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291 163.3181, Florida Statutes, is amended to read:
 292 163.3181 Public participation in the comprehensive planning
 293 process; intent; alternative dispute resolution.-
 294 (3) A local government considering undertaking a publicly
 295 financed capital improvement project may elect to use the
 296 procedures set forth in this subsection for the purpose of
 297 allowing public participation in the decision and resolution of
 298 disputes. For purposes of this subsection, a publicly financed
 299 capital improvement project is a physical structure or
 300 structures, the funding for construction, operation, and
 301 maintenance of which is financed entirely from public funds.
 302 (a) Prior to the date of a public hearing on the decision
 303 on whether to proceed with the proposed project, the local
 304 government shall publish public notice of its intent to decide
 305 the issue according to the notice procedures described by s.
 306 125.66(5)(b)2. ~~s. 125.66(4)(b)2.~~ for a county or s.
 307 166.041(3)(c)2.b. for a municipality.
 308 Section 8. Paragraph (a) of subsection (4) of section
 309 163.3215, Florida Statutes, is amended to read:
 310 163.3215 Standing to enforce local comprehensive plans
 311 through development orders.-
 312 (4) If a local government elects to adopt or has adopted an
 313 ordinance establishing, at a minimum, the requirements listed in
 314 this subsection, the sole method by which an aggrieved and
 315 adversely affected party may challenge any decision of local
 316 government granting or denying an application for a development
 317 order, as defined in s. 163.3164, which materially alters the
 318 use or density or intensity of use on a particular piece of
 319 property, on the basis that it is not consistent with the

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320 comprehensive plan adopted under this part, is by an appeal
 321 filed by a petition for writ of certiorari filed in circuit
 322 court no later than 30 days following rendition of a development
 323 order or other written decision of the local government, or when
 324 all local administrative appeals, if any, are exhausted,
 325 whichever occurs later. An action for injunctive or other relief
 326 may be joined with the petition for certiorari. Principles of
 327 judicial or administrative res judicata and collateral estoppel
 328 apply to these proceedings. Minimum components of the local
 329 process are as follows:
 330 (a) The local process must make provision for notice of an
 331 application for a development order that materially alters the
 332 use or density or intensity of use on a particular piece of
 333 property, including notice by publication or mailed notice
 334 consistent with the provisions of ss. 125.66(5)(b)2. and 3. and
 335 166.041(3)(c)2.b. and c. ~~ss. 125.66(4)(b)2. and 3. and~~
 336 ~~166.041(3)(e)2.b. and c.~~, and must require prominent posting at
 337 the job site. The notice must be given within 10 days after the
 338 filing of an application for a development order; however,
 339 notice under this subsection is not required for an application
 340 for a building permit or any other official action of local
 341 government which does not materially alter the use or density or
 342 intensity of use on a particular piece of property. The notice
 343 must clearly delineate that an aggrieved or adversely affected
 344 person has the right to request a quasi-judicial hearing before
 345 the local government for which the application is made, must
 346 explain the conditions precedent to the appeal of any
 347 development order ultimately rendered upon the application, and
 348 must specify the location where written procedures can be

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349 obtained that describe the process, including how to initiate
 350 the quasi-judicial process, the timeframes for initiating the
 351 process, and the location of the hearing. The process may
 352 include an opportunity for an alternative dispute resolution.

353 Section 9. Paragraph (c) of subsection (1) of section
 354 376.80, Florida Statutes, is amended to read:

355 376.80 Brownfield program administration process.—

356 (1) The following general procedures apply to brownfield
 357 designations:

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

360 1. Notification to department following adoption.—A local
 361 government with jurisdiction over the brownfield area must
 362 notify the department, and, if applicable, the local pollution
 363 control program under s. 403.182, of its decision to designate a
 364 brownfield area for rehabilitation for the purposes of ss.
 365 376.77-376.86. The notification must include a resolution
 366 adopted by the local government body. The local government shall
 367 notify the department, and, if applicable, the local pollution
 368 control program under s. 403.182, of the designation within 30
 369 days after adoption of the resolution.

370 2. Resolution adoption.—The brownfield area designation
 371 must be carried out by a resolution adopted by the
 372 jurisdictional local government, which includes a map adequate
 373 to clearly delineate exactly which parcels are to be included in
 374 the brownfield area or alternatively a less-detailed map
 375 accompanied by a detailed legal description of the brownfield
 376 area. For municipalities, the governing body shall adopt the
 377 resolution in accordance with the procedures outlined in s.

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378 166.041, except that the procedures for the public hearings on
 379 the proposed resolution must be in the form established in s.
 380 166.041(3)(c)2. For counties, the governing body shall adopt the
 381 resolution in accordance with the procedures outlined in s.
 382 125.66, except that the procedures for the public hearings on
 383 the proposed resolution shall be in the form established in s.
 384 125.66(5)(b) ~~s. 125.66(4)(b)~~.

385 3. Right to be removed from proposed brownfield area.—If a
 386 property owner within the area proposed for designation by the
 387 local government requests in writing to have his or her property
 388 removed from the proposed designation, the local government
 389 shall grant the request.

390 4. Notice and public hearing requirements for designation
 391 of a proposed brownfield area outside a redevelopment area or by
 392 a nongovernmental entity. Compliance with the following
 393 provisions is required before designation of a proposed
 394 brownfield area under paragraph (2)(a) or paragraph (2)(c):

395 a. At least one of the required public hearings shall be
 396 conducted as closely as is reasonably practicable to the area to
 397 be designated to provide an opportunity for public input on the
 398 size of the area, the objectives for rehabilitation, job
 399 opportunities and economic developments anticipated,
 400 neighborhood residents' considerations, and other relevant local
 401 concerns.

402 b. Notice of a public hearing must be made in a newspaper
 403 of general circulation in the area, must be made in ethnic
 404 newspapers or local community bulletins, must be posted in the
 405 affected area, and must be announced at a scheduled meeting of
 406 the local governing body before the actual public hearing.

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407 Section 10. Paragraph (a) of subsection (3) of section
 408 497.270, Florida Statutes, is amended to read:
 409 497.270 Minimum acreage; sale or disposition of cemetery
 410 lands.-

411 (3) (a) If the property to be sold, conveyed, or disposed of
 412 under subsection (2) has been or is being used for the permanent
 413 interment of human remains, the applicant for approval of such
 414 sale, conveyance, or disposition shall cause to be published, at
 415 least once a week for 4 consecutive weeks, a notice meeting the
 416 standards of publication set forth in s. 125.66(5)(b)2. ~~s.~~
 417 ~~125.66(4)(b)2.~~ The notice shall describe the property in
 418 question and the proposed noncemetery use and shall advise
 419 substantially affected persons that they may file a written
 420 request for a hearing pursuant to chapter 120, within 14 days
 421 after the date of last publication of the notice, with the
 422 department if they object to granting the applicant's request to
 423 sell, convey, or dispose of the subject property for noncemetery
 424 uses.

425 Section 11. Paragraph (a) of subsection (2) of section
 426 562.45, Florida Statutes, is amended to read:

427 562.45 Penalties for violating Beverage Law; local
 428 ordinances; prohibiting regulation of certain activities or
 429 business transactions; requiring nondiscriminatory treatment;
 430 providing exceptions.-

431 (2) (a) Nothing contained in the Beverage Law shall be
 432 construed to affect or impair the power or right of any county
 433 or incorporated municipality of the state to enact ordinances
 434 regulating the hours of business and location of place of
 435 business, and prescribing sanitary regulations therefor, of any

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436 licensee under the Beverage Law within the county or corporate
 437 limits of such municipality. However, except for premises
 438 licensed on or before July 1, 1999, and except for locations
 439 that are licensed as restaurants, which derive at least 51
 440 percent of their gross revenues from the sale of food and
 441 nonalcoholic beverages, pursuant to chapter 509, a location for
 442 on-premises consumption of alcoholic beverages may not be
 443 located within 500 feet of the real property that comprises a
 444 public or private elementary school, middle school, or secondary
 445 school unless the county or municipality approves the location
 446 as promoting the public health, safety, and general welfare of
 447 the community under proceedings as provided in s. 125.66(5) ~~s.~~
 448 ~~125.66(4)~~, for counties, and s. 166.041(3)(c), for
 449 municipalities. This restriction shall not, however, be
 450 construed to prohibit the issuance of temporary permits to
 451 certain nonprofit organizations as provided for in s. 561.422.
 452 The division may not issue a change in the series of a license
 453 or approve a change of a licensee's location unless the licensee
 454 provides documentation of proper zoning from the appropriate
 455 county or municipal zoning authorities.

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

458 847.0134 Prohibition of adult entertainment establishment
 459 that displays, sells, or distributes materials harmful to minors
 460 within 2,500 feet of a school.-

461 (1) Except for those establishments that are legally
 462 operating or have been granted a permit from a local government
 463 to operate as adult entertainment establishments on or before
 464 July 1, 2001, an adult entertainment establishment that sells,

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465 rents, loans, distributes, transmits, shows, or exhibits any
466 obscene material, as described in s. 847.0133, or presents live
467 entertainment or a motion picture, slide, or other exhibit that,
468 in whole or in part, depicts nudity, sexual conduct, sexual
469 excitement, sexual battery, sexual bestiality, or
470 sadomasochistic abuse and that is harmful to minors, as
471 described in s. 847.001, may not be located within 2,500 feet of
472 the real property that comprises a public or private elementary
473 school, middle school, or secondary school unless the county or
474 municipality approves the location under proceedings as provided
475 in s. 125.66(5) ~~s. 125.66(4)~~ for counties or s. 166.041(3)(c)
476 for municipalities.

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

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

01.20.22

Meeting Date

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280

Bill Number or Topic

235072

Amendment Barcode (if applicable)

Rules

Committee

Name Rebecca O'Hara Phone 850-222-9684

Address PO Box 1757 Email rohara@flcities.com

Street

Tallahassee FL 32302-1757

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida League of Cities

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

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

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

S-001 (08/10/2021)

01/20/2022

Meeting Date

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280

Bill Number or Topic

Rules

235072

Amendment Barcode (if applicable)

Committee

Name **Edward G. Labrador**

Phone **(850) 922-4300**

Address **100 S. Monroe Street**

Email **elabrador@fl-counties.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

FL Association of Counties

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

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

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S-001 (08/10/2021)

The Florida Senate

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1-20-2022

Meeting Date

SB280

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Charles Colon

Phone

407 556 7694

Address

6101 Sage Dr

Email

ShenSup103841@gmail.com

Street

Orlando

FL

32807

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/20/22 9:30 am

Meeting Date

280

Bill Number or Topic

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RULES

Committee

Amendment Barcode (if applicable)

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **9830 ELM ST**

Email **cullenasea@gmail.com**

Street

OCEAN CITY

MD

21842

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SIERRA CLUB FLORIDA

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/20/22

Meeting Date

280

Bill Number or Topic

Rules
Committee

Amendment Barcode (if applicable)

Name Tda V. Eskamani

Phone

Address 134 E. Colonial Dr
Street

Email

Orlando FL 32801
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Rising

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

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

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

S-001 (08/10/2021)

The Florida Senate

1/20/22

Meeting Date

APPEARANCE RECORD

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

280

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name **Samantha Padgett**

Phone **850-224-2250**

Address **230 South Adams Street**

Email **spadgett@fsla.org**

Street

Tallahassee

FL

32311

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Restaurant and Lodging Association

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

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

280 - Local Ordinances

Bill Number or Topic

1/20/2022

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name **Jonathan Webber**

Phone **954-593-4449**

Address **1700 N. Monroe St. #11-286**

Email **jwebber@fcvoters.org**

Street

Tallahassee

FL

32303

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Conservation Voters

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 280

1/20/22

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Jacqueline Porter

Phone 954 554 0754

Address 300 S Adams St

Email jack.porter@tal.gov.com

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/20/2022

Meeting Date

SB 280

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Phone 850 - 224 - 6926

Address 135 S. Monroe

Email

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida AFL-CIO

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

280

Bill Number or Topic

Amendment Barcode (if applicable)

1/20/2022

Meeting Date

Rules

Committee

Name

Karen Woodall

Phone

850-321-9386

Address

579 E Call St.

Email

kcp@jyahoo.com

Street

Tallahassee FL

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FI Center for Fiscal & Economic Policy

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/20/22

Meeting Date

SB 280

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Jane West

Phone

904-671-4008

Address

308 Monroe St

Email

jwest@1000fof.org

Street

Tallahassee FL

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

1000 Friends of Florida

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

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

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S-001 (08/10/2021)

1-20-2022

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 280

Bill Number or Topic

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

Rules

Committee

Amendment Barcode (if applicable)

Name Natalie Fausel Phone 561-317-0889

Address 201 West Park Ave, Ste 100 Email natalie@anfieldflorida.com

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

BROWARD COUNTY

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

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

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5-001 (08/10/2021)

01/20/2022

Meeting Date

The Florida Senate APPEARANCE RECORD

280

Bill Number or Topic

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

Rules

Committee

Amendment Barcode (if applicable)

Name **Sean Pittman**

Phone **850-216-1002**

Address **1028 E Park Ave**

Email **sean@pittman-law.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

City of Port Orange

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Meeting Date

280

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

Justin Percocci

Phone

Address

26569 County Rd N68

Email

Street

Robertsdale

AL

36567

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/20/2022
Meeting Date

SB 0280
Bill Number or Topic

Rules
Committee

Amendment Barcode (if applicable)

Name Linda Lewis

Phone 954-609-6159

Address 2846 S.W. 4th Ct

Email _____

Street

Ft. Lauderdale, FL 33312

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

01-20-2022

Meeting Date

Rules

Committee

SB 0280

Bill Number or Topic

Amendment Barcode (if applicable)

Name Dorothy Jacobs

Phone 954 354-1045

Address 939 S. Dixie Ct # 210

Email jacobsdorothy19@gmail.com

Street

Ft Lauderdale

FL

33311

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/20/22

Meeting Date

SB 280

Bill Number or Topic

Rules

Amendment Barcode (if applicable)

Committee

Name Teresa McBride

Phone

Address 600 S.W. 28 Ter

Email

Street

Fort Lauderdale FL

33312

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/20/2022 Meeting Date

SB 0280 Bill Number or Topic

Rules Committee

Amendment Barcode (if applicable)

Name Maurice Johnson

Phone

Address 2304 NW 14 Ct. Street

Email

Fort Lauderdale, FL 33311 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

1/20/22
Meeting Date

SB 0280
Bill Number or Topic

Rules
Committee

Amendment Barcode (if applicable)

Name Noah Holliman Phone _____

Address 1206 N.W. 7th terr Email _____

Street

Fort Lauderdale FL 33311
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1-20-2022

Meeting Date

280

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Kammeron Brown

Phone

Address 1008 Redbud Ave

Email

Street

Tallahassee

FL

32303

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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Senate professional staff conducting the meeting

280

Bill Number or Topic

Meeting Date

Committee

Name Jess M. McCarty, Executive Assistant County Attorney

Phone 305-979-7110

Amendment Barcode (if applicable)

Address 111 NW 1st Street
Street

Email jmm2@miamidade.gov

Miami

City

FL

State

33128

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

Miami-Dade County

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

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

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The Florida Senate

APPEARANCE RECORD

SB 280

1/20/2022

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name

DANIEL KURCZI

Phone

(937) 219-7230

Address

505 FOREST CREEK RUN

Email

dkurczi@ovssr.org

Street

DELEON SPRINGS FL 32130

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/20/22

Meeting Date

280

Bill Number or Topic

Rwlos

Committee

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

Amendment Barcode (if applicable)

Name Phillip Swannan

Phone _____

Address _____

Email _____

Street

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

Americans for
Prosperity

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

280

Bill Number or Topic

1/20/2022

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name

Donn Scott, Jr

Phone

850-521-3042

Address

P.O. Box 10788

Email

donn.scottjr@splcenter.org

Street

Tallahassee, FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SPLC Action Fund

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/20/22

Meeting Date

S13280

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Ana Ciereszko

Phone 305 321 0016

Address 11420 N. Kendall Dr. #107

Email aciereszko@yahoo.com

Street

Miami

FL

33176

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: United Faculty of Miami Dade College

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

AB 280

1/20/22

Meeting Date

Bill Number or Topic

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

Melissa Francisco

Committee

Amendment Barcode (if applicable)

548 Zack Dr NW

Name

Phone

904 987-2987

Address

Lake City FL 32055

Email

mmapa

Street

City

FL 32055

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

1/20/22

Meeting Date

The Florida Senate APPEARANCE RECORD

280

Bill Number or Topic

Rules

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

Committee

Name B. D. Jogerst

Amendment Barcode (if applicable)

Phone 850-224-7173

Address 516 N Adams

Email bjogerst@aif.com

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Associated Industries of Florida

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-20-22

Meeting Date

280

Bill Number or Topic

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

Rules

Committee

Amendment Barcode (if applicable)

Name Barbara DeVane

Phone 850-251-4280

Address 625 E. Bernard St

Email barbara.devane1@yahoo.com

Tallahassee FL 32308

Street

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

FL NOW

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 280

1/20/22

Meeting Date

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name Carolyn Johnson Phone 521-1200

Address 136 S Bronough Street Email cjohnson@flchamber.com

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Chamber of Commerce

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

280

1/20/2022

Meeting Date

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name **Lorena Holley**

Phone **850-222-4082**

Address **227 S. Adams Street**

Email **lorena@frf.org**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Retail Federation

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

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

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5-001 (08/10/2021)

01/20/2022

Meeting Date

The Florida Senate APPEARANCE RECORD

280

Bill Number or Topic

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Rules

Committee

Amendment Barcode (if applicable)

Name **Edward G. Labrador**

Phone **(850) 922-4300**

Address **100 S. Monroe Street**

Email **elabrador@fl-counties.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Association of Counties

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

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

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S-001 (08/10/2021)

APPEARANCE RECORD

280

01.20.22

Meeting Date

Bill Number or Topic

Rules

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Committee

Amendment Barcode (if applicable)

Name Rebecca O'Hara Phone 850-222-9684

Address PO Box 1757 Email rohara@flcities.com

Street

Tallahassee FL 32302-1757

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida League of Cities

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/20/2022 Meeting Date

280 Bill Number or Topic

Rules Committee

Amendment Barcode (if applicable)

Name Carol Bowen

Phone 954-465-6811

Address 3730 Coconut Creek Parkway, Ste 200 Email cbowen@abcastflorida.com

Street

Coconut Creek FL 33066

City

State

Zip

Speaking: [] For [] Against [] Information

OR

Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing: Associated Builders + Contractors

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 611.045 and Joint Rule 1.2020-2022 Joint Rules.pdf/8300-0000

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

This information was not read into the record by the Chair

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 Rules

BILL: CS/SB 336

INTRODUCER: Judiciary Committee and Senator Berman

SUBJECT: Uniform Commercial Code

DATE: January 19, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	<u>Harmsen</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 336 amends Florida’s Uniform Commercial Code. The bill addresses a potential conflict between Florida’s Uniform Commercial Code and statutes that govern the transferability of ownership interests in three business entities: general partnerships, limited partnerships, and limited liability companies.

Florida’s UCC currently supports the free transferability of intangible rights, such as ownership rights, by providing “override” provisions that would override or prohibit any restrictions on the transferability of those rights. However, when the override provisions are applied to these three business entities, the statutes seem to interfere with what is referred to as the “pick-your-partner” principle.

The “pick-your-partner” principle recognizes that owners of small businesses have the right to “pick” who their co-owners will be. In general terms, the principle protects members and partners in these businesses ventures from being forced, by law, into business relationships with a stranger or someone they never wanted to do business with. This situation occurs when someone pledges his or her ownership interest as collateral for a loan and defaults on the loan. The creditor then seeks to enforce his or her secured interest in the business and exercise ownership rights. The bill clarifies that the override provisions do not apply to limits on the transferability of ownership interests found in general partnerships, limited partnerships, or limited liability companies.

The bill amends ss. 679.4061 and 679.4081, F.S., of the Florida Uniform Commercial Code to reflect updates made to Article 9 of the UCC in 2018. These amendments are designed to simplify the interaction of a general partnership's, a limited partnership's, or a limited liability company's ownership interest with that of a creditor who seeks to enforce its secured interest in the entity.

The Florida Business Law Section recommends these changes to clarify applicable law and reduce the potential for litigation over these issues.¹

II. Present Situation:

The Uniform Commercial Code and Article 9

The model Uniform Commercial Code (UCC) is a comprehensive group of laws that govern commercial transactions throughout the country. The UCC is not a federal law, but rather a “uniformly adopted state law.”² This uniformity among state laws is necessary for businesses to conduct interstate transactions and gives them the confidence that commercial terms will be interpreted and enforced consistently by courts in different states.³ The UCC was created to simplify the law that governs commercial transactions—especially contracts.⁴ Florida's UCC substantially reflects the model UCC. The Legislature has periodically amended Florida's UCC in accordance with updates made to the model UCC.

Florida's UCC, codified in chs. 670-680, F.S., is based on the model UCC that was drafted, and is periodically updated, by a joint committee of the American Law Institute and the Uniform Law Commission.⁵ The UCC governs specific contracts and commercial transactions that are based on the effect of a contract.

Article 9 of the UCC creates a framework of laws that govern items known as secured transactions. A secured transaction is an agreement in which one party gives property to the other party as security, or collateral, for a loan.⁶ This transaction creates a security interest.⁷ Article 9 of the UCC, Secured Transactions, was created to protect a secured creditor's interest from being destroyed by a third person. The article specifically governs transfers of personal property (security interests) to secure loans, but also applies to outright sales of certain personal property.

¹ Florida Business Law Section, *Proposed Amendments to Fla. Stat. §§679.4061 and 679.4081 Executive Summary*, p. 2, available at <http://www.flabizlaw.org/files/Summary%20and%20Materials%20-%20UCC%209-406%20and%209-408%20Amendments%20%28v2%29.pdf> (last visited Jan. 3, 2022).

² Uniform Law Commission, *Uniform Commercial Code, Summary*, <https://www.uniformlaws.org/acts/ucc>.

³ *Id.*

⁴ 47 FLA. JUR 2D SECURED TRANSACTIONS s. 1 (Sept. 2021), Uniform Commercial Code, generally; Article 9. *See also*, s. 671.102, F.S.

⁵ The American Law Institute, *Uniform Commercial Code UCC*, <https://www.ali.org/publications/show/uniform-commercial-code/> (last visited Jan. 3, 2022). Forty-nine states have adopted language based on the model UCC; Louisiana has adopted most of the model UCC, but deviates to maintain certain provisions of its civil code.

⁶ U.S. Department of the Interior, *Indian Affairs, Why Secured Transactions are Important*, <https://www.indianaffairs.gov/service/running-business/why-are-secured-transactions-important>.

⁷ 47 FLA. JUR 2D SECURED TRANSACTIONS s. 21 *Transactions or Interests Subject to Article 9, Generally* (2021).

For example, a transaction that creates a debt in exchange for an interest in a debtor's personal property is subject to Article 9. If the debtor in such a transaction defaults, the creditor may repossess and sell the property (collateral) to satisfy the debt. The creditor's interest, if recorded (perfected) in accordance with the protocols required by Article 9, is called a "security interest." Article 9 is codified in Florida law mainly in ch. 679, F.S., "Uniform Commercial Code—Secured Transactions."

Article 9: Anti-Assignment Override Provisions

Sections 679.4061 and 679.4081, F.S., mirror the *former* anti-assignment override provisions of Article 9 of the model UCC.⁸ Those provisions voided legal or contractual provisions that restricted the transfer of ownership interests, including the grant or enforcement of security interests. The anti-assignment override provisions were drafted to ensure the transferability of property interests and other security interests subject to Article 9. However, the model UCC has since been updated to clarify that the override provisions do not apply to general partnerships, limited partnerships, or limited liability companies.

Section 679.4061, F.S., applies to restrictions created by agreement that require an account debtor's⁹ consent to transfer a security interest in a payment intangible (but not the outright sale of a payment intangible), an account, a chattel paper, and a promissory note. Section 679.1021(1)(iii), F.S., defines a payment intangible as "a general intangible under which the account debtor's principal obligation is a monetary obligation." For purposes of this legislation—a payment intangible is the economic interest portion, and not the governance interest portion, of a member or partner's ownership interest in a general partnership, limited partnership, or a limited liability company (LLC). Stated simply—it is the monetary interest in the business entity.¹⁰ An important distinction in this section is that the restriction must be found in an agreement with an entity, such as the limited liability company or general partnership (the account debtor)—not an individual person, such as the co-owner.

Section 679.4081, F.S., prohibits restrictions on the transfer of general intangibles. It further invalidates laws or rules that restrict such transfers. Section 679.1021(1)(pp), F.S., defines a general intangible as "any personal property, including . . . payment intangibles." Therefore, s. 679.4081, F.S., prohibits specific restrictions on the following transactions:

- The outright sale of a payment intangible;
- The outright sale of ordinary security interests in general intangibles that are not payment intangibles (i.e., most complete ownership interests, as well as an interest in the member's governance interest alone); and
- The outright sale of economic rights.

⁸ Sections 9-406 and 9-408 of the U.C.C.

⁹ Section 679.1021(1)(c), F.S., defines an "account debtor" as a person who is obligated on an account, chattel paper, or general intangible. For purposes of this analysis, an account debtor is usually the business entity itself, rather than a member of the LLC, or a partner in a general partnership.

¹⁰ Carl Bjerre, Daniel Kleinberger, Edwin Smith, and Steven Weise, *LLC and Partnership Transfer Restrictions Excluded From UCC Article 9 Overrides* (Feb. 7, 2019), <https://businesslawtoday.org/2019/02/llc-partnership-transfer-restrictions-excluded-ucc-article-9-overrides/> (last visited Jan. 3, 2022).

Again, however; s. 679.4081, F.S., applies only in transactions where the restriction comes from the account debtor—or business entity—not a co-owner or fellow partner.

In 2018, the National Conference of Commissioners on Uniform State Laws and the American Law Institute revised Article 9 to provide that the anti-assignment override provisions “do not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.” These amendments are designed to eliminate potential conflicts between Article 9 and the pick-your-partner principle within partnership and LLC law.¹¹ As of November 2021, Colorado, Delaware, Texas, North Carolina, and Virginia had at least partially adopted language similar in effect to the ALI’s 2018 Article 9 revisions. Seven other states, Alabama, Kansas, Kentucky, Maine, Mississippi, New Hampshire, and Ohio have amended their limited liability company, limited partnership, and partnership statutes to address these potential conflicts.¹²

Business Organizations and the “Pick-Your-Partner” Principle

The pick your partner principle allows a co-owner of a privately held business to determine who else may serve as a co-owner, usually by requiring express permission or a related action from a co-owner or the business entity to transfer his or her ownership interest to another party.¹³ A partner or member’s ownership interest in the business organization consists of governance rights and economic rights.¹⁴ Most LLC or partnership interests are classified as a general intangible under ch. 679, F.S. However, the economic interest portion of a member’s ownership interest is classified as a payment intangible.¹⁵

In conflict with ss. 679.4061 and 679.4081, F.S., Florida LLC law states that a member cannot transfer his or her full ownership interest in the LLC, but may transfer his or her economic interest. Additionally, s. 605.0502 F.S., permits co-owners of an LLC or partnership to contractually add additional restrictions to the transfer of an ownership interest, including a restriction on the transfer of any of the ownership interest. These limitations reduce the economic value of a member’s interest and help to ensure that the LLC or partnership continues to exist in its original form—a closely held business operated with a known individual or group.¹⁶

The Florida Business Law Section illustrates the conflict as follows:

Two individuals go into business together and form an LLC. Each owner is a 50/50 member in the LLC. Their operating agreement (like most operating agreements) restricts the ability of one member to convey or encumber their

¹¹ Florida Business Law Section, *Proposed Amendments to Fla. Stat. §§679.4061 and 679.4081 Executive Summary*, p. 2, available at <http://www.flabizlaw.org/files/Summary%20and%20Materials%20-%20UCC%209-406%20and%209-408%20Amendments%20%28v2%29.pdf> (last visited Jan. 3, 2022).

¹² Uniform Law Commission, *State Overrides of UCC 9-406 and 9-408*, (November 2021) (on file with the Senate Committee on Judiciary).

¹³ Bjerre, et al., *supra* note 10.

¹⁴ Bjerre, et al., *supra* note 10, at 2.

¹⁵ Florida Business Law Section, *supra* note 11 at 1.

¹⁶ See Hank Jackson, *Anatomy of a Business Divorce: Florida LLCs*, FLA. BAR JOURNAL, Vol. 95, No. 3, p. 8 (May/June 2021), available at <https://www.floridabar.org/the-florida-bar-journal/anatomy-of-a-business-divorce-florida-llcs/#u6a6b> (last visited Jan. 3, 2022).

membership interest without the consent of the other member, in keeping with the “pick your partner” principle engrained in LLC and partnership law. If one partner unilaterally encumbered their 50% membership interest to secure a personal loan from a bank (in violation of the operating agreement), then arguably, Section 9-406 and 9-408 would “override” the restriction in the operation agreement. If the member defaulted on the loan, the lender could foreclose on its security interest in the LLC membership interest and take ownership of the membership interest. The other member would now be saddled with a bank as its new business partner, a result not contemplated or permitted by the members’ contract (the operating agreement).

Some firms attempt to transact their way out of the anti-assignment override provision by creating their ownership interests in the business entity as an investment security, which is subject to Article 8 of the model UCC instead of Article 9. However, this requires additional legal structuring at the outset, and does not shield the interest from litigation over its classification.¹⁷

III. Effect of Proposed Changes:

Sections 1 and 2 of the bill exclude ownership interests in a general partnership, a limited partnership, or an LLC from the “anti-assignment override” provisions found in ss. 679.4061 and 679.4081, F.S., respectively. Therefore, the bill gives priority to a statute or agreement that restricts the transfer of a general intangible (ownership interest) and a security interest in a payment intangible (the monetary interest portion of an ownership interest) within the context of a general partnership, limited partnership, or LLC.

The bill will conform Florida’s version of the UCC to reflect the 2018 updates made to Article 9 of the model UCC by the National Conference of Commissioners on Uniform State Laws and the American Law Institute to void the “anti-assignment override” provisions in the context of a general partnership, a limited partnership, or a limited liability company.

The bill takes effect January 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁷ Bjerre, et al., *supra* note 10, at 6.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This clarification may reduce transaction costs incurred when establishing specific business entities by removing the need to “opt-in” to Article 8 by defining the underlying ownership interests as a security, which is not subject to ch. 679, F.S. Additionally, this clarification may reduce litigation costs related to disputes of the character of an ownership interest in a general partnership, limited partnership, or limited liability company.¹⁸

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: 679.4061 and 679.4081.

¹⁸ Florida Business Law Section, *Proposed Amendments to Fla. Stat. §§679.4061 and 679.4081 Executive Summary*, p. 2, available at <http://www.flabizlaw.org/files/Summary%20and%20Materials%20-%20UCC%209-406%20and%209-408%20Amendments%20%28v2%29.pdf> (last visited Jan. 4, 2022).

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 January 10, 2022:

The committee substitute changes the effective date of the bill from July 1, 2022 to January 1, 2023.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Berman

590-01912-22

2022336c1

1 A bill to be entitled
 2 An act relating to the Uniform Commercial Code;
 3 amending ss. 679.4061 and 679.4081, F.S.; providing
 4 that certain restrictions on the effectiveness of
 5 terms in specified agreements and the effectiveness of
 6 certain rules of law, statutes, or regulations related
 7 to the discharge of account debtors and certain
 8 restrictions on the assignment of promissory notes,
 9 health-care-insurance receivables, and certain general
 10 intangibles, respectively, do not apply to a security
 11 interest in an ownership interest in a general
 12 partnership, a limited partnership, or a limited
 13 liability company; conforming provisions to changes
 14 made by the act; providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Subsections (4) and (6) of section 679.4061,
 19 Florida Statutes, are amended, and subsection (12) is added to
 20 that section, to read:
 21 679.4061 Discharge of account debtor; notification of
 22 assignment; identification and proof of assignment; restrictions
 23 on assignment of accounts, chattel paper, payment intangibles,
 24 and promissory notes ineffective.-
 25 (4) Except as otherwise provided in subsections (5) and
 26 (12) ~~subsection (5)~~ and ss. 680.303 and 679.4071, and subject to
 27 subsection (8), a term in an agreement between an account debtor
 28 and an assignor or in a promissory note is ineffective to the
 29 extent that it:

Page 1 of 4

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

590-01912-22

2022336c1

30 (a) Prohibits, restricts, or requires the consent of the
 31 account debtor or person obligated on the promissory note to the
 32 assignment or transfer of, or the creation, attachment,
 33 perfection, or enforcement of a security interest in, the
 34 account, chattel paper, payment intangible, or promissory note;
 35 or
 36 (b) Provides that the assignment or transfer or the
 37 creation, attachment, perfection, or enforcement of the security
 38 interest may give rise to a default, breach, right of
 39 recoupment, claim, defense, termination, right of termination,
 40 or remedy under the account, chattel paper, payment intangible,
 41 or promissory note.
 42 (6) Except as otherwise provided in subsection (12) and ss.
 43 680.303 and 679.4071, and subject to subsections (8) and (9), a
 44 rule of law, statute, or regulation that prohibits, restricts,
 45 or requires the consent of a government, governmental body or
 46 official, or account debtor to the assignment or transfer of, or
 47 creation of a security interest in, an account or chattel paper
 48 is ineffective to the extent that the rule of law, statute, or
 49 regulation:
 50 (a) Prohibits, restricts, or requires the consent of the
 51 government, governmental body or official, or account debtor to
 52 the assignment or transfer of, or the creation, attachment,
 53 perfection, or enforcement of a security interest in the account
 54 or chattel paper; or
 55 (b) Provides that the assignment or transfer or the
 56 creation, attachment, perfection, or enforcement of the security
 57 interest may give rise to a default, breach, right of
 58 recoupment, claim, defense, termination, right of termination,

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590-01912-22

2022336c1

59 or remedy under the account or chattel paper.

60 (12) Subsections (4), (6), and (11) do not apply to a
 61 security interest in an ownership interest in a general
 62 partnership, a limited partnership, or a limited liability
 63 company.

64 Section 2. Subsections (1) and (3) of section 679.4081,
 65 Florida Statutes, are amended, and subsection (8) is added to
 66 that section, to read:

67 679.4081 Restrictions on assignment of promissory notes,
 68 health-care-insurance receivables, and certain general
 69 intangibles ineffective.—

70 (1) Except as otherwise provided in subsections (2) and (8)
 71 ~~subsection (2)~~, a term in a promissory note or in an agreement
 72 between an account debtor and a debtor which relates to a
 73 health-care-insurance receivable or a general intangible,
 74 including a contract, permit, license, or franchise, and which
 75 term prohibits, restricts, or requires the consent of the person
 76 obligated on the promissory note or the account debtor to, the
 77 assignment or transfer of, or creation, attachment, or
 78 perfection of a security interest in, the promissory note,
 79 health-care-insurance receivable, or general intangible, is
 80 ineffective to the extent that the term:

81 (a) Would impair the creation, attachment, or perfection of
 82 a security interest; or

83 (b) Provides that the assignment or transfer or the
 84 creation, attachment, or perfection of the security interest may
 85 give rise to a default, breach, right of recoupment, claim,
 86 defense, termination, right of termination, or remedy under the
 87 promissory note, health-care-insurance receivable, or general

Page 3 of 4

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

590-01912-22

2022336c1

88 intangible.

89 (3) Except as otherwise provided in subsection (8), a rule
 90 of law, statute, or regulation that prohibits, restricts, or
 91 requires the consent of a government, governmental body or
 92 official, person obligated on a promissory note, or account
 93 debtor to the assignment or transfer of, or creation of a
 94 security interest in, a promissory note, health-care-insurance
 95 receivable, or general intangible, including a contract, permit,
 96 license, or franchise between an account debtor and a debtor, is
 97 ineffective to the extent that the rule of law, statute, or
 98 regulation:

99 (a) Would impair the creation, attachment, or perfection of
 100 a security interest; or

101 (b) Provides that the assignment or transfer or the
 102 creation, attachment, or perfection of the security interest may
 103 give rise to a default, breach, right of recoupment, claim,
 104 defense, termination, right of termination, or remedy under the
 105 promissory note, health-care-insurance receivable, or general
 106 intangible.

107 (8) This section does not apply to a security interest in
 108 an ownership interest in a general partnership, a limited
 109 partnership, or a limited liability company.

110 Section 3. This act shall take effect January 1, 2023.

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 11, 2022

I respectfully request that **Senate Bill #336**, relating to Uniform Commercial Code, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Lori Berman", written over a horizontal line.

Senator Lori Berman
Florida Senate, District 31

cc: Senator Ileana Garcia, Vice Chair
John B. Phelps, Staff Director

The Florida Senate

APPEARANCE RECORD

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

11/20/22

Meeting Date

SB 336

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Aimee Diaz Lyon

Phone

850-205-9000

Address

119 South Monroe Street #200

Email

adl@mhdfirm.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

The Business Law Section of the Florida Bar

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 352

INTRODUCER: Senator Hooper

SUBJECT: Construction Liens

DATE: January 19, 2022

REVISED: _____

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

I. Summary:

SB 352 revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. Under the bill, such notices of commencement must be filed only when the direct contract for such work is more than \$15,000. The current exemption for such contracts is capped at \$7,500.

The bill has no fiscal impact on state government. See Section V.

SB 352 is effective July 1, 2022.

II. Present Situation:

Construction Lien Law

In a construction project, the owner of the property to be improved has an interest in ensuring that the contractor performs the work in the time and manner described in the construction contract. Contractors and subcontractors, sub-subcontractors, laborers, and materialmen have an interest in receiving payment for their work. Those individuals have a lien or prospective lien on the property improved, and are known as lienors. Mechanisms that address these interests of property owners and lienors are set forth in the Construction Lien Law, codified in part I of chapter 713, F.S.

While “construction lien” is not defined in the chapter, s. 713.015, F.S., provides that “any direct contract greater than \$2,500 between an owner and a contractor, related to improvements to real property consisting of single or multiple family dwellings up to and including four units,” must contain a notice that a claim of lien may be filed on their property if the owner fails to pay their contractor, or their contractor or subcontractor fails to pay other persons who work on the property or provide materials and services, even if the owner paid the contractor in full. The

mandatory provision further provides that if a lien is filed, the owner's property could be sold against their will to pay for labor, services, or materials that have been not been paid to a lienor.¹

These mechanisms to ensure payment are especially important when lienors not in privity² with the owner perform work on a construction project. A lienor not in privity with the owner has a contract with the contractor or a subcontractor, but no direct contractual relationship with the owner. As a result, a lienor's identity, work, and charges for services might be unknown to the owner or contractor unless the lienor complies with the notice requirements of the construction lien law.

When issuing a building permit for improvement to real property, an issuing authority (i.e., a local government) has certain notice requirements under ch. 713.135, F.S., for permits with a direct contract over \$2,500.

When any person applies for a building permit, the authority issuing the permit is required to:

- Print on the face of each permit card a statement that the owner's failure to record a notice of commencement may result in the owner paying twice for improvements to the property;³
- Provide the applicant and the owner of the real property with:
 - A printed statement that the person who has contracted for the improvement may be subject to attachment under the construction lien law;
 - A statement from the Department of Business and Professional Regulation providing a summary of the Construction Lien Law; and
 - An explanation of the owner's rights if a lienor fails to furnish the owner with a notice to owner;⁴
- Inform each applicant that they must promise in good faith that the statement will be delivered to the person whose property is subject to attachment.⁵

Notice of Commencement

A construction project generally begins with the posting of a "notice of commencement" on the job site and the recording of the notice in the county clerk's office.⁶ The recording of a notice of commencement is meant to give constructive notice to an owner of real property that claims of lien may be recorded against that property, and which liens may take priority, but does not constitute a lien, cloud, or encumbrance on real property.⁷

¹ Section 713.015, F.S, requires the notice to be printed in no less than 12-point, capitalized, boldfaced type on the front page of the contract.

² According to Black's Law Dictionary (10th ed., 2014), the term "privity" is used to indicate a "connection or relationship between two parties, each having a legally recognized interest in the same subject matter," for example a direct contract between the property owner and another person.

³ Section 713.135(1)(a), F.S.

⁴ Section 713.135(1)(b), F.S.

⁵ Section 713.135(1)(c), F.S.

⁶ Section 713.13(1)(a), F.S.

⁷ Section 713.13(3), F.S.

After a notice of commencement is posted and recorded, lienors must serve the property owner and the contractor with a notice to owner or notice to contractor.⁸ A notice to owner informs the owner of all potential lienors' identity and work performed.⁹ Serving these documents within the statutory timeframes is a prerequisite to enforcing a lien on the improved property.¹⁰ Upon receipt of a notice to owner, the owner becomes responsible for ensuring that the lienor is paid for its work even if the contractor is paid in full.

To protect against a lien by the lienor or having to pay twice for the same work, the notice to owner warns that to avoid a lien and paying twice, the owner must obtain a written release from the lienor every time they pay the contractor.¹¹

A notice of commencement must be recorded in the county clerk's office for any contract greater than \$2,500 before a contractor may begin an improvement to real property or recommence completion of any improvement after default or abandonment.¹² The notice must provide:

- A description of the real property;
- A general description of the improvement;
- Name and address of the owner, the owner's interest in the site of the improvement, and the name and address of the fee simple titleholder, if other than the owner;
- The name and address of the contractor;
- The name and address of the surety on the payment bond, if any, and the amount of the bond;
- The name and address of any person making a loan for the construction of the improvements; and
- The name and address of a designated person upon whom documents may be served if other than the owner.¹³

Liens of materialmen or laborers who are in privity with the owner and who comply with the provisions of ch. 713, F.S., attach and take priority at the time the notice of commencement is recorded.¹⁴

A notice of commencement is not required in direct contracts to repair or replace an existing heating or air-conditioning system in an amount less than \$7,500.¹⁵ This exemption was enacted by the Legislature in 1999 at the amount of \$5,000¹⁶ and subsequently increased to its current amount of \$7,500 in 2006.¹⁷

⁸ Sections 713.06(2), and 713.23(1)(c), F.S. *See also* s. 255.05(2)(a)2., F.S., relating to liens on public property and publicly owned buildings.

⁹ Section 713.06(2)(c), F.S.

¹⁰ *Id.*

¹¹ Section 713.06(2)(c), F.S.

¹² Section 713.13(1)(a), F.S.

¹³ *Id.*

¹⁴ Section 713.07(2), F.S.

¹⁵ Section 713.135(1)(d), F.S.

¹⁶ Chapter 99-386, s. 5, L.O.F.

¹⁷ Chapter 2006-187, s. 2, L.O.F.

In the event a notice of commencement is not filed, a lien attaches and takes priority at the time the claim of lien is recorded.¹⁸ The owner of the improved property is responsible for discharging all liens filed upon the property as outlined in s. 713.21, F.S.

III. Effect of Proposed Changes:

The bill revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. Under the bill, such notices of commencement must be filed only when the direct contract for such work is more than \$15,000.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. Under the bill, such notices of commencement must be filed only when the direct contract for such work is more than \$15,000.

¹⁸ Section 713.07, F.S. See s. 713.08, F.S., relating to the recording of claims of lien.

C. **Government Sector Impact:**

The broader exemption for filing required notices of commencement for the repair or replacement of an existing heating or air-conditioning system may have a minimal impact on the revenues and workload of county clerks of court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 713.135 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.



454972

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/20/2022	.	
	.	
	.	
	.	

The Committee on Rules (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete line 19

and insert:

direct contract is greater than \$5,000 ~~\$2,500~~, the applicant shall file

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

And the title is amended as follows:

Delete line 3

and insert:



454972

12 713.135, F.S.; revising the circumstances under which
13 applicants for a building permit must file certain
14 documents with the authority issuing such permit
15 before a first inspection; revising the threshold for
16 determining

By Senator Hooper

16-00561-22

2022352__

A bill to be entitled

An act relating to construction liens; amending s. 713.135, F.S.; revising the threshold for determining whether certain direct contracts to repair or replace an existing heating or air-conditioning system are exempt from specified notice of commencement and applicability of lien requirements for authorities issuing building permits; providing an effective date.

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

Section 1. Paragraph (d) of subsection (1) of section 713.135, Florida Statutes, is amended to read:

713.135 Notice of commencement and applicability of lien.—

(1) When any person applies for a building permit, the authority issuing such permit shall:

(d) Furnish to the applicant two or more copies of a form of notice of commencement conforming with s. 713.13. If the direct contract is greater than \$2,500, the applicant shall file with the issuing authority prior to the first inspection either a certified copy of the recorded notice of commencement or a notarized statement that the notice of commencement has been filed for recording, along with a copy thereof. In the absence of the filing of a certified copy of the recorded notice of commencement, the issuing authority or a private provider performing inspection services may not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means such certified copy with the issuing authority. The certified copy of the notice of

Page 1 of 2

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

16-00561-22

2022352__

commencement must contain the name and address of the owner, the name and address of the contractor, and the location or address of the property being improved. The issuing authority shall verify that the name and address of the owner, the name of the contractor, and the location or address of the property being improved which is contained in the certified copy of the notice of commencement is consistent with the information in the building permit application. The issuing authority shall provide the recording information on the certified copy of the recorded notice of commencement to any person upon request. This subsection does not require the recording of a notice of commencement prior to the issuance of a building permit. If a local government requires a separate permit or inspection for installation of temporary electrical service or other temporary utility service, land clearing, or other preliminary site work, such permits may be issued and such inspections may be conducted without providing the issuing authority with a certified copy of a recorded notice of commencement or a notarized statement regarding a recorded notice of commencement. This subsection does not apply to a direct contract to repair or replace an existing heating or air-conditioning system in an amount less than \$15,000 ~~\$7,500~~.

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill # 352**, relating to Construction Liens, be placed on the:

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

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

Senator Ed Hooper
Florida Senate, District 16

The Florida Senate

APPEARANCE RECORD

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

1/20/22

Meeting Date

352

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Edward Briggs

Phone 850 933 5994

Address 235 W. Brandon Blvd. Ste. 640

Email edward@rsaconsultllc.com

Street

Brandon

FL

33511

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Cotney Construction Law

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/20/2022

Meeting Date

352

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Coral Bowen

Phone (954) 465-6844

Address 3730 Coconut Creek Parkway Ste 2000

Email cbowen@pbccostfloridacorp.com

Street

Coconut Creek FL 33066

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Associated Builders and Contractors

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 444

INTRODUCER: Children, Families, and Elder Affairs Committee; Senators Perry and Book

SUBJECT: Lewd or Lascivious Molestation

DATE: January 19, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	Fav/CS
3.	<u>Stokes</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 444 creates s. 800.06, F.S., which provides for the new crime of lewd or lascivious molestation committed upon persons 16 years of age or older. A person commits this crime when he or she:

- Intentionally touches a person 16 years of age or older:
 - Against his or her will; and
 - In a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or on the clothing covering them; or
- Forces a person 16 years of age or older to touch the perpetrator, in a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or the clothing covering them.

A violation of this section is a first degree misdemeanor. The offense is reclassified to a third degree felony when a person commits a second or subsequent violation when he or she has one prior conviction for lewd or lascivious molestation.

This bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2022.

II. Present Situation:

Unlawful Touching

Various sections of the Florida Statutes criminalize specified types of physical contact with others. While certain types of intentional contact on a person under the age of 16 may be a felony lewd or lascivious molestation, the same contact on a person 16 years of age or older may be a misdemeanor simple battery.

Lewd or Lascivious Molestation

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.¹

The terms “lewd” and “lascivious” are not defined in statute, but are commonly understood by the courts. The Supreme Court of Florida has found that these terms are in common use, and the plain meaning of the words gives notice as to what conduct is prohibited. The court further stated that the words lewd and lascivious “are synonyms and connote wicked, lustful, unchaste, licentious, or sensual design on the part of the perpetrator.”²

An offender 18 years of age or older who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a life felony.³
- Twelve years of age or older but less than 16 years of age, commits a second degree felony.⁴
- Twelve years of age or older but less than 16 years of age and the person was previously convicted of specified offenses,⁵ commits a first degree felony.⁶

¹ Section 800.04(5)(a), F.S.

² *Chesebrough v. State*, 255 So. 2d 675, 677 (Fla. 1971).

³ Section 800.04(5)(b), F.S. A life felony is generally punishable by life imprisonment or by a term of imprisonment not exceeding 40 years. Section 775.082, F.S.

⁴ Section 800.04(5)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

⁵ Section 800.04(5)(e)1.-7., F.S., provides the following specified offenses: Kidnapping under s. 787.01(2) F.S., or False Imprisonment under s. 787.02(2), F.S., when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under ch. 794, F.S., or a lewd act under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Kidnapping under s. 787.01(3)(a)2. or 3., F.S., and in the course of committing the kidnapping committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; False Imprisonment under s. 787.02(3)(a)2. or 3., F.S., and in the course of committing the false imprisonment committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Sexual Battery under ch. 794, F.S., excluding s. 794.011(10), F.S.; Lewd or Lascivious offenses committed against or in the presence of an elderly or disabled person under s. 825.1025, F.S.; Computer Pornography Transmission under s. 847.0135(5), F.S.; or Lewd or Lascivious offenses under s. 800.04, F.S.

⁶ Section 800.04(5)(e), F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Section 775.082, F.S.

An offender less than 18 years of age who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a second degree felony.⁷
- Twelve years of age or older but less than 16 years of age, commits a third degree felony.⁸

The crime of lewd or lascivious molestation does not apply if a victim is 16 years of age or older. Under current law, a person who commits a lewd and lascivious molestation of a person 16 years of age or older may be charged with the first degree misdemeanor⁹ crime of battery if the touching was against the will of the victim.

Battery

A person commits the first degree misdemeanor of battery when he or she:

- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes bodily harm to another person.¹⁰

The courts have consistently held that any intentional touching, no matter how slight, is sufficient to constitute a simple battery. The force used in the commission of a battery need not be sufficient to cause injury, and may be committed with nominal contact.¹¹

A person who has a prior conviction for battery, aggravated battery,¹² or felony battery¹³ and commits any second or subsequent battery commits a third degree felony.¹⁴ Additionally, it is a third degree felony to commit a domestic battery by strangulation,¹⁵ a battery in furtherance of a

⁷ Section 800.04(5)(c)1., F.S.

⁸ Section 800.04(5)(d), F.S. A third degree felony is punishable by up to five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

⁹ A first degree misdemeanor is punishable by up to a year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

¹⁰ Section 784.03(1), F.S.

¹¹ *State v. Hearn*, 961 So. 2d 211, 218-19 (Fla. 2007).

¹² Section 784.045, F.S., provides that a person commits aggravated battery, who, in committing battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. Additionally, a person commits aggravated battery if the victim was pregnant at the time of the offense and the offender knew or should have known the victim was pregnant.

¹³ Section 784.041, F.S., provides that a person commits felony battery if he or she actually and intentionally touches or strikes another person against the will of the other and causes great bodily harm, permanent disability, or permanent disfigurement.

¹⁴ Section 784.03(2), F.S.

¹⁵ Section 784.041(2), F.S., provides that a person commits domestic battery by strangulation if the person knowingly and intentionally, against the will of another, impedes the normal breathing or circulation of the blood of a family or household member or of a person with whom he or she is in a dating relationship, so as to create a risk of or cause great bodily harm by applying pressure on the throat or neck of the other person or by blocking the nose or mouth of the other person. This paragraph does not apply to any act of medical diagnosis, treatment, or prescription which is authorized under the laws of this state.

riot,¹⁶ or aggravated riot,¹⁷ or a battery on specified persons engaged in the lawful performance of duties.¹⁸

The crime of battery may also be reclassified as a higher level offense if committed on certain persons, or on specified persons engaged in the lawful performance of duties.¹⁹

III. Effect of Proposed Changes:

This bill creates s. 800.06, F.S., which provides for the new crime of lewd or lascivious molestation committed upon persons 16 years of age or older. A person commits this crime when he or she:

- Intentionally touches a person 16 years of age or older:
 - Against his or her will; and
 - In a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or on the clothing covering them; or
- Forces a person 16 years of age or older to touch the perpetrator, in a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or the clothing covering them.

A violation of this section is a first degree misdemeanor. The offense is reclassified to a third degree felony when a person commits a second or subsequent violation when he or she has one prior conviction for lewd or lascivious molestation.

¹⁶ Section 870.01(2), F.S., provides that a person commits a riot if he or she willfully participates in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to assist each other in violent and disorderly conduct, resulting in: injury to another person; damage to property; or imminent danger of injury to another person or damage to property.

¹⁷ Section 870.01(3), F.S., provides that a person commits aggravated rioting if, in the course of committing a riot, he or she: participates with 25 or more other persons; causes great bodily harm to a person not participating in the riot; causes property damage in excess of \$5,000; displays, uses, threatens to use, or attempts to use a deadly weapon; or by force, or threat of force, endangers the safe movement of a vehicle traveling on a public street, highway, or road.

¹⁸ Battery on detention or commitment facility staff or a juvenile probation officer (s. 784.075, F.S.); Battery on health services personnel (s. 784.076, F.S.); or Battery of a facility employee by throwing, tossing, or expelling certain fluids or materials (s. 784.078, F.S.).

¹⁹ The following battery offenses are reclassified from a first degree misdemeanor to a third degree felony, including battery on a: law enforcement officer; firefighter; emergency medical care provider, railroad special officer, traffic accident investigations officer, nonsworn law enforcement agency employee who is certified as an agency inspector, blood alcohol analyst, or breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, law enforcement explorer, traffic infraction enforcement officer, parking enforcement specialist, certain persons licensed as security officers, or security officer employed by the board of trustees of a community college while such person is engaged in the lawful performance of his or her duties (s. 784.07, F.S.); sexually violent predators detention or commit facility staff (s. 784.074, F.S.); person 65 years or older (s. 784.08, F.S.); elected official or employee of a: school district, a private school, the Florida School for the Deaf and the Blind, university lab school, a state university or any other entity of the state system of public education, as defined in s. 1000.04, F.S., sports official, an employee or protective investigator of the Department of Children and Families, employee of a lead community-based provider and its direct service contract providers, or an employee of the Department of Health or its direct service contract providers, when the person committing the offense knows or has reason to know the identity or position or employment of the victim (s. 784.081, F.S.); visitor to the detention facility or upon any other detainee in the detention facility, whenever a person who is being detained in a prison, jail, or other detention facility commits the battery (s. 784.082, F.S.); or a code inspector, as defined in s. 162.04(2), F.S., while the code inspector is engaged in the lawful performance of his or her duties and when the person committing the offense knows or has reason to know the identity or employment of the victim (s. 784.083, F.S.).

This bill is effective October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Economic and Demographic Research's preliminary estimate provides that the bill has a positive indeterminate fiscal impact.

This bill creates s. 800.06, F.S., adding a 1st degree misdemeanor for someone who "commits the crime of lewd or lascivious molestation upon a person 16 years of age or older," with definitions applied for this act. A second or subsequent violation would be an unranked, 3rd [degree] felony (Level 1 by default).²⁰

Per FDLE, in FY 2018-19, there were 125 people arrested for the second degree misdemeanors of lewd and lascivious behavior (s. 798.02, F.S.) and unnatural and

²⁰ The Office of Economic and Demographic Research, Preliminary Estimate, SB 444-Lewd or Lascivious Molestation (Identical HB 379)(on file with the Senate Criminal Justice Committee).

lascivious act (s. 800.02, F.S.). In FY 19-20, there were 63 people arrested, and in FY 20-21, there were 50 people arrested. It is not known how many of those arrested fit the definition of the conduct described under s. 800.06, F.S. It is possible that this conduct might currently fall under simple battery, a high volume misdemeanor offense that elevates to a Level 1, 3rd degree felony if a second or subsequent violation occurs (168,345 arrests over the last three fiscal years). However, it cannot be determined where these offenses are currently captured, nor how many arrests occur for these acts in a given year.²¹

In FY 2018-19, the incarceration rate for a Level 1, 3rd degree felony was 9.5 percent, and in FY 2019-20 the incarceration rate was 8.2 percent. In FY 2020-21, the incarceration rate for a Level 1, 3rd degree felony was 8.1 percent.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 800.06 of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on January 11, 2022:

The committee substitute provides that the provision reclassifying the criminal offense from a first degree misdemeanor to a third degree felony is applicable if a person has one prior conviction for lewd or lascivious molestation and such person commits a second or subsequent violation.

- B. **Amendments:**

None.

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

²¹ *Id.*

²² *Id.*

By the Committee on Children, Families, and Elder Affairs; and
Senators Perry and Book

586-01942-22

2022444c1

1 A bill to be entitled
2 An act relating to lewd or lascivious molestation;
3 creating s. 800.06, F.S.; specifying what constitutes
4 the crime of lewd or lascivious molestation upon a
5 person 16 years of age or older; providing criminal
6 penalties; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 800.06, Florida Statutes, is created to
11 read:
12 800.06 Lewd or lascivious molestation committed upon
13 persons 16 years of age or older.-
14 (1) A person commits the crime of lewd or lascivious
15 molestation upon a person 16 years of age or older when he or
16 she:
17 (a) Intentionally touches a person 16 years of age or
18 older:
19 1. Against his or her will; and
20 2. In a lewd or lascivious manner, on the breasts,
21 genitals, genital area, or buttocks, or on the clothing covering
22 them; or
23 (b) Forces a person 16 years of age or older to touch the
24 perpetrator, in a lewd or lascivious manner, on the breasts,
25 genitals, genital area, or buttocks, or on the clothing covering
26 them.
27 (2) (a) Except as provided in paragraph (b), a person who
28 violates subsection (1) commits a misdemeanor of the first
29 degree, punishable as provided in s. 775.082 or s. 775.083.

Page 1 of 2

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

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30 (b) A person who has one prior conviction for lewd and
31 lascivious molestation committed upon persons 16 years of age or
32 older and who commits any second or subsequent violation of
33 subsection (1) commits a felony of the third degree, punishable
34 as provided in s. 775.082, s. 775.083, or s. 775.084.
35 Section 2. This act shall take effect October 1, 2022.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 542

INTRODUCER: Senator Rodriguez

SUBJECT: Evidentiary Standards for Actions Arising During an Emergency

DATE: January 19, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillian</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>McMillian</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 542 creates a new statute in ch. 448, the General Labor Regulations chapter, which applies during a declared public health emergency. The bill identifies certain actions taken by a business during a declared public health emergency that may not be used as evidence against the business in a civil action to change a worker’s classification such that the individual is entitled to receive benefits that he or she would not have previously received from the business.

Specifically, the following actions may not be used as evidence against the business to establish the existence of an employer-employee relationship in certain enumerated civil causes of action:

- Providing financial assistance to previously engaged individuals who are unable to work because of health and safety concerns.
- Directly providing benefits related to the health and safety of engaged individuals, including medical or cleaning supplies, personal protective equipment, health checks, or medical testing.
- Providing training or information related to the health and safety of engaged individuals or the public.
- Taking any action, including action required or suggested by any federal, state, or local law, ordinance, order, or directive intended to protect public health and safety.

The term “engaged individual” means an individual who provides a good or service to a business or on behalf of a business and who is remunerated for the good or service, regardless of the individual’s classification as an employee or independent contractor.

The bill applies to civil actions relating to workers’ compensation, retaliatory personnel actions, state minimum wage, labor pool violations, devices used in payment for labor, and unclaimed wages. Additionally, the bill applies to civil actions to recover lost wages, salary, employment benefits, or other compensation.

The bill takes effect July 1, 2022.

II. Present Situation:

Public Health Emergency

In Florida, the State Health Officer is responsible for declaring public health emergencies, issuing public health advisories, and ordering isolation or quarantines.¹ A “public health emergency” means any occurrence, or threat of occurrence, which may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters.²

Classification of Independent Contractors and Employees

When a business hires an individual, it is important that the person be correctly classified as either an independent contractor or an employee because tax and labor laws apply differently to each classification. An independent contractor is deemed to be self-employed by the Internal Revenue Service and works for herself or himself. The independent contractor is not technically employed by the business she or he serves and must pay self-employment tax.³ While an employer has control over the independent contractor’s work, it does not control how the work is completed.⁴

For employees, a business must withhold income taxes, Social Security, and Medicare taxes⁵ and pay certain forms of insurance coverage, such as workers’ compensation and unemployment coverage. State and federal labor laws also might require the payment of additional overtime wages and leave plans. However, and in contrast, when an individual is an independent contractor, these same tax and labor requirements do not apply because the individual is deemed to be in business for herself or himself.⁶

If a business misclassifies a person as an independent contractor when it should have classified the person as an employee, the miscalculation can be costly. If it is determined, either by the Internal Revenue Service or in a civil proceeding, that a worker was misclassified, the individual may receive a substantial monetary award in the form of back wages, vacation pay, overtime, sick leave, and healthcare benefits. Additionally, the Internal Revenue Service or another government agency may require the business to pay significant penalties and back taxes.⁷

¹ Section 381.00315, F.S.

² Section 381.00315(1)(c), F.S.

³ Internal Revenue Service, *Independent Contractor Defined*, (updated Oct. 14, 2021) <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-defined>. See also U.S. Small Business Administration, *Hire and Manage Employees*, <https://www.sba.gov/business-guide/manage-your-business/hire-manage-employees>.

⁴ Patrick Proctor, Business News Daily, *Understanding What an Independent Contractor Is*, (updated Dec. 13, 2021). <https://www.businessnewsdaily.com/15853-independent-contractor-employee-differences.html>.

⁵ Internal Revenue Service, *supra* note 3.

⁶ Stephen Fishman, J.D., NOLO, *Employees vs. Independent Contractors*; <https://www.nolo.com/legal-encyclopedia/employees-vs-independent-contractors.html>.

⁷ *Id.*

Florida Workers' Compensation System

Each employer and employee is bound by Florida's Workers' Compensation Law.⁸ An employer must pay compensation or furnish benefits required by the Workers' Compensation Law if an employee suffers an accidental compensable injury or death arising out of work performed in the course and scope of employment.⁹ The injury must be established to a reasonable degree of medical certainty, based on objective relevant medical findings, and the accidental compensable injury must be the major contributing cause of any resulting injuries.¹⁰ Generally, employers may secure coverage from an authorized carrier, qualify as a self-insurer,¹¹ or purchase coverage from the Workers' Compensation Joint Underwriting Association, the insurer of last resort.¹²

An employee has a civil cause of action against his or her employer if the employer:

- Fails to carry sufficient workers' compensation coverage;
- Deliberately intends to injure the employee; or
- Engages in conduct that he or she knows is virtually certain to result in the employee's injury or death in certain situations.¹³

Retaliatory Personnel Actions

An employer may not take any retaliatory personnel action¹⁴ against an employee because the employee has:

- Disclosed or threatened to disclose, to any appropriate governmental agency, under oath, in writing, any activity, policy or practice of the employer that violates a law, rule, or regulation;
- Provided information to, or testified before, any appropriate governmental agency, person, or entity conducting an investigation, hearing, or inquiry into an alleged violation of a law, rule, or regulation by the employer; or
- Objected to, or refused to participate in, any activity, policy, or practice of the employer which is in violation of a law, rule, or regulation.¹⁵

An employee who is the object of a retaliatory personnel action has a civil cause of action against his or her employer for the following relief:

- An injunction restraining a continued violation;
- The employee's reinstatement to the same position held before the retaliatory personnel action or to an equivalent position;
- Reinstatement of the employee's full fringe benefits and seniority rights;
- Compensation for lost wages, benefits, and other remuneration; and

⁸ Sections 440.03 and 440.10, F.S.

⁹ Section 440.09(1), F.S.

¹⁰ *Id.*

¹¹ Section 440.38, F.S.

¹² Section 627.311(5)(a), F.S.

¹³ Section 440.11, F.S.

¹⁴ "Retaliatory personnel action" means the discharge, suspension, or demotion by an employer of an employee or any other adverse employment action taken by an employer against an employee in the terms and conditions of employment. *See* s. 448.101(5), F.S.

¹⁵ Section 448.102, F.S.

- Any other compensatory damages allowable at law.¹⁶

Minimum Wage

The Florida Constitution requires an employer to pay employees a minimum wage.¹⁷ On September 30, 2021, the minimum wage increased to \$10.00 per hour, and will increase each September 30th by \$1.00 per hour until the minimum wage reaches \$15.00 per hour on September 30, 2026.¹⁸ An employee not paid the minimum wage may bring a civil cause of action against his or her employer to recover the full amount of back wages unlawfully withheld, plus the same amount as liquidated damages.¹⁹ An employee bringing such an action may also be entitled to legal or equitable relief, including employment reinstatement or injunctive relief.²⁰

Labor Pool Violations

A labor pool²¹ must not:

- Charge a day laborer²² for safety equipment, clothing, accessories, any other items required by the nature of the work, more than a reasonable amount to transport a worker to or from the designated worksite, or for directly or indirectly cashing a worker's check;²³
- Request or require that any day laborer sign any document waiving statutory protections;²⁴
- Charge more than the actual cost of providing lunch, if the labor pool provides lunch at the worksite;²⁵ or
- Restrict a day laborer's right to accept a permanent position with a third-party user to whom the laborer is referred for temporary work, or to restrict the right of such a third-party user to offer such employment to an employee of the labor pool.²⁶

¹⁶ Section 448.103(2), F.S.

¹⁷ FLA. CONST. art. X, s. 24(a).

¹⁸ Florida Department of Economic Opportunity, *Florida's Minimum Wage* (Updated Sep. 24, 2021)

https://floridajobs.org/docs/default-source/business-growth-and-partnerships/for-employers/posters-and-required-notice/2021-minimum-wage/september-2021/florida-minimum-wage-september-2021-announcement.pdf?sfvrsn=c12151b0_4#:~:text=Effective%20September%2030%2C%202021%2C%20the,per%20hour%20in%20September%202026. On September 30th, 2027 and each subsequent September 30th, the State Agency for Workforce Innovation must calculate an adjusted minimum wage rate in the manner specified in the State Constitution. See also s. 448.110, F.S.

¹⁹ FLA. CONST. art. X, s. 24(e).

²⁰ *Id.*

²¹ "Labor pool" means a business entity that operates a labor hall by one or more of the following methods: contracting with third-party users to supply day laborers on a temporary basis; hiring, employing, recruiting, or contracting with workers to fulfill these temporary labor contracts for day labor; or fulfilling any contracts for day labor in accordance with this subsection, even if the entity also conducts other business. See s. 448.22(1), F.S.

²² "Day labor" means temporary labor or employment that is occasional or irregular for which the worker is employed for not longer than the time period required to complete the temporary assignment for which the individual worker was hired, although an individual may be eligible for additional temporary assignments when available. See s. 448.22(2), F.S.

²³ Section 448.24(1), F.S.

²⁴ Section 448.24(3), F.S.

²⁵ Section 448.24(4), F.S.

²⁶ Section 448.24(6), F.S.

A labor pool must:

- Provide restroom facilities, drinking water, and sufficient seating for a worker waiting at the labor hall for a job assignment;²⁷
- Select cash, commonly accepted negotiable instruments that are payable in cash, a payroll debit card, or an electronic fund transfer, to pay a day laborer for work performed;²⁸
- Notify a day laborer of the payment method that the labor pool intends to use and the day laborer's options to elect a different payment method;²⁹
- If selecting to pay a day laborer by payroll debit card, offer the day laborer the option to elect payment by electronic fund transfer and provide the day laborer with a list, including the address, of a nearby business that does not charge a fee to withdraw the debit card's contents;³⁰
- Compensate day laborers at or above the minimum wage;³¹
- Comply with the requirements of workers' compensation;³²
- Insure any motor vehicle owned or operated by the labor pool and used for worker transportation;³³
- Furnish each worker with a written itemized statement showing in detail each wage deduction;³⁴ and
- Give each worker an annual earnings statement summary.³⁵

Any worker harmed by a labor pool violation may bring a civil action against the labor pool to recover actual and consequential damages, or \$1,000, whichever is greater, for each violation.³⁶

Devices Issued in Payment for Labor

Any order, check, draft, note, memorandum, payroll debit card, or other acknowledgement of indebtedness for wages due must be negotiable and payable in cash, on demand, without discount, at some established place of business in Florida.³⁷

Any person issuing a coupon, punch-out, ticket, tokens, or other device in lieu of cash as payment for labor is:

- Liable for the full face value thereof in current legal tender on or after the 30th day after the date of issuance;
- Liable for payment in legal tender; and

²⁷ Section 448.24(5), F.S.

²⁸ Section 448.24(2), F.S.

²⁹ Section 448.24(2)(b), F.S.

³⁰ Section 448.24(2)(c), F.S.

³¹ Section 448.24(2)(d), F.S.

³² Section 448.24(2)(e), F.S.

³³ Section 448.24(2)(f), F.S.

³⁴ Section 448.24(2)(g), F.S.

³⁵ Section 448.24(2)(h), F.S.

³⁶ Section 448.25, F.S.

³⁷ The business's name and address must appear on the instrument or in the payroll debit card issuing materials. At the time of its issuance, and for at least 30 days thereafter, the maker or drawer must have sufficient funds or credit, arrangement, or understanding with the drawee for its payment. *See* s. 532.01, F.S.

- Subject to suit brought in any court of competent jurisdiction.³⁸

Additionally, an employer may not terminate an employee solely for refusing to authorize the direct deposit of wages.³⁹ An employee may bring a civil action against an employer for equitable relief.⁴⁰

Unclaimed Wages

Unpaid wages owing in the ordinary course of the holder's business that have not been claimed by the owner for more than 1 year after becoming payable are presumed unclaimed.⁴¹ Every holder of unclaimed wages must report the unclaimed wages to the Department of Financial Services (DFS) before May 1 of each year and must simultaneously pay to DFS all unclaimed wages required to be reported.⁴² Employers violating these requirements face penalties imposed by DFS.⁴³

III. Effect of Proposed Changes:

The bill creates s. 448.111, F.S., which identifies actions taken by a business during a declared public health emergency that may not be used as evidence against the business in a civil action to change a worker's classification such that the individual is entitled to receive benefits that he or she did not previously receive .

When a public health emergency is declared by the State Health Officer, the following actions taken by a business may not be used as evidence against the business to establish the existence of an employer-employee relationship in specified civil causes of action:

- Providing financial assistance to previously engaged individuals who are unable to work because of health and safety concerns.
- Directly providing benefits related to the health and safety of engaged individuals, including medical or cleaning supplies, personal protective equipment, health checks, or medical testing.
- Providing training or information related to the health and safety of engaged individuals or the public.
- Taking any action, including action required or suggested by any federal, state, or local law, ordinance, order, or directive intended to protect public health and safety.

The bill defines the term "engaged individual" to mean an individual who provides a good or service to a business or on behalf of a business and who is remunerated for the good or service, regardless of the individual's classification as an employee or independent contractor.

³⁸ The legal holder's recovery must include the full face value of the device, with legal interest from the date of demand. *See* s. 532.02, F.S.

³⁹ Section 532.04(2), F.S.

⁴⁰ Section 532.04(3), F.S.

⁴¹ Section 717.115, F.S.

⁴² Sections 717.117 and 717.119, F.S.

⁴³ *Id.*; Ch. 69I-20, F.A.C.

The bill applies to civil actions relating to workers' compensation, retaliatory personnel actions, state minimum wage, labor pool violations, devices used in payment for labor, and unclaimed wages. Additionally, the bill applies to civil actions to recover lost wages, salary, employment benefits, or other compensation.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 542 provides that specified actions taken by a business during a public health emergency may not be used as evidence against the business to establish the existence of an employer-employee relationship in specified civil causes of action. Thus, the bill potentially protects businesses from being categorized as a plaintiff's employer if the categorization is based exclusively on the specified actions taken by a business during a public health emergency.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates section 448.111 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Rodriguez

39-00329A-22

2022542__

1 A bill to be entitled
 2 An act relating to evidentiary standards for actions
 3 arising during an emergency; creating s. 448.111,
 4 F.S.; defining the term "engaged individual";
 5 prohibiting certain actions taken by a business during
 6 a public health emergency from being used as evidence
 7 in certain civil causes of action; providing an
 8 effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11 Section 1. Section 448.111, Florida Statutes, is created to
 12 read:

13 448.111 Evidentiary standards for actions of a business
 14 during an emergency.-

15 (1) For purposes of this section, the term "engaged
 16 individual" means an individual who provides a good or service
 17 to a business or on behalf of a business and who is remunerated
 18 for the good or service, regardless of the individual's
 19 classification as an employee or independent contractor.

20 (2) Notwithstanding any other law, the following actions of
 21 a business, if taken during a public health emergency declared
 22 by the State Health Officer under s. 381.00315, may not be used
 23 as evidence in a civil cause of action brought under s. 440.10,
 24 s. 440.192, s. 440.38, s. 440.381, s. 448.103, s. 448.110, s.
 25 448.25, chapter 532, or s. 717.115, or in a civil cause of
 26 action to recover lost wages, salary, employment benefits, or
 27 other compensation, because an individual has not been properly
 28 classified as an employee:
 29

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

39-00329A-22

2022542__

30 (a) Providing financial assistance to previously engaged
 31 individuals who are unable to work because of health and safety
 32 concerns.

33 (b) Directly providing benefits related to the health and
 34 safety of engaged individuals, including medical or cleaning
 35 supplies, personal protective equipment, health checks, or
 36 medical testing.

37 (c) Providing training or information related to the health
 38 and safety of engaged individuals or the public.

39 (d) Taking any action, including action required or
 40 suggested by any federal, state, or local law, ordinance, order,
 41 or directive, which is intended to protect public health and
 42 safety.

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

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Rules Committee

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that SB 542, relating to Evidentiary Standards for Actions Arising during an Emergency, be placed on the:

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

This bill would apply towards independent contractors. It would allow companies that provide safety materials to their workers during a public health emergency to not count as material support and thus potentially change worker status from an independent contractor to an employee.

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 39

The Florida Senate

APPEARANCE RECORD

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

11/20/22

Meeting Date

542

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Phillip Swanson

Phone _____

Address _____
Street

Email _____

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

Americans for
Prosperity

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 546

INTRODUCER: Senator Gruters

SUBJECT: Consumer Finance Loans

DATE: January 19, 2022

REVISED: _____

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

I. Summary:

SB 546 amends the Florida Consumer Finance Act, ch. 516, F.S., to:

- Expressly prohibit prepayment penalties for consumer finance loans;
- Authorize an applicant for licensure as a consumer finance lender or a licensee to provide a surety bond, certificate of deposit, or letter of credit in the amount of \$25,000, in lieu of the application requirement to prove that they have at least \$25,000 in liquid assets;
- Require a company with at least one currently licensed location to provide a rider or surety bond of at least \$5,000 for each additional license; however, the maximum aggregate requirement for such a company is \$100,000; and
- Make conforming changes.

The bill takes effect October 1, 2022.

II. Present Situation:

The Office of Financial Regulation's (OFR) Division of Consumer Finance (Division) licenses and regulates non-depository financial service entities and individuals, and conducts investigations of licensed entities to determine their compliance with Florida law.¹ One such product regulated by the OFR is consumer finance loans. A consumer finance loan is a loan of money, credit, goods, or interests valued at \$25,000 or less with permitted interest rates of between 18 and 30 percent per year.² This is not a traditional loan made by a bank, credit union,

¹ Fla. Office of Fin. Reg, *Division of Consumer Finance: What We Do*, <https://flofr.gov/sitePages/DivisionOfConsumerFinance.htm> (last visited Jan. 7, 2022).

² Sections 516.01(2) and 516.031(1), F.S. *See also*, Fla. Office of Fin. Reg, *Consumer Finance Companies*, <https://flofr.gov/sitePages/ConsumerFinanceCompanies.htm> (last visited Jan. 7, 2022).

or similar institution. The consumer finance lenders do not accept deposits, and earn their revenue from the fees charged on the loans they make.³

Licensure

Entities that engage in the business of making consumer finance loans must be licensed by the Office pursuant to the Florida Consumer Finance Act, ch. 516, F.S. (“the Act”). Each location of a consumer finance lender must be separately licensed, even if the separate locations are operated by the same business entity.⁴

As of February 16, 2021, there are 170 licensed consumer finance loan companies operating in Florida across a total of 382 locations. The yearly data for licensure under ch. 516, F.S., is contained in the charts below.⁵

Chapter 516, F.S., Licenses by Year										
	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20
Applications Received	175	41	82	116	66	102	55	96	109	100
Applications Approved	137	37	53	113	37	81	36	83	104	98
Active Licenses	347	303	293	349	331	349	338	373	348	390
Renewals & Reactivations	226	0	258	0	312	0	326	0	342	0

A consumer finance lender applicant must submit an application fee of \$625 and an investigation fee of \$200 with its application for licensure.⁶ At the time of application, the applicant must provide evidence that it has liquid assets of at least \$25,000 on deposit with an insured institution.⁷ An applicant’s failure to maintain liquid assets of at least \$25,000 constitutes grounds for denial of an application for licensure, and grounds for revocation or suspension of an active license.⁸ Consumer finance lender licenses granted under the Act must be renewed every two years, at which time the licensee must pay a \$625 biennial license fee.⁹

The Act does not apply to persons doing business under state or federal laws governing banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies.¹⁰

³ Naveen Reddy, *What are the Primary Functions of Finance Companies?* (Nov. 9, 2020), <https://smallbusiness.chron.com/primary-functions-finance-companies-40480.html> (last visited January 7, 2022). Also note, payday lenders are separately regulated pursuant to ch. 560, F.S.

⁴ Sections 516.01(6) and 516.05(3), F.S.

⁵ Office of Financial Regulation, *Active Licenses*, <https://www.flofr.com/sitePages/documents/finregstats.pdf> (last visited January 7, 2022).

⁶ Section 516.03(1), F.S. *See also*, Fla. Office of Fin. Reg., *Application for Consumer Finance Company License*, <https://flofr.gov/sitePages/documents/OFR-516-01.pdf> (last visited January 7, 2022).

⁷ Section 516.03(1), F.S. Fla. Admin. Code R. 69V-160.030(1)(d).

⁸ Section 516.07(1), F.S.

⁹ Sections 516.03(1) and 516.05(1) & (2), F.S.

¹⁰ Section 516.02(4), F.S.

Permissible Interest Rates and Fees

Florida's prohibition on usury generally prohibits¹¹ interest rates in excess of 18 percent per annum simple interest on any loan, advance of money, line of credit, or forbearance.¹² Licensed consumer finance lenders, however, may offer interest rates greater than 18 percent per annum simple interest, up to the following limits, which are based on the amount of the loan's principal:¹³

- 30 percent on the first \$3,000.
- 24 percent on principal above \$3,000 and up to \$4,000.
- 18 percent on principal above \$4,000 and up to \$25,000.

The Act prohibits lenders from directly or indirectly charging borrowers additional fees as a condition to the grant of a loan, except for the following:¹⁴

- Up to \$25 for investigating the credit and character of the borrower;
- A \$25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans, title insurance, and appraisals of real property offered as security;
- Intangible personal property tax on the loan note or obligation, if secured by a lien on real property;
- Documentary excise tax and lawful fees for filing, recording, or releasing an instrument securing the loan;
- The premium for any insurance in lieu of perfecting a security interest otherwise required by the licensee in connection with the loan;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for repossession, storing, repairing and placing in condition for sale, and selling of any property pledged as security;
- A delinquency charge of up to \$15 for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed; and
- A bad check charge of up to \$20.

A consumer finance lender may offer optional credit property, credit life, and disability insurance at the borrower's expense via a deduction from the principal amount of the loan.¹⁵

A prepayment penalty is not included in the above permissible fees, then impliedly a licensee cannot charge a borrower a prepayment penalty.¹⁶

¹¹ Various lenders and credits licensed or chartered under the laws of the United States or specified chapters of the Florida Statutes may charge interest at the maximum rate of interest permitted by law for similar loans or extensions of credit. *See s. 687.12(1), F.S.*

¹² Sections 687.02 and 687.12, F.S.

¹³ Section 516.031(1), F.S.

¹⁴ Section 516.031(3), F.S.

¹⁵ Section 516.35(2), F.S.

¹⁶ Section 516.031(3), F.S. Fla. Office of Fin. Reg., *Agency Analysis of 2021 House Bill 895*, p. 2 (Feb. 17, 2021) (on file with the Senate Committee on Commerce and Tourism).

III. Effect of Proposed Changes:

Prepayment Penalties

Section 2 amends s. 516.031, F.S., to expressly prohibit prepayment penalties on consumer finance loans. Florida law allows consumer finance lenders to charge certain expressly stated fees. Because the list of statutorily-permissible fees does not include a prepayment penalty, by implication, a consumer finance lender cannot charge a prepayment penalty. The bill makes this prohibition on prepayment penalties explicit.

Asset Requirements in Lender Application

Section 3 creates s. 516.05(10), F.S., to allow a consumer finance lender applicant or licensee to file proof of one of the following with the OFR in lieu of the current \$25,000 liquid asset application requirement:

- A surety bond in the amount of at least \$25,000 that is issued by a bonding company or an insurance company that is authorized to do business in Florida;
- A certificate of deposit in the amount of at least \$25,000 deposited in a financial institution as defined in s. 655.005(1)(i), F.S.; or
- An irrevocable letter of credit in the amount of at least \$25,000.

The bill requires lenders with multiple locations to provide a surety bond or rider in the amount of at least \$5,000 for each additional license. The total aggregate amount of a surety bond required for a lender with multiple locations may not exceed \$100,000.

If the licensee's surety bond, certificate of deposit, or letter of credit is reduced below the required amount at any point during the licensee's activity, the licensee must furnish additional instruments to restore its capacity to a sum equal that required by the bill. In the alternative, the licensee may provide an endorsement from the company that issued the original instrument that reinstates the required principal amount.

The applicant must file the surety bond, certificate of deposit, or letter of credit with the OFR, name the OFR as a beneficiary, and ensure that the instrument is payable on a pro rata basis. Although the OFR serves as the named beneficiary, the bill grants both the OFR and any claimant the right to bring an action on the bond, certificate of deposit, or letter of credit in the case of injury to a borrower who was injured by the licensee's wrongful acts. If any such claim is paid, the bonding company, insurance company, or financial institution that held the instrument must notify the OFR within 10 days of the claim.

A licensee cannot cancel its surety bond, certificate of deposit, or letter of credit without providing the OFR with 30 calendar days' notice by certified mail. Following the licensee's cessation of operation in the state, its surety bond, certificate of deposit, or letter of credit must remain in place for a period of 2 years, although the OFR may allow for a reduction in its amount to the extent that the licensee's outstanding loans are reduced.

The bill authorizes the Financial Services Commission to initiate rulemaking to adopt forms and procedures to implement the alternatives to the liquid asset requirement.

Conforming Changes

Sections 1, 4, and 5 amend ss. 516.03, 516.07, 559.952, F.S., respectively, to make conforming changes to reflect the consumer finance loans licensing requirements added by section three of this bill.

Effective Date

Section 6 provides an effective date of October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This may allow companies with less liquid assets to become licensed as a consumer finance lender.

C. Government Sector Impact:

The OFR may be required to update Rule 69V-160 of the Florida Administrative Code to reflect changes made by the bill. Additionally, the OFR may need to amend their applications for consumer finance loan company licenses to allow applicants to assert

what amount of liquid assets, surety bond, letter of credit, or certificate of deposit is required of them since their business relation to a previously-licensed entity may reduce their surety bond, letter of credit, or certificate of deposit requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 516.03, 516.031, 516.05, 516.07, and 559.952.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Gruters

23-00431-22

2022546__

1 A bill to be entitled
 2 An act relating to consumer finance loans; amending s.
 3 516.03, F.S.; authorizing an applicant for a license
 4 to make and collect loans under the Florida Consumer
 5 Finance Act to provide certain documents in lieu of
 6 evidence of liquid assets; amending s. 516.031, F.S.;
 7 prohibiting a person licensed to make and collect
 8 consumer finance loans from charging prepayment
 9 penalties for loans; amending s. 516.05, F.S.;
 10 authorizing a licensee or an applicant for a license
 11 to make and collect consumer finance loans to provide
 12 a surety bond, certificate of deposit, or letter of
 13 credit in lieu of evidence of liquid assets; providing
 14 requirements for such bonds, certificates of deposit,
 15 and letters of credit; providing rulemaking authority
 16 to the Financial Services Commission; amending s.
 17 516.07, F.S.; modifying grounds for denial of license
 18 or disciplinary action for certain violations of the
 19 Florida Consumer Finance Act; amending s. 559.952,
 20 F.S.; revising exceptions for a licensee during the
 21 Financial Technology Sandbox period; providing an
 22 effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Subsection (1) of section 516.03, Florida
 27 Statutes, is amended to read:

28 516.03 Application for license; fees; etc.—

29 (1) APPLICATION.—Application for a license to make loans

Page 1 of 7

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

23-00431-22

2022546__

30 under this chapter shall be in the form prescribed by rule of
 31 the commission. The commission may require each applicant to
 32 provide any information reasonably necessary to determine the
 33 applicant's eligibility for licensure. The applicant shall also
 34 provide information that the office requires concerning any
 35 officer, director, control person, member, partner, or joint
 36 venturer of the applicant or any person having the same or
 37 substantially similar status or performing substantially similar
 38 functions or concerning any individual who is the ultimate
 39 equitable owner of a 10-percent or greater interest in the
 40 applicant. The office may require information concerning any
 41 such applicant or person, including, but not limited to, his or
 42 her full name and any other names by which he or she may have
 43 been known, age, social security number, residential history,
 44 qualifications, educational and business history, and
 45 disciplinary and criminal history. The applicant must provide
 46 evidence of liquid assets of at least \$25,000 or documents
 47 satisfying the requirements of s. 516.05(10). At the time of
 48 making such application the applicant shall pay to the office a
 49 nonrefundable biennial license fee of \$625. Applications, except
 50 for applications to renew or reactivate a license, must also be
 51 accompanied by a nonrefundable investigation fee of \$200. An
 52 application is considered received for purposes of s. 120.60
 53 upon receipt of a completed application form as prescribed by
 54 commission rule, a nonrefundable application fee of \$625, and
 55 any other fee prescribed by law. The commission may adopt rules
 56 requiring electronic submission of any form, document, or fee
 57 required by this act if such rules reasonably accommodate
 58 technological or financial hardship. The commission may

Page 2 of 7

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

23-00431-22 2022546__

59 prescribe by rule requirements and procedures for obtaining an
60 exemption due to a technological or financial hardship.

61 Section 2. Subsection (6) is added to section 516.031,
62 Florida Statutes, to read:

63 516.031 Finance charge; maximum rates.—

64 (6) PREPAYMENT PENALTIES PROHIBITED.—A licensee may not
65 require a borrower to pay a prepayment penalty for paying all or
66 part of the loan principal before the date on which the payment
67 is due.

68 Section 3. Subsection (10) is added to section 516.05,
69 Florida Statutes, to read:

70 516.05 License.—

71 (10) (a) In lieu of the \$25,000 liquid asset requirement in
72 s. 516.03(1), a licensee or an applicant may provide to the
73 office:

74 1.a. A surety bond in the amount of at least \$25,000,
75 issued by a bonding company or an insurance company authorized
76 to do business in this state.

77 b. A company with at least one currently licensed location
78 must provide to the office a rider or surety bond in the amount
79 of at least \$5,000 for each additional license, issued by a
80 bonding company or an insurance company authorized to do
81 business in this state. However, the aggregate amount of the
82 surety bond required for a company with multiple licenses may
83 not exceed \$100,000.

84 2. Evidence of a certificate of deposit in the amount of at
85 least \$25,000. The certificate of deposit must be deposited in a
86 financial institution as defined in s. 655.005(1) (i).

87 3. An irrevocable letter of credit in the amount of at

23-00431-22 2022546__

88 least \$25,000.

89 (b) The original surety bond, certificate of deposit, or
90 letter of credit must be filed with the office, and the office
91 must be named as beneficiary. The surety bond, certificate of
92 deposit, or letter of credit must be for the use and benefit of
93 any borrower who is injured by acts of a licensee involving
94 fraud, misrepresentation, or deceit, including willful
95 imposition of illegal or excessive charges, or
96 misrepresentation, circumvention, or concealment of any matter
97 required to be stated or furnished to a borrower, where such
98 acts are in connection with a loan made under this chapter. The
99 office, or any claimant, may bring an action in a court of
100 competent jurisdiction on the surety bond, certificate of
101 deposit, or letter of credit. The surety bond, certificate of
102 deposit, or letter of credit must be payable on a pro rata
103 basis, but the aggregate amount may not exceed the amount of the
104 surety bond, certificate of deposit, or letter of credit.

105 (c) The surety bond, certificate of deposit, or letter of
106 credit may not be canceled by the licensee, bonding or insurance
107 company, or financial institution except upon notice to the
108 office by certified mail. A cancellation may not take effect
109 until 30 calendar days after receipt by the office of the
110 written notice.

111 (d) The bonding or insurance company or financial
112 institution must, within 10 calendar days after it pays a claim,
113 give written notice to the office by certified mail of such
114 payment, with details sufficient to identify the claimant and
115 the claim or judgment paid.

116 (e) If the principal sum of the surety bond, certificate of

23-00431-22 2022546__

117 deposit, or letter of credit is reduced by one or more
 118 recoveries or payments, the licensee must furnish to the office
 119 a new or additional surety bond, certificate of deposit, or
 120 letter of credit so that the total or aggregate principal sum
 121 equals the amount required under this subsection. Alternatively,
 122 a licensee may furnish an endorsement executed by the bonding or
 123 insurance company or financial institution reinstating the
 124 required principal amount.

125 (f) The required surety bond, certificate of deposit, or
 126 letter of credit must remain in place for 2 years after the
 127 licensee ceases licensed operations in this state. During the 2-
 128 year period, the office may allow for a reduction or elimination
 129 of the surety bond, certificate of deposit, or letter of credit
 130 to the extent the licensee's outstanding consumer finance loans
 131 in this state are reduced.

132 (g) The commission may prescribe by rule forms and
 133 procedures to implement this subsection.

134 Section 4. Paragraph (b) of subsection (1) of section
 135 516.07, Florida Statutes, is amended to read:

136 516.07 Grounds for denial of license or for disciplinary
 137 action.—

138 (1) The following acts are violations of this chapter and
 139 constitute grounds for denial of an application for a license to
 140 make consumer finance loans and grounds for any of the
 141 disciplinary actions specified in subsection (2):

142 (b) Failure to maintain liquid assets of at least \$25,000
 143 or a surety bond, certificate of deposit, or letter of credit in
 144 the amount required by s. 516.05(10) at all times for the
 145 operation of business at a licensed location or proposed

23-00431-22 2022546__

146 location.

147 Section 5. Paragraph (a) of subsection (4) of section
 148 559.952, Florida Statutes, is amended to read:

149 559.952 Financial Technology Sandbox.—

150 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
 151 REQUIREMENTS.—

152 (a) Notwithstanding any other law, upon approval of a
 153 Financial Technology Sandbox application, the following
 154 provisions and corresponding rule requirements are not
 155 applicable to the licensee during the sandbox period:

156 1. Section 516.03(1), except for the application fee, the
 157 investigation fee, the requirement to provide the social
 158 security numbers of control persons, evidence of liquid assets
 159 of at least \$25,000 or documents satisfying the requirements of
 160 s. 516.05(10), and the office's authority to investigate the
 161 applicant's background. The office may prorate the license
 162 renewal fee for an extension granted under subsection (7).

163 2. Section 516.05(1) and (2), except that the office shall
 164 investigate the applicant's background.

165 3. Section 560.109, only to the extent that the section
 166 requires the office to examine a licensee at least once every 5
 167 years.

168 4. Section 560.118(2).

169 5. Section 560.125(1), only to the extent that the
 170 subsection would prohibit a licensee from engaging in the
 171 business of a money transmitter or payment instrument seller
 172 during the sandbox period.

173 6. Section 560.125(2), only to the extent that the
 174 subsection would prohibit a licensee from appointing an

23-00431-22

2022546__

175 authorized vendor during the sandbox period. Any authorized
176 vendor of such a licensee during the sandbox period remains
177 liable to the holder or remitter.

178 7. Section 560.128.

179 8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-
180 10. and (b), (c), and (d).

181 9. Section 560.142(1) and (2), except that the office may
182 prorate, but may not entirely eliminate, the license renewal
183 fees in s. 560.143 for an extension granted under subsection
184 (7).

185 10. Section 560.143(2), only to the extent necessary for
186 proration of the renewal fee under subparagraph 9.

187 11. Section 560.204(1), only to the extent that the
188 subsection would prohibit a licensee from engaging in, or
189 advertising that it engages in, the selling or issuing of
190 payment instruments or in the activity of a money transmitter
191 during the sandbox period.

192 12. Section 560.205(2).

193 13. Section 560.208(2).

194 14. Section 560.209, only to the extent that the office may
195 modify, but may not entirely eliminate, the net worth, corporate
196 surety bond, and collateral deposit amounts required under that
197 section. The modified amounts must be in such lower amounts that
198 the office determines to be commensurate with the factors under
199 paragraph (5)(c) and the maximum number of consumers authorized
200 to receive the financial product or service under this section.

201 Section 6. This act shall take effect October 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill #546**, relating to Consumer Finance Loans, be placed on the:

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

Problem being addressed: This bill amends the Florida Consumer Finance Act, ch. 516. Expressly prohibit prepayment penalties for consumer finance loans.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: John B. Phelps, Staff Director
Tom Yeatman, Deputy Staff Director
Cynthia Futch, Committee Administrative Assistant

The Florida Senate

APPEARANCE RECORD

SB 546

1/20/2022

Meeting Date

Bill Number or Topic

Senate Rules

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

Committee

Amendment Barcode (if applicable)

Name **Scott Jenkins**

Phone **850.661.0829**

Address **201 E. Park Ave. Ste. 500**

Email **scott@dacfl.com**

Street

Tallahasee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Financial Services Association

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

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

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

S-001 (08/10/2021)

The Florida Senate
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 Rules

BILL: CS/SB 1006

INTRODUCER: Agriculture Committee and Senator Burgess

SUBJECT: State Symbols

DATE: January 19, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
2.	<u>Becker</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1006 designates strawberry shortcake as the official state dessert.

This bill is not expected to have an impact on state and local revenues and expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

State Symbols

Chapter 15, F.S., designates state emblems. To date, there are designations for a state motto, tree, fruit,¹ beverage,² citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal, saltwater mammal, butterfly, reptile, saltwater reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, history museum, transportation museum, flagship, soil, fiddle contest, band, sports hall of fame, pie, honey, horse, and heritage cattle breed.

Currently, there is no state dessert. The state pie is key lime pie.³

¹ Section 15.0315, F.S., designates the orange as the official fruit of Florida.

² Section 15.032, F.S., designates orange juice as the official beverage of Florida.

³ Section 150025, F.S.

Strawberries

The strawberry is a small plant of the *Rosacea* (Rose) family and all varieties of the strawberry plant belong to the *Fragaria* genus.⁴ Strawberries are not berries or fruit, they are enlarged ends of the plant's stamen. The small black spots on the outside are actually the fruit.⁵

Florida produces 12% of the U.S. value of strawberries annually, valued at \$307 million.⁶ Strawberries are the second highest valued of the berry, potato, vegetable, and watermelon crops in Florida.⁷ "Camarosa," "Sweet Sensation," and "Festival" varieties are recommended for Florida home gardens.⁸

III. Effect of Proposed Changes:

CS/SB 1006 provides the following information in whereas clauses:

- More than 10,000 acres of strawberries are planted annually in the greater Plant City area, accounting for 75 percent of the United States' winter strawberry crop;
- Beginning in the spring of 1930, and again in 1948 after a six year hiatus during and following World War II, the Florida Strawberry Festival, held in Plant City and organized by the Plant City Lions Club, was revived by American Legion Post #26, and other area civic organizations;
- Each year the Florida Strawberry Festival welcomes visitors from around the world to celebrate this slice of Americana and the area's bountiful harvests;
- Approximately 200,000 strawberry shortcakes, the festival's signature dessert, are served each year at the Florida Strawberry Festival, making it a staple among festival attendees;
- Strawberry shortcake is a dessert consisting of a base of shortcake, which resembles a biscuit with a touch of cake, a layer of sweet, sliced strawberries, and a healthy dollop of whipped cream; and
- In 2000, *Guinness World Records* recognized Plant City as the home of the biggest shortcake in the world.

The bill designates strawberry shortcake as the official state dessert.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴ UF/IFAS Gulf Coast Research and Education Center, *Strawberry Facts*, <https://gcrec.ifas.ufl.edu/fruit-crops/strawberries/strawberry-facts/> (last visited January 12, 2022).

⁵ *Id.*

⁶ Florida Department of Agriculture and Consumer Services, *Florida Agriculture Overview and Statistics*, <https://www.fdacs.gov/Agriculture-Industry/Florida-Agriculture-Overview-and-Statistics> (last visited January 12, 2022).

⁷ *Id.*

⁸ UF/IFAS Extension, *Growing Strawberries*, <https://sfyl.ifas.ufl.edu/lawn-and-garden/growing-strawberries/> (last visited January 12, 2022).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 15.0522 of the Florida Statutes.

IX. Additional Information:

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

CS by Agriculture on January 13, 2022:

Clarifies that the Florida Strawberry Festival occurs each year versus each spring.

B. Amendments:

None.

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



110796

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
01/20/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 34 and 35
insert:

Section 2. The Legislature rescinds the designation of the
mockingbird as the state bird, as adopted by the Legislature at
the 1927 Regular Session.

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

And the title is amended as follows:

Delete line 4



110796

12 and insert:
13 state dessert; rescinding the designation of the
14 mockingbird as the state bird; providing an effective
15 date.



656326

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/20/2022	.	
	.	
	.	
	.	

The Committee on Rules (Gruters) recommended the following:

Senate Amendment (with title amendment)

Before line 31
insert:

Section 1. Notwithstanding the designation of the official state song in s. 15.0327, Florida Statutes, that section shall be suspended for the period beginning December 5, 2022, and concluding December 4, 2023, during which time the song "It's a Small World (After All)," written by Robert B. Sherman and Richard M. Sherman, is designated as the official song of the State of Florida to honor Walt Disney World's ongoing



656326

12 celebration of the 50th anniversary of the opening of the
13 resort. This section expires December 5, 2023.

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

16 And the title is amended as follows:

17 Delete lines 2 - 6

18 and insert:

19 An act relating to state symbols; designating "It's a
20 Small World (After All)" as the official state song
21 for a specified period of time; providing for the
22 expiration of such designation; creating s. 15.0522,
23 F.S.; designating strawberry shortcake as the official
24 state dessert; providing an effective date.

25
26 WHEREAS, Walt Disney was an animator, writer, filmmaker,
27 and visionary entrepreneur, famous for his contributions to the
28 animation industry with such films as *Snow White and the Seven*
29 *Dwarfs*, *Cinderella*, and *Mary Poppins*, and for his creation of
30 Mickey Mouse, and

31 WHEREAS, in 1965, Walt Disney purchased 43 acres of land
32 near Orlando with plans to build a second theme park, following
33 the success of Disneyland in Anaheim, California, and

34 WHEREAS, in 1971, the Walt Disney World Resort opened near
35 Orlando, encompassing 47 square miles, and Magic Kingdom, the
36 most popular park, now attracts approximately 17 million
37 visitors annually from around the world, and

38 WHEREAS, another source of pride to Floridians is this
39 state's agricultural bounty, as more than 10,000 acres of
40 strawberries are planted

By the Committee on Agriculture; and Senator Burgess

575-01996-22

20221006c1

1 A bill to be entitled
 2 An act relating to state symbols; creating s. 15.0522,
 3 F.S.; designating strawberry shortcake as the official
 4 state dessert; providing an effective date.
 5
 6 WHEREAS, more than 10,000 acres of strawberries are planted
 7 annually in the greater Plant City area, accounting for 75
 8 percent of the United States' winter strawberry crop, and
 9 WHEREAS, beginning in the spring of 1930, and again in 1948
 10 after a 6-year hiatus during and following World War II, the
 11 Florida Strawberry Festival, held in Plant City and organized by
 12 the Plant City Lions Club, was revived by American Legion Post
 13 #26, and other area civic organizations, and
 14 WHEREAS, each year, the Florida Strawberry Festival
 15 welcomes visitors from around the world to celebrate this slice
 16 of Americana and the area's bountiful harvests, and
 17 WHEREAS, approximately 200,000 strawberry shortcakes, the
 18 festival's signature dessert, are served each year at the
 19 Florida Strawberry Festival, making it a staple among festival
 20 attendees, and
 21 WHEREAS, strawberry shortcake is a dessert consisting of a
 22 base of shortcake, which resembles a biscuit with a touch of
 23 cake, a layer of sweet, sliced strawberries, and a healthy
 24 dollop of whipped cream, and
 25 WHEREAS, in 2000, *Guinness World Records* recognized Plant
 26 City as home of the biggest shortcake in the world, NOW,
 27 THEREFORE,
 28
 29 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 2

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

575-01996-22

20221006c1

30
 31 Section 1. Section 15.0522, Florida Statutes, is created to
 32 read:
 33 15.0522 Official state dessert.—Strawberry shortcake is
 34 designated as the official Florida state dessert.
 35 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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

1/20/22

Meeting Date

The Florida Senate APPEARANCE RECORD

SB 1006

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name **Libby Guzzo**

Phone **850-245-0155**

Address **400 S. Monroe St.**

Email **libby.guzzo@myfloridalegal.com**

Street

tallahassee

fl

32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Office Of Attorney General

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

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

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

S-001 (08/10/2021)

The Florida Senate

DUPLICATE

SB 1006

By Senator Bean

4-01822A-22

20221658__

1 A bill to be entitled
2 An act relating to executive appointments; amending s.
3 20.255, F.S.; removing the requirement that
4 appointment of the Secretary of Environmental
5 Protection be subject to the concurrence of three
6 members of the Cabinet; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (1) of section 20.255, Florida
11 Statutes, is amended to read:
12 20.255 Department of Environmental Protection.—There is
13 created a Department of Environmental Protection.
14 (1) The head of the Department of Environmental Protection
15 shall be a secretary, who shall be appointed by the Governor,
16 ~~with the concurrence of three members of the Cabinet.~~ The
17 appointment is subject to confirmation ~~secretary shall be~~
18 ~~confirmed~~ by the ~~Florida~~ Senate. The secretary serves ~~shall~~
19 ~~serve~~ at the pleasure of the Governor.
20 Section 2. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Banking and Insurance
Governmental Oversight and Accountability
Reapportionment
Rules

SELECT SUBCOMMITTEE:
Select Subcommittee on Legislative
Reapportionment

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR KELLI STARGEL

22nd District

January 20, 2022

The Honorable Kathleen Passidomo
Committee on Rules, Chair
402 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Passidomo:

I respectfully request to be excused from the January 20th committee meeting for Rules.

Sincerely,

A handwritten signature in cursive script that reads "Kelli Stargel".

Kelli Stargel

cc: John Phelps/Staff Director
Tom Yeatman/Deputy Staff Director
Cynthia Futch/ CAA

A handwritten signature or set of initials, possibly "JF", written in a stylized cursive script.

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 420 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Rules Committee

Judge:

Started: 1/20/2022 9:32:49 AM

Ends: 1/20/2022 10:49:37 AM

Length: 01:16:49

9:32:48 AM Chair Passidomo calls the meeting to order
9:32:49 AM
9:32:56 AM Roll call by CAA
9:33:01 AM Quorum announced
9:33:27 AM Chair with opening comments
9:33:44 AM SB 1568 will not be considered
9:33:56 AM Tab 8 SB 1006
9:34:05 AM Senator Burgess explains the bill
9:34:59 AM Amendment Barcode 110796
9:35:00 AM Senator Brandes explains the amendment
9:36:58 AM Senator Baxley in debate
9:38:29 AM Senator Bean in debate
9:39:06 AM Chair in debate
9:39:24 AM Senator Burgess in debate
9:40:14 AM Senator Brandes closes on amendment
9:40:27 AM Amendment is not adopted
9:41:25 AM Late filed amendment Barcode 656326 by Senator Gruters
9:41:30 AM Senator Gruters explains the amendment
9:42:25 AM Amendment is withdrawn
9:42:34 AM Senator Gibson with question
9:42:49 AM Senator Burgess responds
9:43:27 AM Appearance Form
9:43:35 AM Libby Guzzo, Office of Attorney General, waives in support
9:43:41 AM Senator Powell in debate
9:44:55 AM Senator Burgess closes on the bill
9:45:04 AM Roll call on SB 1006
9:45:25 AM SB 1006 is reported favorably
9:45:56 AM Tab 2 CS/SB 280
9:46:05 AM Senator Hutson explains the bill
9:46:13 AM Amendment Barcode 235072
9:46:18 AM Senator Hutson explains the amendment
9:48:42 AM Technical Amendment to the amendment Barcode 943740
9:48:54 AM Senator Hutson explains the amendment to the amendment
9:49:17 AM Senator Hutson waives close
9:49:23 AM Amendment to the amendment is adopted
9:49:34 AM Back on amendment 235072
9:49:40 AM Appearance Forms
9:49:45 AM Rebecca O'Hara, Florida League of Cities waives in support
9:49:55 AM Edward Labrador, FL Association of Counties, speaks for the amendment
9:50:39 AM Senator Hutson waives close
9:50:44 AM Amendment is adopted
9:50:51 AM Senator Farmer with question
9:51:06 AM Senator Hutson responds
9:52:59 AM Senator Farmer with follow-up
9:53:14 AM Senator Hutson responds
9:54:34 AM Senator Farmer with question
9:54:40 AM Senator Hutson responds
9:56:25 AM Senator Farmer with follow-up
9:56:35 AM Senator Hutson responds
9:56:45 AM Senator Brandes with question
9:56:49 AM Senator Hutson responds
9:57:02 AM Senator Brandes with question

9:57:07 AM Senator Hutson responds
9:57:28 AM Senator Brandes with question
9:57:33 AM Senator Hutson responds
9:58:42 AM Senator Brandes with question
9:58:49 AM Senator Hutson responds
9:59:31 AM Senator Brandes with question
9:59:36 AM Senator Hutson responds
9:59:49 AM Senator Gibson with question
9:59:56 AM Senator Hutson responds
10:00:27 AM Senator Powell with question
10:01:07 AM Senator Hutson responds
10:01:49 AM Senator Powell with follow-up
10:02:36 AM Senator Hutson responds
10:03:04 AM Senator Powell with question
10:03:13 AM Senator Hutson responds
10:04:13 AM Appearance Forms
10:04:19 AM Charles Colon speaks against
10:06:01 AM David Cullen, Sierra Club Florida, speaks against
10:09:28 AM Ida Eskamani, Florida Rising, speaks against
10:10:12 AM Samantha Padgett, Florida Restaurant and Lodging Association for the bill
10:11:22 AM Jonathan Webber, Florida Conservation Voters, speaks against
10:13:41 AM Jacqueline Porter, Tallahassee City Commissioner, speaks against
10:15:16 AM Dr. Rich Templin, FL AFL-CIO, speaks against
10:17:18 AM Karen Woodall, Florida Center for Fiscal and Economic Policy
10:17:23 AM Jane West, 1000 Friends of Florida, waives against
10:17:25 AM Natalie Fausel, Broward County, waives against
10:17:28 AM Sean Pittman, City of Port Orange waives against
10:17:31 AM Justin Peacock waives against
10:17:35 AM Linda Lewis waives against
10:17:39 AM Dorothy Jacobs waives against
10:17:42 AM Teresa McBride waives against
10:17:44 AM Maurice Johnson waives against
10:17:48 AM Noah Holliman waives against
10:17:51 AM Kammeron Brown waives against
10:17:53 AM Jess McCarty, Miami-Dade County waives against
10:17:56 AM Daniel Kurezi waives against
10:18:02 AM Phillip Suderman, Americans for Prosperity, waives in support
10:18:05 AM Donn Scott, SPLCA Action Fund, waives against
10:18:12 AM Ana Ciereszko, United Faculty of Miami-Dade College, waives against
10:18:15 AM Melissa Francisco waives against
10:18:19 AM B.D. Jogerst, Associated Industries of Florida, waives in support
10:18:22 AM Barbara DeVane, FL Now, waives against
10:18:25 AM Carolyn Johnson, FL Chamber of Commerce, waives in support
10:18:29 AM Lorena Holley, Florida Retail Federation, waives in support
10:18:33 AM Edward Labrador, FL Association of Counties, waives in support
10:18:44 AM Rebecca O'Hara, Florida League of Cities, waives in support
10:19:15 AM Senator Book with question
10:21:27 AM Rebecca O'Hara, Florida League of Cities, speaks
10:21:35 AM Senator Gibson with question
10:22:09 AM Ms. O'Hara responds
10:23:24 AM Senator Brandes with question
10:23:30 AM Ms. O'Hara responds
10:25:15 AM Senator Brandes with question
10:25:21 AM Ms. O'Hara responds
10:27:41 AM Senator Gibson in debate
10:28:39 AM Senator Farmer in debate
10:32:59 AM Chair Passidomo in debate
10:34:08 AM Senator Hutson closes on bill
10:35:15 AM Roll call on CS/SB 280
10:36:42 AM CS/SB 280 is reported favorably
10:36:59 AM Tab 3 CS/SB 336
10:37:07 AM Senator Berman explains the bill

10:38:05 AM Appearance Form
10:38:09 AM Aimee Diaz Lyon, Business Law Section-Florida Bar, waives in support
10:38:12 AM Senator Berman waives close
10:38:15 AM Roll call on CS/SB 336
10:38:22 AM CS/SB 336 is reported favorably
10:38:45 AM Tab 5 CS/SB 444
10:38:50 AM Senator Perry explains the bill
10:39:24 AM Senator Brandes with question
10:39:30 AM Senator Perry responds
10:39:34 AM Senator Perry waives close
10:39:37 AM Roll call on CS/SB 444
10:39:50 AM CS/SB 444 is reported favorably
10:40:11 AM Tab 6 SB 542
10:40:19 AM Senator Rodriguez explains the bill
10:40:57 AM Senator Powell with question
10:41:03 AM Senator Rodriguez responds
10:42:05 AM Appearance Form
10:42:09 AM Phillip Suderman, Americans for Prosperity, waives in support
10:42:13 AM Senator Rodriguez waives close
10:42:19 AM Roll call on SB 542
10:42:25 AM SB 542 is reported favorably
10:42:50 AM Tab 4 SB 352
10:42:57 AM Senator Hooper explains the bill
10:43:22 AM Amendment Barcode 454972
10:43:24 AM Amendment is withdrawn
10:43:35 AM Appearance Form
10:43:45 AM Edward Briggs, Cotney Construction Law, waives in support
10:43:48 AM Carol Bowen, Associated Builders and Contractors, waives in support
10:44:03 AM Roll call on SB 352
10:44:06 AM SB 352 is reported favorably
10:44:39 AM Tab 1 SB 222
10:44:41 AM Senator Gruters explains the bill
10:45:24 AM Appearance Forms
10:45:27 AM Deidre Bedford waives in support
10:45:35 AM Dallas Thiesen, Florida Swimming Pool Association, waives in support
10:45:41 AM Ryan Roby waives in support
10:45:49 AM Phillip Suderman, Americans for Prosperity, waives in support
10:45:53 AM Jim Magill, Pinch a Penny, waives in support
10:46:06 AM Senator Gruters closes on bill
10:46:21 AM Roll call on SB 222
10:46:34 AM SB 222 is reported favorably
10:47:04 AM Tab 7 SB 546
10:47:12 AM Senator Gruters explains the bill
10:47:58 AM Appearance Form
10:48:01 AM Scott Jenkins, Florida Financial Services Association, waives in support
10:48:07 AM Senator Gruters waives close
10:48:13 AM Roll call on SB 546
10:48:18 AM SB 546 is reported favorably
10:48:48 AM Senator Gruters with voting motions for Tab's 6,4
10:48:59 AM Senator Garcia with voting motion for Tab 8
10:49:06 AM Senator Bean with voting motion for Tab 3
10:49:15 AM Motions adopted
10:49:19 AM Senator Farmer moves to adjourn
10:49:27 AM Meeting adjourned