

Tab 1	CS/SM 160 by MS, Avila (CO-INTRODUCERS) Collins ; (Similar to H 00167) Redesignation of the Revolutionary Armed Forces of Colombia (FARC) as a Foreign Terrorist Organization					
Tab 2	SM 176 by Avila ; (Identical to H 00189) Balancing the Federal Budget					
Tab 3	SB 190 by Grall (CO-INTRODUCERS) Perry ; (Identical to H 00259) Interscholastic Extracurricular Activities					
657896	D	S	RCS	RC, Grall	Delete everything after	03/08 04:42 PM
Tab 4	CS/SB 230 by HP, Harrell ; (Compare to H 00583) Health Care Practitioner Titles and Designations					
394716	A	S	RCS	RC, Harrell	Delete L.50:	03/08 04:46 PM
479186	A	S	RCS	RC, Harrell	Delete L.72 - 77:	03/08 04:46 PM
548114	A	S	RCS	RC, Harrell	Delete L.119 - 132:	03/08 04:46 PM
Tab 5	SB 274 by Avila (CO-INTRODUCERS) Burgess, Osgood, Perry ; (Identical to H 00517) Nursing Education Pathway for Military Combat Medics					
Tab 6	CS/SB 286 by BI, Powell ; (Identical to CS/H 00237) Legal Instruments					
Tab 7	CS/SB 360 by JU, Hutson ; (Similar to CS/CS/H 00085) Causes of Action Based on Improvements to Real Property					
Tab 8	SB 7006 by GO ; (Identical to H 07001) OGSR/Nationwide Public Safety Broadband Network					
Tab 9	SB 7008 by GO ; (Identical to H 07009) OGSR/Building Plans, Blueprints, Schematic Drawings, and Diagrams					
Tab 10	SB 7010 by GO ; OGSR/United States Census Bureau					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Mayfield, Chair
Senator Perry, Vice Chair

MEETING DATE: Wednesday, March 8, 2023

TIME: 1:30—3:30 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Mayfield, Chair; Senator Perry, Vice Chair; Senators Baxley, Book, Boyd, Brodeur, Broxson, Burgess, Burton, DiCeglie, Garcia, Hooper, Hutson, Jones, Osgood, Rodriguez, Rouson, Simon, Torres, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SM 160 Military and Veterans Affairs, Space, and Domestic Security / Avila (Similar HM 167)	Redesignation of the Revolutionary Armed Forces of Colombia (FARC) as a Foreign Terrorist Organization; Urging the United States Secretary of State to redesignate the Revolutionary Armed Forces of Colombia (FARC) as a Foreign Terrorist Organization pursuant to section 219 of the Immigration and Nationality Act, as amended, etc. MS 02/21/2023 Fav/CS RC 03/08/2023 Favorable	Favorable Yeas 19 Nays 0
2	SM 176 Avila (Identical HM 189)	Balancing the Federal Budget; Urging members of Congress to take immediate action to address the current national debt and balance the federal budget, etc. GO 02/21/2023 Favorable RC 03/08/2023 Favorable	Favorable Yeas 19 Nays 0
3	SB 190 Grall (Identical H 259)	Interscholastic Extracurricular Activities; Authorizing a charter school student to participate in interscholastic extracurricular activities at a private school under certain circumstances, etc. ED 02/07/2023 Favorable JU 02/21/2023 Favorable RC 03/08/2023 Fav/CS	Fav/CS Yeas 18 Nays 0
4	CS/SB 230 Health Policy / Harrell (Compare H 583)	Health Care Practitioner Titles and Designations; Providing that, for specified purposes, the use of specified titles or designations in connection with one's name constitutes the practice of medicine or the practice of osteopathic medicine; revising grounds for disciplinary action relating to a practitioner's use of such titles or designations in identifying himself or herself to patients or in advertisements for health care services; requiring certain health care practitioners to prominently display a copy of their license in a conspicuous area of their practices, etc. HP 02/20/2023 Fav/CS RC 03/08/2023 Fav/CS	Fav/CS Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Wednesday, March 8, 2023, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 274 Avila (Identical H 517)	Nursing Education Pathway for Military Combat Medics; Revising a primary goal of the Florida Center for Nursing to provide that development of a statewide plan for nursing manpower must include the encouragement and coordination of the development of partnerships with hospitals which provide opportunities for nursing students to obtain clinical experience; requiring that the Articulation Coordinating Committee convene a workgroup to establish a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in accredited nursing education programs for military training and education required for service in specified positions; authorizing the award of additional postsecondary credit or career education clock hours, etc. HE 02/08/2023 Favorable HP 02/20/2023 Favorable RC 03/08/2023 Favorable	Favorable Yeas 19 Nays 0
6	CS/SB 286 Banking and Insurance / Powell (Identical CS/H 237)	Legal Instruments; Requiring that a lien created by an assignment of rents be perfected against a mortgagor in addition to third parties under certain conditions; revising the types of expenses that may be paid by collected rents in foreclosure actions under certain circumstances; expanding the scope of a final judgment of foreclosure to include other liens; requiring the award of attorney fees in certain circumstances, etc. BI 02/08/2023 Fav/CS JU 02/21/2023 Favorable RC 03/08/2023 Favorable	Favorable Yeas 19 Nays 0
7	CS/SB 360 Judiciary / Hutson (Similar CS/CS/H 85)	Causes of Action Based on Improvements to Real Property; Revising the time in which an action founded on the design, planning, or construction of an improvement to real property must be commenced; revising the date on which the statute of limitations period begins; providing for the calculation of the statute of limitations period for multi-dwelling buildings, etc. JU 02/21/2023 Fav/CS RC 03/08/2023 Favorable	Favorable Yeas 16 Nays 4
8	SB 7006 Governmental Oversight and Accountability (Identical H 7001)	OGSR/Nationwide Public Safety Broadband Network; Amending a provision which provides an exemption from public records requirements for certain information held by an agency relating to the Nationwide Public Safety Broadband Network; removing the scheduled repeal of the exemption, etc. RC 03/08/2023 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Wednesday, March 8, 2023, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 7008 Governmental Oversight and Accountability (Identical H 7009)	OGSR/Building Plans, Blueprints, Schematic Drawings, and Diagrams; Amending a provision which provides an exemption from public records for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development; removing a provision authorizing disclosure of exempt information under certain circumstances; removing the scheduled repeal of the exemption, etc. RC 03/08/2023 Favorable	Favorable Yeas 19 Nays 0
10	SB 7010 Governmental Oversight and Accountability	OGSR/United States Census Bureau; Repealing a provision which provides an exemption from public records requirements for United States Census Bureau address information held by an agency pursuant to the Local Update of Census Addresses Program, etc. RC 03/08/2023 Favorable	Favorable Yeas 19 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SM 160

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senators Avila and Collins

SUBJECT: Redesignation of the Revolutionary Armed Forces of Colombia (FARC) as a Foreign Terrorist Organization

DATE: March 7, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Proctor</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Brown</u>	<u>Twogood</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SM 160 is a memorial to the United States Department of State, urging the United States Secretary of State to redesignate the Revolutionary Armed Forces of Columbia (FARC) as a Foreign Terrorist Organization. The memorial attests to the Legislature's firm commitment to Columbia, and opposes the Biden Administration's removal of the FARC's designation as a Foreign Terrorist Organization.

The memorial requires the Secretary of State to dispatch copies of the memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the state delegation to the United States Congress.

A memorial is an official legislative document addressed to the United States Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto.

II. Present Situation:

Measures Against Foreign Terrorists by the Presidential Administration and Congress

Executive Order 13224

On September 23, 2001, and in response to the attacks on September 11, 2001, the President of the United States signed Executive Order 13224 (Order), to bolster existing federal action against foreign terrorists and organizations.¹ Specifically, the Order establishes a process to disrupt the financial support network of terrorists and terrorist organizations. The Order does this by authorizing the government to designate and block assets of foreign individuals and entities that commit, or pose a significant risk of committing acts of terrorism.²

As used in the Order³, terrorism is defined as an action that:

- Involves a violent act or an act dangerous to human life, property, or infrastructure; and
- Appears intended to intimidate or coerce a civilian population; influence government policy by intimidation or coercion; or affect government conduct by mass destruction, assassination, kidnapping, or hostage-taking.⁴

The Order authorizes either the United States Secretary of State (Secretary) or the Secretary of the Treasury to initiate the designation of terrorists, in concert with the United States Attorney General and each other. Once designated, the Office of Foreign Assets Control (OFAC) can block assets of the person or groups.⁵

Agency Designation of Foreign Terrorists

The authority of the Secretary to designate an individual or entity as a terrorist or foreign terrorist organization is rooted in its immigration and nationality functions.⁶ The Secretary may designate an organization as a foreign terrorist organization if the Secretary finds that:

- The organization is a foreign organization;
- The organization engages in terrorist activity or terrorism, or retains the capability and intent to engage in terrorist activity or terrorism; and
- The terrorist activity or terrorism threatens the security of United States nationals or the United States.⁷

If the Secretary determines that an organization has engaged in terrorist activity or terrorism, the Secretary must:

- Provide written, classified notification with findings seven days prior to making a designation to the Speaker and Minority Leader of the United States House of

¹ The Bureau of Counterterrorism, U.S. Dep't of State, *Executive Order 13224* (Sept. 23, 2001), available at [https://www.state.gov/executive-order-13224/#:~:text=\(d\)%20the%20term%20%E2%80%9Cterrorism,by%20intimidation%20or%20coercion%3B%20or](https://www.state.gov/executive-order-13224/#:~:text=(d)%20the%20term%20%E2%80%9Cterrorism,by%20intimidation%20or%20coercion%3B%20or) (last visited Jan. 27, 2023).

² *Id.*

³ 8 USC 1189.

⁴ *Id.*

⁵ *Id.*

⁶ Immigration and Nationality Act, 8 U.S.C. §1104(a) and 1189.

⁷ 8 U.S.C. §1189(a)(1).

Representatives, the President pro tempore, Majority Leader, and Minority Leader of the United States Senate, and members of relevant committees of the United States Congress.

- Publish the designation in the Federal Register seven days after notification.⁸

The United States Congress may through congressional act disapprove the designation.⁹ If the designation stands, the Secretary may, after a 5-year period, review the designation of the foreign terrorist organization. In its review, the Secretary will determine whether current circumstances warrant revocation.¹⁰

Along with publication in the Federal Register, the Secretary also publishes and maintains the list of foreign terrorist organizations on its website.¹¹ Upon publication in the Federal Register, the United States Secretary of the Treasury may freeze the assets of the designated organization.¹²

In addition to the designation authority of the Secretary, the OFAC can designate terrorists and maintain its own list.¹³ Specifically, the OFAC may classify an individual as a Specially Designated Global Terrorist (SDGT) and place his or her name on its list of Specially Designated Nationals (SDN). The assets of a SDGT are then blocked and the list of SDNs made publicly available, including to the international financial community. These federal actions curtail the ability of a SDN to conduct property or banking transactions in this country.¹⁴

History of FARC

Beginnings

In 1964, Manuel Marulanda and Jacobo Arenas founded the Revolutionary Armed Forces of Columbia, otherwise known as FARC.¹⁵ The group identified as its core mission social program development in rural areas and wealth redistribution. In furtherance of its mission, the FARC had as its original goal governmental overthrow, relying on the drug trade, ransom collected on kidnappings of politicians and elites, extortion, and illegal gold mining.¹⁶ The FARC used guns,

⁸ 8 U.S.C. §1189(a)(2)(A).

⁹ 8 U.S.C. §1189(a)(2)(B)(ii).

¹⁰ 8 U.S.C. §1189(a)(2)(C)(i).

¹¹ “Foreign Terrorist Organizations (FTOs) are foreign organizations that are designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (INA), as amended.” The Bureau of Counterterrorism, U.S. Dep’t of State, *Terrorist Designations and State Sponsors of Terrorism, Foreign Terrorist Organizations*, available at <https://www.state.gov/foreign-terrorist-organizations/> (last visited Jan. 23, 2023).

¹² 8 U.S.C. §1189(a)(2)(C).

¹³ The Office of Foreign Assets Control administers and enforces economic and trade sanctions based on United States foreign policy and national security goals against entities and individuals engaged in threats to national security foreign policy, or economy of the U.S., including as targeted foreign countries and regimes, international narcotics traffickers, and terrorists. United States Department of the Treasury, Office of Foreign Assets Control – Sanctions Programs and Information, available at <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information> (last visited Jan. 23, 2023).

¹⁴ United States Department of the Treasury, *Frequently Asked Questions – Specially Designated Nationals and SDN List*, available at <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1631> (last visited Jan. 20, 2023).

¹⁵ Center for International Security and Cooperation, Stanford University, *Mapping Militant Organizations*, “Revolutionary Armed Forces of Columbia,” available at https://cisac.fsi.stanford.edu/mappingmilitants/profiles/revolutionary-armed-forces-colombia-farc#text_block_17686 (last visited Jan. 24, 2023).

¹⁶ *Id.*

bombs, and homemade mortars in its attacks. In so doing, the group caused significant and lengthy periods of nationwide destabilization and violence, despite various peace talks and agreements entered into with the government.¹⁷

Expansion

In the 1970s, the group rapidly expanded due to significant revenues generated from narco-trafficking.¹⁸ Although in 1982 the group changed its name to the FARC-EP, or the People's Army, the government and media still widely referred to the group as the FARC. During an agreed to cease-fire between the FARC and the government, in 1985, the FARC co-founded the political party of the Patriotic Union (UP) with the Columbia Communist Party.¹⁹ The UP made advances in securing both local and national political seats. These political wins were swiftly retaliated through forced disappearances and assassinations by the Columbian army, right-wing paramilitaries, and drug gangs. In 1999, in response to more than 3,000 kidnappings perpetrated by the FARC and a significant spike in homicide rates, 25 percent of Columbia's entire population marched in a protest against the FARC. Violence continued, and during the 2002 political season, the FARC kidnapped a presidential candidate. In return, the government ended the legal status of the UP and the party could no longer participate politically.²⁰

2016 Peace Accord

The cycle of violence coinciding with intermittent attempts at peace continued until the parties finally agreed to the 2016 Peace Accord, ending 52 years of conflict since the beginnings of the FARC. On June 27, 2017, overseen by the United Nations, the FARC officially ended disarmament, relinquishing 7,132 weapons and 77 of the FARC's 900 arms stores from the countryside.²¹ Considered to have significant impact globally, then-President Juan Manuel-Santos received the Nobel Peace Prize for his role in the Accord, which concluded a 4-year negotiation.²²

By the date of the Accord, casualties of the long-term conflict totaled a minimum of 260,000 Columbians murdered, 80,000 missing, 20,000 kidnapped, 8.2 million displaced, 9.2 million government-registered as conflict victims, tens of thousands of recruited child soldiers, and untallied numbers of victims of torture, including sexual violence.²³

Combatant Groups in Columbia Currently in Operation

Although most FARC members have participated in reintegration since the 2016 Peace Accord, some former members continue to operate as dissidents in splinter groups.²⁴ One such identified

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Isacson, Adam, Advocacy for Human Rights in the Americas, *A Long Way to Go: Implementing Columbia's Peace Accord After Five Years* (Nov. 23, 2021), available at <https://www.wola.org/analysis/a-long-way-to-go-implementing-colombias-peace-accord-after-five-years/> (last visited Jan. 27, 2023).

²³ *Id.*

²⁴ Pursuant to the Peace Accord 13,000 former FARC members have laid down their weapons. Both splinter groups are together estimated to have 2,500 members. Bureau of Counterterrorism, U.S. Dep't of State, *Country Reports on Terrorism:*

group of FARC dissidents is the Segunda Marquetalia, organized in 2019.²⁵ Another splinter group is the FARC-EP.²⁶ This group consists of former FARC fighters and new recruits.²⁷

Additionally, the National Liberation Army (ELN), the oldest combatant group in Columbia, currently estimated at 2,300 individuals, remains an active threat.²⁸ The Colombian government and the ELN are currently engaged in peace talks in Mexico.²⁹

Collectively, these combatant groups continue to engage in bombings, violence against civilian populations, kidnappings, and attacks against military, police, government, and infrastructure.³⁰

While Venezuela and its border countries have traditionally been home to the combatant group, Hezbollah, recent sightings indicate its presence in Columbia.³¹ True to the group's clandestine nature, and having used fraudulent means to obtain Colombian citizenship, Hezbollah members in Columbia portray themselves as legitimate businesspeople.³² Hezbollah's violent history in Latin America includes bomb attacks and assassinations.³³

U.S. Response to the FARC

In 1997, the Secretary designated the FARC as a Foreign Terrorist Organization.³⁴

In 2000, the United States funded Plan Colombia, a \$9 billion United States military aid program intended to support the Colombian government in defeating the drug trade, reestablishing authority, and increasing its authority country-wide.³⁵

On December 1, 2021, the Secretary revoked and delisted both the designation of the FARC as a Foreign Terrorist Organization and its listing as a SDGT.³⁶ As justification for the revocation, the

2020, available at https://www.state.gov/reports/country-reports-on-terrorism-2020/colombia_trashed/ (last visited Jan. 25, 2023).

²⁵ *Id.*

²⁶ Astrin Suarez & Manuel Rueda, Associated Press, *Explainer: What Are Columbia's Ex-FARC Splinter Groups?*, available at <https://apnews.com/article/colombia-united-states-south-america-armed-forces-revolutionary-armed-forces-of-colombia-492c423824351ff8dc1ed4bba761d200> (last visited Jan. 27, 2023).

²⁷ *Id.*

²⁸ U.S. Dep't of State, *supra* note 24.

²⁹ Mayela Armas & Luis Jaime Acosta, Reuters, *Columbia, ELN rebels to resume peace talks in Mexico in February*, available at <https://www.reuters.com/world/americas/colombia-eln-rebels-resume-peace-talks-mexico-february-2023-01-21/> (last visited Jan. 27, 2023).

³⁰ U.S. Dep't of State, *supra* note 24.

³¹ Aurora Ortega, The Washington Institute for Near East Policy, Policy Notes, *Hezbollah in Columbia Past and Present Modus Operandi and the Need for Greater Scrutiny* (Mar. 2022, No. 119), available at <https://www.washingtoninstitute.org/media/5546?disposition=inline> (last visited Jan. 27, 2023).

³² *Id.* at 2 and 4.

³³ *Id.* at 2.

³⁴ The Secretary of State designated FARC as a Foreign Terrorist Organization October 8, 1997. Bureau of Counterterrorism, U.S. Dep't of State, *Foreign Terrorist Organizations*, available at <https://www.state.gov/foreign-terrorist-organizations/> (last visited Jan. 24, 2023).

³⁵ Center for International Security and Cooperation, *supra* note 15.

³⁶ The Secretary of State issued his revocation press release November 30, 2021 and delisted FARC as of December 1, 2021. Antony J. Blinken, Secretary of State, U.S. Dep't of State, *Revocation of the Terrorist Designations of the Revolutionary Armed Forces of Colombia (FARC) and Additional Terrorist Designations* (Nov. 30, 2021), available at

Secretary provided that subsequent to the 2016 Peace Accord, the FARC formally dissolved and disarmed. As such, the FARC no longer exists as a unified organization engaging in terrorism, nor does it have capacity or intent to do so.³⁷

Concurrent to the revocation of the FARC, the Secretary designated the Revolutionary Armed Forces of Colombia - People's Army (FARC-EP) and Segunda Marquetalia, along with their leaders, as Foreign Terrorist Organizations and as a SDGT.³⁸ The new designations included a directive to block financial and property assets. As justification, the Secretary provided that the designation of FARC-EP and Segunda Marquetalia is directed at those who refused to demobilize and continue to engage in terrorist actions, such as killing former FARC members and kidnapping and killing political candidates.³⁹

Memorial

A memorial is an official legislative document addressed to the United States Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto.

III. Effect of Proposed Changes:

CS/SM 160 is a memorial to the United States Department of State, urging the Secretary to redesignate the FARC as a Foreign Terrorist Organization. The memorial attests to the Legislature's firm commitment to Columbia, and opposes the Biden Administration's removal of the FARC as a Foreign Terrorist Organization.

The memorial requires the Secretary of State to dispatch copies of the memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the state delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

<https://www.state.gov/revocation-of-the-terrorist-designations-of-the-revolutionary-armed-forces-of-colombia-farc-and-additional-terrorist-designations/> (last visited Jan. 23, 2023). U.S. Dep't of State, *supra* note 34.

³⁷ *Id.* The FARC political party, which formed after entry of the Peace Accord, has since changed its name to Comunes. Reuters, *Columbia's FARC party changes name to Comunes* (Jan. 24, 2021), available at <https://www.reuters.com/article/us-colombia-farc/colombias-farc-party-changes-name-to-comunes-idUSKBN29T0SF> (last visited Jan. 27, 2023).

³⁸ Bureau of Counterterrorism, U.S. Dep't of State, *Foreign Terrorist Organizations*, available at <https://www.state.gov/foreign-terrorist-organizations/> (last visited Jan. 24, 2023).

³⁹ Blinken, *supra* note 36.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Military and Veterans Affairs, Space, and Domestic Security on February 21, 2023:

The committee substitute specifies that copies of the memorial are to be dispatched by the Secretary of State.

B. Amendments:

None.

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

By the Committee on Military and Veterans Affairs, Space, and Domestic Security; and Senators Avila and Collins

583-02154-23

2023160c1

Senate Memorial

A memorial to the United States Department of State, urging the United States Secretary of State to redesignate the Revolutionary Armed Forces of Colombia (FARC) as a Foreign Terrorist Organization pursuant to section 219 of the Immigration and Nationality Act, as amended.

WHEREAS, Colombia is among the oldest standing democracies in Latin America, and

WHEREAS, the United States established diplomatic relations with Colombia in 1822, and

WHEREAS, Colombia is a constitutional republic where the people of Colombia hold the power and elect representatives to exercise that power, and

WHEREAS, in October 1997, the United States Department of State designated the Revolutionary Armed Forces of Colombia (FARC) as a Foreign Terrorist Organization, and

WHEREAS, after many years of violence and armed conflict, Colombia is now the United States' strongest ally in Latin America, and

WHEREAS, with the support of the United States through Plan Colombia and the State of Florida, Colombia has transformed from a volatile and near-failed state in 2001 into a stable and prosperous democracy with a growing free market, and

WHEREAS, May 15, 2023, will mark the 11-year anniversary of the effective date of the United States-Colombia Trade Promotion Agreement, which has supported economic growth and employment opportunities in Colombia, the United States, and the State of

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Florida, and

WHEREAS, the State of Florida is responsible for roughly 25 percent of all trade between the United States and Colombia, and

WHEREAS, the United States, the State of Florida, and Colombia have shared a commitment to promoting security, prosperity, human rights, and democracy in Colombia and across the Western Hemisphere, and

WHEREAS, in recent years, the Colombian government has taken courageous steps to enforce the law, stop drug traffickers, and rein in foreign terrorist organizations like the National Liberation Army (ELN) and FARC, and

WHEREAS, the State of Florida continues to support the Colombian people in their efforts to preserve peace, support human rights defenders, promote greater educational opportunities, increase public and private investments, and respect human rights and the rule of law, and

WHEREAS, the United States maintains a strong commitment to cooperating with Colombia to investigate, arrest, and prosecute members of transnational criminal organizations and to dismantle terrorist groups like the ELN, FARC, and Hezbollah, whose illicit activities, specifically narcotrafficking, for many years devastated Colombia and other Western Hemisphere countries, and

WHEREAS, Colombia has been an essential partner to the United States in continuing efforts to support the courageous people of Venezuela in their fight for freedom, democracy, and economic prosperity against the dictatorship of Nicolás Maduro, and

WHEREAS, enemies of freedom, such as the communist regime

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in Cuba and the Maduro regime in Venezuela, exploit and abuse vulnerable individuals and perpetrate human rights abuses, such as torture, arbitrary killings, and imprisonment, while also promoting violent unrest, vandalism, and destruction of property against individuals simply asking to be heard, and

WHEREAS, in December 2021, the Biden Administration revoked the designation of the FARC as a Foreign Terrorist Organization, and

WHEREAS, the FARC has murdered, tortured, and kidnapped innocent Colombians and Americans, including kidnap victims and United States citizens Marc D. Gonsalves, Thomas R. Howes, and Keith Stansell, as well as American Thomas Janis, who was murdered, and has committed other crimes and gross violations of human rights, and

WHEREAS, the FARC subvert democratic institutions and those who defend them, and

WHEREAS, the FARC has committed and supported acts of terrorism and continues to do so, and

WHEREAS, the Colombian electorate in 2016 defeated a referendum that would have enacted a deal with the FARC, and

WHEREAS, the Colombian government later ratified an agreement with the FARC without the approval of the electorate, NOW, THEREFORE,

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

That the Florida Legislature declares its firm commitment to Colombia, a longstanding ally of the United States in Latin America, and opposes the Biden Administration's revocation of

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the FARC's designation as a Foreign Terrorist Organization.

BE IT FURTHER RESOLVED that the Florida Legislature urges the United States Secretary of State to redesignate the FARC as a Foreign Terrorist Organization.

BE IT FURTHER RESOLVED that the Secretary of State dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the Florida delegation to the United States Congress.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SM 176

INTRODUCER: Senator Avila

SUBJECT: Balancing the Federal Budget

DATE: March 7, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2. <u>Limones-Borja</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SM 176 is a memorial to Congress urging the members of Congress to reduce the current national debt and enact legislation requiring a balanced federal budget.

Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

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

II. Present Situation:

The National Debt

The national debt is the amount of money the federal government has borrowed to cover the outstanding balance of expenses incurred over time. The current national debt is \$31.46 trillion.¹ The federal debt is made up of debt held by the public² and intragovernmental debt.^{3,4}

¹ U.S. Department of Treasury, *The National Debt Explained*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#the-national-debt-explained> (last visited Jan. 23, 2023).

² Debt held by the public is all the debt that the federal government owes to those outside of the federal government. Committee for a Responsible Federal Budget, *Gross Debt Versus Debt Held by the Public*, <https://www.crfb.org/papers/qa-gross-debt-versus-debt-held-public#:~:text=The%20gross%20federal%20debt%20is,the%20public%20and%20intragovernmental%20debt>. (last visited Jan. 26, 2023).

³ “Intragovernmental debt” is debt that one part of the government owes to another part. Committee for a Responsible Federal Budget, *Gross Debt Versus Debt Held by the Public*, <https://www.crfb.org/papers/qa-gross-debt-versus-debt-held-public#:~:text=The%20gross%20federal%20debt%20is,the%20public%20and%20intragovernmental%20debt>. (last visited Jan. 26, 2023).

⁴ U.S. Department of Treasury, *Breaking Down the Debt*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=How%20much%20the%20government%20pays,over%20the%20past%20ten%20years>. (last visited Jan. 23, 2023).

To pay for this deficit,⁵ the federal government borrows money by selling marketable securities such as treasury bonds,⁶ bills,⁷ notes,⁸ floating rate notes,⁹ and treasury inflation-protected securities.^{10,11} The national debt enables the federal government to pay for important programs and services even if it does not have the funds immediately available. Decreases in federal revenue coupled with increased government spending further increases the national debt.

The Growing National Debt

The U.S. has carried debt since its inception. Recent notable events that have triggered large spikes in the debt include the Afghanistan and Iraq Wars, the 2008 Great Recession, and the Covid-19 pandemic. Tax cuts, stimulus programs, increased government spending, and decreased tax revenue generally account for sharp rises in the national debt.¹²

The federal government is charged interest for the use of lenders' money depending on the total national debt and the various securities' interest rates. As of December 2022, it costs \$210 billion to maintain the national debt, which is 15 percent of the total federal spending.¹³

Debt Limit

The debt limit is the total amount of money that the United States government is authorized to borrow to meet its existing legal obligations, including Social Security and Medicare benefits, military salaries, interest on the national debt, tax refunds, and other payments.¹⁴ Once the debt limit is reached, the federal government cannot increase the amount of outstanding debt, losing the ability to pay bills and fund government programs and services. However, the Department of Treasury can use extraordinary measures authorized by Congress to temporarily suspend certain

⁵ "Deficit" is the amount of money the federal government spends minus the amount of money it collects from taxes. Center on Budget and Policy Priorities, Policy Basics: Deficits, Debt, and Interest, <https://www.cbpp.org/research/federal-budget/deficits-debt-and-interest#:~:text=The%20deficit%20drives%20the%20amount,all%20government%20deficits%20and%20surpluses> (last visited Feb. 1, 2023).

⁶ "Treasury bonds" are government securities that pay interest every six months and mature in 20 or 30 years. Treasury Direct, *Treasury Bonds*, <https://www.treasurydirect.gov/marketable-securities/treasury-bonds/> (last visited Jan. 23, 2023).

⁷ "Bills" are short-term government securities with maturities ranging from a few days to 52 weeks. Treasury Direct, *Treasury Bills*, <https://www.treasurydirect.gov/marketable-securities/treasury-bills/> (last visited Jan. 23, 2023).

⁸ "Notes" are government securities that are issued with maturities of 2, 3, 5, 7, and 10 years and pay interest every six months. Treasury Direct, *Treasury Notes*, <https://www.treasurydirect.gov/marketable-securities/treasury-notes/> (last visited Jan. 23, 2023).

⁹ "Floating rate notes" are government securities issued for a term of two years and pay varying amounts of interest quarterly until maturity. Treasury Direct, *Floating Rate Notes*, <https://treasurydirect.gov/marketable-securities/floating-rate-notes/> (last visited Jan. 23, 2023).

¹⁰ "Treasury inflation-protected securities" are marketable securities whose principal is adjusted by changes in the Consumer Price Index. Treasury Direct, *Treasury Inflation Protected Securities*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#the-national-debt-explained> (last visited Jan. 23, 2023).

¹¹ See *supra* note 1.

¹² U.S. Department of Treasury, *The Growing National Debt*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=Over%20the%20past%20100%20years,to%20pay%20down%20its%20debt> (last visited Jan. 30, 2023).

¹³ U.S. Department of Treasury, *Maintaining the National Debt*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=Over%20the%20past%20100%20years,to%20pay%20down%20its%20debt> (last visited Jan. 30, 2023).

¹⁴ U.S. Department of Treasury, *Debt Limit*, <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/debt-limit> (last visited Jan. 23, 2023).

intragovernmental debt, allowing it to borrow to fund programs or services for a limited amount of time after it has reached the debt ceiling.¹⁵

The U.S. hit the debt limit on January 19, 2023, and the Department of Treasury has been undertaking a set of extraordinary measures to ensure all of its obligations are met. The Department of Treasury estimates that those measures will only be sufficient to last through early June. Unless Congress raises or suspends the debt limit before June, the federal government will lack the funds to pay for all its obligations.¹⁶ If the debt limit is not suspended or raised, the federal government would have to temporarily default on many of its obligations, including Social Security payments, salaries for federal civil employment, military and veterans' benefits, and much more.¹⁷

State Balanced Budget Requirements

Balanced budget requirements (BBRs) are constitutional or statutory rules that prohibit states from spending more than they collect in revenue.¹⁸ A strong balanced budget requirement meets one or more of the following:

- Requires the governor to sign a balanced budget;
- Prohibits the state from carrying over a deficit into the following year or biennium; or
- Requires the legislature to pass a balanced budget.¹⁹

Although there is no agreed upon definition for BBRs, all states except North Dakota and Wyoming have some form of BBRs. The design and stringency varies across states.

Florida's requirement is prescribed in article VII, section 1 of the Florida Constitution. The constitution requires that "[p]rovision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period."²⁰ Section 216.221, F.S., provides that all appropriations shall be maximum appropriations, based on the collection of sufficient revenue. In addition, "[i]t is the duty of the Governor, as chief budget officer, to ensure that revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund."²¹

Section 215.98, F.S., provides that the "Legislature shall not authorize the issuance of additional state tax-supported debt if such authorization would cause the designated benchmark debt ratio

¹⁵ U.S. Department of Treasury, *The Debt Ceiling*, <https://fiscaldata.treasury.gov/americas-finance-guide/national-debt/#:~:text=Over%20the%20past%20100%20years,to%20pay%20down%20its%20debt>. (last visited Jan. 30, 2023).

¹⁶ Brookings Institute, *How worried should we be if the debt ceiling isn't lifted?* <https://www.brookings.edu/2023/01/25/how-worried-should-we-be-if-the-debt-ceiling-isnt-lifted/> (last visited Jan. 30, 2023).

¹⁷ Committee for a Responsible Federal Debt, *Q&A: Everything You Should Know About the Debt Ceiling*, <https://www.crfb.org/papers/qa-everything-you-should-know-about-debt-ceiling#what%20happens> (last visited Jan. 30, 2023).

¹⁸ Tax Policy Center, *What are state balanced budget requirements and how do they work?* [https://www.taxpolicycenter.org/briefing-book/what-are-state-balanced-budget-requirements-and-how-do-they-work#:~:text=Balanced%20Budget%20Requirements%20\(BBRs\)%20are,reduced%20spending%20and%20smaller%20deficits](https://www.taxpolicycenter.org/briefing-book/what-are-state-balanced-budget-requirements-and-how-do-they-work#:~:text=Balanced%20Budget%20Requirements%20(BBRs)%20are,reduced%20spending%20and%20smaller%20deficits). (last visited Jan. 27, 2023).

¹⁹ *Id.*

²⁰ FLA. CONST. art VII, s. 1(d).

²¹ Section 216.221(1), F.S.

of debt service to revenues available to pay debt service to exceed 7 percent unless” it finds that the additional debt is necessary to address a critical state emergency.²²

Senate Memorial

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses, but does not require the governor’s approval, nor is it subject to a veto. Memorials often express the Legislature’s desire that Congress take action on a certain matter or request that Congress propose an amendment to the United States Constitution.²³

III. Effect of Proposed Changes:

The Memorial contains 11 whereas clauses. The clauses outline the impact of the current national debt and urge Congress to take immediate action to address the national debt and balance the federal budget.

Copies of the memorial will be sent by Florida’s Secretary of State to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the governor’s veto power. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce the counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²² Section 215.98(1), F.S.

²³ Office of Bill Drafting Services, *Manual for Drafting Legislation*, The Florida Senate, at 137-138. (2009).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Avila

39-00242-23

2023176__

Senate Memorial

A memorial to the Congress of the United States, urging members of Congress to take immediate action to address the current national debt and balance the federal budget.

WHEREAS, the United States' national debt for the federal fiscal year 2021-2022, which ended September 30, 2022, totaled \$30.93 trillion, which represents an increase of \$2.5 trillion in debt from the previous fiscal year, and

WHEREAS, the amount of debt carried by the Federal Government affects the amount of interest it pays in a fiscal year, and

WHEREAS, as of October 2022, the first month in the 2022-2023 federal fiscal year, maintaining the national debt costs the Federal Government \$48 billion per month or 12 percent of total federal spending, and

WHEREAS, as inflation and interest rates increase, the Federal Government encounters higher interest rates on borrowed moneys, and

WHEREAS, as the national debt increases, Congress is forced to raise the debt ceiling or risk not being able to pay Federal Government expenditures, resulting in government shutdowns and employee furloughs that threaten national security, and

WHEREAS, 41 states, including Florida, require their state legislatures to pass balanced budgets that ensure fiscal discipline and responsibility, and

WHEREAS, Congress has attempted, unsuccessfully, to introduce and enact legislation requiring its members to pass a

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

39-00242-23

2023176__

balanced budget, and

WHEREAS, the people of Florida recognized the wisdom of fiscal discipline and enshrined in the State Constitution the requirement for a balanced budget, thereby placing prudent limits on government spending, and

WHEREAS, the Florida Legislature has made fiscally responsible decisions, has maintained a balanced budget, and has saved residents of this state from crippling deficits, massive debt burdens, and bankruptcy, and

WHEREAS, the Florida Legislature calls on members of Congress to enact legislation requiring a balanced budget; to mandate the Federal Government operate with fiscal responsibility, discipline, and common sense; and to operate within the revenues granted to it by the people, and

WHEREAS, in order to ensure the stability of government and business functions at the local, regional, state, and national levels, it is imperative that the Federal Government take action to cut costs, reduce the tax burden on American families and businesses, operate according to principles of fiscal responsibility and discipline, and balance the federal budget, NOW, THEREFORE,

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

That the Congress of the United States is urged to take immediate action to begin to reduce the national debt and enact legislation requiring a balanced federal budget.

BE IT FURTHER RESOLVED that the Secretary of State is directed to dispatch copies of this memorial to the President of

Page 2 of 3

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

39-00242-23

2023176__

59 the United States, to the President of the United States Senate,
60 to the Speaker of the United States House of Representatives,
61 and to each member of the Florida delegation to the Congress of
62 the United States.



SENATOR Bryan Avila
39th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

February 22, 2023

Honorable Senator Debbie Mayfield
Chair
Committee on Rules

Honorable Chair Mayfield,

I respectfully request SM 176 Balancing the Federal Budget be placed on the next committee agenda.

This Memorial request Urges members of Congress to take immediate action to address the current national debt and balance the federal budget.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Avila".

Senator Bryan Avila
Florida Senate, District 39

CC: Phillip Twogood, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 190

INTRODUCER: Rules Committee and Senators Grall and Perry

SUBJECT: Interscholastic Extracurricular Activities

DATE: March 9, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sagues	Bouck	ED	Favorable
2. Davis	Cibula	JU	Favorable
3. Sagues	Twogood	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 190 provides a mechanism for a charter school student to participate in interscholastic extracurricular activities at a private school. Current law permits a charter school student to participate in a public school's activities when the activity sought is not offered at the charter school and certain participation requirements are met. This bill similarly authorizes a charter school student to develop an agreement with a private school to participate in the private school's interscholastic extracurricular activities if the activity is not offered at the charter school and the student meets the participation requirements provided by law.

Additionally, the bill authorizes a Florida Virtual School student who meets academic, conduct, and other specified requirements to participate in interscholastic extracurricular activities of a private school if the student develops an agreement to participate with the private school.

The language in this bill that authorizes a charter school student or a Florida Virtual School student to participate in the interscholastic extracurricular activities of a private school tracks very similar language found in the statute that authorizes a home education student to participate in the interscholastic extracurricular activities of a private school.

The bill has no fiscal impact.

The bill takes effect on July 1, 2023.

II. Present Situation:

Parent Rights

Florida law provides K-12 students and their parents numerous statutory rights as it pertains to educational issues. Under the topic of extracurricular activities, charter, Florida Virtual School, and home education students who meet specified requirements are eligible to participate in extracurricular activities at a public school.¹ A home education student may also develop an agreement to participate at a private school.²

In addition, organizations that regulate or govern extracurricular activities of public schools are prohibited from discriminating against any eligible student based on an educational choice of public, private, or home education.³

Charter Schools

Charter schools were first authorized in Florida in 1996.⁴ They are publicly funded, tuition-free public schools that are typically created through an agreement between the local district school board and the charter school. This agreement or “charter” provides the school with flexibility from certain public school regulations in exchange for the school’s commitment to meet higher accountability standards.⁵

National Data

It is estimated that 3.7 million students across the nation attend charter schools.⁶ Forty-five states and the District of Columbia have enacted charter school laws as of January 2020.⁷ Between the 2009-2010 and 2019-2020 school years, the total number of charter schools increased from 5,000 to 7,500, an increase from 5 to 8 percent of all public schools. The nationwide percentage of public school students attending public charter schools increased from 3 to 7 percent between fall 2009 and fall 2019.⁸

Florida Data

All charter schools in Florida are public schools and are part of the state’s public education system.⁹ During the 2021-2022 school year, Florida’s 703 charter schools enrolled

¹ Section 1002.20(18), F.S.

² *Id.*

³ *Id.*

⁴ Ch. 96-186, s. 1, Laws of Fla. This statute was originally enacted as s. 228.056, F.S., in 1996 but was later repealed and substantively transferred to s. 1002.33, F.S. in 2002. Ch. 2002-387, s. 98, Laws of Fla.

⁵ Florida Department of Education, Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (September 2022), <https://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2022.pdf>.

⁶ National Alliance for Public Charter Schools, *New Report Shows Charter School Enrollment Patterns Are Holding Steady Through the Pandemic*, <https://www.publiccharters.org/latest-news/2022/11/16/new-report-shows-charter-school-enrollment-patterns-are-holding-steady> (Nov. 16, 2022).

⁷ Education Commission of the States, *50-State Comparison: Charter School Policies*, <https://www.ecs.org/charter-school-policies/> (Jan. 28, 2020).

⁸ National Center for Education Statistics, *Public Charter School Enrollment*, <https://nces.ed.gov/programs/coe/indicator/cgb> (last updated May 2022).

⁹ Section 1002.33(1), F.S.

approximately 361,939 students in 47 school districts.¹⁰ Seventy percent of the students attending charter schools in the 2020-2021 school year were minorities. Hispanic students accounted for 45 percent of the charter school enrollment, while 19 percent were African-American students.¹¹

The Florida Virtual School

The Florida Virtual School (FLVS) was established to develop and deliver online and distance learning education,¹² and is part of the Florida public school system.¹³ The Commissioner of Education is charged with monitoring the FLVS.¹⁴ The FLVS is required to serve any student in the state who meets the profile for success, giving priority to students:¹⁵

- Who need expanded access to courses in order to meet their educational goals.
- Seeking accelerated access to obtain a high school diploma at least one semester early.
- Who are children of an active duty member of the United States Armed Forces whose home of record or state of legal residence is Florida.

FLVS Operations

The FLVS is authorized to provide full-time and part-time instruction for students in kindergarten through grade 12.¹⁶ Public school students receiving full-time and part-time instruction by the FLVS must take all statewide assessments required pursuant to law.¹⁷ In addition, the FLVS offers a comprehensive selection of courses that fulfill all state standards.¹⁸

During the 2021-2022 school year, FLVS served 11,832 full-time students across the state.¹⁹

Private Schools

A private school is a nonpublic school defined, in part, “as an individual, association, co-partnership, or corporation, or department, division, or section of those organizations, that designates itself as an educational center that includes kindergarten or a higher grade” and is below the college level.²⁰ A private school may choose to operate as a parochial, religious, or denominational school and may choose to be a for-profit or nonprofit school.²¹ The Florida

¹⁰ Florida Department of Education, Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (September 2022), <https://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2022.pdf>.

¹¹ *Id.*

¹² Section 1002.37(1), F.S.

¹³ Section 1000.04(4), F.S.

¹⁴ Section 1002.37(1)(a), F.S.

¹⁵ *Id.*

¹⁶ Section 1002.37(9), F.S.

¹⁷ Section 1002.37(10), F.S.

¹⁸ Florida Virtual School, *Learn About Our Courses*, <https://flvs.net/curriculum> (last visited Mar. 8, 2023). FLVS, *FLVS Accountability*, <https://flvs.net/about/accountability> (last visited Mar. 8, 2023).

¹⁹ Florida Department of Education, *Fact Sheet* (2022), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual-Sept.pdf>.

²⁰ Section 1002.01(2), F.S. and Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>.

²¹ Section 1002.01(2), F.S.

Department of Education (FDOE) does not license the private elementary and secondary schools in the state, nor does it approve, accredit, or regulate them.²²

National Data

Nationally, as the 2019 school year began, approximately 4.7 million, or 9 percent, of the kindergarten through grade 12 students were enrolled in private schools.²³

Florida Data

According to a report published by the FDOE, during the 2021-2022 school year, approximately 3,249,259 students were enrolled in public and private schools from pre-kindergarten through grade 12. Of that number, private schools enrolled approximately 416,084 students, or 12.8 percent, of those students.²⁴ In that same school year, there were 2,848 private schools operating in Florida.²⁵

Participation in Interscholastic Extracurricular Activities

The term “interscholastic extracurricular activities” is not specifically defined in the statutes. However, extracurricular is defined to mean “any school-authorized or education-related activity occurring during or outside the regular instructional school day.”²⁶ The same statute refers to interscholastic extracurricular student activities as being “an important complement to the academic curriculum” and notes that participation in those activities contributes to a student developing the social and intellectual skills that are needed “to become a well-rounded adult.”²⁷

Participation Requirements

To be eligible to participate in interscholastic extracurricular activities a student must:²⁸

- Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent.
- Fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student’s parents if the student’s cumulative grade point average falls below 2.0, or its equivalent on a 4.0 scale.
- Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required during his or her junior or senior year.
- Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies.²⁹

²² Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), 2, <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>.

²³ National Center for Education Statistics, *Private School Enrollment* (last updated May 2022), <https://nces.ed.gov/programs/coe/indicator/cgc/private-school-enrollment>.

²⁴ Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), 2, <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>. This data was compiled from an on-line survey submitted by private school participants and its accuracy is not verified by the Department.

²⁵ Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>.

²⁶ Section 1006.15(2), F.S.

²⁷ *Id.*

²⁸ Section 1006.15(3). Eligible to participate includes, but is not limited to, a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests.

²⁹ Section 1006.15(3)(a)1.-4., F.S.

Charter School Student Participation

A charter school student may participate in interscholastic extracurricular activities at a public school to which the student would be assigned, unless the activity is also provided by the student's charter school. However, the following conditions must also be met for participation at the public school:

- The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.
- During the period of participation at a school, the charter school student must demonstrate educational progress as required.
- The charter school student must meet the same residency requirements as other students in the school at which he or she participates.
- The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in the extracurricular activities.
- The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation.
- A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year.
- Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school to become eligible to participate as a charter school student.³⁰

Florida Virtual School Student Participation

Similar to a charter school student, a FLVS full-time student may participate in interscholastic extracurricular activities at a public school to which the student would be assigned, or which the student could choose to attend if the student:³¹

- Meets the general requirements for participation.³²
- Meets any additional requirements as determined by the board of trustees of FLVS.
- Meets the same residency requirements as other students in the school at which he or she participates.
- Meets the same standards of acceptance, behavior, and performance that are required of other students in the extracurricular activities.
- Register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation.

A student who transfers from the FLVS to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic

³⁰ Section 1006.15(3)(d), F.S. *See also* s. 1002.33(11), F.S.

³¹ Section 1006.15(3)(e), F.S.

³² Section 1006.15(3), F.S.

extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year.³³

Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a FLVS student until the student has successfully completed one grading period in a charter school to become eligible to participate as a charter school student.³⁴

Home Education Student Participation

A home education student is also eligible to participate in interscholastic extracurricular activities at a public school or a private school. In order to participate at a private school, the student is required to develop an agreement with the private school and meet the participation requirements discussed above.³⁵

III. Effect of Proposed Changes:

CS/SB 190 amends ss. 1002.20, 1002.33 and 1006.15 F.S., to:

- Authorize a charter school student who meets academic, conduct, and other specified requirements to participate in the interscholastic extracurricular activities of a private school, which are not offered at the charter school, if the student develops an agreement to participate with the private school.
- Authorize a Florida Virtual School student who meets academic, conduct, and other specified requirements to participate in interscholastic extracurricular activities of a private school if the student develops an agreement to participate with the private school.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³³ Section 1006.15(3), F.S.

³⁴ *Id.*

³⁵ Section 1006.15(3)(c), F.S.

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 substantially amends the following sections of the Florida Statutes: 1002.20, 1002.33 and 1006.15.

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 Rules on March 8, 2023:

The committee substitute authorizes a Florida Virtual School student who meets academic, conduct, and other specified requirements to participate in interscholastic extracurricular activities of a private school if the student develops an agreement to participate with the private school.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/08/2023	.	
	.	
	.	
	.	

The Committee on Rules (Grall) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (c) and (d) of subsection (18) of
section 1002.20, Florida Statutes, are amended to read:

1002.20 K-12 student and parent rights.—Parents of public
school students must receive accurate and timely information
regarding their child's academic progress and must be informed
of ways they can help their child to succeed in school. K-12
students and their parents are afforded numerous statutory



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rights including, but not limited to, the following:

(18) EXTRACURRICULAR ACTIVITIES.—In accordance with the provisions of s. 1006.15:

(c) *Charter school students.*—Charter school students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, or may develop an agreement to participate at a private school, unless such activity is provided by the student's charter school.

(d) *Florida Virtual School full-time students.*—Florida Virtual School full-time students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, or may develop an agreement to participate at a private school.

Section 2. Subsection (11) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.—A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend, or may develop an agreement to participate at a private school, pursuant to s. 1006.15(3)(d).

Section 3. Paragraphs (d) and (e) of subsection (3) of section 1006.15, Florida Statutes, are amended to read:

1006.15 Student standards for participation in



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interscholastic and intrascholastic extracurricular student activities; regulation.—

(3)

(d) An individual charter school student pursuant to s. 1002.33 is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could attend, or may develop an agreement to participate at a private school, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.



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6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.

(e) A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to s. 1002.31, or may develop an agreement to participate at a private school, if the student:

1. During the period of participation in the interscholastic extracurricular activity, meets the requirements in paragraph (a).

2. Meets any additional requirements as determined by the board of trustees of the Florida Virtual School.

3. Meets the same residency requirements as other students in the school at which he or she participates.

4. Meets the same standards of acceptance, behavior, and



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performance that are required of other students in
extracurricular activities.

5. Registers his or her intent to participate in
interscholastic extracurricular activities with the school
before participation. A Florida Virtual school student must be
able to participate in curricular activities if that is a
requirement for an extracurricular activity.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to interscholastic extracurricular
activities; amending s. 1002.20, F.S.; authorizing
charter school students and Florida Virtual School
full-time program students to participate in
interscholastic extracurricular activities at a
private school under certain circumstances; amending
s. 1002.33, F.S.; authorizing charter school students
to participate in interscholastic extracurricular
activities at a private school under certain
circumstances; amending s. 1006.15, F.S.; authorizing
charter school students and Florida Virtual School
full-time program students to participate in
interscholastic extracurricular activities at a
private school under certain circumstances; providing
an effective date.

By Senator Grall

29-00477-23

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A bill to be entitled

An act relating to interscholastic extracurricular activities; amending ss. 1002.33 and 1006.15, F.S.; authorizing a charter school student to participate in interscholastic extracurricular activities at a private school under certain circumstances; providing an effective date.

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

Section 1. Subsection (11) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.—A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend, or may develop an agreement to participate at a private school, pursuant to s. 1006.15(3)(d).

Section 2. Paragraph (d) of subsection (3) of section 1006.15, Florida Statutes, is amended to read:

1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—

(3)

(d) An individual charter school student pursuant to s. 1002.33 is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could attend, or

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

29-00477-23

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may develop an agreement to participate at a private school, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, ~~pursuant to~~ subparagraph 2.

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59 7. Any public school or private school student who has been
60 unable to maintain academic eligibility for participation in
61 interscholastic extracurricular activities is ineligible to
62 participate in such activities as a charter school student until
63 the student has successfully completed one grading period in a
64 charter school pursuant to subparagraph 2. to become eligible to
65 participate as a charter school student.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 230

INTRODUCER: Rules Committee, Health Policy Committee and Senator Harrell

SUBJECT: Health Care Practitioner Titles and Designations

DATE: March 8, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van Winkle	Brown	HP	Fav/CS
2.	Rossitto Van Winkle	Twogood	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 230 creates s. 456.0651, F.S., for health care practitioner titles and designations. The bill defines “advertisement,” “educational degree,” “misleading, deceptive, or fraudulent representation,” and “profession.” The bill provides that if someone other than an allopathic or osteopathic physician attaches to his or her name any of the titles or designations listed in the bill, in an advertisement or in a manner that is misleading, deceptive, or fraudulent, the person is practicing medicine or osteopathic medicine without a license and is subject to the provisions of s. 456.065, F.S., relating to the unlicensed practice of a health care profession. The bill provides exceptions for certain professions and certain titles, and provides that practitioners may use titles and specialty designations authorized under their respective practice acts.

The bill amends s. 456.072(1)(t), F.S., to provide that a practitioner’s failure to wear a name tag, which must include his or her name and profession, when treating or consulting with a patient, is grounds for discipline unless he or she is in his or her office where the practitioner’s license is prominently displayed in a conspicuous area, and the practitioner must verbally identify himself or herself to all new patients by name and profession.

The bill further amends s. 456.072(1)(t), F.S., to provide that any advertisement naming a practitioner must include the practitioner's profession and educational degree and to require practitioner regulatory boards,¹ or the Department of Health (DOH) if there is no board, to adopt rules to determine how their practitioners must comply with this paragraph of statute.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Licensure and Regulation of Health Care Practitioners

The Division of Medical Quality Assurance (MQA), within the DOH, has general regulatory authority over health care practitioners.² The MQA works in conjunction with 22 regulatory boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions.³ Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA. The MQA is statutorily responsible for the following boards and professions established within the division:⁴

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- Naturopathy, as provided under ch. 462, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- Nursing assistants, as provided under part II of ch. 464, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- Midwifery, as provided under ch. 467, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;

¹ Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within DOH or, in some cases, within DOH's Division of Medical Quality Assurance (MQA).

² Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, genetic counselors, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

³ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2021-2022*, p. 5, <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited Feb. 10, 2023).

⁴ Section 456.001(4), F.S.

- Respiratory therapy, as provided under part V of ch. 468, F.S.;
- Dietetics and nutrition practice, as provided under part X of ch. 468, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- Electrolysis, as provided under ch. 478, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Clinical Laboratory Personnel, created under part I of ch. 483, F.S.;
- Medical physicists, as provided under part II of ch. 483, F.S.;
- Genetic Counselors as provided under part III of ch. 483, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- School psychologists, as provided under ch. 490, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.; and
- Emergency medical technicians and paramedics, as provided under part III of ch. 401, F.S.

The DOH and the practitioner boards have different roles in the regulatory system. Boards establish practice standards by rule, pursuant to statutory authority and directives. The DOH receives and investigates complaints about practitioners and prosecutes cases for disciplinary action against practitioners.

The DOH, on behalf of the professional boards, investigates complaints against practitioners.⁵ Once an investigation is complete, the DOH presents the investigatory findings to the boards. The DOH recommends a course of action to the appropriate board's probable cause panel which may include:⁶

- Issuing an Emergency Order;
- Having the file reviewed by an expert;
- Issuing a closing order; or
- Filing an administrative complaint.

The boards determine the course of action and any disciplinary action to take against a practitioner under the respective practice act.⁷ For professions for which there is no board, the DOH determines the action and discipline to take against a practitioner and issues the final orders.⁸ The DOH is responsible for ensuring that licensees comply with the terms and penalties

⁵ Department of Health, *Investigative Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html> (last visited Feb. 10, 2023).

⁶ Department of Health, *Prosecution Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html> (last visited Feb. 10, 2023).

⁷ Section 456.072(2), F.S.

⁸ Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, genetic counselors, and school psychologists.

imposed by the boards.⁹ If a case is appealed, DOH attorneys defend the final actions of the boards before the appropriate appellate court.¹⁰

The DOH and board rules apply to all statutory grounds for discipline against a practitioner. Under current law, the DOH takes on the disciplinary functions of a board relating to violations of a practice act only for practitioner types that do not have a board. The DOH itself takes no final disciplinary action against practitioners for which there is a board.

The Unlicensed Activity Unit

The Unlicensed Activity (ULA) Unit protects Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from an unlicensed person. The ULA unit investigates and refers for prosecution all unlicensed health care activity complaints and allegations.

The ULA unit works in conjunction with law enforcement and the state attorney's offices to prosecute individuals practicing without a license. In many instances, unlicensed activity is a felony level criminal offense. More importantly, receiving health care from unlicensed persons is dangerous and could result in further injury, disease or even death.¹¹

The Unlicensed Activity Investigation Process

The DOH assigns all ULA complaints a computer-generated complaint number for tracking purposes. If the allegations are determined to be legally sufficient, the matter will be forwarded to a ULA investigator whose office is geographically closest to the location where the alleged unlicensed activity is occurring. In cases where the person making the allegation has provided their identifying information, a ULA investigator will contact him or her to verify the allegations. The investigator may also ask for more detailed information concerning certain aspects of the complaint. He or she may also ask to meet with the complainant in person for a formal interview. All ULA investigators are empowered to take sworn statements.

After discussing the allegations with the complainant, the ULA investigator will pursue all appropriate investigative steps (gather documents, conduct surveillance, question witnesses, etc.) in order to make a determination concerning the likelihood that the offense(s) took place in the manner described by the complainant. In the event that a licensed health care provider is alleged to be somehow involved with the unlicensed activity, the ULA investigator will also coordinate his/her investigation with the Investigative Services Unit (ISU) regulatory investigator assigned to investigate the licensee.

If the complainant's allegations can be substantiated, the ULA investigation will conclude with one or more of the following outcomes:

- The subject(s) will be issued a Cease and Desist Agreement.

⁹ *Supra*, note 6.

¹⁰ *Id.*

¹¹ The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Reporting Unlicensed Activity*, available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/index.html> (last visited Feb. 21, 2023).

- The subject(s) will be issued a Uniform Unlicensed Activity Citation (fine).
- The subject(s) will be arrested by law enforcement.

If the investigation determines that the alleged acts either did not take place or if they did occur but all actions were lawful and proper, the investigation will be closed as unfounded. In the event that the allegation(s) cannot be clearly proved or disproved, the matter will be closed as unsubstantiated. In any case, a detailed investigative report will be prepared by the ULA investigator supporting the conclusions reached by the investigation.

Under s. 456.065, F.S., investigations involving the unlicensed practice of a healthcare profession are criminal investigations that require the development of sufficient evidence (probable cause) to present to law enforcement or file charges with the State Attorney's Office in the county of occurrence. While ULA investigators are non-sworn, many have law enforcement experience gained from prior careers as police officers and detectives. ULA investigators work cooperatively with many law enforcement agencies in joint investigations that are either initiated by the DOH or the agency concerned.¹²

Health Care Specialties and Florida Licensure

The DOH does not license health care practitioners by specialty or subspecialty. A health care practitioner's specialty area of practice is acquired through the practitioner acquiring additional education, training, or experience in a particular area of health care practice. Practitioners who have acquired additional education, training, or experience in a particular area may also elect to become board-certified in that specialty by private, national specialty boards, such as the American Board of Medical Specialties (ABMS), the Accreditation Board for Specialty Nursing Certification, and the American Board of Dental Specialties.¹³ Board certification is not required to practice a medical or osteopathic specialty.

Current Law Title Prohibitions

Current law limits which health care practitioners may hold themselves out as board-certified specialists. An allopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the ABMS or other recognizing agency¹⁴ approved by the Board of Medicine.¹⁵ Similarly, an osteopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and

¹² The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Investigate Complaints*, available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/investigate-complaints.html> (last visited Feb. 21, 2023).

¹³ Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry.

¹⁴ The Board of Medicine has approved the specialty boards of the ABMS as recognizing agencies. See Fla. Admin. Code. R. 64B8-11.001(1)(f), (2022).

¹⁵ Section 458.3312, F.S.

is certified as a specialist by a certifying agency¹⁶ approved by the board.¹⁷ In addition, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the Board of Medicine.¹⁸

A podiatric physician also may not advertise that he or she is board certified unless the organization is approved by the Board of Podiatric Medicine (BPM) for the purposes of advertising only and the name of the organization is identified in full in the advertisement. In order for an organization to obtain the BPM approval it must be the American Podiatric Medical Association, the National Council of Competency Assurance, or an organization that must:

- Be composed of podiatric physicians interested in a special area of practice demonstrated through successful completion of examinations or case reports;
- Subscribe to a code of ethics;
- Have rules and procedures for maintaining a high level of professional conduct and discipline among its membership;
- Have an active membership of at least seventy-five (75);
- Sponsor annual meeting and courses in Board approved continuing education; and
- Be a national organization in scope and give a certification examination at least once a year before the podiatric physician can advertise possession of the certification.¹⁹

A dentist may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation and the dentist is:²⁰

- Eligible for examination by a national specialty board recognized by the American Dental Association; or
- Is a diplomate of a national specialty board recognized by the American Dental Association.

If a dentist announces or advertises a specialty practice for which there is not an approved accrediting organization, the dentist must clearly state that the specialty is not recognized or that the accrediting organization has not been approved by the American Dental Association or the Florida Board of Dentistry.²¹

By rule, the Board of Chiropractic Medicine (BCM) prohibits chiropractors from using deceptive, fraudulent, and misleading advertising. However, the BCM permits chiropractors to advertise that he or she has attained diplomate status in a chiropractic specialty area recognized by the BCM. BCM specialties include those which are recognized by the Councils of the

¹⁶ The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Fla. Admin. Code R. 64B15-14.001(h),(2022).

¹⁷ Section 459.0152, F.S.

¹⁸ *Id.*

¹⁹ Fla. Admin. Code R. 64B18-14.004 (2022).

²⁰ Section 466.0282, F.S. A dentist may also hold himself or herself out as a specialist if the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

²¹ Section 466.0282(3), F.S.

American Chiropractic Association, the International Chiropractic Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.²²

Most other health care practitioner practice acts, and/or board rules, contain prohibitions against false, deceptive, or misleading advertising or fraudulent representations in the practice, or both.²³

Health Care Practitioners: Specialty Designations

Section 456.072, F.S., authorizes a regulatory board, or the DOH if there is no board, to discipline a health care practitioner's licensure for a number of offenses, including but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

If a board or the DOH finds that a licensee committed a violation of a statute or rule, the board or the DOH may:²⁴

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee's practice or license;
- Impose an administrative fine not to exceed \$10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of \$10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

State Versus Federal Practitioner Licensure

The federal government does not license health care practitioners, nor does it regulate practitioner behavior in terms of scope of practice, standards of practice, or practitioner discipline. Instead, the federal government relies on state governments to fulfill those functions.

In addition to state licensure requirements, Medicare, Medicaid, and other government reimbursement programs²⁵ rely on the power of the purse in managing practitioners and facilities in the provision of health care services to persons enrolled in such programs. These programs impose "conditions of participation" and "conditions of payment," which essentially mandate

²² Fla. Admin. Code R. 64B2-15.001(2)(e), (2022). Examples of chiropractic specialties include chiropractic acupuncture, chiropractic internist, chiropractic and clinical nutrition, radiology chiropractic, and pediatric chiropractors.

²³ See *Pharmacist*, Fla. Admin. Code R. 64B16-3001(2)(u), (2022); *Acupuncture*, Fla. Admin. Code R. 64B1-9.001(d) and (k), (2022); *Athletic Trainer*, Fla. Admin. Code R. 64B33-5.001(4)(a) and (e), (2022).

²⁴ Section 456.072(2), F.S.

²⁵ Such as the federal workers' compensation program for longshoremen and harbor workers found under 20 CFR Subchapter A, available at: <https://www.law.cornell.edu/cfr/text/20/chapter-VI/subchapter-A> (last visited March 4, 2023).

compliance with specified standards. Certification under a federal health care program is a right to participate in government payment systems; it is distinct from state licensure or accreditation by a nationally-recognized board.²⁶

For example, under federal labor law found in 29 CFR s. 825.125, the definition of “health care provider” includes, in part, a doctor of medicine or osteopathy who is authorized to practice medicine or surgery *by the state in which the doctor practices*.

That section of federal law goes on to reference other practitioners, including podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse midwives, clinical social workers, and physician assistants who are *authorized to practice in the state and performing within the scope of their practice as defined under state law*.

Another example is found in federal law creating a workers’ compensation program for longshoremen and harbor workers.²⁷ Under that federal program, for the purpose of establishing who may be paid for providing health care services to patients in the program, the term “physician” includes doctors of medicine, surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners *within the scope of their practice as defined by state law*.²⁸

Some provisions of federal law distinguish between “physicians” and other practitioners who are included in the “physician” payment provisions above. For example, federal Medicaid law requires that state Medicaid programs “must provide for payment of optometric services as physician services, whether furnished by an optometrist or a physician,” thereby differentiating between optometrists and physicians instead of classifying them jointly.²⁹

These federal laws do not license or regulate such practitioners the way state laws do. They also do not define practitioner credentials, titles, or scopes of practice outside the provisions of state law.

Florida Law Relating to Treatment of Medicare Beneficiaries

In 1992, the Legislature created s. 456.056, F.S., relating to the treatment of patients enrolled in the federal Medicare program and how Florida-licensed practitioners may bill such patients. The sole purpose of this section of statute is to prohibit Florida-based practitioners participating in Medicare from directly invoicing Medicare patients in excess of the amounts that patients owe, according to Medicare payment methodologies for participating practitioners.

Section 456.056, F.S., provides that the term “physician” is defined in a manner consistent with federal law for Medicare billing. As the term is used in that section of the Florida Statutes, “physician” means:

²⁶ The Healthcare Law Review: USA, *Spotlight: The Regulation of Healthcare Providers and Professionals in the USA*, Sept. 7, 2020, available at: <https://www.lexology.com/library/detail.aspx?g=c3c193d0-753e-4244-914a-fd943e70ec8e> (last visited March 4, 2023).

²⁷ *Supra* note 25.

²⁸ See 20 CFR s. 702.404.

²⁹ See 42 CFR s. 441.30.

- A physician licensed under ch. 458, F.S.,
- An osteopathic physician licensed under ch. 459, F.S.,
- A chiropractic physician licensed under ch. 460, F.S.,
- A podiatric physician licensed under ch. 461, F.S., or
- An optometrist licensed under ch. 463, F.S.³⁰

This definition of “physician,” which was written to apply only to Medicare billing issues, is comparable to Medicare’s definition of “physician services” found in 42 CFR Part 414, which is entitled “Payment for Part B Medical and Other Health Services.” This portion of Medicare law³¹ provides that, for payment purposes, “physician services” includes the following services, to the extent they are covered by Medicare: professional services of doctors of medicine and osteopathy, doctors of optometry, doctors of podiatry, doctors of dental surgery and dental medicine,³² and chiropractors.

Section 456.056, F.S., goes on to provide that any attempt by a Florida-licensed “physician,” as defined above, to collect from a Medicare beneficiary any amount of charges in excess of an unmet deductible or the 20 percent of charges that Medicare does not pay, is deemed null, void, and of no merit.³³

As such, the only purpose of s. 456.056, F.S., is to regulate the dollar amounts that specified practitioners may attempt to collect from their patients as payment for Medicare services. This statute does not provide licensure requirements, credentials, standards of practice, or authority for any health care practitioner to use certain titles.

III. Effect of Proposed Changes:

Section 1 of the bill creates s. 456.0651, F.S., and defines the following terms as used in that section of statute:

- “Advertisement” means any printed, electronic, or oral, statement that:
 - Is communicated or disseminated to the general public;
 - Is prepared, communicated, or disseminated under the control of the practitioner or with the practitioner’s consent; and
 - Is intended to encourage a person to use a practitioner’s professional services or to promote those services or the practitioner in general; or, for commercial purposes, names a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides health care services.
- “Educational degree” means a degree awarded to a practitioner by a college or university relating to the practitioner’s profession or specialty designation which may be referenced in an advertisement by name or acronym.

³⁰ See s. 456.056(1)(a), F.S.

³¹ See 42 CFR s. 414.2.

³² Dentistry is omitted from s. 456.056, F.S., since traditional Medicare does not cover most dental care apart from emergencies or dental services provided in a hospital setting. See: <https://www.medicare.gov/coverage/dental-services> (last visited March 4, 2023).

³³ See s. 456.056(5), F.S.

- “Misleading, deceptive, or fraudulent representation” means any information that misrepresents or falsely describes a practitioner’s profession, skills, training, expertise, educational degree, board certification, or licensure.
- “Profession” means, in addition to the meaning provided in s. 456.001, the name or title of a practitioner’s profession that is regulated by the DOH in the Division of Medical Quality Assurance and which is allowed to be used by an individual due to his or her license, license by endorsement, certification, or registration issued by a board or the DOH. The term does not include a practitioner’s license or educational degree.

The bill provides that, for purposes of s. 456.065, F.S., relating to the unlicensed practice of a health care profession, in addition to the definitions of the “practice of medicine”³⁴ and the “practice of osteopathic medicine”³⁵ found in their corresponding practice acts, those terms also include attaching to one’s name, alone or in combination, or in connection with other words, any of the following titles or abbreviations in an advertisement or in a manner that constitutes a misleading, deceptive, or fraudulent representation:

- Doctor of medicine.
- M.D.
- Doctor of osteopathy.
- D.O.
- Physician.
- Emergency physician.
- Family physician.
- Interventional pain physician.
- Medical doctor.
- Osteopath.
- Osteopathic physician.
- Doctor of osteopathic medicine.
- Surgeon.
- Neurosurgeon.
- General surgeon.
- Resident physician.
- Medical resident.
- Medical intern.
- Anesthesiologist.
- Cardiologist.
- Dermatologist.
- Endocrinologist.
- Gastroenterologist.
- Gynecologist.
- Hematologist.
- Hospitalist.
- Intensivist.

³⁴ See s. 458.305, F.S.

³⁵ See s. 459.003, F.S.

- Internist.
- Laryngologist.
- Nephrologist.
- Neurologist.
- Obstetrician.
- Oncologist.
- Ophthalmologist.
- Orthopedic surgeon.
- Orthopedist.
- Otologist.
- Otolaryngologist.
- Otorhinolaryngologist.
- Pathologist.
- Pediatrician.
- Primary care physician.
- Proctologist.
- Psychiatrist.
- Radiologist.
- Rheumatologist.
- Rhinologist.
- Urologist.

Exceptions

The bill authorizes a licensed practitioner to use any name or title of his or her profession, and any corresponding designation or initials, authorized under his or her practice act to describe himself or herself, and his or her practice. If the licensed practitioner also has a specialty area of practice authorized under his or her practice act, he or she may use the following format to identify himself or herself or describe his or her practice: “...(name or title of the practitioner’s profession)...., specializing in ...(name of the practitioner’s specialty)....”

The bill allows a chiropractor licensed under ch. 460, F.S., to use the titles “chiropractic physician,” “doctor of chiropractic medicine,” “chiropractic radiologist,” and other titles, abbreviations, or designations authorized under his or her practice act or reflecting those chiropractic specialty areas in which the chiropractic physician has attained diplomate status as recognized by the American Chiropractic Association, the International Chiropractors Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.

The bill allows a podiatrist licensed under ch. 461, F.S., to use the titles and abbreviations “podiatric physician,” “podiatric surgeon,” “Fellow in the American College of Foot and Ankle Surgeons,” and other titles or abbreviations authorized under his or her practice act.

The bill authorizes a dentist licensed under ch. 466, F.S., to use the following titles and abbreviations as applicable to his or her license, specialty, and certification, and any other titles or abbreviations authorized under his or her practice act:

- Doctor of medicine in dentistry.
- Doctor of dental medicine.
- D.M.D.
- Doctor of dental surgery.
- D.D.S.
- Oral surgeon.
- Maxillofacial surgeon.
- Oral and maxillofacial surgeon.
- O.M.S.
- Oral radiologist.
- Dental anesthesiologist.
- Oral pathologist

The bill provides that an anesthesiologist assistant licensed under ch. 458 or 459, F.S., to use only the titles “anesthesiologist assistant” or “certified anesthesiologist assistant” and the abbreviation “C.A.A.”

Grounds for Discipline

The bill amends s. 456.072(1)(t), F.S., to specify that the following acts constitute grounds for disciplinary actions:

- A practitioner’s failure, when treating or consulting with a patient, to identify through the wearing of a name tag the practitioner’s name and profession, as defined in s. 456.0651, F.S. The information on the name tag must be consistent with the specifications of s. 456.0651(2), F.S., such that it does not constitute the unlicensed practice of medicine or osteopathic medicine.
- The failure of any advertisement for health care services naming a practitioner to identify the profession under which the practitioner is practicing and the practitioner’s educational degree in relation to the services featured in the advertisement.

The name tag requirement does not apply if the practitioner is providing services in his or her own office that houses his or her practice or group practice. In such a case:

- In lieu of a name tag, the practitioner must prominently display a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients. The copy of the license must be no smaller than the original license.
- The practitioner must also verbally identify himself or herself to a new patient by name and profession, and this identification must be consistent with the specifications of s. 456.0651(2), F.S., such that it does not constitute the unlicensed practice of medicine or osteopathic medicine.

The bill requires each board, or the DOH if there is no board, to adopt rules to determine how its practitioners must comply with s. 456.072(1)(t), F.S., as amended by the bill.

Section 3 of the bill provides an effective date of July 1, 2023.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent persons violate the bill's provisions, the bill could have a potential workload increase and an increase in costs for the DOH, ULA Unit, of an indeterminate amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 456.072(1)(t), of the Florida Statutes.

This bill creates section 456.0651 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/CS by Rules on March 8, 2023:

The CS/CS:

- Revises the bill’s definition of the term “profession” to include the definition of that term as provided in s. 456.001, F.S.;
- Adds the following titles and designations to those reserved for allopathic and osteopathic physicians under the bill:
 - Family physician.
 - Osteopathic physician.
 - Doctor of osteopathic medicine.
 - Neurosurgeon.
 - General surgeon.
 - Hospitalist.
 - Intensivist.
 - Resident physician.
 - Medical resident.
 - Medical intern.
- Revises the bill’s exceptions for chiropractic physicians to include “chiropractic radiologist” and designations reflecting chiropractic specialty areas in which a chiropractic physician has attained diplomate status as recognized by the American Chiropractic Association, the International Chiropractors Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association;
- Revises the bill’s exceptions for podiatric physicians to include “Fellow in the American College of Foot and Ankle Surgeons;” and
- Revises the bill’s exceptions for dentists to include “oral surgeon,” “maxillofacial surgeon,” “dental anesthesiologist,” and “oral pathologist.”

CS by Health Policy on February 20, 2023:

The CS replaces the entire contents of the underlying bill. The CS creates s. 456.0651, F.S., for health care practitioner titles and designations and defines “advertisement,” “educational degree,” “misleading, deceptive, or fraudulent representation,” and “profession.”

The CS provides that if someone other than an allopathic or osteopathic physician attaches to his or her name any of the titles or designations listed in the bill, in an advertisement or in a manner that is misleading, deceptive, or fraudulent, the person is practicing medicine or osteopathic medicine without a license and is subject to the provisions of s. 456.065, F.S., relating to the unlicensed practice of a health care profession. The bill provides exceptions for certain professions and certain titles, and

provides that practitioners may use titles and specialty designations authorized under their respective practice acts.

The CS amends s. 456.072(1)(t), F.S., to provide that a practitioner's failure to wear a name tag, which must include his or her name and profession, when treating or consulting with a patient, is grounds for discipline unless he or she is in his or her office where the practitioner's license is prominently displayed in a conspicuous area, and the practitioner must verbally identify himself or herself to all new patients by name and profession.

The CS further amends s. 456.072(1)(t), F.S., to provide that any advertisement naming a practitioner must include the practitioner's profession and educational degree and to require practitioner regulatory boards, or the Department of Health if there is no board, to adopt rules to determine how their practitioners must comply with this paragraph of statute.

B. Amendments:

None.



394716

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/08/2023	.	
	.	
	.	
	.	

The Committee on Rules (Harrell) recommended the following:

Senate Amendment

Delete line 50
and insert:

(d) "Practitioner" means a health care practitioner as defined in s. 456.001.

(e) "Profession," in addition to the meaning provided in s. 456.001, also means the name or title of a



479186

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/08/2023	.	
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	.	

The Committee on Rules (Harrell) recommended the following:

Senate Amendment

Delete lines 72 - 77
and insert:

- (g) Family physician.
- (h) Interventional pain physician.
- (i) Medical doctor.
- (j) Osteopath.
- (k) Osteopathic physician.
- (l) Doctor of osteopathic medicine.
- (m) Surgeon.



479186

- 12 (n) Neurosurgeon.
- 13 (o) General surgeon.
- 14 (p) Hospitalist.
- 15 (q) Intensivist.
- 16 (r) Resident physician.
- 17 (s) Medical resident.
- 18 (t) Medical intern.



548114

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/08/2023	.	
	.	
	.	
	.	

The Committee on Rules (Harrell) recommended the following:

Senate Amendment

Delete lines 119 - 132
and insert:
use the titles "chiropractic physician," "doctor of chiropractic
medicine," "chiropractic radiologist," and other titles,
abbreviations, or designations authorized under his or her
practice act or reflecting those chiropractic specialty areas in
which the chiropractic physician has attained diplomate status
as recognized by the American Chiropractic Association, the
International Chiropractors Association, the International



548114

Academy of Clinical Neurology, or the International Chiropractic
Pediatric Association.

(d) A podiatric physician licensed under chapter 461 may
use the following titles and abbreviations as applicable to his
or her license, specialty, and certification: "podiatric
physician," "podiatric surgeon," "Fellow in the American College
of Foot and Ankle Surgeons," and other titles or abbreviations
authorized under his or her practice act.

(e) A dentist licensed under chapter 466 may use the
following titles and abbreviations as applicable to his or her
license, specialty, and certification: "doctor of medicine in
dentistry," "doctor of dental medicine," "D.M.D.," "doctor of
dental surgery," "D.D.S.," "oral surgeon," "maxillofacial
surgeon," "oral and maxillofacial surgeon," "O.M.S.," "oral
radiologist," "dental anesthesiologist," "oral pathologist," and
any other titles or

By the Committee on Health Policy; and Senator Harrell

588-02142-23

2023230c1

A bill to be entitled

An act relating to health care practitioner titles and designations; creating s. 456.0651, F.S.; defining terms; providing that, for specified purposes, the use of specified titles or designations in connection with one's name constitutes the practice of medicine or the practice of osteopathic medicine; providing exceptions; amending s. 456.072, F.S.; revising grounds for disciplinary action relating to a practitioner's use of such titles or designations in identifying himself or herself to patients or in advertisements for health care services; revising applicability; requiring certain health care practitioners to prominently display a copy of their license in a conspicuous area of their practices; requiring that the copy of the license be a specified size; requiring such health care practitioners to also verbally identify themselves in a specified manner to new patients; requiring, rather than authorizing, certain boards, or the Department of Health if there is no board, to adopt certain rules; providing an effective date.

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

Section 1. Section 456.0651, Florida Statutes, is created to read:

456.0651 Health care practitioner titles and designations.-

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

Page 1 of 7

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

588-02142-23

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(a) "Advertisement" means any printed, electronic, or oral statement that:

1. Is communicated or disseminated to the general public;

2.a. Is intended to encourage a person to use a practitioner's professional services or to promote those services or the practitioner in general; or

b. For commercial purposes, names a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides health care services; and

3. Is prepared, communicated, or disseminated under the control of the practitioner or with the practitioner's consent.

(b) "Educational degree" means the degree awarded to a practitioner by a college or university relating to the practitioner's profession or specialty designation which may be referenced in an advertisement by name or acronym.

(c) "Misleading, deceptive, or fraudulent representation" means any information that misrepresents or falsely describes a practitioner's profession, skills, training, expertise, educational degree, board certification, or licensure.

(d) "Profession" means the name or title of a practitioner's profession that is regulated by the department in the Division of Medical Quality Assurance and which is allowed to be used by an individual due to his or her license, license by endorsement, certification, or registration issued by a board or the department. The term does not include a practitioner's license or educational degree.

(2) For purposes of this section and s. 456.065, in addition to the definition of "practice of medicine" in s.

Page 2 of 7

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

588-02142-23 2023230c1

59 458.305 and the definition of "practice of osteopathic medicine"
 60 in s. 459.003, the practice of medicine or osteopathic medicine
 61 also includes attaching to one's name, either alone or in
 62 combination, or in connection with other words, any of the
 63 following titles or designations, if used in an advertisement or
 64 in a manner that constitutes a misleading, deceptive, or
 65 fraudulent representation:

- 66 (a) Doctor of medicine.
- 67 (b) M.D.
- 68 (c) Doctor of osteopathy.
- 69 (d) D.O.
- 70 (e) Physician.
- 71 (f) Emergency physician.
- 72 (g) Family practice physician.
- 73 (h) Interventional pain physician.
- 74 (i) Medical doctor.
- 75 (j) Osteopath.
- 76 (k) Osteopathic medical physician.
- 77 (l) Surgeon.
- 78 (m) Anesthesiologist.
- 79 (n) Cardiologist.
- 80 (o) Dermatologist.
- 81 (p) Endocrinologist.
- 82 (q) Gastroenterologist.
- 83 (r) Gynecologist.
- 84 (s) Hematologist.
- 85 (t) Internist.
- 86 (u) Laryngologist.
- 87 (v) Nephrologist.

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88 (w) Neurologist.
 89 (x) Obstetrician.
 90 (y) Oncologist.
 91 (z) Ophthalmologist.
 92 (aa) Orthopedic surgeon.
 93 (bb) Orthopedist.
 94 (cc) Otologist.
 95 (dd) Otolaryngologist.
 96 (ee) Otorhinolaryngologist.
 97 (ff) Pathologist.
 98 (gg) Pediatrician.
 99 (hh) Primary care physician.
 100 (ii) Proctologist.
 101 (jj) Psychiatrist.
 102 (kk) Radiologist.
 103 (ll) Rheumatologist.
 104 (mm) Rhinologist.
 105 (nn) Urologist.
 106 (3) Notwithstanding subsection (2):
 107 (a) A licensed practitioner may use the name or title of
 108 his or her profession which is authorized under his or her
 109 practice act, and any corresponding designations or initials so
 110 authorized, to describe himself or herself and his or her
 111 practice.
 112 (b) A licensed practitioner who has a specialty area of
 113 practice authorized under his or her practice act may use the
 114 following format to identify himself or herself or describe his
 115 or her practice: "... (name or title of the practitioner's
 116 profession) ..., specializing in ... (name of the practitioner's

588-02142-23

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specialty)...."

(c) A chiropractic physician licensed under chapter 460 may use the titles "chiropractic physician" and "doctor of chiropractic medicine" and other titles or designations authorized under his or her practice act.

(d) A podiatric physician licensed under chapter 461 may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "podiatric physician," "podiatric surgeon," and other titles or abbreviations authorized under his or her practice act.

(e) A dentist licensed under chapter 466 may use the following titles and abbreviations as applicable to his or her license, specialty, and certification: "doctor of medicine in dentistry," "doctor of dental medicine," "D.M.D.," "doctor of dental surgery," "D.D.S.," "oral and maxillofacial surgeon," "O.M.S.," "oral radiologist," and any other titles or abbreviations authorized under his or her practice act.

(f) An anesthesiologist assistant licensed under chapter 458 or chapter 459 may use only the titles "anesthesiologist assistant" or "certified anesthesiologist assistant" and the abbreviation "C.A.A."

Section 2. Paragraph (t) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t)1. A practitioner's failure, when treating or consulting with a patient, ~~Failing to identify through written notice,~~

588-02142-23

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~~which may include the wearing of a name tag~~ the practitioner's name and, or orally to a patient the profession, as defined in s. 456.0651, type of license under which the practitioner is practicing. The information on the name tag must be consistent with the specifications of s. 456.0651(2) such that it does not constitute the unlicensed practice of medicine or osteopathic medicine.

2. The failure of any advertisement for health care services naming the practitioner to must identify the profession, as defined in s. 456.0651, under which the practitioner is practicing and the practitioner's educational degree, as defined in s. 456.0651, in relation to the services featured in the advertisement type of license the practitioner holds.

3. Subparagraph 1. ~~This paragraph~~ does not apply to a practitioner while the practitioner is providing services in his or her own office that houses his or her practice or group practice. In such a case, in lieu of a name tag, the practitioner must prominently display a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients. The copy of the license must be no smaller than the original license. The practitioner must also verbally identify himself or herself to a new patient by name and identify the profession, as defined in s. 456.0651, under which the practitioner is practicing. Such verbal identification must be consistent with the specifications of s. 456.0651(2) such that it does not constitute the unlicensed practice of medicine or osteopathic medicine ~~a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429.~~

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175 4. Each board, or the department if ~~where~~ there is no
176 board, ~~shall is authorized~~ by rule ~~to~~ determine how its
177 practitioners must ~~may~~ comply with this paragraph ~~disclosure~~
178 ~~requirement~~.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL
31st District

COMMITTEES:
Appropriations Committee on Health and
Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

February 22, 2023

Senator Debbie Mayfield
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Mayfield,

I respectfully request that SB 230 – Health Care Practitioner Titles be placed on the next available agenda for the Rules Committee.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

Senator Gayle Harrell
Senate District 31

Cc: Philip Twogood, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

- ☐ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- ☐ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

3-8-2023

APPEARANCE RECORD

230

Meeting Date

Bill Number or Topic

Rules

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

479186

Committee

Amendment Barcode (if applicable)

Name **Aimee Diaz Lyon**

Phone **850-251-4300**

Address **119 S. Monroe Street, Ste. 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:

**Florida Academy of Family Physicians
(FAFP)**

☐ 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)

March 8, 2023

Meeting Date

Rules Committee

Committee

The Florida Senate

APPEARANCE RECORD

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SB 230

Bill Number or Topic

#548114

Amendment Barcode (if applicable)

Name **Jessica Love**

Phone **850-577-9090**

Address **PO Box 11189**

Email **jlove@gray-robinson.com**

Street

Tallahassee

FL

32302

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 Society of Oral and
Maxillofacial Surgeons**

☐ 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

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8 MARCH 2023

Meeting Date

RULES

Committee

SB 230

Bill Number or Topic

548114

Amendment Barcode (if applicable)

Name

JACK HEBERT

Phone

727-560-3323

Address

235 APOLO BEACH BLVD #139

Email

JACK@FCACHIRO.ORG
~~JACK@HEBERT~~

Street

APOLO BEACH FL

33572

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 CHIROPRACTIC
ASSOCIATION

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/8/23

Meeting Date

Rules

Committee

230

Bill Number or Topic

548114

Amendment Barcode (if applicable)

Name

Alexandra Abboud

Phone

850-224-1089

Address

118 E Jefferson St

Email

abboud@floridadental.org

Street

Tallahassee

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:

Florida Dental 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)

APPEARANCE RECORD

3/8

Meeting Date

SB230

Bill Number or Topic

Deliver both copies of this form to
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Rules Committee

Committee

Go Spod inske

Amendment Barcode (if applicable)

Name

Hannah Gospodinsky

Phone

330-807-3794

Address

10811 Indian Hills Ct. #42

Email

hgospodinsky@gmail.com

Street

Seminole

City

FL

State

33777

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)

3/8/23

Meeting Date

Rules

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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5230

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Paul John Reinhardt M.D.

Phone

(352) 270-4909

Address

325 S. Jefferson St.

Email

pauljohnreinhardt@gmail.com

Street

Beverly Hills

State

FL

Zip

34465

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/8/23

Meeting Date

Rules

Committee

SB 230

Bill Number or Topic

Amendment Barcode (if applicable)

Name

VICKI NORTON, M.D.

Phone

919 260 6313

Address

12169 Boca Reserve Ln

Email

vnorton33@gmail.com

Street

Boca Raton

City

FL

State

33428

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/8/23

Meeting Date

5230

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

George L. Reinhardt

Phone

352-464-1797

Address

PO BOX 640182

Email

george.reinhardt@rocketmail.com

Street

Beverly Hills, FL 34464

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/8/2023

Meeting Date

Rules

Committee

230

Bill Number or Topic

Amendment Barcode (if applicable)

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

Name DAVID RAMBA

Phone 850 727 7087

Address 120 S MONROE ST.

Email david@rambalaw.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:

FLORIDA OPTOMETRIC ASSOCIATION

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

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S-001 (08/10/2021)

March 8, 2023

Meeting Date

Rules Committee

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 230 (as amended)

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jessica Love**

Phone **850-577-9090**

Address **PO Box 11189**

Email **jlove@gray-robinson.com**

Street

Tallahassee

FL

32302

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 Society of Oral and
Maxillofacial Surgeons**

☐

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)

March 8, 2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

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Senate professional staff conducting the meeting

230

Bill Number or Topic

Rules

Committee

Name

Chris Lyon

Amendment Barcode (if applicable)

Phone

850-222-5702

Address

106 East College Avenue, Suite 1500

Street

Email

clyon@llw-law.com

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

☐

I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am a registered lobbyist,
representing:

Florida Osteopathic Medical
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](#)

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The Florida Senate
APPEARANCE RECORD

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3/8/23

Meeting Date

Rules

Committee

230

Bill Number or Topic

Amendment Barcode (if applicable)

Name Alexandra Abbard

Phone 850-224-1089

Address 118 E Jefferson St
Street

Email abbard@floridadental.org

Milwaukee

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:

Florida Dental 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

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

Address

Street

City

State

Zip

Phone

Email

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
Academy of
Audiologists

☐

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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3/8/23

Meeting Date

Rules

Committee

SB 230

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Gerard O'Rourke

Phone

Address

Street

Email

City

State

Zip

Reset Form

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

FL Chiropractor Society

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)

**FOLLOWING APPEARANCE RECORD
RECEIVED AFTER BILL WAS CONSIDERED**

3/8/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

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

230

Bill Number or Topic

Committee

Name

ANKUSH BANISTHA, MD

Phone

Address

15926 Orchard Dr

Email

dr.alcbt@gmail.com

Street

Westlake

FL

33470

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:

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 274

INTRODUCER: Senator Avila and others

SUBJECT: Nursing Education Pathway for Military Combat Medics

DATE: March 7, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	HE	Favorable
2.	Rossitto-Van Winkle	Brown	HP	Favorable
3.	Jahnke	Twogood	RC	Favorable

I. Summary:

SB 274 creates the “Pathway for Military Combat Medics Act.” The bill expands the award of postsecondary credit for military training and education courses to promote uniformity in the application of military combat medic training and education toward postsecondary credit (credit) or career education clock hours (clock hours) by public postsecondary educational institutions. Specifically, the bill requires:

- The Department of Education’s Articulation Coordinating Committee (ACC) to convene a workgroup to establish a process for prioritizing and determining postsecondary course equivalencies and the minimum credit or clock hours that must be awarded in an accredited nursing education program for military training and education required for service in specified positions. The process must be approved by the Board of Governors of the State University System (BOG) and the State Board of Education (SBE).
- The ACC to approve a list of postsecondary course equivalencies and credit and clock hours awarded for such courses and training, which must be approved by the BOG and SBE in the statewide articulation agreement.
- State universities, Florida College System (FCS) institutions, and career centers to award credit or clock hours based on the approved list.

Additionally, the bill revises a primary goal of the Florida Center for Nursing (Center) to provide that, under its strategic statewide plan for nursing manpower, the encouragement and coordination of the development of partnerships must include partnerships with hospitals that provide opportunities for nursing students to obtain clinical experience.

The bill takes effect upon becoming law.

II. Present Situation:

Postsecondary Credit for Military Training and Education Courses

The BOG and SBE, in consultation with the Florida Department of Veterans' Affairs, are required to adopt regulations and rules, respectively, to create a system for the uniform award of credit or clock hours based on military training and education.¹

The ACC must approve a prioritized list of postsecondary course equivalencies and the minimum credit or clock hours that must be awarded for courses taken or occupations held by individuals during their service in the military. The list must then be adopted in the statewide articulation agreement by the BOG and SBE. The list must be updated annually.²

The current list includes credit or clock hour equivalencies for 46 military occupations, which include Practical Nurse, Combat Medic Specialist, and Special Operations Combat Medic.³ The American Council on Education (ACE) Military Guide⁴ was used as a foundation to determine equivalences, including courses for military occupations. For example, military veterans that served as a Combat Medic Specialist can currently receive a minimum of 29 credit hours for courses in the system such as Medical Emergencies (3 credit hours), Advanced Pre-Hospital Trauma (4 credit hours), and Fundamentals of Nursing (7 credit hours).⁵

State universities, FCS institutions, and career centers operated by school districts must award credit or clock hours, as applicable, for approved courses and occupations included in the list, if the credit or clock hours are applicable to the student's degree or certificate. Institutions may also grant additional credit or clock hours, if appropriate. Credit awarded on these bases is guaranteed to transfer to other public postsecondary institutions as if the credit was earned at the receiving institution.⁶

Articulation Coordinating Committee

The Commissioner of Education, in consultation with the Chancellor of the State University System, establishes the ACC, whose primary role is to recommend statewide articulation policies.⁷ Specifically, the ACC must monitor articulation between education systems, propose guidelines for articulation agreements, publish lists of general education and common prerequisite courses, establish dual enrollment course equivalencies to high school credit, and annually review the Statewide Articulation Agreement.⁸ The Office of K-20 Articulation within the Florida Department of Education provides administrative support to the ACC.⁹

¹ Section 1004.096, F.S.; *see also* Board of Governors Regulation 6.013 and Fla. Admin. Code R. 6A-10.024, (2022).

² *Id.*

³ Articulation Coordinating Committee, *Credit or Clock Hour for Military Experience Equivalency List* (Sept. 2022), available at <https://www.fldoe.org/core/fileparse.php/5421/urlt/MilExpEquiv.pdf> (last visited Feb. 20, 2023).

⁴ American Council on Education, *The ACE Military Guide*, available at <https://www.acenet.edu/Programs-Services/Pages/Credit-Transcripts/Military-Guide-Online.aspx> (last visited Feb. 20, 2023).

⁵ Board of Governors, *2023 Legislative Bill Analysis for SB 274* (Feb. 1, 2023).

⁶ *Supra* note 3.

⁷ Section 1007.01(3), F.S.

⁸ Section 1007.01(3)(a) and (b), F.S.

⁹ Section 1007.01(3), F.S.; s. 20.15(3)(h), F.S.

Statewide Articulation Agreement

The SBE and the BOG are required to enter into a statewide articulation agreement, which the SBE must adopt by rule.¹⁰ The agreement must preserve Florida's "2+2" system of articulation and facilitate the seamless articulation of student credit across and among Florida's educational entities. Specifically, the statewide articulation agreement includes provisions that govern:

- Articulation between secondary and postsecondary education;
- The admission of associate in arts degree graduates to the upper division of a state university;
- Articulation of career credit to academic credit programs;
- The application of acceleration mechanisms to postsecondary credit; and
- General education requirements.

Florida Postsecondary Nursing Education Programs

Florida's postsecondary education institutions offer a variety of nursing education programs that prepare students for varying levels of licensure. Licensed practical nurse (LPN) clock-hour programs are offered at 28 career centers and 13 FCS institutions, while all 28 FCS institutions offer associate of science in nursing (ASN) and bachelor of science in nursing (BSN) programs. Ten state universities offer 20 pre-licensure nursing education programs. Seventeen of the 30 Independent Colleges and Universities of Florida (ICUF) member institutions offer nursing education programs.¹¹

Approved versus Accredited Nursing Education Programs

Educational institutions that wish to conduct a program in the state of Florida for the prelicensure education of professional or practical nurses must meet specified requirements to be approved by the Florida Board of Nursing (BON).¹²

An "approved" nursing education program is a program for the prelicensure education of professional or practical nurses which is conducted in the state of Florida at an educational institution and which is approved and regulated by the state of Florida.¹³

An "accredited" nursing education program is a program for the prelicensure education of professional or practical nurses that is conducted in the United States at an educational institution, whether in Florida, another state, or the District of Columbia, and that is accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.¹⁴ Accredited programs do not

¹⁰ Section 1007.23(1), F.S. *See also* Rule 6A-10.024, F.A.C.

¹¹ Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 5201* (2022).

¹² Section. 464.019, F.S. and Florida Board of Nursing, *Education and Training Programs*, <https://floridasnursing.gov/education-and-training-programs/> (last visited Feb. 20, 2023).

¹³ Section 464.019, F.S. and s. 464.003(4), F.S.

¹⁴ Section 464.003(1), F.S. Eligible nursing associations are: Accreditation Commission for Education in Nursing (ACEN), Commission on Collegiate Nursing Education (CCNE) or National League for Nursing Commission for Nursing Education Accreditation (NLN CNEA). Florida Board of Nursing, *What is the difference between an "approved" and an "accredited" prelicensure nursing education program in Florida?* <https://floridasnursing.gov/help-center/what-is-the-difference-between-an-approved-and-an-accredited-pre-licensure-nursing-education-program-in-florida/> (last visited Feb. 20, 2023).

have to meet requirements related to program application, approval, or submission of annual reports to the BON.¹⁵

All approved and accredited programs must meet accountability requirements related to graduate passage rate on the National Council of State Boards of Nursing Licensing Examination.

All approved nursing programs, except those specifically excluded,¹⁶ must seek accreditation within five years of enrolling the program's first students.¹⁷

Florida Center for Nursing

The Center was established by the Legislature in 2001, to address the issues of supply and demand for nursing, including the recruitment, retention, and utilization of nurse workforce resources.¹⁸ The Center's primary goals are to:¹⁹

- Develop a strategic statewide plan for nursing manpower in this state by:
 - Conducting a statistically valid biennial data-driven gap analysis of the supply and demand of the healthcare workforce. Demand must align with the Labor Market Estimating Conference.
 - Developing recommendations to increase nurse faculty and clinical preceptors, support nurse faculty development, and promote advanced nurse education.
 - Developing best practices in the academic preparation and continuing education needs of qualified nurse educators, nurse faculty, and clinical preceptors.
 - Collecting data on nurse faculty, employment, distribution, and retention.
 - Piloting innovative projects to support the recruitment, development, and retention of qualified nurse faculty and clinical preceptors.
 - Encouraging and coordinating the development of academic-practice partnerships to support nurse faculty employment and advancement.
 - Developing distance learning infrastructure for nursing education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.
- Enhance and promote recognition, reward, and renewal activities for nurses in the state by:
 - Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center.
 - Proposing and creating additional reward, recognition, and renewal activities for nurses.
 - Promoting media and positive image-building efforts for nursing.

University of South Florida V-CARE Program

In 2013 the University of South Florida (USF) College of Nursing received a grant from Health Resources and Services Administration of the U.S. Department of Health and Human Services to create the Veteran to Bachelor of Science in Nursing (VBSN). Originally, VBSN was an

¹⁵ Section 464.019(9), F.S.

¹⁶ Excluded institutions are those exempt from licensure by the Commission of Independent Education under s. 1005.06(1), F.S. Section 464.019(11)(d), F.S.

¹⁷ Section 464.019(11)(a)-(d), F.S.

¹⁸ Chapter 2001-277, s. 97, Laws of Fla. and s. 464.0195, F.S.

¹⁹ Section 464.0195, F.S.

accelerated four-semester program that shortened the time needed for degree completion while maintaining the academic rigor, clinical quality, and high National Council Licensure Examination (NCLEX)²⁰ pass rates. In 2019, when the grant ended, USF continued the program and funded it through different revenue sources.

The VBSN program gradually evolved into the current V-CARE program which is a highly selective program for military medics and corpsmen that builds upon their military health care education, training, and experience, and provides a more efficient pathway and education ladder from veteran, to student, to baccalaureate prepared nursing professional. The pathway is a student-centered program tailored to each veteran that fills a gap in the education needs of veterans who are serving or have served as medics or corpsmen in the Armed Forces and who wish to pursue BSN coursework and continue their health care careers as nurses.

To date, 138 veteran students have enrolled in the V-CARE pathway, and 132 have graduated. Currently, 22 veteran students are enrolled. Upon graduation, approximately 37 percent of graduates have returned to active duty and been commissioned as officers in their respective nurse corps (Army, Navy, Air Force, and Coast Guard), 42 percent have accepted positions in hospitals in the civilian sector, and 21 percent have accepted positions in Veteran Administration Hospitals. Roughly one-fourth of the graduates have earned master's and/or doctoral degrees in nursing at USF, as well as other universities across the country. Almost 50 percent of all V-CARE graduates have remained in Florida at least one year post graduation. The V-CARE pathway NCLEX pass rate is 92 percent. As of December 16, 2022, the national benchmark is 82.95 percent, and the Florida pass rate is 83.16 percent.²¹

III. Effect of Proposed Changes:

Postsecondary Credit for Military Training and Education Courses

SB 274 creates the “Pathway for Military Combat Medics Act.” The bill expands s. 1004.096, F.S., to promote uniformity in the application of military combat medic training and education toward creditor clock hours by public postsecondary educational institutions. The bill establishes a process similar to those established for the award of postsecondary credit for military training and education and for law enforcement training.

The bill requires the ACC to, by July 15, 2023, convene a workgroup to establish a process for determining postsecondary course equivalencies and the minimum credit or clock hours that must be awarded in an accredited nursing education program for military training and education required for service as an Army Combat Medic Specialist, a Navy or Fleet Marine Force Hospital Corpsman, an Air Force or Space Force Aerospace Medical Service Technician, or a Coast Guard Health Services Technician.

The workgroup must consist of the following 13 members:

- The chair of the ACC, or his or her designee, serving as chair;

²⁰ The National Council of State Boards of Nursing develops the NCLEX exam to test the competency of nursing school graduates in the U.S. and Canada.

²¹ University of South Florida, College of Nursing, *USF V-CARE Pathway Program Overview* (on file with the Senate Committee on Health Policy).

- Four members representing academic affairs administrators and faculty from state universities, appointed by the chair of the BOG;
- Four members representing academic affairs administrators and faculty from FCS institutions, appointed by the chair of the SBE;
- Two members representing faculty from career centers, appointed by the SBE; and
- Two members representing veterans, appointed by the executive director of the Florida Department of Veterans Affairs.

The Office of K-20 Articulation must provide administrative support for the workgroup.

The workgroup must ensure that the award of credit or clock hours does not impair an accredited program's ability to comply with requirements relating to the state approval of nursing education programs. The workgroup must provide recommendations regarding the determination process for awarding credit or clock hours to the BOG and the SBE by December 1, 2023, for approval at each board's next meeting that allows for adequate public notice.

Upon the BOG and the SBE approval of the workgroup's process recommendations, the ACC must facilitate a review of military training and education for the specified military occupations to determine postsecondary course equivalencies and the minimum credit or clock hours that must be awarded.

Within one year after BOG and SBE approval of the ACC workgroup recommended process, the ACC must approve a prioritized list of postsecondary course equivalencies and the minimum credit or clock hours that must be awarded in an accredited program for such military training and education. The list must then be adopted in the statewide articulation agreement by the BOG and SBE at the next meeting of each board allowing for adequate public notice. The list must be updated annually.

The bill requires state universities, FCS institutions, and career centers to award credit or clock hours, as applicable, for such military training and education based on the adopted list, if the credit or clock hours are applicable to the student's degree or certificate. Institutions may also grant additional credit or clock hours, if appropriate. Credit or clock hours awarded on these bases are guaranteed to transfer from one state university, FCS institution, or career center to another.

Florida Center for Nursing

The bill modifies s. 464.0195, F.S., by revising a primary goal of the Center to provide that, under its strategic statewide plan for nursing manpower, the encouragement and coordination of the development of academic-practice partnerships must include partnerships with hospitals that provide opportunities for nursing students to obtain clinical experience.

The bill takes effect upon becoming law.

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:

Should the workgroup process result in identifying additional equivalencies for military training and experience, students may be eligible to receive postsecondary credit toward an accredited pre-licensure nursing program. Credits from this experience may save the student time and the cost of receiving a nursing degree at a state university.²²

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 2 of the bill relating to the Florida Center of Nursing could be viewed as a different subject than the rest of the bill or the bill's title (which is an act relating to nursing education pathway for military combat medics). Section 2 directs the Center to facilitate partnerships with

²² Board of Governors, *2023 Legislative Bill Analysis for SB 274* (Feb. 1, 2023).

hospitals to provide opportunities for *all* nursing students, in general, to obtain clinical experience, not specifically for students who are or were military combat medics.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 464.019 and 1004.096.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Avila

39-00236B-23

2023274__

1 A bill to be entitled
 2 An act relating to nursing education pathway for
 3 military combat medics; providing a short title;
 4 amending s. 464.0195, F.S.; revising a primary goal of
 5 the Florida Center for Nursing to provide that
 6 development of a statewide plan for nursing manpower
 7 must include the encouragement and coordination of the
 8 development of partnerships with hospitals which
 9 provide opportunities for nursing students to obtain
 10 clinical experience; amending s. 1004.096, F.S.;
 11 defining the term "accredited program"; requiring that
 12 the Articulation Coordinating Committee convene a
 13 workgroup to establish a process for determining
 14 postsecondary course equivalencies and the minimum
 15 postsecondary credit or career education clock hours
 16 that must be awarded in accredited nursing education
 17 programs for military training and education required
 18 for service in specified positions; providing for the
 19 composition of and the provision of administrative
 20 support to the workgroup; requiring that the workgroup
 21 ensure that the award of credit for military training
 22 and education does not impair a nursing education
 23 program's ability to comply with requirements relating
 24 to the approval of nursing education programs;
 25 requiring the workgroup to provide, by a specified
 26 date, recommendations regarding the determination
 27 process to the Board of Governors and State Board of
 28 Education for approval; requiring that, upon approval
 29 of the recommendations, the Articulation Coordinating

Page 1 of 6

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

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30 Committee facilitate the review of military training
 31 and education received by individuals who served in
 32 specified positions and the determination of minimum
 33 postsecondary credit or career education clock hours
 34 awarded for specified military training and education;
 35 requiring that the Articulation Coordinating
 36 Committee, within a specified timeframe and annually
 37 thereafter, approve a prioritized list of
 38 postsecondary course equivalencies and the minimum
 39 postsecondary credit or career education clock hours
 40 that must be awarded for such training and education;
 41 requiring the Board of Governors and State Board of
 42 Education to adopt the prioritized list; requiring
 43 that the minimum postsecondary credit or career
 44 education clock hours be delineated in a required
 45 statewide articulation agreement; requiring state
 46 universities, Florida College System institutions, and
 47 career centers to award postsecondary credit or career
 48 education clock hours in nursing education programs
 49 based on the prioritized list; authorizing the award
 50 of additional postsecondary credit or career education
 51 clock hours; providing that such postsecondary credit
 52 or career education clock hours are transferable;
 53 providing an effective date.

54
 55 Be It Enacted by the Legislature of the State of Florida:

56
 57 Section 1. This act may be cited as the "Pathway for
 58 Military Combat Medics Act."

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

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Section 2. Paragraph (a) of subsection (2) of section 464.0195, Florida Statutes, is amended to read:

464.0195 Florida Center for Nursing; goals.—

(2) The primary goals for the center shall be to:

(a) Develop a strategic statewide plan for nursing manpower in this state by:

1. Conducting a statistically valid biennial data-driven gap analysis of the supply and demand of the health care workforce. Demand must align with the Labor Market Estimating Conference created in s. 216.136. The center shall:

a. Establish and maintain a database on nursing supply and demand in the state, to include current supply and demand.

b. Analyze the current and future supply and demand in the state and the impact of this state's participation in the Nurse Licensure Compact under s. 464.0095.

2. Developing recommendations to increase nurse faculty and clinical preceptors, support nurse faculty development, and promote advanced nurse education.

3. Developing best practices in the academic preparation and continuing education needs of qualified nurse educators, nurse faculty, and clinical preceptors.

4. Collecting data on nurse faculty, employment, distribution, and retention.

5. Piloting innovative projects to support the recruitment, development, and retention of qualified nurse faculty and clinical preceptors.

6. Encouraging and coordinating the development of academic-practice partnerships, including partnerships with hospitals which provide opportunities for nursing students to

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obtain clinical experience, to support nurse faculty employment and advancement.

7. Developing distance learning infrastructure for nursing education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.

Section 3. Subsection (3) is added to section 1004.096, Florida Statutes, to read:

1004.096 Postsecondary credit for military training and education courses.—

(3) (a) For purposes of this subsection, the term "accredited program" has the same meaning as in s. 464.003.

(b) By July 15, 2023, the Articulation Coordinating Committee shall convene a workgroup that is responsible for establishing a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in an accredited program for military training and education required for service as an Army Combat Medic Specialist, a Navy or Fleet Marine Force Hospital Corpsman, an Air Force or Space Force Aerospace Medical Service Technician, or a Coast Guard Health Services Technician.

1. The composition of the workgroup and the provision of administrative support to the workgroup must be as provided in paragraphs (2) (a) and (b). The workgroup shall ensure that the award of postsecondary credit or career education clock hours does not impair an accredited program's ability to comply with the requirements identified in s. 464.019.

2. The workgroup shall provide its recommendations regarding the process for awarding postsecondary credit or

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career education clock hours to the Board of Governors and the State Board of Education by December 1, 2023, for approval at the next meeting of each board to allow for adequate public notice.

3.a. Upon approval of the workgroup's recommendations by the Board of Governors and the State Board of Education, the Articulation Coordinating Committee shall facilitate the review of the military training and education received by individuals who served as an Army Combat Medic Specialist, a Navy or Fleet Marine Force Hospital Corpsman, an Air Force or Space Force Aerospace Medical Service Technician, or a Coast Guard Health Services Technician for postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded for that training and education.

b. Within 1 year after such approval, the Articulation Coordinating Committee shall approve a prioritized list of postsecondary course equivalencies, and the minimum postsecondary credit or career education clock hours that must be awarded in an accredited program for such military training and education. The list must be updated annually. The Board of Governors and the State Board of Education shall adopt the list approved by the Articulation Coordinating Committee at their next respective meetings. For the purpose of statewide application, postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in an accredited program for such military training and education must be delineated by the State Board of Education and the Board of Governors in the statewide articulation agreement required by s. 1007.23(1).

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4. State universities, Florida College System institutions, and career centers shall award postsecondary credit or career education clock hours for such military training and education based on the list adopted pursuant to sub-subparagraph 3.b. if the credit or career education clock hours are applicable toward the student's degree or certificate and may award additional postsecondary credit or career education clock hours as appropriate. Postsecondary credit or career education clock hours awarded under this subsection are transferable from one state university, Florida College System institution, or career center to another.

Section 4. This act shall take effect upon becoming a law.



SENATOR Bryan Avila
39th District

**THE FLORIDA
SENATE**

Tallahassee, Florida 32399-1100

COMMITTEES:
Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

February 21, 2023

Honorable Senator Debbie Mayfield
Chair
Committee on Rules

Honorable Chair Mayfield,

I respectfully request SB 274 Nursing Education Pathway for Military Combat Medics be placed on the next committee agenda.

Nursing Education Pathway for Military Combat Medics; Revising a primary goal of the Florida Center for Nursing to provide that development of a statewide plan for nursing manpower must include the encouragement and coordination of the development of partnerships with hospitals which provide opportunities for nursing students to obtain clinical experience. Requiring that the Articulation Coordinating Committee convene a workgroup to establish a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded in accredited nursing education programs for military training and education required for service in specified positions; authorizing the award of additional postsecondary credit or career education clock hours.

Sincerely,

Senator Bryan Avila
Florida Senate, District 39

CC: Phillip Twogood, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:
☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
☐ 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

3/8/23

Meeting Date

Rules

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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274

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Ron LaFace

Phone

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124 W. Jefferson

Email

ron@eccfla.com

Street

TLH

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:

FL Assoc of Nurse Anesthetists

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)

3/8/2023

Meeting Date

RULES

Committee

The Florida Senate
APPEARANCE RECORD

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SB 0274

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Bob ASZTALOS

Aztalos

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Street

IAHUSSEE

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.

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I am a registered lobbyist,
representing:

FDVA

☐

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 286

INTRODUCER: Banking and Insurance Committee and Senator Powell

SUBJECT: Legal Instruments

DATE: March 7, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Moody</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2. <u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3. <u>Moody</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 286 amends laws relating to various legal instruments. The bill:

- Expands the scope of existing law on the finality of a clerk's deed following foreclosure sale to apply to any form of lien. Currently, only foreclosure of a mortgage is governed by the statute on finality of a clerk's deed.
- Requires the foreclosure court to award attorney fees to a senior lienholder when a junior lienholder wrongfully tries to foreclose a senior lien. The bill also reaffirms the common law rule that a superior lien may not be foreclosed by a junior lienholder.
- Expands application of an assignment of rents to apply to a successor landowner and adds that regular association fees (HOA, condo or co-op) may be paid from the rent collected. An assignment of rents (if authorized by the mortgage terms) is a temporary relief allowing a foreclosing lienholder to collect rents from the property during the pendency of the foreclosure case and use those rents for upkeep of the property.
- Makes a technical change to the statute authorizing electronic signatures by adding a clarification of the term "witness."
- Expands application of an order to show cause procedure in foreclosure law to allow use of the procedure when a successor landowner is being foreclosed. The current order to show cause procedure compels the defendant to either resume making regular payments or vacate the premises, but is only applicable when the mortgagor still holds title to the property.

The bill is effective July 1, 2023.

II. Present Situation:

Finality of Foreclosure Judgments

In 1940, the Florida Supreme Court stated that “[t]he law is pretty well settled that a first or senior mortgagee is not a necessary or even proper party to foreclosure proceedings brought by a second or junior mortgagee,” and held that a prior mortgagee cannot be forced to be a party to a suit by a junior encumbrancer foreclosing a lien.¹ The Fourth District Court of Appeal applied this law recently when it held that a junior lienholder cannot require the senior lienholder to be a party to its foreclosure action, and that the judgment could not foreclose the interests of the senior lienholder.² The court ruled, however, that while the foreclosure judgment was void, the senior lienholder’s request to set aside the clerk’s deed that followed the judgment and foreclosure sale could not be granted, citing s. 702.036, F.S. That statute “precluded the court from granting relief that ‘adversely affects the quality and character of the title to the property’” when the specified criteria under the section were met.³

Section 702.036, F.S., provides that if a party seeks to set aside, invalidate, or challenge any final judgment of foreclosure of a mortgage, the court is required to treat such request as a claim for money damages and may not grant relief that adversely affects the quality or character of the title to the property if certain conditions are met, including, in summary:

- The party seeking relief was properly served in the foreclosure action.
- The final judgment was entered as to the property.
- All applicable appeals periods have run with no unresolved appeals.
- The property has been acquired for value, by a person not affiliated with the foreclosing lender or the foreclosed owner, when no lis pendens regarding the suit appears in the official county records where the property is located.⁴

Persons affiliated with the foreclosing lender include:

- The foreclosing lender or any loan servicer;
- Any past or present owner or holder of the loan;
- Any maintenance company, holding company, foreclosure services company, or law firm under contract with any of the entities listed above; or
- Any parent entity, subsidiary, or other person who directly or indirectly controls or is under the control of any of the entities listed above.⁵

¹ *Cone Bros. Const. Co. et. al. v. Moore*, 141 Fla. 420 (1940) (citing Jones on Mortgages, 8th Edition, Section 1830; Wiltsie on Mortgage Foreclosure, 4th Edition, Section 404, which states: “It may be stated as a general rule that persons holding mortgages or liens prior to the mortgage under foreclosure are neither necessary nor proper parties to the action,” citing numerous cases among them, *Broward v. Hoeg*, 15 Fla. 370 (1875).

² *Wells Fargo Bank, N.A. v. Tan*, 320 So.3d 782, 784 (Fla. 4th DCA 2021).

³ *Id.* at 784-786.

⁴ Section 702.036(1), F.S.

⁵ Section 702.036(2), F.S.

Assignment of Rents

Florida law provides that a mortgage or separate document may provide for an assignment of rents of real property as security for repayment of an indebtedness.⁶ The mortgagee holds a lien on the rents when an assignment is made, and the lien is perfected and effective against third parties upon recordation of the mortgage or separate document in the public records of the county in which the real property is located.⁷ Unless otherwise agreed to in writing, the mortgagee may enforce the assignment of rents upon the mortgagor's default by written demand for the rents to the mortgagor.⁸ The mortgagor is then required to provide the mortgagee with all rents, less payment of any expenses authorized by the mortgagee in writing, that are in his or her possession or control.⁹

During the pendency of final adjudication in a foreclosure proceeding, the mortgagee or mortgagor may apply to the court, and the court may require, the mortgagor to deposit rents collected into the registry of the court or in such other registry designated by the court. In 2018, the Second District Court of Appeal reversed a trial court order that required the owner of the property, which was the subject of a foreclosure action by a senior lienholder, to deposit rents collected on the real property into the trust account of the senior lienholder's attorney pending resolution of the foreclosure action.¹⁰ The court noted the title passed to the owner through a junior-lien foreclosure that could not bind the owner to the terms of the mortgage as a third party who is not an assignee of the mortgages. The court stated "[s. 697.07, F.S.,] does not require that the third-party title owner assign to the mortgagee rents owed to it under a separate document not subject to the foreclosure action."¹¹ The court commented on the potential benefit of third parties purchasing properties at junior-lien foreclosure sales and subsequently renting them, and the potential detriment "...including significant delay of mortgage foreclosure proceedings, 'that ought to be regulated or prohibited.'"¹² The court opined:

In instances of unwarranted delay, the inability of the mortgagee to sequester rents as against the third-party title owners-particularly where that third party is collecting rent but not paying the homeowners' association dues, property taxes, or property insurance, let alone the mortgage—further discourages a speedy resolution of the mortgage foreclosure action from the third party's perspective. However, we must apply the language of the mortgage and section 697.07 as they are plainly written.¹³

Before the rents are deposited into a registry, the court may authorize the rents collected to be used to make payments to the mortgagee, or for reasonable expenses or required escrow sums. Reasonable expenses may include real estate taxes, insurance, or other expenses solely for the

⁶ Section 697.07(1), F.S.

⁷ Section 697.07(2), F.S.

⁸ Section 697.07(3), F.S.

⁹ *Id.*

¹⁰ *Green Emerald Homes, LLC v. Residential Credit Opportunities Trust*, 256 So. 3d 211, 213 (Fla. 2d DCA 2018).

¹¹ *Id.* at 215.

¹² *Id.* at 216 (citing *Bonafide Props. v. Wells Fargo Bank, N.A., ex. rel. Certificate Holders of Banc of Am. Alt. Loan Tr. 2006-5, Mortg. Pass-Through Certificates, Series 2006-5m* 198 So. 3d 694, 696-98 (Fla. 2d DCA 2016) (Altenbernd, J., concurring)).

¹³ *Id.*

purpose of protecting, preserving, and operating the real property.¹⁴ Assessments for community associations are not explicitly listed as one of the reasonable expenses that may be paid from rents collected.

The mortgagor is required to account to the court and the mortgagee for the use of rents collected and the court may place other restrictions on the mortgagor's use of them.¹⁵ The court has discretion to grant other relief with respect to the rents collected, but such rents must be disbursed at the conclusion of the foreclosure proceeding.¹⁶ The terms "mortgagee" and "mortgagor" currently are not defined in this section on assignment of rents.

Orders to Show Cause

During the pendency of a foreclosure proceeding, the plaintiff may request the court to make an order directing the mortgagor to show cause why an order to make payments or to vacate the premises should not be entered.¹⁷ If the court enters an order, the order must, in short:

- Set the date and time for the hearing on the order to show cause.
- Direct the time within which service of the order and complaint must be made upon the defendant.
- State that the defendant has the right to file affidavits or other papers at the time of the hearing and may appear personally or by way of an attorney.
- State that, if the defendant fails to appear and fails to file a defense, the defendant is deemed to have waived the right to a hearing and the court may enter an order for the requested relief.
- Require the movant to serve a copy of the order to show cause on the mortgagor in the specified manner.¹⁸

The right of the defendant to be heard at a hearing to show cause is waived if the defendant's conduct clearly shows that the defendant has relinquished the right to be heard. Failure to file a defense or to appear at the hearing presumptively constitutes conduct that clearly shows that the defendant has relinquished the right to be heard,¹⁹ and the court then has the discretion to enter an order for the requested relief.²⁰ This section does not apply to foreclosure of an owner-occupied residence.²¹

Importantly, because the order to show cause provisions only apply to a "mortgagor," the order to show cause remedy may not apply where the original mortgagor no longer holds title to the property even though the property is still encumbered by the mortgage.

¹⁴ Section 697.07(4), F.S.

¹⁵ *Id.*

¹⁶ Section 697.07(5), F.S.

¹⁷ Section 702.10(2), F.S.

¹⁸ Section 702.10(2)(a), F.S.

¹⁹ Section 702.10(2)(b), F.S.

²⁰ Section 702.10(2)(c), F.S.

²¹ Section 702.10(2)(a) and (i), F.S.

Remote Online Notarization of Documents

In 2019, the Florida Legislature passed a bill relating to electronic legal documents²² that established Part II of ch. 117, F.S., for online notarization, which is defined as the performance of a notarial act using electronic²³ means in which the principal²⁴ or any witness appears before the notary public by means of audio-video communication technology.²⁵ The effective date for most provisions of this part was January 1, 2020, and the term “witness” is not defined in it.

Compliance with the online electronic witnessing standards under s. 117.285, F.S., and any applicable rules satisfy the requirement of a provision that requires a signature or an act to be witnessed.²⁶ A notary public may supervise the witnessing of electronic records by complying with several conditions, including, in part:

- The witness may be in the principal’s physical presence or remote from the principal so long as they are using audio-video communication technology at the time the principal affixes the electronic signature and the witness hears the principal verbally confirm that the principal has signed the electronic record.
- If the witness is remote from the principal, the principal’s and witness’s identities must be verified.
- The witness verbally confirms that he or she is a resident of and physically located within the United States or a territory at the time of witnessing.²⁷

The section sets out additional requirements for several types of electronic estate planning documents when fewer than two witnesses are in the physical presence of the principal.²⁸ The laws of the state of Florida determine the validity of an online notarization performed by an online notary public registered in the state regardless of the physical location of any witness at the time of the notarization.²⁹

III. Effect of Proposed Changes:

Finality of Foreclosure Judgments

Section 3 of the bill amends s. 702.036(1), F.S., relating to proceedings to set aside, invalidate, or challenge the validity of a final judgment of foreclosure of a mortgage to add that all forms of

²² Chapter 2019-71, Laws of Fla.

²³ Section 117.201(4), F.S., states that the term “electronic” has the same meaning as provided in s. 668.50, F.S., which defines the term to mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

²⁴ Section 117.201(12), F.S., defines “principal” as an individual whose electronic signature is acknowledged, witnessed, or attested to in an online notarization or who takes an oath or affirmation administered by the online notary public.

²⁵ Section 117.201(9), F.S. “Audio-video communication technology” is defined as technology in compliance with applicable law which enables real-time, two-way communication using electronic means in which participants are able to see, hear, and communicate with one another.

²⁶ Section 117.215(2), F.S.

²⁷ Section 117.285(1)-(4), F.S.

²⁸ Section 117.285(5), F.S. (specifying that the requirements apply when the electronic record to be signed is a will under ch. 732, F.S., revocable trust with testamentary aspects as described in s. 736.0403(2)(b), F.S., a health care advance directive, an agreement concerning succession or a waiver of spousal rights under s. 732.701, F.S., or s. 732.702, F.S., respectively, or a power of attorney authorizing any of the transactions enumerated in s. 709.2208, F.S.).

²⁹ Sections 117.209(4) and 117.285(8), F.S.

liens, such as community association liens and construction liens, are governed by s. 702.036, F.S.

The section is also amended to discourage junior lienholders from initiating improper foreclosure proceedings against senior lienholders. The bill creates subsection (5) to require the court to award reasonable attorney fees to a prevailing party who seeks relief from a final judgment foreclosing a mortgage or lien, or files a separate action attacking such a final judgment, if the party claims that it holds or held a lien superior in right, priority, or dignity to the mortgage or lien foreclosed. This provision applies regardless of whether the action to challenge the final judgment is in the case in which the judgement is entered or in a separate cause of action. This new provision makes a junior lienholder liable for a senior lienholder's attorney fees if the junior lienholder wrongfully attempts to foreclose on a senior lien.

The bill also defines the term "property" for use in only section 702.036, F.S., to clarify that the term means real property.

Assignment of Rents

Section 2 of the bill provides that the assignment of rents, and the statutory lien created by such assignment, is enforceable against the mortgagor, including third parties who may have acquired title to the property. The bill authorizes the court to order that rents collected be used to pay for assessments that become due after the entry of the court's order to a homeowners' association or association,³⁰ or a corporation regulated under chapter. 718, F.S., relating to condominiums, or chapter 719, F.S., relating to cooperatives. The bill exempts such associations and corporations from the provisions relating to the assignment of rents, provided they hold title to the property that is the subject of the foreclosure action and apply the rents towards the assessments that are then due, or are collecting pursuant to s. 718.116(11), F.S.,³¹ s. 719.108(10), F.S.,³² or s. 720.3085(8), F.S.³³

The bill defines the term "mortgagee" as a person entitled to enforce an obligation secured by a mortgage. The term "mortgagor" is defined as a person who grants a mortgage or a successor in ownership of the real property described in the mortgage.

Orders to Show Cause

Section 4 of the bill defines the term "mortgagor," for purposes of issuance of an order to show cause in a foreclosure proceeding under s. 702.10(2), F.S., as:

³⁰ Section 720.301(9), F.S., defines "homeowners' association" or "association" as "a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The term "homeowners' association" does not include a community development district or other similar special taxing district created pursuant to statute."

³¹ Section 718.116(11), F.S., authorizes an association to make written demand that a tenant of a condominium pay any future rent to the association until any delinquent monetary obligation has been paid in full.

³² Section 719.108(10), F.S., provides that a cooperative unit owner is liable for all rents and assessments that become due while the unit owner is in exclusive possession of the unit.

³³ Section 720.3085(8), F.S., authorizes an association to make written demand that a tenant pay any future rent to the association until any delinquent monetary obligation of the parcel owner has been paid in full.

A person who grants a mortgage or a successor in ownership of the real property described in the mortgage. The term does not include a homeowners' association or an association, as those terms are defined in s. 720.301, F.S., or a corporation regulated under the chapter 718, F.S., or chapter 719, F.S., that:

- Acquires title to a parcel or unit through the foreclosure of its claim of lien, or a deed in lieu of foreclosure, provided that title remains vested in the association or corporation and any rents collected are applied to assessments that are then due; or
- Collects rents from the tenants in the parcel or unit pursuant to s. 718.116(11), F.S., s. 719.108(10), F.S., or s. 720.3085(8), F.S.

This definition means that the subsection applies to subsequent owners but not a community association provided it holds title and any rents collected are applied to assessments that are then due. The exception for owner-occupied residential real estate has been struck from s. 702.10(2), F.S., because it is duplicative as it is included in s. 702.10(2)(i), F.S.

Remote Online Notarization of Documents

Section 1 of the bill defines the term “witness” for purposes of a witness’s role with remote online notarization. When used as a noun, “witness” means an individual whose electronic signature is affixed to an electronic record to attest or subscribe to a principal’s signature on such record.

Section 5 provides that this definition of “witness” applies retroactively to January 1, 2020, which is the effective date for most of the statutory provisions for online notarization.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

To the extent that the bill expands the scope of several sections relating to the finality of foreclosure judgments, assignment of rents, and orders to show cause that could increase the amount of litigation, or to the extent that the award of attorney fees reduces the amount of litigation, the bill may result in increased legal fees for any lienholders or title owners who engage in additional litigation, but may also lead to increased collections on mortgages in default.

C. Government Sector Impact:

To the extent that the bill expands the scope of several sections relating to the finality of foreclosure judgments, assignment of rents, and orders to show cause, or to the extent that the award of attorney fees reduces the amount of litigation, the bill may result in an indeterminate fiscal impact on the state court system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 117.201, 697.07, 702.036, and 702.

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

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

CS by Banking and Insurance on February 8, 2023:

The committee substitute makes the following changes:

- Amends the definition of “witness” with respect to online remote notarization.
- Amends the definitions of “mortgagee” and “mortgagor” with regards to assignment of rents, and “mortgagor” with respect to orders to show cause in certain foreclosure proceedings.
- Removes the change in the bill as filed to s. 702.10(2), F.S., that modified the provision to apply to a “mortgagor” to refer to a “defendant,” as the respondent in an order to show cause and as provided for under current law.

- Makes other technical changes.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Powell

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A bill to be entitled

An act relating to legal instruments; amending s. 117.201, F.S.; defining the term "witness"; amending s. 697.07, F.S.; defining the terms "mortgagee" and "mortgagor"; requiring that a lien created by an assignment of rents be perfected against a mortgagor in addition to third parties under certain conditions; making technical changes; revising the types of expenses that may be paid by collected rents in foreclosure actions under certain circumstances; providing applicability; amending s. 702.036, F.S.; defining the term "property"; expanding the scope of a final judgment of foreclosure to include other liens; requiring the award of attorney fees in certain circumstances; providing applicability; amending s. 702.10, F.S.; defining the term "mortgagor"; providing for retroactive applicability of a specified provision; providing an effective date.

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

Section 1. Subsection (16) is added to section 117.201, Florida Statutes, to read:

117.201 Definitions.—As used in this part, the term:

(16) "Witness," when used as a noun, means an individual whose electronic signature is affixed to an electronic record to attest or subscribe to a principal's signature on such record.

Section 2. Present subsections (1) through (8) of section 697.07, Florida Statutes, are redesignated as subsections (2)

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through (9), respectively, present subsections (2), (3), and (4) of that section are amended, and a new subsection (1) and subsection (10) are added to that section, to read:

697.07 Assignment of rents.—

(1) For purposes of this section, the term:

(a) "Mortgagee" means a person entitled to enforce an obligation secured by a mortgage.

(b) "Mortgagor" means a person who grants a mortgage or a successor in ownership of the real property described in the mortgage.

(3)(2) If such an assignment is made, the mortgagee shall hold a lien on the rents, and the lien created by the assignment shall be perfected and effective against the mortgagor and third parties upon recordation of the mortgage or separate instrument in the public records of the county in which the real property is located, according to law.

(4)(3) Unless otherwise agreed to in writing by the mortgagee and mortgagor, the lien created by the assignment of rents is ~~shall be~~ enforceable upon the mortgagor's default and written demand for the rents made by the mortgagee to the mortgagor, whereupon the mortgagor shall turn over all rents in the possession or control of the mortgagor at the time of the written demand or collected thereafter (the "collected rents") to the mortgagee less payment of any expenses authorized by the mortgagee in writing.

(5)(4) Upon application by the mortgagee or mortgagor, in a foreclosure action, and notwithstanding any asserted defenses or counterclaims of the mortgagor, a court of competent jurisdiction, pending final adjudication of any action, may

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require the mortgagor to deposit the collected rents into the registry of the court, or in such other depository as the court may designate. However, the court may authorize the use of the collected rents, before deposit into the registry of the court or other depository, to:

(a) Pay the reasonable expenses solely to protect, preserve, and operate the real property, including, without limitation, real estate taxes, ~~and~~ insurance, and assessments that become due after the entry of the court's order to a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719;

(b) Escrow sums required by the mortgagee or separate assignment of rents instrument; and

(c) Make payments to the mortgagee.

The court shall require the mortgagor to account to the court and the mortgagee for the receipt and use of the collected rents and may also impose other conditions on the mortgagor's use of the collected rents.

(10) This section does not apply to a corporation that is a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719, that:

(a) Acquires title to a parcel or unit through the foreclosure of its claim of lien, or a deed in lieu of foreclosure, provided that title remains vested in the association or corporation and any rents collected are applied to assessments that are then due; or

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(b) Collects rents from tenants in a parcel or unit pursuant to s. 718.116(11), s. 719.108(10), or s. 720.3085(8).

Section 3. Present subsections (1), (2), and (3) of section 702.036, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, a new subsection (1) and subsection (5) are added to that section, and paragraph (a) of present subsection (1) and present subsection (2) of that section are amended, to read:

702.036 Finality of ~~mortgage~~ foreclosure judgment.—

(1) As used in this section, the term "property" means real property.

(2) (a) ~~(1) (a)~~ In any action or proceeding in which a party seeks to set aside, invalidate, or challenge the validity of a final judgment of foreclosure of a mortgage or other lien, or to establish or reestablish a lien or encumbrance on the property in abrogation of the final judgment of foreclosure of a mortgage or other lien, the court shall treat such request solely as a claim for monetary damages and may not grant relief that adversely affects the quality or character of the title to the property, if:

1. The party seeking relief from the final judgment of foreclosure of the mortgage or lien was properly served in the foreclosure lawsuit as provided in chapter 48 or chapter 49.

2. The final judgment of foreclosure of the mortgage or lien was entered as to the property.

3. All applicable appeals periods have run as to the final judgment of foreclosure of the mortgage or lien with no appeals having been taken or any appeals having been finally resolved.

4. The property has been acquired for value, by a person

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not affiliated with the foreclosing mortgageholder, the
foreclosing lienholder, lender or the foreclosed owner, at a
time in which no lis pendens regarding the suit to set aside,
invalidate, or challenge the foreclosure appears in the official
records of the county where the property was located.

(3)(2) For purposes of this section, the following, without
limitation, shall be considered persons affiliated with the
foreclosing mortgageholder or foreclosing lienholder lender:

(a) The foreclosing mortgageholder, the foreclosing
lienholder, lender or any loan servicer for the mortgage or lien
~~loan~~ being foreclosed;

(b) Any past or present owner or holder of the mortgage or
lien ~~loan~~ being foreclosed;

(c) Any maintenance company, holding company, foreclosure
services company, or law firm under contract to any entity
listed in paragraph (a), paragraph (b), or this paragraph, with
regard to the mortgage or lien ~~loan~~ being foreclosed; or

(d) Any parent entity, subsidiary, or other person who
directly, or indirectly through one or more intermediaries,
controls or is controlled by, or is under common control with,
any entity listed in paragraph (a), paragraph (b), or paragraph
(c).

(5) If a party seeks relief from a final judgment
foreclosing a mortgage or lien, or files a separate action
attacking such a final judgment, and the party claims that it
holds or held a lien superior in right, priority, or dignity to
the mortgage or lien foreclosed in the judgment, the court must
award reasonable attorney fees to the party prevailing on the
claim. This subsection applies whether the litigation seeking

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relief from the final judgment occurs in the case in which the
judgment was entered or in any separate case or proceeding.

Section 4. Subsection (2) of section 702.10, Florida
Statutes, is amended to read:

702.10 Order to show cause; entry of final judgment of
foreclosure; payment during foreclosure.—

(2) Except as provided in paragraph (i), in any action for
foreclosure, ~~other than owner-occupied residential real estate,~~
in addition to any other relief that the court may award, the
plaintiff may request that the court enter an order directing
the mortgagor defendant to show cause why an order to make
payments during the pendency of the foreclosure proceedings or
an order to vacate the premises should not be entered.

(a) The order shall:

1. Set the date and time for hearing on the order to show
cause. However, the date for the hearing may not be set sooner
than 20 days after the service of the order. If service is
obtained by publication, the date for the hearing may not be set
sooner than 30 days after the first publication.

2. Direct the time within which service of the order to
show cause and the complaint shall be made upon each defendant.

3. State that a defendant has the right to file affidavits
or other papers at the time of the hearing and may appear
personally or by way of an attorney at the hearing.

4. State that, if a defendant fails to appear at the
hearing to show cause and fails to file defenses by a motion or
by a verified or sworn answer, the defendant is deemed to have
waived the right to a hearing and in such case the court may
enter an order to make payment or vacate the premises.

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175 5. Require the movant to serve a copy of the order to show
176 cause on the defendant in the following manner:

177 a. If a defendant has been served with the complaint and
178 original process, service of the order may be made in the manner
179 provided in the Florida Rules of Civil Procedure.

180 b. If a defendant has not been served with the complaint
181 and original process, the order to show cause, together with the
182 summons and a copy of the complaint, shall be served on the
183 defendant in the same manner as provided by law for original
184 process.

185 (b) The right of a defendant to be heard at the hearing to
186 show cause is waived if the defendant, after being served as
187 provided by law with an order to show cause, engages in conduct
188 that clearly shows that the defendant has relinquished the right
189 to be heard on that order. A defendant's failure to file
190 defenses by a motion or by a sworn or verified answer or to
191 appear at the hearing duly scheduled on the order to show cause
192 presumptively constitutes conduct that clearly shows that the
193 defendant has relinquished the right to be heard.

194 (c) If the court finds that a defendant has waived the
195 right to be heard as provided in paragraph (b), the court may
196 promptly enter an order requiring payment in the amount provided
197 in paragraph (f) or an order to vacate.

198 (d) If the court finds that the mortgagor has not waived
199 the right to be heard on the order to show cause, the court
200 shall, at the hearing on the order to show cause, consider the
201 affidavits and other showings made by the parties appearing and
202 make a determination of the probable validity of the underlying
203 claim alleged against the mortgagor and the mortgagor's

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204 defenses. If the court determines that the plaintiff is likely
205 to prevail in the foreclosure action, the court shall enter an
206 order requiring the mortgagor to make the payment described in
207 paragraph (e) to the plaintiff and provide for a remedy as
208 described in paragraph (f). However, the order shall be stayed
209 pending final adjudication of the claims of the parties if the
210 mortgagor files with the court a written undertaking executed by
211 a surety approved by the court in an amount equal to the unpaid
212 balance of the lien being foreclosed, including all principal,
213 interest, unpaid taxes, and insurance premiums paid by the
214 plaintiff.

215 (e) If the court enters an order requiring the mortgagor to
216 make payments to the plaintiff, payments shall be payable at
217 such intervals and in such amounts provided for in the mortgage
218 instrument before acceleration or maturity. The obligation to
219 make payments pursuant to any order entered under this
220 subsection shall commence from the date of the motion filed
221 under this section. The order shall be served upon the mortgagor
222 no later than 20 days before the date specified for the first
223 payment. The order may permit, but may not require, the
224 plaintiff to take all appropriate steps to secure the premises
225 during the pendency of the foreclosure action.

226 (f) If the court enters an order requiring payments, the
227 order shall also provide that the plaintiff is entitled to
228 possession of the premises upon the failure of the mortgagor to
229 make the payment required in the order unless at the hearing on
230 the order to show cause the court finds good cause to order some
231 other method of enforcement of its order.

232 (g) All amounts paid pursuant to this section shall be

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credited against the mortgage obligation in accordance with the terms of the loan documents; however, payments made under this section do not constitute a cure of any default or a waiver or any other defense to the mortgage foreclosure action.

(h) Upon the filing of an affidavit with the clerk that the premises have not been vacated pursuant to the court order, the clerk shall issue to the sheriff a writ for possession which shall be governed by s. 83.62.

(i) This subsection does not apply to foreclosure of an owner-occupied residence. For purposes of this paragraph, there is a rebuttable presumption that a residential property for which a homestead exemption for taxation was granted according to the certified rolls of the latest assessment by the county property appraiser, before the filing of the foreclosure action, is an owner-occupied residential property.

(j) For purposes of this subsection, the term "mortgagor" means a person who grants a mortgage or a successor in ownership of the real property described in the mortgage. The term does not include a homeowners' association or an association, as those terms are defined in s. 720.301, or a corporation regulated under chapter 718 or chapter 719, that:

1. Acquires title to a parcel or unit through the foreclosure of its claim of lien, or a deed in lieu of foreclosure, provided that title remains vested in the association or corporation and any rents collected are applied to assessments that are then due; or

2. Collects rents from the tenants in the parcel or unit pursuant to s. 718.116(11), s. 719.108(10), or s. 720.3085(8).

Section 5. The amendment to s. 117.201, Florida Statutes,

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made by this act is intended to clarify existing law and applies retroactively to January 1, 2020.

Section 6. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: February 21, 2023

I respectfully request that **Senate Bill #286**, relating to Legal Instruments, be placed on the:

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

A handwritten signature in dark ink, appearing to read "Bobby Powell", is written over a horizontal line.

Senator Bobby Powell
Florida Senate, District 24

The Florida Senate

APPEARANCE RECORD

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

3/8/23

Meeting Date

SB 286

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

FRENCH BROWN

Phone

850-459-0992

Address

106 E. College Ave Suite 1200

Email

fbrown@denread.com

Street

Tallahassee

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:

☐

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

The Real Property, Probate, and Trust Law Section of the FL Bar

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

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Senate professional staff conducting the meeting

286 - power

Bill Number or Topic

Amendment Barcode (if applicable)

3/8/23

Meeting Date

Rules

Committee

Rotunno

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Tallahassee, FL, 32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

Florida Bankers Association

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.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 360

INTRODUCER: Judiciary Committee and Senator Hutson

SUBJECT: Causes of Action Based on Improvements to Real Property

DATE: March 7, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Collazo</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 360 amends existing law with respect to causes of action based on improvements to real property. The bill shortens the timeframes within which a property owner may bring a cause of action against a builder for alleged construction defects. It also narrows the scope of certain statutory civil actions against builders for Florida Building Code violations.

Specifically, the bill:

- Revises the commencement of the 4-year statute of limitations by changing the listed potential commencement dates and causing the statute to run based upon whichever date is earliest instead of latest;
- Shortens the 10-year statute of repose to 7 years;
- Revises the commencement of the 7-year (currently 10-year) statute of repose by changing the listed potential commencement dates and causing the statute to run based upon whichever date is earliest instead of latest;
- Provides that if a newly constructed single-dwelling residential building is used as a model home, the time to bring a construction defect action begins to run from the date that a deed is recorded first transferring title to another party;
- Provides that if a project involves the construction of multiple buildings, each individual building must be considered its own improvement for purposes of determining the limitations period in the bill;
- Provides a definition for “material violations” in connection with statutory civil actions against builders for alleged Florida Building Code violations, and amends existing law to limit recovery for material violations only; and

- Includes a savings clause to ensure that claimants having time remaining under the existing statute of limitations have at least 1 year from the effective date of the bill to initiate a construction defect action.

The bill takes effect upon becoming a law.

II. Present Situation:

Construction Defects

A construction defect, for purposes of bringing a construction defect action against a builder under chapter 558, F.S., is a deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction, repair, alteration, or remodeling of real property resulting from:

- Defective material, products, or components used in the construction or remodeling;
- A violation of the applicable codes in effect at the time of construction or remodeling which gives rise to a cause of action pursuant to s. 553.84;¹
- A failure of the design of real property to meet the applicable professional standards of care at the time of governmental approval; or
- A failure to construct or remodel real property in accordance with accepted trade standards for good and workmanlike construction at the time of construction.²

Statutes of Limitation and Repose

Legal actions must be brought within the timeframes authorized by law. A statute of limitations typically sets a time limit within which an action must be filed as measured from the accrual of the cause of action, after which time obtaining relief is barred.³ A statute of repose precludes a right of action after a specified time, instead of establishing a time period within which the action must be brought measured from the point in time when the cause of action accrued.⁴

With respect to construction defect actions, there are two timeframes that currently apply: a 4-year statute of limitations period and a 10-year statute of repose.⁵ Under the statute of limitations, a property owner may bring an action:

- In the case of patent⁶ construction defects, up to 4 years after the *latest* of the following dates:
 - The date of actual possession by the property owner;
 - The date of issuance of a certificate of occupancy;

¹ See Statutory Civil Actions, *infra*.

² Section 558.002(5), F.S.

³ *National Auto Service Centers, Inc., v. F/R 500, LLC*, 192 So. 3d 498, 509-10 (Fla. 2d DCA 2016) (citations omitted) (stating that the purpose of a statute of limitations is to “require that a plaintiff with a known cause of action prosecute that claim diligently and within a predictable time that will allow for finality of claims prior to the potential loss of available evidence over time”).

⁴ *Id.* at 509 (citing *Univ. of Miami v. Bogorff*, 583 So. 2d 1000, 1003 (Fla. 1991)).

⁵ Section 95.11(3)(c), F.S.

⁶ A patent defect is “either one about which the owner had actual knowledge or one about which the owner would have known had he or she made a reasonably careful inspection.” *U.S. Lodging of Jacksonville, Ltd., v H.B. Daniel Const. Co., Inc.*, 617 So. 2d 448, 449 (Fla. 1st DCA 1993).

- The date of abandonment of construction if not completed; or
- The date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer.⁷
- In the case of latent⁸ construction defects, up to 4 years after the defect is discovered or should have been discovered with the exercise of due diligence.⁹

Under the statute of repose, a property owner may bring an action for a latent construction defect, regardless of when it is discovered or should have been discovered, no later than 10 years after the *latest* of the following dates:

- The date of actual possession by the property owner;
- The date of issuance of a certificate of occupancy;
- The date of abandonment of construction if not completed; or
- The date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer.¹⁰

Florida Building Code

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act.” The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code, known as the Florida Building Code.¹¹

The Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.¹² It is adopted by rule¹³ and, except as otherwise provided in state law,¹⁴ must contain or incorporate by reference all laws and rules which pertain to and govern:

- The design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities in the state; and
- The enforcement of such laws and rules.

The Code includes all of the following volumes:

- 2020 Florida Building Code, Building, 7th Edition;
- 2020 Florida Building Code, Residential, 7th Edition;
- 2020 Florida Building Code, Test Protocols for High-Velocity Hurricane Zones, 7th Edition;
- 2020 Florida Building Code, Accessibility, 7th Edition;
- 2020 Florida Building Code, Energy Conservation, 7th Edition;
- 2020 Florida Building Code, Plumbing, 7th Edition;

⁷ Section 95.11(3)(c), F.S.

⁸ A latent defect is a defect that is not discernible by the exercise of reasonable care. *Kala Investments, Inc. v. Sklar*, 538 So. 2d 909, 914 (Fla. 3d DCA 1989) (citing *Maas Bros., Inc. v. Bishop*, 204 So. 2d 16 (Fla. 2d DCA 1967)).

⁹ Section 95.11(3)(c), F.S.

¹⁰ *Id.*

¹¹ See s. 553.72(1), F.S.

¹² *Id.*

¹³ Section 553.73(1)(a), F.S.; see also Fla. Admin. Code R. 61G20-1.001(1) (adopting The Florida Building Code, 7th Edition (2020), as updated by the Florida Building Commission on August 9, 2022, as the building code for the state of Florida).

¹⁴ See s. 553.73(1)(a), F.S. For example, the Florida Fire Prevention Code and the Life Safety Code, while referenced in the Code, are separately adopted and maintained by the Department of Financial Services. Section 553.73(1)(c), F.S.

- 2020 Florida Building Code, Mechanical, 7th Edition;
- 2020 Florida Building Code, Fuel Gas, 7th Edition; and
- 2020 Florida Building Code, Existing Building, 7th Edition.¹⁵

The Florida Building Commission was statutorily created to implement the Code.¹⁶ The Commission, which is housed within the Department of Business and Professional Regulation, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Code.¹⁷ The Commission reviews several International Codes published by the International Code Council,¹⁸ the National Electric Code, and other nationally adopted model codes to determine if the Code needs to be updated, and adopts an updated Code every 3 years.¹⁹

Enforcement

The Legislature intends that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions to protect the public's health, safety, and welfare.²⁰ Every local government must enforce the Code and issue building permits.²¹ A person, firm, or corporation may not construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government agency enforcing the Code, or from the persons as may be directed, by resolution or regulation, to issue the permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.²²

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Code. The Code requires certain building, electrical, plumbing, mechanical, and gas inspections.²³ Construction work may not be done beyond a certain point until it passes an inspection.²⁴

Certificates

According to the Code, a building or structure may not be used or occupied, and a change in the existing use or occupancy classification of a building or structure may not be made, until the appropriate local government official issues a certificate of occupancy, temporary certificate of occupancy, or a certificate of completion as described in the Code.²⁵

¹⁵ See International Code Council Digital Codes, *Florida Building Codes*, <https://codes.iccsafe.org/codes/florida> (last visited Feb. 14, 2023) (providing these volumes).

¹⁶ Sections 553.73(1)(a) and 553.74(1), F.S.

¹⁷ Section 553.74(1), F.S.

¹⁸ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Feb. 14, 2023).

¹⁹ Sections 553.73(7)(a) and 553.74, F.S.

²⁰ Section 553.72(2), F.S.

²¹ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

²² See ss. 125.56(4)(a) and 553.79(1), F.S.

²³ See generally s. 110, Florida Building Code, Building, 7th Edition (2020), <https://codes.iccsafe.org/content/FLBC2020P1/chapter-1-scope-and-administration>.

²⁴ See *id.*

²⁵ See generally s. 111, Florida Building Code, Building, 7th Edition (2020), <https://codes.iccsafe.org/content/FLBC2020P1/chapter-1-scope-and-administration>.

- A certificate of occupancy must be issued before initial use or occupancy, or a change in the existing use or occupancy classification, of a building or structure.²⁶
- A temporary certificate of occupancy may be issued before the completion of an entire work covered by a permit, provided that such portion or portions can be occupied safely. It is valid only for a limited time.²⁷
- A certificate of completion is proof that a structure or system is complete and, for certain types of permits, is released for use and may be connected to a utility system. It does not grant authority to occupy a building, such as a shell building, before issuance of a certificate of occupancy.²⁸

Statutory Civil Actions

Notwithstanding other remedies available, a person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of the Florida Building Codes Act²⁹ or the Code, has a cause of action against the person or party who committed the violation.³⁰

However, unless the person or party who committed the violation knew or should have known that the violation existed, the cause of action is not available if:

- The person or party obtained the required building permits and the local government or public agency with authority to enforce the Code approved the plans;
- The construction project passed all required inspections under the Code; and
- There is no personal injury or damage to property other than the property that is the subject of the permits, plans, and inspections.³¹

The existence of a contract between the property owner and the builder is not required for a person to bring an action for a Code violation. As such, the statutory civil action for a Code violation may be brought by a subsequent property owner or against subcontractors.

Administrative Penalties for Material Violations of the Code

If a local enforcing agency determines that a builder has committed a material violation of the Code and failed to correct the violation within a reasonable time, the enforcing authority is required to impose a fine of \$500 to \$5,000 per material violation.³² A material Code violation is a violation that exists within a completed building, structure, or facility which may reasonably result, or has resulted, in physical harm to a person or significant damage to the performance of a building or its systems.³³

²⁶ Subsection 111.1, Florida Building Code, Building, 7th Edition (2020), <https://codes.iccsafe.org/content/FLBC2020P1/chapter-1-scope-and-administration>.

²⁷ Subsection 111.3, Florida Building Code, Building, 7th Edition (2020), <https://codes.iccsafe.org/content/FLBC2020P1/chapter-1-scope-and-administration>.

²⁸ Subsection 111.5, Florida Building Code, Building, 7th Edition (2020), <https://codes.iccsafe.org/content/FLBC2020P1/chapter-1-scope-and-administration>.

²⁹ Part IV, Chapter 553, F.S.

³⁰ Section 553.84, F.S.

³¹ *Id.*

³² Section 553.781(2)(a), F.S.

³³ Section 553.781(4), F.S.

III. Effect of Proposed Changes:

Statutes of Limitation and Repose

The bill revises the commencement of the 4-year statute of limitations for patent construction defects by:

- Deleting “the date of actual possession by the owner” as a commencement date;
- Adding the date that “the authority having jurisdiction issues a temporary certificate of occupancy” as a commencement date;
- Adding the date that the authority having jurisdiction issues a “certificate of completion” as a commencement date; and
- Removing the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer as a commencement date.

The bill provides that the 4-year statute of limitations for patent construction defects begins to run on any of the listed commencement dates, whichever date is *earliest*.

Similarly, the bill revises the commencement of the 10-year statute of repose by:

- Shortening the statute of repose to 7 years;
- Deleting “the date of actual possession by the owner” as a commencement date;
- Adding the date that “the authority having jurisdiction issues a temporary certificate of occupancy” as a commencement date;
- Adding the date that the authority having jurisdiction issues a “certificate of completion” as a commencement date; and
- Removing the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer as a commencement date.

The bill provides that the 7-year statute of repose begins to run on any of the listed commencement dates, whichever date is *earliest*.

The bill replaces a reference in the statute to “a local enforcement agency, state enforcement agency, or special inspector,” with a reference to the “authority having jurisdiction.” The terminology is revised to be consistent with current practices for the issuance of certificates of occupancy or completion.

The bill provides that if a newly constructed single-dwelling residential building is used as a model home, the time for a construction defect action begins to run from the date that a deed is recorded first transferring title to another party.

The bill also provides that notwithstanding any provision of the statute to the contrary, if the improvement to real property consists of the design, planning, or construction of multiple buildings, each building must be considered its own improvement for purposes of determining the applicable limitations period in the bill.

Florida Building Code

With respect to that cause of action granted to persons damaged as a result of a violation of the Florida Building Codes Act or the Florida Building Code, the bill narrows the scope of the cause of action by:

- Amending the statute³⁴ to limit recovery for *material violations* only; and
- Defining the term “material violation” to mean a Florida Building Code violation that exists within a completed building, structure, or facility which may reasonably result, or has resulted, in physical harm to a person or significant damage to the performance of a building or its systems.

This standard for material violation in the bill is the same standard in existing law that requires a local enforcing agency to impose a fine on a builder of \$500 to \$5,000 for failing to correct a material violation within a reasonable time.³⁵

Savings Clause

The bill provides that it applies to any construction defect action commenced on or after the effective date of the bill (July 1, 2023), regardless of when the cause of action accrued, except that any action that would not have been barred by the statute before that date must be commenced by July 1, 2024. Accordingly, the bill ensures that claimants having time remaining under the existing statute of limitations have at least 1 year from the effective date of the bill to initiate a construction defect action. However, if the action is not commenced by July 1, 2024, and is barred by the amendments made by the bill, then the action is barred.

The bill takes effect upon becoming a law.

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.

³⁴ Section 553.84, F.S.

³⁵ Section 553.781, F.S.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the bill becomes law, it will reduce the time periods for property owners to discover potential construction defects and bring causes of action against builders for those construction defects.

By deleting the date that a property owner actually takes possession of an improvement to real estate as a commencement date, providing for additional and earlier commencement dates, and reducing the statute of repose from 10 to 7 years, the bill will provide property owners less time to sue builders for alleged construction defects under the statutes of limitation and repose.

Additionally, by narrowing the scope of violations for which one may bring a statutory civil action against builders under chapter 553, F.S., to “material” violations only (as defined in the bill), the bill will provide property owners fewer opportunities to sue builders.

On the other hand, the bill will benefit builders because they will be subject to construction defect actions for shorter periods of time. The shortened time periods that an improvement is outside of the builder’s observation and control may also aid in determining whether a problem with an improvement is a construction defect or a result of misuse or improper maintenance.

C. Government Sector Impact:

The bill may reduce costs of the judicial branch to the extent that the bill reduces litigation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 95.11 and 553.84.

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

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

CS by Judiciary on February 21, 2023:

- Inserts references to the “authority having jurisdiction” in connection with the issuance of temporary certificates of occupancy and certificates of completion.
- Removes language in the bill that would have triggered the statute of repose based upon the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, which can refer to events that occur before the commencement of construction.
- Revises language in the bill to clarify that if a project has multiple buildings, each individual building (not each dwelling unit within a multi-dwelling building) must be considered its own improvement for purposes of determining the limitations period in the bill.
- Conforms the bill to the existing structure of s. 95.11(3)(c), F.S., by removing the subparagraph numbering in the bill.
- Inserts a savings clause to ensure that claimants having time remaining under the existing statute of limitations have at least 1 year from the effective date of the bill to initiate a construction defect action.
- Inserts language providing that if a newly constructed single-dwelling residential building is used as a model home, the time to bring a construction defect action begins to run from the date that a deed is recorded first transferring title to another party.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Hutson

590-02148-23

2023360c1

A bill to be entitled

An act relating to causes of action based on improvements to real property; amending s. 95.11, F.S.; revising the time in which an action founded on the design, planning, or construction of an improvement to real property must be commenced; revising the date on which the statute of limitations period begins; providing for the calculation of the statute of limitations period for multi-dwelling buildings; amending s. 553.84, F.S.; defining the term "material violation"; conforming provisions to changes made by the act; providing applicability; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 95.11, Florida Statutes, is amended to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(3) WITHIN FOUR YEARS.—

(c) An action founded on the design, planning, or construction of an improvement to real property, with the time running from ~~the date of actual possession by the owner~~, the date the authority having jurisdiction issues ~~of the issuance of~~ a temporary certificate of occupancy, a certificate of occupancy, or a certification of completion, or the date of abandonment of construction if not completed, ~~or the date of~~

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2023360c1

~~completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer~~, whichever date is earliest latest; except that, when the action involves a latent defect, the time runs from the time the defect is discovered or should have been discovered with the exercise of due diligence. In any event, the action must be commenced within 7 ~~10~~ years after the date the authority having jurisdiction issues a temporary certificate of occupancy, ~~of actual possession by the owner, the date of the issuance of a certificate of occupancy, or a certificate of completion, or~~ the date of abandonment of construction if not completed, ~~or the date of completion of the contract or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer~~, whichever date is earliest latest. However, counterclaims, cross-claims, and third-party claims that arise out of the conduct, transaction, or occurrence set out or attempted to be set out in a pleading may be commenced up to 1 year after the pleading to which such claims relate is served, even if such claims would otherwise be time barred. With respect to actions founded on the design, planning, or construction of an improvement to real property, if such construction is performed pursuant to a duly issued building permit and if the authority having jurisdiction ~~a local enforcement agency, state enforcement agency, or special inspector, as those terms are defined in s. 553.71~~, has issued a temporary final certificate of occupancy, a certificate of occupancy, or a certificate of completion, then as to the construction which is within the scope of such building permit and certificate, the correction of

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defects to completed work or repair of completed work, whether performed under warranty or otherwise, does not extend the period of time within which an action must be commenced. If a newly constructed single-dwelling residential building is used as a model home, the time begins to run from the date that a deed is recorded first transferring title to another party. Notwithstanding any provision of this section to the contrary, if the improvement to real property consists of the design, planning, or construction of multiple buildings, each building must be considered its own improvement for purposes of determining the limitations period set forth in this paragraph ~~Completion of the contract means the later of the date of final performance of all the contracted services or the date that final payment for such services becomes due without regard to the date final payment is made.~~

Section 2. Section 553.84, Florida Statutes, is amended to read:

553.84 Statutory civil action.—Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a material violation of this part or the Florida Building Code, has a cause of action in any court of competent jurisdiction against the person or party who committed the material violation; however, if the person or party obtains the required building permits and any local government or public agency with authority to enforce the Florida Building Code approves the plans, if the construction project passes all required inspections under the code, and if there is no personal injury or damage to property other than the property that is the

590-02148-23

2023360c1

subject of the permits, plans, and inspections, this section does not apply unless the person or party knew or should have known that the material violation existed. For purposes of this section, the term "material violation" means a Florida Building Code violation that exists within a completed building, structure, or facility which may reasonably result, or has resulted, in physical harm to a person or significant damage to the performance of a building or its systems.

Section 3. The amendments to s. 95.11(3)(c), Florida Statutes, made by this act apply to any action commenced on or after the effective date of this act, regardless of when the cause of action accrued, except that any action that would not have been barred under s. 95.11(3)(c), Florida Statutes, before the amendments made by this act must be commenced on or before July 1, 2024. If the action is not commenced by July 1, 2024, and is barred by the amendments to s. 95.11 (3)(c), Florida Statutes, made by this act, then the action is barred.

Section 4. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Fiscal Policy, *Chair*
Appropriations Committee on Education
Banking and Insurance
Commerce and Tourism
Education Pre-K -12
Finance and Tax
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR TRAVIS HUTSON

7th District

February 27, 2023

Senator Debbie Mayfield
404 South Monroe Street
Tallahassee, Florida 32399-1100

Chair Mayfield,

I respectfully request that CS/SB 360, Causes of Action Based on Improvements to Real Property be placed on the Senate Committee on Rules agenda at your earliest convenience. This bill includes clarifying language regarding how the construction defection claims process starts, how long it lasts, and what constitutes a claim under the defect statutes. Additionally, the bill aims to reduce litigation when it comes to construction defect claims.

The committee substitute was reported favorably by the Committee Judiciary.

Thank you for your consideration of this request.

A handwritten signature in black ink that reads "Travis J. Hutson". The signature is written in a cursive, flowing style.

Travis Hutson

REPLY TO:

- ☐ 4875 Palm Coast Parkway, NW, Suite 5, Palm Coast, Florida 32137 (386) 446-7610 FAX: (888) 263-3475
- ☐ 420 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

03.08.23

APPEARANCE RECORD

360

Meeting Date

Bill Number or Topic

Rules

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Committee

Amendment Barcode (if applicable)

Name Victoria Cribb Phone 813.808.8054

Address 1905 East Seventh Ave. Email vjc@bolin-law.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:

FL Justice Reform Institute

☐ 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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SB 360

Bill Number or Topic

03/08/23

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Committee

Amendment Barcode (if applicable)

Name

Patricia Howell

Phone

407 925 2729

Address

1132 Appleton Ave

Email

phowell@beckerlanger.com

Street

Orlando

FL

32816

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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The Florida Senate

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Meeting Date

Rules

Committee

360

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Carol Bowen

Phone

(954) 465-6811

Address

6486 Via Regina

Street

Email

cbowen@cubeFlorida.com

Boca Raton FL

City

State

33433

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 Builders and Contractors 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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3/8/23

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SB 360

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Committee

Amendment Barcode (if applicable)

Name TRAVIS MOOREPhone 727.421.6902Address P.O. Box 2020Email travis@moore-relations.com

Street

St. Petersburg

State

FL 33731

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:First Service Residential &
Community Associations Institute☐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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SB 360

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Meeting Date

Rules

Committee

Chamberlain

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

KIRK CHAMBERLAIN

Phone

773-680-6485

Address

700 N. MAPLE ST.

Email

KIRK.CHAMBERLAIN@
HUBINTERNATIONAL.COM

Street

Prospect Heights IL 60070

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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SB 360

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Committee

Shermer

Amendment Barcode (if applicable)

Name

Mitchell Schermer

Phone

813-229-4045

Address

201 N. Franklin St, 7th Floor

Email

mschermer@forthepeople.com

Street

Tampa

City

FL

State

33602

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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Allen Gast

Amendment Barcode (if applicable)

Name

ALLEN GAST, GAST CONSTRUCTION GROUP

Phone

561-281-1001

Address

333 SOUTHERN BLVD

Street

Email

ALLEN@GASTCONSTRUCTIONGROUP.COM

WEST PALM BEACH

City

FL

State

33405

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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Meeting Date

SB 360

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Rules

Committee

Sangiovanni

Amendment Barcode (if applicable)

Name

PAUL SANGIOVANNI

Phone

321-217-6628

Address

1817 S. OSCEOLA AVE

Email

PSAN618@GMAIL.COM

Street

Orlando

City

FL

State

32806

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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Bill Number or Topic

Committee

Hebrank

Amendment Barcode (if applicable)

Name

MARI HERBRANK

Phone

850-566-7824

Address

215 S. MONROE ST.

Email

khebrank@carlton
fields.com

Street

TALLAHASSEE FL 32301

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

FLORIDA HOME BUILDERS



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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3/8/23

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Committee

Amendment Barcode (if applicable)

Name

Chris Dawson

Phone

407 843 8880

Address

301 E. Pine Street, Suite 1400

Email

Chris.dawson@gray-robinson.com

Street

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:

FL Roofing & Sheet Metal Contractors 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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The Florida Senate

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Michelle DePotter

3/8/23

Meeting Date

SR 360

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Michelle DePotter

Phone

ACC Florida East Coast

Address

515 N. Flagler Hwy

Email

Michelle@accfla.com

Street

West Palm Beach FL 33401

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ 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)

APPEARANCE RECORD

3-8-23

Meeting Date

SB 360

Bill Number or Topic

Rules

Committee

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

Amendment Barcode (if applicable)

Name

Jessica Lowe

Phone

850-577-9090

Address

PO Box 11189

Email

jlowe@gray-robinson.com

Street

Tallahassee

City

State

32302

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 the
American Institute of Architects

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/8/23

Meeting Date

Rules

Committee

SB 360

Bill Number or Topic

Amendment Barcode (if applicable)

Name BG Murphy

Phone 850-893-4155

Address 3159 Shamrock St. S.

Email bmurphy@faia.com

Street

Tallahassee

City

FL

State

32309

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

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

Florida Association of Insurance Agents

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 7006

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Nationwide Public Safety Broadband Network

DATE: March 7, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Limones-Borja</u>	<u>McVaney</u>		GO Submitted as Comm. Bill/Fav
1. <u>Limones-Borja</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SB 7006 saves from repeal the current public records exemption which makes information relating to the Nationwide Public Safety Broadband Network (FirstNet) held by an agency confidential and exempt from public inspection and copying requirements. FirstNet is a nationwide broadband network dedicated to emergency responders and the public safety community.

Unless saved from repeal by the Legislature, the exemption for information relating to FirstNet is scheduled to repeal on October 2, 2023. This bill removes the scheduled repeal to continue the confidential and exempt status of information held by an agency that relates to FirstNet.

The bill is not expected to impact state and local revenues and expenditures.

The bill takes effect October 1, 2023.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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

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

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

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c)

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption *and* it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- The release of sensitive personal information would be defamatory or jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specific questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

First Responder Network Authority

Following the 9/11 terrorist attacks, Congress created the National Commission on Terrorist Attacks Upon the United States (Commission). The Commission was tasked with preparing a full and complete account of the circumstances surrounding the September 11, 2001 terrorist attacks, along with recommendations designed to guard against future attacks.²⁶ One of the Commission's recommendations to prevent the incidents of communication disruption that occurred between first responders during the terrorist attacks was to "support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes."²⁷

The federal Middle Class Tax Relief and Job Creation Act of 2012²⁸ created the First Responder Network Authority (FirstNet Authority) as an independent authority within the Department of Commerce to oversee the Nationwide Public Safety Broadband Network (FirstNet). FirstNet is designed to provide emergency responders with a nationwide, high-speed, broadband network dedicated to public safety.²⁹ FirstNet commenced operations in 2018.

FirstNet's public-private partnership with AT&T provides first responders with immediate access to mission-critical capabilities over the FirstNet network.³⁰ This includes priority and preemption features³¹ that give first responders their own 'fast lane' on the public safety network to communicate and share information during emergencies, large events or other situations when

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

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ National Commission on Terrorist Attacks Upon the United States, *About the Commission*, available at <https://govinfo.library.unt.edu/911/about/index.htm> (last visited January 20, 2023).

²⁷ 9/11 Commission, *The 9/11 Commission Report*, pgs. 396-397, (2004), available at <https://govinfo.library.unt.edu/911/report/911Report.pdf> (last visited January 20, 2023).

²⁸ Pub. Law No. 112-96, H.R. 3630, 112th Cong. (2012).

²⁹ FirstNet Authority, *About Us*, available at: <https://www.firstnet.gov/about> (last visited December 5, 2022).

³⁰ FirstNet Authority, *History*, available at: <https://www.firstnet.gov/about/history> (last visited December 5, 2022).

³¹ FirstNet Authority, *Experience FirstNet: How priority and preemption help public safety connect when they need it most*, available at: <https://www.firstnet.gov/newsroom/blog/experience-firstnet-how-priority-and-preemption-help-public-safety-connect-when-they> (last visited December 5, 2022).

commercial networks could become congested. FirstNet is the only broadband network to provide preemption for public safety.³²

FirstNet's enabling federal legislation³³ requires each Governor to determine whether to:

- Opt-in, by choosing to participate in the deployment of the nationwide, interoperable network as proposed by the FirstNet State Plan, or
- Opt-out, by choosing to deploy, maintain, operate, and improve a Radio Access Network that interoperates with the FirstNet network.³⁴

Public safety agencies who opt-in to FirstNet are eligible to contract with FirstNet, to provide first responders immediate access to AT&T's commercial network on a priority basis, and preemptive access within the year. Additionally, AT&T will install the FirstNet Radio Access Network at no cost to opt-in jurisdictions.³⁵

FirstNet in Florida

All fifty states, five U.S. territories, and Washington D.C., have opted to participate in FirstNet. Each state has an individualized state plan detailing how FirstNet will be deployed in its state.³⁶ FirstNet has worked with Florida public safety officials since 2014 to ensure the design of the Florida FirstNet met all of Florida's specific needs.³⁷ In 2017, Governor Scott elected to opt-in to the nationwide broadband network as proposed by the FirstNet State Plan.³⁸

Open Government Sunset Review of the Public Records Exemption for Information Relating to FirstNet

In 2018 the Legislature created the public records exemption for information held by an agency that relates to FirstNet if release of such information would reveal:

- The design, development, construction, deployment, and operation of network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;
- The features, functions, and capabilities of network infrastructure and facilities;
- The features, functions, and capabilities of network services provided to first responders and other network users;

³² AT&T, *FirstNet Launches Ruthless Preemption for First Responders*, available at:

https://about.att.com/story/preemption_for_first_responders.html (last visited December 5, 2022).

³³ 47 U.S.C. s. 1442(e)(2).

³⁴ *Id.*

³⁵ IWCE, *FirstNet hits 50% 'opt-in' threshold as Indiana makes announcement*, available at:

<https://urgentcomm.com/2017/10/11/firstnet-hits-50-opt-in-threshold-as-indiana-makes-announcement/> (last visited December 5, 2022).

³⁶ FirstNet, *The Network*,

<https://www.firstnet.gov/network#:~:text=Delivering%20on%20the%20FirstNet%20promise,deployed%20in%20their%20state%20territory> (last visited December 7, 2022).

³⁷ FirstNet, *Florida*, <https://www.firstnet.gov/public-safety/firstnet-for/florida> (last visited December 7, 2022).

³⁸ Letter from Rick Scott, Governor, State of Florida, to Mike Poth, Chief Executive Officer, First Responder Network Authority (December 28, 2017) available at: <https://www.flgov.com/wp-content/uploads/2017/12/122817.pdf> (last visited December 7, 2022).

- The design, features, functions, and capabilities of network devices provided to first responders and other network users; or
- Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.

The public necessity statement, as required by the State Constitution, specified that it is a public necessity to protect such information because disclosure of this information would adversely affect the business interests and network security of these providers and its networks. Additionally, the public necessity statement provides that without the exemption, competitors could appropriate the information in such a way as to impede full and fair competition, therefore disadvantaging consumers of communications services as they relate to FirstNet.

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple Florida sheriff offices and police departments to ascertain whether the public records exemption in s. 119.071(3)(d), F.S., remains necessary. Staff reviewed the agencies' responses and a majority of those agencies recommend that the Legislature reenact the public records exemption without any changes.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(3)(d), F.S., to save from repeal the public records exemption for information relating to FirstNet held by an agency. The bill deletes the scheduled repeal date of October 2, 2023, to maintain the confidential and exempt status of the information.

Section 2 provides that the bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill does not create or expand an exemption, thus, the bill does not require a two-thirds vote to be enacted.

Public Necessity Statement

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

justifying the exemption. This bill does not create or expand an exemption, thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability

585-02159-23

20237006__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records requirements for certain information held by an agency relating to the Nationwide Public Safety Broadband Network; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

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

(3) SECURITY AND FIRESAFETY.—

(d)~~1~~ Information relating to the Nationwide Public Safety Broadband Network established pursuant to 47 U.S.C. ss. 1401 et seq., held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if release of such information would reveal:

~~1.a~~ The design, development, construction, deployment, and operation of network facilities;

~~2.b~~ Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;

~~3.e~~ The features, functions, and capabilities of network infrastructure and facilities;

~~4.d~~ The features, functions, and capabilities of network

Page 1 of 2

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

585-02159-23

20237006__

services provided to first responders, as defined in s.

112.1815, and other network users;

~~5.e~~ The design, features, functions, and capabilities of network devices provided to first responders and other network users; or

~~6.f~~ Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.

~~2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

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 7008

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Building Plans, Blueprints, Schematic Drawings, and Diagrams

DATE: March 7, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Limones-Borja</u>	<u>McVane</u>		GO Submitted as Comm. Bill/Fav
1. <u>Limones-Borja</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SB 7008 saves from repeal the current public records exemption for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development. The bill removes language related to the disclosure of information.

The Open Government Sunset Review Act requires the Legislature to review each public record exemption 5 years after enactment. The exemption is scheduled to repeal on October 2, 2023. This bill removes the scheduled repeal to continue the exempt status.

The bill is not expected to impact state and local revenues and expenditures.

The bill takes effect October 1, 2023.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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

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

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

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also*, *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹
- The release of sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c).

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²² In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²³ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁴

Public Records Law on Building Plans, Blueprints, Schematic Drawings and Diagrams

In 2002, the Legislature created a public records exemption for building plans, blueprints, schematic drawings, and diagrams of specified facilities and structures *owned or operated* by an agency. The release of such information was authorized under the following circumstances:

- To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency;
- Upon a showing of good cause before a court of competent jurisdiction; or
- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities.²⁵

In 2004, the law was amended to include documents *held* by an agency. The law was also amended to include the following structures and buildings:

- Attractions and recreation facility;
- Entertainment or resort complex;
- Industrial complexes;
- Retail and service development;
- Office development; and
- Hotel or motel developments.²⁶

²² Section 119.15(6)(a), F.S. The specific questions are:

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

²³ FLA. CONST. art. I, s. 24(c).

²⁴ Section 119.15(7), F.S.

²⁵ Ch. 2002-67, Laws of Fla.; HB 735 (2002).

²⁶ Ch. 2004-9, Laws of Fla.; HB 317 (2004).

The following are related public records exemptions that exist in current law:

- Section 119.071(3)(a), F.S., provides a public record exemption for security or firesafety system plans for any property owned by or leased to the state or any of its political subdivisions or for any privately owned or leased property held by an agency.
- Section 119.071(3)(b), F.S., provides a public record exemption for building plans, blueprints, schematic drawings, and diagrams, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency.
- Section 311.13, F.S., provides a public record exemption for certain seaport security plans. A public record exemption is also provided for photographs, maps, blueprints, drawings, and similar materials that depict critical seaport operating facilities to the extent that a seaport reasonably determines that such items contain information that is not generally known and could jeopardize the seaport's security.
- Section 331.22, F.S., provides a public record exemption for the airport security plans of certain aviation authorities or certain aviation departments. Photographs, maps, blueprints, drawings, and similar materials that depict critical airport operating facilities are also exempt to the extent that such aviation authority or department reasonably determines that the security plan contains information that is not generally known and could jeopardize airport security.
- Section 1004.0962(2), F.S., provides a public record exemption for any portion of a campus emergency response held by a public postsecondary educational institution.

Open Government Sunset Review of the Public Records Exemption for Building Plans, Blueprints, Schematic Drawings and Diagrams

Current law exempts from public inspection and copying requirements building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats held by an agency, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development. Current law allows an agency to disclose of this information:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
- To the owner or owners of the structure in question or the owner's legal representative; or
- Upon the showing of good cause before a court of competent jurisdiction.

In the public necessity statement adopted in the initial enacting legislation²⁷ and subsequent legislation^{28,29,30} expanding the exemption, the Legislature specified the exemption is necessary because security system plans are a vital component of public safety. Such plans contain components that address safety issues for public and private property on which public business is conducted and address the security of private property on which a large segment of the public

²⁷ See supra note 25.

²⁸ See supra note 26.

²⁹ Ch. 2009-235, Laws of Fla.; HB 7017 (2009).

³⁰ Ch. 2018-53, Laws of Fla.; SB 551 (2018).

relies. Allowing public access could increase the ability of persons to inflict harm on persons located in or utilizing those facilities, developments, or structures.

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple agencies to ascertain whether the public records exemption in s. 119.071(3)(c)1., F.S., remains necessary. A majority of the agencies recommend that the Legislature reenact the public records exemption without any changes. However, committee staff recommends the removal of language relating to the disclosure of information. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.³¹ Current law limits the discretion of the custodian, thus making it inconsistent with these public records being treated similarly to other exempt records.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(3)(c)1., F.S., to save from repeal the public records exemption for information relating to the following information held by an agency:

- Building plans;
- Blueprints;
- Schematic drawings; and
- Diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development.

The bill removes superfluous language regarding the release of the exempt information.

Section 2 provides that the bill take effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill does not create or expand an exemption, thus, the bill does not require a two-thirds vote to be enacted.

³¹ See *supra* note 15.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption, thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability

585-02157-23

20237008__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development; removing a provision authorizing disclosure of exempt information under certain circumstances; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

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

(3) SECURITY AND FIRESAFETY.—

(c)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, health care facility, or hotel or motel development, which records are held by an agency are exempt from

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

2. This exemption applies to any such records held by an agency before, on, or after the effective date of this act.

~~3. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities, to the owner or owners of the structure in question or the owner's legal representative, or upon a showing of good cause before a court of competent jurisdiction.~~

4. This paragraph does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

~~4.5.~~ As used in this paragraph, the term:

a. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

(I) For single-performance facilities:

(A) Provides single-performance facilities; or

(B) Provides more than 10,000 permanent seats for spectators.

(II) For serial-performance facilities:

(A) Provides parking spaces for more than 1,000 motor vehicles; or

(B) Provides more than 4,000 permanent seats for spectators.

b. "Entertainment or resort complex" means a theme park

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comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

c. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership that:

(I) Provides onsite parking for more than 250 motor vehicles;

(II) Encompasses 500,000 square feet or more of gross floor area; or

(III) Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.

d. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

(I) Encompasses more than 400,000 square feet of gross floor area; or

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(II) Provides parking spaces for more than 2,500 motor vehicles.

e. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.

f. "Health care facility" means a hospital, ambulatory surgical center, nursing home, hospice, or intermediate care facility for the developmentally disabled.

g. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

~~6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7010

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/United States Census Bureau

DATE: March 7, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Limones-Borja</u>	<u>McVane</u>		GO Submitted as Comm. Bill/Fav
1. <u>Limones-Borja</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SB 7010 repeals the current exemption from public inspection and copying requirements for United States Census Bureau (USCB) address information held by an agency pursuant to the Local Update of Census Addresses (LUCA) program.

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption 5 years after initial enactment. If the Legislature does not reenact the exemption, the exemption automatically repeals on October 2nd of the fifth year after enactment.

The LUCA program was a decennial census geographic partnership program that allowed the USCB to benefit from local knowledge in developing its master address file for the census. Current law provides a public record exemption for USCB address information held by an agency pursuant to the LUCA program. The LUCA program officially ended as of October 15, 2022.¹ As such, there is no need to continue the public record exemption.

The bill is not expected to impact state or local government revenue or expenditures.

The bill takes effect upon becoming a law.

¹ U.S. Census Bureau, *Census Bureau Statement on 2020 Census Data Collection Ending*, available at: <https://www.census.gov/newsroom/press-releases/2020/2020-census-data-collection-ending.html#:~:text=Census%20Bureau%20Statement%20on%202020%20Census%20Data%20Collection%20Ending,-October%2013%2C%202020&text=OCT.,conclude%20on%20October%2015%2C%202020>. (last visited January 5, 2023).

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.² This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person who acts on behalf of the government.³

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.⁴ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

The Public Records Act contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁶ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and

² FLA. CONST., art. I, s. 24(a).

³ *Id.*

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also*, *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹² and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹⁴ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁵ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁶

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁷ with specified exceptions.¹⁸ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁹ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Id.*

¹⁶ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

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

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

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²¹
- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects trade or business secrets.²³

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

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

United States Census Bureau

The United States Census Bureau (USCB) is part of the United States Department of Commerce.²⁷ Amongst its research duties, the USCB conducts the decennial census. The decennial census is a comprehensive population and housing count of all 50 states, the District of Columbia, and the U.S. island areas. Results of the decennial census determine the number of seats for each state in the U.S. House of Representatives. The results are also relied upon in drawing congressional and state legislative districts. The census is critical to the annual distribution of hundreds of billions of dollars in federal funds.²⁸ Moreover, information collected during the census is used not only by all levels of government but also by businesses, non-profits, and policy makers.²⁹

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

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

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

²⁵ FLA. CONST. art. I, s. 24(c).

²⁶ Section 119.15(7), F.S.

²⁷ U.S. Census Bureau, *Who We Are*, available at: <https://www.census.gov/about/who.html> (last visited November 21, 2022).

²⁸ U.S. Census Bureau, *U.S. Census Bureau at a Glance*, available at: <https://www.census.gov/about/what/census-at-a-glance.html#censuses> (last visited November 22, 2022).

²⁹ Patrick R. Potyondy, National Conference of State Legislatures, *LegisBrief: The 2020 Census, What You Need to Know About the 2020 Census* (November 2017), available at: <http://www.ncsl.org/research/redistricting/what-you-need-to-know-about-the-2020-census.aspx> (last visited November 22, 2022).

Local Update of Census Addresses Program

Local Update of Census Addresses (LUCA) is a program offered once every 10 years to state and local governments by the USCB in preparation for the decennial census. Specifically, LUCA enables states and local entities to update address information on a master list maintained by the LUCA, to make the decennial census as accurate as possible.

Entities eligible to participate in LUCA are:

- States;
- Counties;
- Cities;
- Townships; and
- Federally recognized tribes with a reservation on or off-reservation trust lands.³⁰

On June 29, 2017, the USCB announced that starting in July 2017, governments across the country could initiate the process of sharing address information through the 2020 Census LUCA program.³¹ Entities that chose to participate were required to sign the Confidentiality Agreement Form provided by the LUCA.³²

Public Records Law on United States Census Bureau Address Information

Federal law protects the confidentiality of any and all information collected during the census.³³ After the conclusion of the LUCA Feedback Phase, LUCA participants must destroy or return to the Census Bureau all of its Title 13 protected materials. Following the destruction or return of the Title 13 protected materials LUCA participants must certify that they no longer have any Title 13 protected materials.³⁴

Open Government Sunset Review of the Public Records Exemption for USCB address information

In 2018, the Legislature created a public records exemption for certain address information maintained by the USCB and held by an agency. Specifically, the bill makes confidential and exempt the following information held by an agency pursuant to the federal LUCA program:

- USCB address information, including maps showing structure location points;
- Agency records that verify addresses; and
- Agency records that identify address errors or omissions.³⁵

³⁰ United States Census Bureau, *Local Update of Census Addresses (LUCA) Operation*, available at: https://www.census.gov/programs-surveys/decennial-census/about/luca.html#par_textimage_216831044 (last visited November 22, 2022).

³¹ United States Census Bureau, *2020 Census Local Update of Census Addresses Operation to Begin*, available at: <https://www.census.gov/newsroom/press-releases/2017/cb17-109-luca.html> (last visited December 2, 2022).

³² U.S. Census Bureau, *2020 Census LUCA FAQs*, 3 (August 6, 2019), available at: [2020 Census Local Update of Census Addresses Operation \(LUCA\) Frequently Asked Questions \(FAQs\)](https://www.census.gov/programs-surveys/decennial-census/about/luca.html#closeout) (last visited January 10, 2023).

³³ 13 U.S.C. §§ 9, 214 (1997).

³⁴ U.S. Census Bureau, *Local Update of Census Addresses (LUCA) Operation*, available at: <https://www.census.gov/programs-surveys/decennial-census/about/luca.html#closeout> (last visited January 5, 2023).

³⁵ Ch. 2018-77, Laws of Fla.; HB 7053 (2018).

The public necessity statement, as required by the State Constitution, specified that without the exemption, agencies would be denied participation into the LUCA program. As such, the effective and efficient administration of the LUCA program would be hindered, which could result in a negative fiscal impact on the state.

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple agencies to ascertain whether the public records exemption in s. 119.071(1)(g)1., F.S., remains necessary. A majority of the agencies recommend that the Legislature reenact the public records exemption without any changes. However, since the LUCA program officially ended as of October 15, 2022,³⁶ legislative staff recommends that there is no need to continue the public record exemption at this time.

III. Effect of Proposed Changes:

Section 1 repeals the public records exemption for United States Census Bureau address information held by an agency pursuant to the Local Update of Census Addresses program.

Section 2 provides that the bill take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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.

³⁶ U.S. Census Bureau, *Census Bureau Statement on 2020 Census Data Collection Ending*, available at: <https://www.census.gov/newsroom/press-releases/2020/2020-census-data-collection-ending.html#:~:text=Census%20Bureau%20Statement%20on%202020%20Census%20Data%20Collection%20Ending,-October%2013%2C%202020&text=OCT..conclude%20on%20October%2015%2C%202020>. (last visited January 5, 2023).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability

585-02156-23

20237010__

A bill to be entitled

An act relating to a review under the Open Government
Sunset Review Act; repealing s. 119.071(1)(g), F.S.,
which provides an exemption from public records
requirements for United States Census Bureau address
information held by an agency pursuant to the Local
Update of Census Addresses Program; providing an
effective date.

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

Section 1. Paragraph (g) of subsection (1) of section
119.071, Florida Statutes, is repealed.

Section 2. This act shall take effect upon becoming a law.

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Rules Committee

Judge:

Started: 3/8/2023 1:32:35 PM

Ends: 3/8/2023 2:49:56 PM **Length:** 01:17:22

1:32:34 PM	Recording Paused
1:32:42 PM	Recording Resumed
1:33:51 PM	Chair Mayfield calls meeting to order
1:33:57 PM	Roll call
1:34:29 PM	Quorum announced
1:34:31 PM	Pledge
1:34:55 PM	Chair with opening comments
1:35:32 PM	Tab 4 - CS/SB 230 Health Care Practitioner Titles and Designations
1:35:43 PM	Senator Harrell explains the bill
1:38:17 PM	Questions
1:38:26 PM	Amendment Barcode 394716
1:38:34 PM	Senator Harrell explains the amendment
1:38:41 PM	Questions
1:38:48 PM	Debate
1:38:49 PM	Senator Harrell waives close
1:38:59 PM	Amendment adopted
1:39:01 PM	Amendment Barcode 479186
1:39:15 PM	Senator Harrell explains the amendment
1:39:29 PM	Questions
1:39:58 PM	Appearance Forms
1:40:03 PM	Aimee Diaz Lyon, Florida Academy of Family Physicians, waives
1:40:12 PM	Debate
1:40:18 PM	Senator Harrell waives close
1:40:20 PM	Amendment adopted
1:40:28 PM	Amendment Barcode 548114
1:40:35 PM	Senator Harrell explains the amendment
1:40:52 PM	Questions
1:40:55 PM	Appearance Forms
1:41:00 PM	Jessica Love, Florida Society of Oral and Maxillofacial Surgeons, waives
1:41:03 PM	Jack Hebert, Florida Chiropractic Association, speaks
1:41:28 PM	Alexandra Abboud, Florida Dental Association, waives
1:41:34 PM	Debate
1:41:41 PM	Senator Harrell waives close
1:41:48 PM	Amendment adopted
1:41:50 PM	Back on bill
1:41:52 PM	Questions
1:41:57 PM	Senator Rouson
1:42:08 PM	Senator Harrell
1:43:28 PM	Hannah Gospodinsky speaks
1:43:48 PM	Dr. Paul Reinhardt, M.D. speaks
1:47:03 PM	Dr. Vicki Norton, M.D. speaks
1:48:21 PM	George L. Reinhardt speaks
1:48:53 PM	Chair Mayfield
1:49:12 PM	Mr. Reinhardt
1:49:22 PM	Chair Mayfield
1:49:25 PM	David Ramba, Florida Optometric Association, waives
1:49:29 PM	Jessica Love, Florida Society of Oral and Maxillofacial Surgeons, waives
1:49:35 PM	Chris Lyon, Florida Osteopathic Medical Association, waives
1:49:41 PM	Alexandra Abboud, Florida Dental Association, waives
1:49:48 PM	Theresa Bulger, Florida Academy of Audiologists, waives
1:50:05 PM	Gerard O'Rourke, FL Chiropractic Society, waives
1:50:18 PM	Debate

1:50:21 PM Senator Boyd
1:51:37 PM Senator Harrell closes
1:52:18 PM Roll call
1:52:55 PM CS/CS/SB 230 is reported favorably
1:53:05 PM Tab 7 CS/SB 360 Causes of Action Based on Improvements to Real Property
1:53:18 PM Senator Hutson explains the bill
1:54:01 PM Questions
1:54:27 PM Senator Book
1:54:47 PM Senator Hutson
1:56:04 PM Senator Book
1:56:20 PM Senator Hutson
1:56:39 PM Senator Book
1:57:00 PM Senator Hutson
1:58:29 PM Appearance Forms
1:58:37 PM Victoria Cribb, FL Justice Reform Institute, speaks
2:01:44 PM Patrick Howell speaks
2:06:14 PM Carol Bowen, Associated Builders and Contractors of FL, speaks
2:08:02 PM Travis Moore, First Service Residential & Community Associations Institute, speaks
2:11:32 PM Kirk Chamberlain speaks
2:12:49 PM Mitchell Schermer speaks
2:15:59 PM Allen Gast, Gast Construction Group, waives
2:16:13 PM Paul L. SanGiovanni speaks
2:18:50 PM Kari Hebrank, Florida Home Builders, speaks
2:19:55 PM Chris Dawson, FL Roofing & Sheet Metal Contractors Association, waives
2:20:02 PM Michelle DePoter, AGC Florida East Coast, waives
2:20:04 PM Jessica Love, FL Association of the American Institute of Architects, waives
2:20:11 PM BG Murphy, Florida Association of Insurance Agents, waives
2:20:20 PM Debate
2:20:27 PM Senator Jones
2:21:07 PM Senator Boyd
2:22:16 PM Senator Torres
2:22:36 PM Senator Hutson closes on the bill
2:23:13 PM Roll call
2:23:58 PM CS/SB 360 is reported favorably
2:24:03 PM Tab 3 SB 190 Interscholastic Extracurricular Activities
2:24:14 PM Senator Grall explains the bill
2:24:25 PM Questions
2:24:32 PM Amendment Barcode 657896
2:24:42 PM Senator Grall explains the amendment
2:24:51 PM Questions
2:25:00 PM Debate
2:25:08 PM Senator Grall waives close
2:25:11 PM Amendment adopted
2:25:12 PM Back on bill
2:25:18 PM Questions
2:25:21 PM Debate
2:25:25 PM Senator Brodeur
2:25:56 PM Senator Grall waives close
2:26:03 PM Roll call
2:26:48 PM CS/SB 190 is reported favorably
2:26:54 PM Chair Mayfield
2:27:27 PM Senator Book
2:27:52 PM Recording Paused
2:28:27 PM Recording Resumed
2:28:34 PM Chair Mayfield
2:28:42 PM Tab 6 CS/SB 286 Legal Instruments
2:28:52 PM Senator Powell explains the bill
2:29:16 PM Questions
2:29:48 PM Appearance Forms
2:29:52 PM French Brown, The Real Property, Probate, and Trust Law Section-FL Bar, waives
2:30:02 PM Gina Rotunno, Florida Bankers Association, waives
2:30:10 PM Debate

2:30:21 PM	Senator Powell waives close
2:30:23 PM	Roll call
2:31:05 PM	CS/SB 286 is reported favorably
2:31:14 PM	Tab 1 CS/SM 160 Redesignation of the Revolutionary Armed Forces of Columbia as a Foreign Terrorist Organization
2:31:35 PM	Senator Avila explains the bill
2:32:44 PM	Questions
2:33:49 PM	Debate
2:33:59 PM	Senator Avila
2:34:24 PM	Roll call
2:35:03 PM	CS/SM 160 is reported favorably
2:35:07 PM	Tab 2 SM 176 Balancing the Federal Budget
2:35:17 PM	Senator Avila explains the bill
2:35:38 PM	Questions
2:36:41 PM	Debate
2:36:46 PM	Senator Perry
2:37:50 PM	Senator Avila closes on the bill
2:38:10 PM	Roll call
2:38:11 PM	SM 176 is reported favorably
2:38:54 PM	Tab 5 SB 274 Nursing Education Pathway for Military Combat Medics
2:38:59 PM	Senator Avila explains the bill
2:39:27 PM	Questions
2:40:28 PM	Appearance Forms
2:40:31 PM	Ron LaFace, FL Association of Nurse Anesthetists, waives
2:40:39 PM	Bob Asztalos, FDVA, waives
2:40:41 PM	Debate
2:40:49 PM	Senator Torres
2:41:35 PM	Senator Avila waives close
2:41:43 PM	Roll call
2:42:21 PM	SB 274 is reported favorably
2:42:25 PM	Tab 8 SB 7006 OGSR/Nationwide Public Safety Broadband Network
2:42:34 PM	Senator Avila explains the bill
2:43:12 PM	Questions
2:43:14 PM	Debate
2:43:20 PM	Senator Avila waives close
2:43:21 PM	Roll call
2:44:02 PM	SB 7006 is reported favorably
2:44:04 PM	Tab 9 SB 7008 OGSR/Building Plans, Blueprints, Schematic Drawings, and Diagrams
2:44:07 PM	Senator Avila explains the bill
2:44:08 PM	Questions
2:45:08 PM	Senator Jones
2:45:35 PM	Chair Mayfield
2:45:50 PM	Debate
2:45:57 PM	Senator Jones
2:46:10 PM	Senator Avila waives close
2:46:16 PM	Roll call
2:46:50 PM	SB 7008 is reported favorably
2:46:53 PM	Tab 10 SB 7010 OGSR/United States Census Bureau
2:47:12 PM	Senator Avila explains the bill
2:47:13 PM	Questions
2:48:07 PM	Senator Boyd
2:48:18 PM	Senator Avila
2:48:21 PM	Debate
2:48:27 PM	Senator Avila waives close
2:48:29 PM	Roll call
2:49:09 PM	SB 7010 is reported favorably
2:49:10 PM	Chair Mayfield
2:49:27 PM	Senator Perry moves to adjourn
2:49:45 PM	Meeting adjourned