

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Stargel, Chair
Senator Braynon, Vice Chair

MEETING DATE: Thursday, March 20, 2014
TIME: 8:30 —10:00 a.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Stargel, Chair; Senator Braynon, Vice Chair; Senators Detert, Flores, Galvano, Gibson, Legg, Sachs, Sobel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 278 Health Policy / Grimsley (Compare H 323)	Pharmacy; Increasing the number of registered pharmacy technicians which a licensed pharmacist may supervise; revising the composition of the Board of Pharmacy, etc. HP 03/11/2014 Fav/CS RI 03/20/2014 Fav/CS RC	Fav/CS Yeas 10 Nays 0
2	SB 1098 Dean (Similar H 1235)	Florida Homeowners' Construction Recovery Fund; Revising conditions under which a claimant is eligible to seek recovery from the recovery fund; revising the form required to be provided by a contractor which explains a consumer's rights under the recovery fund; prohibiting fund disbursements from exceeding a specified amount for each Division I claim and each Division II claim, etc. RI 03/20/2014 Fav/CS AGG AP	Fav/CS Yeas 10 Nays 0
3	CS/SB 172 Commerce and Tourism / Soto (Similar CS/CS/H 407)	Notaries Public; Requiring a notary public to record specified information in a notarial journal when performing certain notarial acts; requiring that a notary public retain a notarial journal for a specified period; requiring a notary public to notify the Department of State if the notarial journal is lost, stolen, misplaced, destroyed, erased, compromised, rendered unusable, or becomes otherwise inaccessible during the retention period; exempting certain acts of specified law enforcement and correctional officers from the notarial journal requirements, etc. CM 03/10/2014 Fav/CS RI 03/20/2014 Temporarily Postponed	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Thursday, March 20, 2014, 8:30 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1462 Stargel (Similar H 871, Compare H 1405, CS/S 798, S 1458)	Residential Properties; Defining the term “previous owner”; revising and providing liability of certain condominium owners acquiring title; revising and providing liability of certain homeowners’ association parcel owners acquiring title, etc. RI 03/20/2014 Fav/CS JU	Fav/CS Yeas 7 Nays 3

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 Regulated Industries

BILL: CS/CS/SB 278

INTRODUCER: Regulated Industries Committee, Health Policy Committee, and Senator Grimsley

SUBJECT: Pharmacy

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peterson</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Niles</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 278 removes the cap of three pharmacy technicians that the Board of Pharmacy (board) may authorize one pharmacist to supervise.

The bill also revises the composition of the board. The number of pharmacists representing both community and institutional class II pharmacies is increased from a minimum of one in each category, to a minimum of three each.

The bill amends s. 456.42, F.S., and s. 863.04(2)(d) by permitting a date on a prescription for a controlled substance listed in ch. 893, F.S., to be in the numeric month/day/year format or the month written out in whole.

The bill removes the requirement that the date required under s. 456.42, F.S., and the written quantity and date required under s. 839.04(2), F.S. must be on the face of the prescription.

The bill amends s. 839.04(2), F.S., by adding the requirement that the notation of the date be legible.

The bill provides an effective date of July 1, 2014.

II. Present Situation:

Pharmacists

Pharmacists are regulated under ch. 465, F.S., the Florida Pharmacy Act (act), by the board within the Department of Health (department). A pharmacist is any person licensed under the act to practice the profession of pharmacy.¹

The practice of professional pharmacy includes:²

- Compounding, dispensing, and consulting related to contents, therapeutic values, and uses of any medicinal drug;
- Consulting related to therapeutic values and interactions of patent or proprietary preparations; and
- Other pharmaceutical services, which include: monitoring, reviewing, or assisting a patient in the management of the patient's drug therapy and communicating with the patient's prescribing health care provider or others, as authorized by the patient, regarding the drug therapy.

A person practicing the profession of pharmacy is not authorized to alter a prescriber's instructions, diagnose or treat any disease, initiate any drug therapy, or practice medicine or osteopathic medicine, unless specifically permitted by law. A pharmacist is authorized to transmit information from persons authorized to prescribe medicinal drugs to their patients.³

To be licensed as a pharmacist, a person must:

- Submit an application form and the required fees.
- Submit satisfactory proof that the applicant is not less than 18 years of age and is a recipient of a degree from an accredited school or college of pharmacy; or is a graduate of a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, has demonstrated proficiency in English, has passed the Foreign Pharmacy Graduate Equivalency Examination, and has completed a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a pharmacist licensed by the department.
- Submit satisfactory proof that the applicant has completed an internship program, which must not exceed 2,080 hours.
- Successfully complete the licensure examination.⁴

Pharmacy Technicians

Florida law authorizes a licensed pharmacist to delegate certain duties, exclusive of acts that constitute the practice of professional pharmacy as defined in s. 465.003(13), F.S., to a pharmacy technician who is registered with the board. All delegated acts must be performed under the

¹ Section 465.003(10), F.S.

² Section 465.003(13), F.S.

³ Section 465.003(13), F.S.

⁴ Section 465.007, F.S. Florida law also allows a pharmacist to obtain a license by endorsement as an alternative to licensure by examination. *See* s. 465.0075, F.S.

direct supervision⁵ of the pharmacist and the pharmacist retains the professional and personal responsibility for the acts.⁶ The acts a registered pharmacy technician may perform include:⁷

- Retrieval of prescription files;
- Data entry;
- Label preparation;
- Counting, weighing, measuring, pouring, and mixing prescription medication or stock legend drugs and controlled substances;
- Initiating communication with a prescribing practitioner or medical staff regarding requests for prescription refill authorization, clarification of missing information on prescriptions, and confirmation of information such as names, medication, and strength; and
- Accepting authorization for prescription renewals.

Pharmacy technicians are prohibited from performing the following acts:⁸

- Receiving new verbal prescriptions or any change in the medication, strength, or directions;
- Interpreting a prescription or medication order for therapeutic acceptability and appropriateness;
- Conducting a final verification of dosage and directions;
- Engaging in prospective drug review;
- Providing patient counseling;
- Monitoring prescription drug usage; and
- Overriding clinical alerts without first notifying the pharmacist.

Any person desiring to become a registered pharmacy technician must register by filing an application with the board. The board must register each applicant who:

- Completes the application form and submits the required fees.
- Is at least 17 years of age.
- Has completed a pharmacy technician training program approved by the board. Approved programs include programs accredited or licensed by specified national organizations, and employer-based programs. Employer-based programs must provide 160 hours of training over a period not to exceed 6 months, limited to employees of the pharmacy, and subject to approval by the board.⁹
- A pharmacy technician who registered prior to January 1, 2011, and who has worked as a pharmacy technician for a minimum of 1,500 hours under the supervision of a licensed pharmacist or received certification as a pharmacy technician by a certification program accredited by the National Commission for Certifying Agencies is exempt from the requirement to complete an initial training program in order to register.¹⁰

⁵ Chapter 465, F.S., does not contain a definition of “direct supervision.” The Rules Committee of the board discussed this issue at its February meeting, but did not take final action. The issue is expected to be on the committee’s agenda again during its April meeting.

⁶ Section 465.014(1), F.S.; Rule 64B16-27.1001(7), F.A.C.

⁷ Rule 64B16-27.420, F.A.C.

⁸ *Id.*

⁹ Rule 64B16-26.351 F.A.C.

¹⁰ Section 465.014(2), F.S.

A person who is licensed by the state as a pharmacy intern may be employed as a registered pharmacy technician without registering as a pharmacy technician.¹¹

Pharmacy technicians must complete 20 hours of continuing education in one or more of the following areas during the 24 months prior to renewal:¹²

- Pharmacy technician practice areas and special health.
- Biological, physical, behavioral, and social sciences.
- Legal aspects of health care.
- Management/administration of health care personnel and patient care.
- Teaching/learning process of health care personnel and patients.

The board also recognizes advanced coursework at an accredited educational institution as continuing education.

Pharmacist Supervision

A licensed pharmacist may not supervise more than one registered pharmacy technician, unless otherwise permitted by the guidelines adopted by the board. The board may authorize supervision of a maximum of three pharmacy technicians.¹³

The guidelines require a pharmacist to submit a written request and receive approval by the board before supervising more than one registered pharmacy technician. The board considers the following in determining the pharmacist-to-pharmacy technician ratio:¹⁴

- A brief description of the pharmacy's workflow justifying the request;
- The hours the pharmacy is open; and,
- The number of pharmacists, pharmacy interns, and pharmacy technicians employed.

All registered pharmacy technicians must wear a name badge that identifies them as a pharmacy technician, and verbally identify themselves as such during any communication.¹⁵

At the end of the first quarter of fiscal year 2013-2014, there were 44,492 registered pharmacy technicians, 31,445 pharmacists and 9,179 licensed pharmacies. Of the licensed pharmacies, 4,436 had a ratio of three pharmacy technicians to one pharmacist, and 580 pharmacies had a ratio of two pharmacy technicians to one pharmacist.¹⁶ According to the December 2013 Aggregate Demand Index compiled by the Pharmacy Manpower Project, Inc. (project),¹⁷ Florida

¹¹ Section 465.014(5), F.S.

¹² Rule 64B16-26.103(4), F.A.C.

¹³ Section 465.014(1), F.S.

¹⁴ Rule 64B16-27.410, F.A.C.

¹⁵ Rule 64B16-27.420(4), F.A.C.

¹⁶ Florida Dept. of Health, *2014 Agency Legislative Bill Analysis: SB 278* (Nov. 6, 2013).

¹⁷ Members of the Pharmacy Manpower Project, which collects, analyzes, and disseminates data on the supply of licensed pharmacists in the United States, include: the Academy of Managed Care Pharmacy, the American Association of Colleges of Pharmacy, the American College of Apothecaries, the American College of Clinical Pharmacy, the American Pharmaceutical Association, the American Society of Consultant Pharmacists, the American Society of Health-System Pharmacists, the Bureau of Health Professions, the Healthcare Distribution Management Association, the National Association of Chain Drug Stores, the National Community Pharmacists Association, the National Council of State

has a ranking of 2.33, meaning Florida does not have a shortage of pharmacists. Specifically, the Florida ranking falls between “demand is less than the pharmacist supply available” and “demand is in balance with supply” on the scale used by the project.¹⁸

As of 2009, Florida was among 18 states allowing a maximum 1 to 3 pharmacist-to-pharmacist technician ratio.¹⁹ Seventeen states and the District of Columbia had no ratio limits; eight states allowed a maximum 1 to 2 pharmacist-to-pharmacist technician ratio; seven states allowed a 1 to 4 ratio; and one state allowed a 1 to 1 ratio. More recently, Indiana and Idaho have allowed a 1 to 6 ratio.²⁰ Some states require that higher ratios are contingent on certification or licensure of technicians, or other quality assurance measures.²¹

According to Florida Retail Federation (FRF), pharmacy technicians are trained individuals who assist pharmacists in dispensing medications by doing routine pharmacy tasks such as taking customer phone calls, creating labels, and taking payment for prescriptions. Their role allows pharmacists to delegate specific tasks.²² Valid training programs are listed under rule 64B16-26.351, F.A.C., which also provides for curriculum and provides that alternative programs must be a minimum of 160 hours in length (about one month full time) to six months maximum.

Concerns have been raised in past attempts to remove or alter the three technician cap. According to the Florida Pharmacy Association, pharmacists may have little say in their staffing needs or budget, and increased growth of health care needs can increase potential oversight by the supervising pharmacists who may not be able to accurately and appropriately review multiple technicians who hold no liability themselves.²³

Section 465.004, F.S., establishes the Board of Pharmacy. The board consists of nine members appointed by the Governor and confirmed by the Senate. Seven members of the board must be licensed pharmacists who are residents of this state and engaged in the practice of pharmacy for at least 4 years. Of the pharmacist members, one must be currently engaged in the practice of pharmacy in a community pharmacy, one must be currently engaged in the practice of pharmacy in a Class II institutional pharmacy²⁴ or a Modified Class II institutional pharmacy,²⁵ and five must be licensed pharmacists regardless of the type of practice.

Pharmacy Association Executives, the National Pharmaceutical Association, the Pharmaceutical Research and Manufacturers Association, and the Pharmacy Technicians Certification Board.

¹⁸ Aggregate Demand Index, Supported by Pharmacy Manpower Project Inc., *available at* <http://www.pharmacymanpower.com/about.jsp> (last visited Feb. 20, 2014).

¹⁹ National Association of Chain Drug Stores, *Standardized Pharmacy Technician Education and Training* (May 2009), *available at*: [http://www.nabp.net/events/assets/AnnualMtgTechTrainStd\(Nicholson\).pdf](http://www.nabp.net/events/assets/AnnualMtgTechTrainStd(Nicholson).pdf) (last visited Feb. 20, 2014).

²⁰ Indiana changed its ratio July 2, 2012. *See* Indiana Code, 25-26-13-18. *See also* Idaho Board of Pharmacy Rule 251. Pharmacy Technicians.

²¹ *See* National Association of Boards of Pharmacy: Kansas News: Pharmacy Technician Ratio (2006), <http://www.nabp.net/news/kansas-news-pharmacy-technician-ratio> (Last visited Feb. 20, 2014).

²² Florida Retail Technician, *Pharmacy Technician Ratio Expansion*, (2014) *available at* <http://www.frf.org/index.php/government-affairs/2014-issues/pharmacy/pharmacy-technician-ratio-expansion>.

²³ Conversation with Michael Jackson, Executive Vice President and CEO, Florida Pharmacy Association (March 14, 2014).

²⁴ A Class II institutional pharmacy is an institutional pharmacy which employs the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution for use on the premises of that institution. Section 465.019(2)(b), F.S.

²⁵ A Modified Class II institutional pharmacy is a pharmacy in short-term, primary care treatment centers that meet all the requirements for a Class II permit, except space and equipment requirements. Section 465.019(2)(c), F.S.

Two members must be residents of this state who are not connected to the practice of pharmacy. One member of the board must be at least 60 years old. The members serve four years. Currently, there is one vacancy on the board.²⁶

Written Prescriptions

Section 456.42, F.S., provides that a written prescription for a controlled substance listed under ch. 893, F.S., must have the quantity of the drugs in both textual and written formats and must be dated with the abbreviated month written out on the face of the prescription. It also must be either written on a standardized counterfeit-proof prescription pad or electronically as defined in s. 408.0611, F.S.

Section 893.04, F.S., provides that each written prescription for a controlled substance listed in Schedule II, Schedule III, or Schedule IV must include both a written and a numerical notation of the quantity of the prescription on the face of the prescription and a notation of the date with the abbreviated month written out on the face of the prescription.

III. Effect of Proposed Changes:

CS/CS/SB 278 removes the cap on the number of pharmacy technicians the board may authorize a pharmacist to supervise. A licensed pharmacist may not supervise more than one technician, but may be able to supervise any number of technicians if permitted by the guidelines of the board.

The bill also revises the composition of the board to increase the number of pharmacists representing community and institutional class II pharmacies from one each to three each.

The bill amends s. 456.42, F.S., and s. 863.04(2)(d) F.S., by requiring that a written prescription for a controlled substance listed in ch. 893, F.S., must be dated in the numeric month/day/year format, or with the abbreviated month written out, or the month written out in whole.

The bill removes the requirement that the date required under s. 456.42, F.S., must be on the face of the prescription, and the bill removes the requirement that the written quantity and date under s. 839.04(2), F.S., must be on the face of the prescription.

The bill also amends s. 839.04(2), F.S., by adding the requirement that the notation of the date be legible.

The bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁶ See The Board of Pharmacy, available at <http://floridaspharmacy.gov/the-board/> (Last visited March 18, 2014).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Privately-owned pharmacies may experience greater efficiency in operations, resulting in cost savings, by utilizing more pharmacy technicians in their operations.

C. Government Sector Impact:

The department will incur non-recurring costs for rulemaking, which current budget authority is adequate to absorb.²⁷ There will also be costs associated with requests made to the board to authorize a ratio greater than 1 to 1, although this cost is indeterminate because it is not possible to project how many pharmacies will make that request.

Like their private sector counterparts, publicly-owned pharmacies may experience greater efficiency in operations, resulting in cost savings, by utilizing more pharmacy technicians in their operations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 465.004 and 465.014.

²⁷ Florida Dept. of Health, *2014 Agency Legislative Bill Analysis: SB 278* (Nov. 6, 2013).

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 Regulated Industries on March 20, 2014:

The CS provides under s. 456.42, F.S., and s. 863.04(2)(d), F.S., that a written prescription for a controlled substance listed in ch. 893, F.S., must be dated in the numeric month/day/year format, or with the abbreviated month written out, or the month written out in whole.

The CS removes the requirement that the date required under s. 456.42, F.S., must be on the face of the prescription.

The CS removes the requirement that the written quantity and date under s. 839.04(2), F.S., must be on the face of the prescription.

The CS amends s. 839.04(2), F.S., by adding the requirement that the notation of the date be legible.

CS by Health Policy on March 11, 2014:

The CS restores current law regarding the number of pharmacy technicians a pharmacist can supervise without board approval by removing the cap of six proposed by the bill as filed.

The CS restores current law regarding the board's authority to adopt guidelines for determining when a pharmacist may supervise more than one pharmacist.

The CS revises the composition of the board to increase the number of pharmacists representing community and institutional class II pharmacies from one each to three each.

- B. **Amendments:**

None.



126704

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/21/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Galvano) recommended the following:

Senate Amendment (with title amendment)

Delete line 51

and insert:

Section 3. Subsection (2) of section 456.42, Florida Statutes, is amended to read:

456.42 Written prescriptions for medicinal drugs.—

(2) A written prescription for a controlled substance listed in chapter 893 must have the quantity of the drug prescribed in both textual and numerical formats, must be dated



126704

11 on the face of the prescription in numeric month/day/year format
12 or with the abbreviated month written out or the month written
13 out in whole ~~on the face of the prescription~~, and must be either
14 written on a standardized counterfeit-proof prescription pad
15 produced by a vendor approved by the department or
16 electronically prescribed as that term is used in s. 408.0611.
17 As a condition of being an approved vendor, a prescription pad
18 vendor must submit a monthly report to the department that
19 ~~which~~, at a minimum, documents the number of prescription pads
20 sold and identifies the purchasers. The department may, by rule,
21 require the reporting of additional information.

22 Section 4. Paragraph (d) of subsection (2) of section
23 893.04, Florida Statutes, is amended to read:

24 893.04 Pharmacist and practitioner.—

25 (2)

26 (d) Each written prescription prescribed by a practitioner
27 in this state for a controlled substance listed in Schedule II,
28 Schedule III, or Schedule IV must include on the face of the
29 prescription both a written and a numerical notation of the
30 quantity of the controlled substance prescribed ~~on the face of~~
31 ~~the prescription~~ and a legible notation of the date in numeric
32 month/day/year format or, with the abbreviated month written out
33 ~~on the face of the prescription~~. A pharmacist may, upon
34 verification by the prescriber, document any information
35 required by this paragraph. If the prescriber is not available
36 to verify a prescription, the pharmacist may dispense the
37 controlled substance but may insist that the person to whom the
38 controlled substance is dispensed provide valid photographic
39 identification. If a prescription includes a numerical notation



126704

40 of the quantity of the controlled substance or date, but does
41 not include the quantity or date written out in textual format,
42 the pharmacist may dispense the controlled substance without
43 verification by the prescriber of the quantity or date if the
44 pharmacy previously dispensed another prescription for the
45 person to whom the prescription was written.

46 Section 5. This act shall take effect July 1, 2014.

47

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

49 And the title is amended as follows:

50 Delete line 6

51 and insert:

52 the Board of Pharmacy; amending ss. 456.42 and 893.04,
53 F.S.; requiring written prescriptions for specified
54 controlled substances to be legibly dated in a
55 specified format; providing an effective date.

56



690618

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/21/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Galvano) recommended the following:

- 1 **Senate Amendment to Amendment (126704)**
- 2
- 3 Delete line 11
- 4 and insert:
- 5 in numeric month/day/year format
- 6 Delete lines 28 - 29
- 7 and insert:
- 8 Schedule III, or Schedule IV must include both a written and a
- 9 numerical notation of the



447118

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
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	.	
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The Committee on Regulated Industries (Galvano) recommended the following:

1 **Senate Substitute for Amendment (126704) (with title**
2 **amendment)**

3
4 Delete line 51
5 and insert:

6 Section 3. Subsection (2) of section 456.42, Florida
7 Statutes, is amended to read:

8 456.42 Written prescriptions for medicinal drugs.—

9 (2) A written prescription for a controlled substance
10 listed in chapter 893 must have the quantity of the drug



447118

11 prescribed in both textual and numerical formats, must be dated
12 in numeric month/day/year format, or with the abbreviated month
13 written out, or the month written out in whole ~~on the face of~~
14 ~~the prescription~~, and must be either written on a standardized
15 counterfeit-proof prescription pad produced by a vendor approved
16 by the department or electronically prescribed as that term is
17 used in s. 408.0611. As a condition of being an approved vendor,
18 a prescription pad vendor must submit a monthly report to the
19 department that ~~which~~, at a minimum, documents the number of
20 prescription pads sold and identifies the purchasers. The
21 department may, by rule, require the reporting of additional
22 information.

23 Section 4. Paragraph (d) of subsection (2) of section
24 893.04, Florida Statutes, is amended to read:

25 893.04 Pharmacist and practitioner.—

26 (2)

27 (d) Each written prescription prescribed by a practitioner
28 in this state for a controlled substance listed in Schedule II,
29 Schedule III, or Schedule IV must include both a written and a
30 numerical notation of the quantity of the controlled substance
31 prescribed ~~on the face of the prescription~~ and a legible
32 notation of the date in numeric month/day/year format, or ~~7~~ with
33 the abbreviated month written out, or the month written out in
34 whole ~~on the face of the prescription~~. A pharmacist may, upon
35 verification by the prescriber, document any information
36 required by this paragraph. If the prescriber is not available
37 to verify a prescription, the pharmacist may dispense the
38 controlled substance but may insist that the person to whom the
39 controlled substance is dispensed provide valid photographic



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40 identification. If a prescription includes a numerical notation
41 of the quantity of the controlled substance or date, but does
42 not include the quantity or date written out in textual format,
43 the pharmacist may dispense the controlled substance without
44 verification by the prescriber of the quantity or date if the
45 pharmacy previously dispensed another prescription for the
46 person to whom the prescription was written.

47 Section 5. This act shall take effect July 1, 2014.

48

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

50 And the title is amended as follows:

51 Delete line 6

52 and insert:

53 the Board of Pharmacy; amending ss. 456.42 and 893.04,
54 F.S.; requiring written prescriptions for specified
55 controlled substances to be legibly dated in a
56 specified format; providing an effective date.

57

By the Committee on Health Policy; and Senator Grimsley

588-02464-14

2014278c1

1 A bill to be entitled
 2 An act relating to pharmacy; amending s. 465.014,
 3 F.S.; increasing the number of registered pharmacy
 4 technicians which a licensed pharmacist may supervise;
 5 amending s. 465.004, F.S.; revising the composition of
 6 the Board of Pharmacy; providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Subsection (1) of section 465.014, Florida
 11 Statutes, is amended to read:
 12 465.014 Pharmacy technician.—
 13 (1) A person other than a licensed pharmacist or pharmacy
 14 intern may not engage in the practice of the profession of
 15 pharmacy, except that a licensed pharmacist may delegate to
 16 pharmacy technicians who are registered pursuant to this section
 17 those duties, tasks, and functions that do not fall within the
 18 purview of s. 465.003(13). All such delegated acts must ~~shall~~ be
 19 performed under the direct supervision of a licensed pharmacist
 20 who is ~~shall be~~ responsible for all such acts performed by
 21 persons under his or her supervision. A ~~pharmacy~~ registered
 22 pharmacy technician, under the supervision of a pharmacist, may
 23 initiate or receive communications with a practitioner or his or
 24 her agent, on behalf of a patient, regarding refill
 25 authorization requests. A licensed pharmacist may not supervise
 26 more than one registered pharmacy technician unless otherwise
 27 permitted by the guidelines adopted by the board. The board
 28 shall establish guidelines to be followed by licensees or
 29 permittees in determining the circumstances under which a

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

588-02464-14

2014278c1

30 licensed pharmacist may supervise more than one ~~but not more~~
 31 ~~than three~~ pharmacy technician ~~technicians~~.
 32 Section 2. Subsection (2) of section 465.004, Florida
 33 Statutes, is amended to read:
 34 465.004 Board of Pharmacy.—
 35 (2) Seven members of the board must be licensed pharmacists
 36 who are residents of this state and who have been engaged in the
 37 practice of the profession of pharmacy in this state for at
 38 least 4 years and, to the extent practicable, represent the
 39 various pharmacy practice settings. Of the pharmacist members,
 40 three ~~one~~ must be currently engaged in the practice of pharmacy
 41 in a community pharmacy, three ~~one~~ must be currently engaged in
 42 the practice of pharmacy in a Class II institutional pharmacy or
 43 a Modified Class II institutional pharmacy, and one ~~five~~ shall
 44 be a pharmacist ~~pharmacists~~ licensed in this state irrespective
 45 of practice setting. The remaining two members must be residents
 46 of the state who have never been licensed as pharmacists and who
 47 are in no way connected with the practice of the profession of
 48 pharmacy. No person may be appointed as a consumer member who is
 49 in any way connected with a drug manufacturer or wholesaler. At
 50 least one member of the board must be 60 years of age or older.
 51 Section 3. This act shall take effect July 1, 2014.

Page 2 of 2

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

Senator Denise Grimsley
205 South Commerce Avenue, Suite A
Sebring Florida 33870

Senator Kelli Stargel, Chair
Committee on Regulated Industries
330 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 18, 2014

I respectfully request that **Senate Bill #278**, relating to Pharmacy , be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

Senator Denise Grimsley
Florida Senate, District 21

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/19/14

Meeting Date

Topic Pharmacy Techs

Bill Number 278 (if applicable)

Name Tammy Perdue

Amendment Barcode (if applicable)

Job Title Gen Counsel

Address 516 N Adams St Street

Phone

City State Zip

E-mail

Speaking: [X] For [] Against [] Information

Representing AIF

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/14

Meeting Date

Topic Pharmacy Tech

Bill Number 278 (if applicable)

Name Dr. Jonathan Hickman

Amendment Barcode (if applicable)

Job Title Pharmacists

Address 8314 University Dr.

Phone 904-655-6385

Tallahassee FL 32312 (Street, City, State, Zip)

E-mail DrJMH1@aol.com

Speaking: [X] For [] Against [] Information

Representing Walgreens

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/14
Meeting Date

Topic Pharmacy Tech Ratio

Bill Number 278
(if applicable)

Name Melissa Joiner Ramba

Amendment Barcode _____
(if applicable)

Job Title Director of Government Affairs

Address 227 S Adams St.

Phone 850-540-0269

Tallahassee FL 32301
City State Zip

E-mail Melissa@frf.org

Speaking: For Against Information

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/20/14
Meeting Date

Topic Pharmacy Technician Supervision

Bill Number CS/SB 278
(if applicable)

Name Larry Gonzalez

Amendment Barcode _____
(if applicable)

Job Title General Counsel, FSHPA*

Address 223 S. Gadsden St

Phone 850-222-0465

Street

Tallahassee

FL

32301

City

State

Zip

E-mail lawgonz@earthlink.net

Speaking: For Against Information

Representing *Florida Society of Health-System Pharmacists

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/2014

Meeting Date

Topic TECHNICIAN RATIO

Bill Number 278
(if applicable)

Name MICHAEL JACKSON

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE VP + CEO

Address 610 N. ADAMS ST

Phone 850 222-2400

Street

TALLAHASSEE

FL

32301

City

State

Zip

E-mail MJACKSON@PHARMVIEW.COM

Speaking: For Against Information

Representing Pharmacy Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Regulated Industries

BILL: CS/SB 1098

INTRODUCER: Regulated Industries Committee and Senator Dean

SUBJECT: Florida Homeowners' Construction Recovery Fund

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Niles	Imhof	RI	Fav/CS
2.			AGG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1098 amends the Florida Homeowners' Construction Recovery Fund (fund) to include the payment from the fund for claims arising from construction work provided by Division II contractors.

The bill removes the prohibition from paying claims to consumers who made improper payments to the contractor in violation of Florida's Construction Lien law on contracts entered into before July 1, 2014.

The bill provides that payments for claims for contracts entered into before July 1, 2004, may not exceed \$100,000 annual aggregate and \$250,000 total aggregate. For a claim approved by the board in excess of the annual, the amount in excess of \$100,000 up to \$250,000 is eligible for payment in the next and succeeding fiscal years, but only after all that current calendar year's claims have been paid.

The bill revises the required recovery fund notification statement to include language stating that claimants' recovery payments are limited to a specific amount, providing for a maximum of \$15,000 per Division II claim with a \$150,000 lifetime maximum per licensee.

The bill provides an effective date of July 1, 2014.

II. Present Situation:

Contractors

Division I contractors are described under s. 489.105, F.S., as general contractors, building contractors and residential contractors.

Division II contractors are described under s. 489.105, F.S., as sheet metal contractors, roofing contractors, class A air-conditioning contractors, class B air-conditioning contractors, class C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, pollutant storage systems contractors, and specialty contractors.

Construction Industry Licensing Board

The Construction Industry Licensing Board (board), within the Department of Business and Professional Regulation (department), is responsible for licensing and regulating the construction industry in this state.¹ The board meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct informal hearings related to licensure and discipline.² The board engages in rulemaking to implement the provisions set forth in its statutes and conducts other general business, as necessary.³

The board is divided into Division I and Division II members following the definitions of Division I and Division II contractors respectively, jurisdiction falling to each division relative to their scope.⁴ Five members constitute a quorum for each division.

Section 489.129, F.S., grants the board the authority to take actions against any certificate holder or registrant if the contractor, financially responsible officer or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195, F.S., is found guilty of specific acts, including the acts that may qualify a claim to the fund, which is discussed below. These acts are described under s. 489.129(1)(g), (j), and (k), F.S.

Violations Creating a Valid Claim to the Fund

Section 489.129(1)(g), F.S., allows disciplinary proceedings for committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

- Valid liens have been recorded against the customer's property by the contractor for supplies or services ordered by the contractor for which the customer has paid the contractor, but the contractor has not removed the liens within 75 days of such liens;

¹ See s. 489.107, F.S.

² Florida Department of Business and Professional Regulation, Construction Industry Licensing Board, available at <http://www.myfloridalicense.com/DBPR/pro/cilb/index.html> (Last visited March 18, 2014).

³ Section 489.108, F.S., grants rulemaking authority.

⁴ See *supra* note 2 and see s. 489.107(4), F.S.

- The contractor has abandoned a job and the percentage of completion is less than the percentage of the contract price received by the contractor, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after abandonment; or
- The contractor's job has been completed, and the customer has been made to pay more than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the contractor's control, was caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

Section 489.129(1)(j), F.S., allows disciplinary proceedings for abandoning a construction project, which is presumed after 90 days if the contractor terminates the project without just cause or without proper notification to the owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days.

Section 489.129(1)(k), F.S., allows disciplinary proceedings for signing a statement with respect to a project or contract:

- Falsely indicating that the work is bonded;
- Falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or
- Falsely indicating that workers' compensation and public liability insurance are provided.

Section 489.129, F.S., allows the board to take the following actions given the circumstances above:

- Place on probation or reprimand the licensee;
- Revoke, suspend, or deny the issuance or renewal of the certificate or registration;
- Require financial restitution to a consumer for financial harm directly related to a violation of a provision of ch. 489, F.S.;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.

The Florida Homeowner's Construction Recovery Fund

The fund is a last resort for a claimant to seek compensation for monetary loss due to specific acts by a contractor, financially responsible officer, or business organization licensed under ch. 489, F.S. Its scope is limited and very specific to damages caused by financial mismanagement or misconduct, abandonment of a project, or false statement with respect to a project and arising directly out activities under s. 489.129(1)(g), (j), and (k), F.S. A claimant must be a homeowner and the damage must have been caused by a Division I contractor. The Construction Industry Licensing Board makes the determination for an award.

Duty of Contractor to give Notice of Fund

Section 489.1425, F.S., provides that any agreement or contract for repair, restoration, improvement, or construction to residential real property must contain a written statement explaining the consumer's rights under the recovery fund, except where the value of all labor and

materials does not exceed \$2,500. The written statement must be substantially in the form provided for by this statute.

Requirements to Collect

The claimant must have obtained a final judgment, arbitration award, or board issued restitution order against the contractor for damages that are a direct result of a compensable violation. The statute of limitations to make a claim is one year after the conclusion an action or award in arbitration that is based on the misconduct.⁵

Completed claim forms must be submitted with:⁶

- A copy of the complaint that initiated action against the contractor;
- A certified copy of the underlying judgment, order of restitution, or award in arbitration, together with the judgment;⁷
- A copy of any contract between the claimant and the contractor, including change orders;
- Proof of payment to the contractor and/or subcontractors;
- Copies of any liens and releases filed against the property, together with the Notice of Claim and Notice to Owner; copies of applicable bonds, sureties, guarantees, warranties, letters of credit and/or policies of insurance;
- Certified copies of levy and execution documents, and proof of all efforts and inability to collect the judgment or restitution order, and other documentation as may be required by the Board to determine causation of injury or specific actual damages.

No claimant eligible for, or receiving, restitution shall be eligible to recover from the fund until two or more payments have been missed.⁸ Prior to receiving any payments, such a claimant shall provide the Board with a written statement indicating any amount received to date under such an order or plan, the date and amount of the last payment, and how much is still due and owing under such an order or plan.⁹

Limits

Pursuant to s. 489.143, F.S., each recovery claim is limited to both a per-claim maximum amount and a total life time per-contractor maximum.¹⁰ For contracts entered prior to July 1, 2004, the fund claims are limited to \$25,000.00 per claimant with a total life time aggregate limit of \$250,000.00 per licensee.¹¹ For contracts entered after July 1, 2004, the per-claim payment limits are increased to \$50,000.00 with a total life time aggregate of \$500,000.00 per licensee.¹² The fund does not require a minimum contract amount for eligible claims.¹³

⁵ Section 61G4-21.003(5), F.A.C.

⁶ Rule 61G4-21.003(2), F.A.C.

⁷ Pursuant to rule 61G4-21.003(3), F.A.C., if it is not expressly based on s. 489.129(1)(g), (j), or (k), F.S., the claimant must demonstrate that the contractor engaged in activity that is described in those sections.

⁸ Section 61G4-21.005(3), F.A.C.

⁹ *Id.*

¹⁰ *2014 Legislative Bill Analysis for SB1098*, Department of Business and Professional Regulation (March 11, 2014).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Pursuant to s. 489.1425, F.S., any contract for the repair, improvement or construction of Florida residential real property must contain a statutorily mandated notification statement informing the consumer of their rights under the fund, unless the total contract price is less than \$2,500.00.¹⁴

The fund is not permitted to compensate consumers who contracted with Division II contractors for types of work set forth in s. 489.105(3)(d)-(p), F.S., or to compensate consumers who have suffered damages as a result of payments made in violation of Florida Construction Lien Law under pt. I, ch. 713, F.S.

Funding and Payouts

The fund is financed by a 1.5% surcharge on all building permits issued for the enforcement of the Florida Building Code.¹⁵ The proceeds from the surcharge are allocated equally to fund the Florida Homeowner's Construction Recovery Fund and the operations of the Building Code Administrators and Inspectors Board. The department may transfer excess cash to the Florida Homeowner's Construction Recovery Fund if the department determines it is not needed to fund the operation of the Building Code Administrators and Inspectors Board, however, the department may not transfer excess cash that would exceed the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S.¹⁶

According to the department, as of March 1, 2013, the Construction Industry Recovery Fund currently has approved 283 consumer recovery claims for a total of \$5,779,353.40 in recovery payments. The fund currently has a backlog of 253 claims representing \$5,636,599.43 in anticipated payments, which are awaiting approval by the board.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 489.1401, F.S., to include both Division I and Division II contractors within the fund.

Section 2 amends s. 489.1402, F.S., to expand the definition of "contractor" to include Division II contractors and the scope of work set forth in s. 489.105(3)(a)-(q), F.S. The section further amends the definition of "residence" to specifically include the term "single family residence."

Section 3 amends the conditions for recovery under s. 489.141, F.S., permitting the payment of claims for consumers who contract after July 1, 2014 with Division II contractors for services that fall within s. 489.105(3)(d)-(q), F.S. In addition, the proposed bill removes the prohibition against paying consumer claims where the damages resulted from payments made in violation of Florida's Construction Lien Law for contracts entered into after July 1, 2014.

Section 4 amends s. 489.1425, F.S., revising the required recovery fund notification statement to include language stating that claimants' recovery payments are "up to a limited amount."

¹⁴*Id.*

¹⁵ *Id.*

¹⁶ Section 438.631, F.S.

¹⁷ See *supra* note 10.

Section 5 amends s. 489.143, F.S., providing that payments for claims for contracts entered into before July 1, 2004, may not exceed \$100,000 annual aggregate and \$250,000 total aggregate. For a claim approved by the board in excess of the annual cap, the amount in excess of \$100,000 up to \$250,000 is eligible for payment in the next and succeeding fiscal years, but only after all that current calendar year's claims have been paid

The bill amends the statutory limits on recovery payments to reflect the inclusion of Division II contracts beginning January 1, 2015, for any contract entered after July 1, 2014. The amendment limits Division II claims to \$15,000.00 per claim with a \$150,000.00 lifetime maximum per licensee.

Section 6 establishes an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may increase restitution payments required of licensed Division II contractors against whom a recovery claim is paid.¹⁸ Licensees must repay the fund for any amount of recovery paid to a consumer or have their license suspended until the payment is made.¹⁹

C. Government Sector Impact:

Indeterminate.

¹⁸ 2014 Legislative Bill Analysis for SB1098, Department of Business and Professional Regulation (March 11, 2014).

¹⁹ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill will result in additional claims being paid out of the Recovery Fund. The total amount of additional claims to be paid is indeterminate as the number of eligible claims and the amount of each claim will vary based on the circumstances.²⁰ During the five fiscal years prior to removal of Division II licensees from the fund eligibility (FY 2002 through 2006), Division II contractor claims constituted approximately 23.3% of all claims paid by the Recovery Fund.²¹ The average payment amount for each Division II claim was approximately \$8,200.00. Applying the percentage of Division II contractor claims paid during FY 2002 to 2006 and the average payment per claim, the department estimates additional claims of \$852,800 per year.²² However, the total number of claims can vary year to year and the amount of each claim can vary widely based on the circumstances of the contract.²³

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 489.1401, 489.1402, 489.141, 489.1425, and 489.143.

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

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

CS by Regulated Industries on March 20, 2014:

The CS provides that payments for claims for contracts entered into before July 1, 2004, may not exceed \$100,000 annual aggregate and \$250,000 total aggregate. A claim approved by the board in excess of the annual cap, an amount in excess of \$100,000 up to \$250,000 is eligible for payment in the next and succeeding fiscal years, but only after all that current calendar year's claims have been paid.

B. Amendments:

None.

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

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*



727280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Galvano) recommended the following:

Senate Amendment

Delete lines 208 - 216

and insert:

(6) (5) For contracts entered into before July 1, 2004,
payments for claims against one licensee may ~~shall~~ not exceed,
in the aggregate, \$100,000 annually, up to a total aggregate of
\$250,000. For any claim approved by the board which is in excess
of the annual cap, the amount in excess of \$100,000 up to the
total aggregate cap of \$250,000 is eligible for payment in the



727280

11 next and succeeding fiscal years, but only after all claims for
12 the then-current calendar year have been paid. Payments may not
13 exceed the aggregate annual or per claimant limits under law.
14 Beginning January 1, 2005, for each Division I

By Senator Dean

5-00524-14

20141098__

1 A bill to be entitled
 2 An act relating to the Florida Homeowners'
 3 Construction Recovery Fund; amending s. 489.1401,
 4 F.S.; clarifying legislative intent; making technical
 5 changes; amending s. 489.1402, F.S.; redefining terms;
 6 amending s. 489.141, F.S.; revising conditions under
 7 which a claimant is eligible to seek recovery from the
 8 recovery fund; amending s. 489.1425, F.S.; revising
 9 the form required to be provided by a contractor which
 10 explains a consumer's rights under the recovery fund;
 11 amending s. 489.143, F.S.; prohibiting fund
 12 disbursements from exceeding a specified amount for
 13 each Division I claim and each Division II claim;
 14 providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Subsections (2) and (3) of section 489.1401,
 19 Florida Statutes, are amended to read:
 20 489.1401 Legislative intent.—
 21 (2) It is the intent of the Legislature that the sole
 22 purpose of the Florida Homeowners' Construction Recovery Fund is
 23 to compensate an any aggrieved claimant who contracted for the
 24 construction or improvement of the homeowner's residence located
 25 within this state and who has obtained a final judgment in any
 26 court of competent jurisdiction, was awarded restitution by the
 27 Construction Industry Licensing Board, or received an award in
 28 arbitration against a licensee on grounds of financial
 29 mismanagement or misconduct, abandoning a construction project,

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

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20141098__

30 or making a false statement with respect to a project. Such
 31 grievance must arise ~~and arising~~ directly out of a any
 32 transaction conducted when the judgment debtor was licensed and
 33 must involve an act performed ~~any of the activities~~ enumerated
 34 under s. 489.129(1)(g), (j) or (k) ~~on the homeowner's residence~~.
 35 (3) It is the intent of the Legislature that Division I and
 36 Division II contractors set apart funds for the specific
 37 objective of participating in the fund.
 38 Section 2. Paragraphs (d), (i), (k), and (l) of subsection
 39 (1) of section 489.1402, Florida Statutes, are amended to read:
 40 489.1402 Homeowners' Construction Recovery Fund;
 41 definitions.—
 42 (1) The following definitions apply to ss. 489.140-489.144:
 43 (d) "Contractor" means a Division I or a Division II
 44 contractor performing his or her respective services described
 45 in s. 489.105(3)(a)-(q) ~~s. 489.105(3)(a)-(e)~~.
 46 (i) "Residence" means a single-family residence, an
 47 individual residential condominium or cooperative unit, or a
 48 residential building containing not more than two residential
 49 units in which the owner contracting for the improvement is
 50 residing or will reside 6 months or more each calendar year upon
 51 completion of the improvement.
 52 (k) "Same transaction" means a contract, or a any series of
 53 contracts, between a claimant and a contractor or qualified
 54 business, when such contract or contracts involve the same
 55 property or contiguous properties and are entered into either at
 56 one time or serially.
 57 (l) "Valid and current license," for the purpose of s.
 58 489.141(2)(d), means a any license issued pursuant to this part

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59 to a licensee, including a license in an active, inactive,
60 delinquent, or suspended status.

61 Section 3. Subsections (1) and (2) of section 489.141,
62 Florida Statutes, are amended to read:

63 489.141 Conditions for recovery; eligibility.—

64 (1) ~~A~~ Any claimant is eligible to seek recovery from the
65 recovery fund after making ~~having made~~ a claim and exhausting
66 the limits of any available bond, cash bond, surety, guarantee,
67 warranty, letter of credit, or policy of insurance, if provided
68 ~~that~~ each of the following conditions is satisfied:

69 (a) The claimant has received final judgment in a court of
70 competent jurisdiction in this state or has received an award in
71 arbitration or the Construction Industry Licensing Board has
72 issued a final order directing the licensee to pay restitution
73 to the claimant. The board may waive this requirement if:

74 1. The claimant is unable to secure a final judgment
75 against the licensee due to the death of the licensee; or

76 2. The claimant has sought to have assets involving the
77 transaction that gave rise to the claim removed from the
78 bankruptcy proceedings so that the matter might be heard in a
79 court of competent jurisdiction in this state and, after due
80 diligence, the claimant is precluded by action of the bankruptcy
81 court from securing a final judgment against the licensee.

82 (b) The judgment, award, or restitution is based upon a
83 violation of s. 489.129(1)(g), (j), or (k) or s. 713.35.

84 (c) The violation was committed by a licensee.

85 (d) The judgment, award, or restitution order specifies the
86 actual damages suffered as a consequence of such violation.

87 (e) The contract was executed and the violation occurred on

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88 or after July 1, 1993, and provided that:

89 1. The claimant has caused to be issued a writ of execution
90 upon such judgment, and the officer executing the writ has made
91 a return showing that no personal or real property of the
92 judgment debtor or licensee liable to be levied upon in
93 satisfaction of the judgment can be found or that the amount
94 realized on the sale of the judgment debtor's or licensee's
95 property pursuant to such execution was insufficient to satisfy
96 the judgment;

97 2. If the claimant is unable to comply with subparagraph 1.
98 for a valid reason to be determined by the board, the claimant
99 has made all reasonable searches and inquiries to ascertain
100 whether the judgment debtor or licensee is possessed of real or
101 personal property or other assets subject to being sold or
102 applied in satisfaction of the judgment and by his or her search
103 has discovered no property or assets or has discovered property
104 and assets and has taken all necessary action and proceedings
105 for the application thereof to the judgment but the amount
106 thereby realized was insufficient to satisfy the judgment; and

107 3. The claimant has made a diligent attempt, as defined by
108 board rule, to collect the restitution awarded by the board.

109 (f) A claim for recovery is made within 1 year after the
110 conclusion of any civil, criminal, or administrative action or
111 award in arbitration based on the act. This paragraph applies to
112 any claim filed with the board after October 1, 1998.

113 (g) Any amounts recovered by the claimant from the judgment
114 debtor or licensee, or from any other source, have been applied
115 to the damages awarded by the court or the amount of restitution
116 ordered by the board.

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117 (h) The claimant is not a person who is precluded by this
 118 act from making a claim for recovery.

119 (2) A claimant is not qualified to make a claim for
 120 recovery from the recovery fund, if:

121 (a) The claimant is the spouse of the judgment debtor or
 122 licensee or a personal representative of such spouse;

123 (b) The claimant is a licensee who acted as the contractor
 124 in the transaction ~~that which~~ is the subject of the claim;

125 (c) The claim is based upon a construction contract in
 126 which the licensee was acting with respect to the property owned
 127 or controlled by the licensee;

128 (d) The claim is based upon a construction contract in
 129 which the contractor did not hold a valid and current license at
 130 the time of the construction contract;

131 (e) The claimant was associated in a business relationship
 132 with the licensee other than the contract at issue;

133 (f) The claimant has suffered damages as the result of
 134 making improper payments to a contractor as defined in part I of
 135 chapter 713 on contracts entered into before July 1, 2014; or

136 (g) The claimant has contracted with a licensee to perform
 137 a scope of work described in s. 489.105(3) (d)-(p) on contracts
 138 entered into before July 1, 2014.

139 Section 4. Subsection (1) of section 489.1425, Florida
 140 Statutes, is amended to read:

141 489.1425 Duty of contractor to notify residential property
 142 owner of recovery fund.—

143 (1) Each ~~Any~~ agreement or contract for repair, restoration,
 144 improvement, or construction to residential real property must
 145 contain a written statement explaining the consumer's rights

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146 under the recovery fund, except where the value of all labor and
 147 materials does not exceed \$2,500. The written statement must be
 148 substantially in the following form:

149

150 FLORIDA HOMEOWNERS' CONSTRUCTION
 151 RECOVERY FUND

152

153 PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM
 154 THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF
 155 YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT,
 156 WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF
 157 FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION
 158 ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT
 159 THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT
 160 THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

161

162 The statement must ~~shall~~ be immediately followed by the board's
 163 address and telephone number as established by board rule.

164 Section 5. Section 489.143, Florida Statutes, is amended to
 165 read:

166 489.143 Payment from the fund.—

167 (1) The fund shall be disbursed as provided in s. 489.141
 168 on a final order of the board.

169 (2) A ~~Any~~ claimant who meets all of the conditions
 170 prescribed in s. 489.141 may apply to the board to cause payment
 171 to be made to a claimant from the recovery fund in an amount
 172 equal to the judgment, award, or restitution order or \$25,000,
 173 whichever is less, or an amount equal to the unsatisfied portion
 174 of such person's judgment, award, or restitution order, but only

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 175 to the extent and amount of actual damages suffered by the
 176 claimant, and only up to the maximum payment allowed for each
 177 respective Division I and Division II claim. Payment from the
 178 fund for other costs related to or pursuant to civil proceedings
 179 such as postjudgment interest, ~~attorney~~ ~~attorney's~~ fees, court
 180 costs, medical damages, and punitive damages is prohibited. The
 181 recovery fund is not obligated to pay ~~a any~~ judgment, an award,
 182 or a restitution order, or any portion thereof, which is not
 183 expressly based on one of the grounds for recovery set forth in
 184 s. 489.141.

185 (3) Beginning January 1, 2005, for each Division I contract
 186 entered into after July 1, 2004, payment from the recovery fund
 187 shall be subject to a \$50,000 maximum payment for each Division
 188 I claim. Beginning January 1, 2015, for each Division II
 189 contract entered into on or after July 1, 2014, payment from the
 190 recovery fund shall be subject to a \$15,000 maximum payment for
 191 each Division II claim.

192 (4)(3) Upon receipt by a claimant under subsection (2) of
 193 payment from the recovery fund, the claimant shall assign his or
 194 her additional right, title, and interest in the judgment,
 195 award, or restitution order, to the extent of such payment, to
 196 the board, and thereupon the board shall be subrogated to the
 197 right, title, and interest of the claimant; and any amount
 198 subsequently recovered on the judgment, award, or restitution
 199 order, to the extent of the right, title, and interest of the
 200 board therein, shall be for the purpose of reimbursing the
 201 recovery fund.

202 (5)(4) Payments for claims arising out of the same
 203 transaction shall be limited, in the aggregate, to the lesser of

5-00524-14 20141098__
 204 the judgment, award, or restitution order or the maximum payment
 205 allowed, for a Division I claim or a Division II claim
 206 regardless of the number of claimants involved in the
 207 transaction.

208 ~~(6)(5)~~ Payments for claims against any one licensee shall
 209 ~~not exceed, in the aggregate, \$100,000 annually, up to a total~~
 210 ~~aggregate of \$250,000. For any claim approved by the board which~~
 211 ~~is in excess of the annual cap, the amount in excess of \$100,000~~
 212 ~~up to the total aggregate cap of \$250,000 is eligible for~~
 213 ~~payment in the next and succeeding fiscal years, but only after~~
 214 ~~all claims for the then-current calendar year have been paid.~~
 215 ~~Payments may not exceed the aggregate annual or per claimant~~
 216 ~~limits under law.~~ Beginning January 1, 2005, for each Division I
 217 contract entered into after July 1, 2004, payment from the
 218 recovery fund is subject only to a total aggregate cap of
 219 \$500,000 for each Division I licensee. Beginning January 1,
 220 2015, for each Division II contract entered into on or after
 221 July 1, 2014, payment from the recovery fund is subject only to
 222 a total aggregate cap of \$150,000 for each Division II licensee.

223 ~~(7)(6)~~ Claims shall be paid in the order filed, up to the
 224 aggregate limits for each transaction and licensee and to the
 225 limits of the amount appropriated to pay claims against the fund
 226 ~~for the fiscal year in which the claims were filed.~~ Payments may
 227 not exceed the total aggregate cap per licensee or per claimant
 228 limits under this section.

229 ~~(8)(7)~~ If the annual appropriation is exhausted with claims
 230 pending, such claims shall be carried forward to the next fiscal
 231 year. Any moneys in excess of pending claims remaining in the
 232 recovery fund at the end of the fiscal year shall be paid as

5-00524-14

20141098__

233 provided in s. 468.631.

234 ~~(9)(9)~~ Upon the payment of any amount from the recovery
235 fund in settlement of a claim in satisfaction of a judgment,
236 award, or restitution order against a licensee as described in
237 s. 489.141, the license of such licensee shall be automatically
238 suspended, without further administrative action, upon the date
239 of payment from the fund. The license of such licensee ~~may shall~~
240 not be reinstated until he or she has repaid in full, plus
241 interest, the amount paid from the fund. A discharge of
242 bankruptcy does not relieve a person from the penalties and
243 disabilities provided in this section.

244 ~~(10)(9)~~ A Any firm, a corporation, a partnership, or an
245 association, or a any person acting in his or her individual
246 capacity, who aids, abets, solicits, or conspires with another
247 any person to knowingly present or cause to be presented a any
248 false or fraudulent claim for the payment of a loss under this
249 act is guilty of a third-degree felony, punishable as provided
250 in s. 775.082 or s. 775.084 and by a fine of up to not exceeding
251 \$30,000, unless the value of the fraud exceeds that amount,
252 ~~\$30,000~~ in which event the fine may not exceed double the value
253 of the fraud.

254 ~~(11)(10)~~ All Payments and disbursements from the recovery
255 fund shall be made by the Chief Financial Officer upon a voucher
256 signed by the secretary of the department or the secretary's
257 designee.

258 Section 6. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

SENATOR CHARLES S. DEAN, SR.
5th District

February 21, 2014

The Honorable Kelli Stargel
324 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairwoman Stargel,

I respectfully request you place Senate Bill 1098, relating to Florida Homeowners' Construction Recovery Fund, on your Regulated Industries Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean
State Senator District 5

cc: Patrick Imhof, Staff Director

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/14
Meeting Date

Topic Florida Homeowners' Construction Recovery Fund

Bill Number SB 1098
(if applicable)

Name Peggy Bailey

Amendment Barcode _____
(if applicable)

Job Title member of the public

Address 625 East Morningstar Lane

Phone 352-341-0501

Hernando FL 34442
City State Zip

E-mail peggybailey@tampabay.rr.com

Speaking: For Against Information

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Regulated Industries

BILL: CS/SB 172

INTRODUCER: Commerce and Tourism Committee and Senator Soto

SUBJECT: Notaries Public

DATE: March 18, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Malcolm</u>	<u>Hrdlicka</u>	<u>CM</u>	Fav/CS
2.	<u>Niles</u>	<u>Imhof</u>	<u>RI</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 172 creates s. 117.055, F.S., which requires a notary public (notary or notaries) to maintain a paper or electronic notarial journal to record certain information at the time of a notarial act. The journal must be kept in a locked and secured area, and in the case of an electronic journal, must be password-protected. Additionally, the journal must be kept for at least 5 years, and the notary must notify the Department of State (DOS) immediately if the journal is lost, stolen, misplaced, destroyed, rendered unusable, or otherwise inaccessible.

Failure to comply to this section is grounds for suspension or nonrenewal of the notary's commission and grounds for the denial of a subsequent commission by the Governor. Law enforcement and correctional officers are exempt from the journal requirement.

The bill provides an effective date July 1, 2014.

II. Present Situation:

Notary Public Administration

Notaries are referenced in the State Constitution as public officers, which are appointed and commissioned by the Governor.¹ Their role it is to attest and certify documents by signature and

¹ See Fla. Const. art. II, s. 5, and art. IV, s. 1.; s. 117.01(1), F.S. Notaries differ from other types of public officers (e.g., legislators, law enforcement, clerks of court). For example, notaries are not eligible for the same types of benefits and protections provided for public officers, such as those provided under chapters 111 and 112, F.S.

official seal in order to give them credit and authenticity.² The notary does this by verifying the identities of individuals involved in the transactions, therefore preventing fraud in those transactions. Functions that a notary performs include administering oaths and acknowledging deeds and other instruments.³

Chapter 117, F.S., provides for the appointment, commissioning, activities, and disciplinary procedures of notaries. The Department of State and the Executive Office of the Governor administer and oversee notaries. The Division of Corporations, Notary Commissions and Certifications Section (NCCS) of the Department of State has a strictly ministerial function in receiving and processing applications, responding to requests for commissions and certificates, and recording the results of actions taken by the Executive Office of the Governor.⁴ The NCCS also maintains the online, free-of-charge Notary Education Course as well as records of actively commissioned Florida notaries public in its public computer database, Notary Search.⁵ The Notary Section of the Executive Office of the Governor is housed within the Office of the General Counsel because Florida notaries are public officers appointed and commissioned by the Governor.⁶ Its primary function is to provide educational materials and assistance to Florida notaries public.⁷ The Office of the General Counsel oversees investigations by the Notary Section based upon complaints of notary misconduct reported by the public, and recommends disciplinary action to be taken when appropriate.⁸

Legal Qualifications for Florida Notaries Public

Prior to being commissioned by the Governor, a notary public applicant is required to be eighteen years of age, be able to read, write, and understand the English language, and be a legal resident of the state and maintain residency throughout the term of the commission.⁹ An applicant must also:

- Submit an affidavit of good character from an unrelated third-party;
- Submit a statement as to whether the applicant has been convicted of a felony;
- Obtain a bond for \$7,500, payable to any individual harmed as a result of a breach of duty by the notary;
- Provide any other information the Governor deems necessary,¹⁰ and
- Pay a required:
 - \$25 application fee;
 - \$10 commission fee; and

² 66 C.J.S. Notaries s. 1 (2013); *see also Commercial Union Ins. Co. of New York v. Burt Thomas-Aitken Const. Co.*, 230 A.2d 498, 499 (N.J. 1967). The dictionary defines a notary public as a “person authorized by a state to administer oaths, certify documents, attest to the authenticity of signatures, and perform official acts in commercial matters, such as protesting negotiable instruments.” Black’s Law Dictionary (9th ed. 2009).

³ Sections 117.03-.04, F.S.

⁴ Secretary of State of Florida, Notary Commissions and Certifications/ Apostilles, *available at* <http://notaries.dos.state.fl.us/notary.html> Last visited March 18, 2014).

⁵ Office of the Governor, Notary Introduction, *available at* http://www.flgov.com/notary_intro/ (Last visited March 18, 2014).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 117.01(1), F.S.

¹⁰ Section 117.01, F.S.

- \$4 fee, which is used to educate and assist notaries.

A notary is appointed for a four-year term and no person may be automatically reappointed,¹¹ so the application process must be completed even for renewal applicants or subsequent commissions.¹²

First-time notary applicants must also submit proof that they have completed at least three hours of interactive or classroom instruction within one year of the application.¹³

Certain types of law enforcement, correctional, and investigative officers are authorized to administer oaths when engaged in the performance of official duties, and as such, are exempt from a number of ch. 117, F.S., provisions.

Notary Misconduct

Under s. 117.01, F.S., the Governor is responsible for disciplining notaries. The Governor may suspend a notary for any of the grounds provided in Article IV, section 7 of the Florida Constitution.¹⁴ Acts of malfeasance, misfeasance, or neglect of duty that may result in suspension include:

- A material false statement on an application;
- A complaint determined by the Governor to have merit;
- Failure to cooperate or respond to an investigation regarding a complaint;
- Official misconduct as defined in s. 838.022, F.S.;
- False or misleading advertising;
- Unauthorized practice of law;
- Failure to report a change in address or telephone number, or failure to submit documentation to request an amended commission after a lawful name change;
- Commission of fraud, misrepresentation, or any intentional violation of ch. 117, F.S.;
- Charging fees in excess of fees authorized by state law; and
- Failure to maintain the required surety bond.

Additional examples of notary misconduct include forgery of signatures, notarization of signatures of persons not present before the notary, and notarization of blank documents that are later drafted with fraudulent terms.¹⁵ Notary misconduct is punishable as a third-degree felony or second-degree misdemeanor.¹⁶

The National Notary Association reports that in Florida, notary misconduct is especially prevalent in fraudulent real estate transactions where the elderly and those who speak English

¹¹ *Id.* at (1), (6), F.S.

¹² *Id.* at (6), F.S.

¹³ Section 668.50(11)(b), F.S.

¹⁴ The grounds for suspension under article IV, section 7 are malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony.

¹⁵ See Lilly, Joanna, *The Unlawful Notary*, available at <http://www.lastwordedits.com/unlawfulnotary.pdf> (Last visited March 5, 2014).

¹⁶ See ss. 117.05(1), (3)(e), (7), and (8), and 117.105, F.S.

poorly are targeted.¹⁷ According to DOS, there were 400,432 notaries registered in the state as of January 14, 2014.¹⁸ In 2013, the Governor removed 12 notaries from office and suspended 46 others.¹⁹ As of March 5, 2014, 28 notaries have been suspended, two have been publicly censured, and none have been removed from office during 2014.²⁰

Notarial Journals

Florida notaries are not required to keep a journal of notarial acts, although, the Governor's Task Force on Notaries Public in 1989 recommended the mandatory use of journals.²¹ The Governor's Reference Manual for Notaries advises notaries that documenting notarial acts in a journal, record book, or log is the best way to protect themselves from liability.²² Currently, fourteen states and the District of Columbia require notarial journals.²³

The Governor's Reference Manual recommends a notarial journal be bound and have consecutively numbered pages, so that a page cannot be removed without being detected. It recommends the journal record:

- The date of the notarial act;
- The type of notarial act;
- The name or brief description of the document;
- The party's printed name, address, and signature;
- The type of identification relied upon in identifying the party;
- The fee charged; and
- Any additional comments the notary considers important.²⁴

It recommends storing completed journals for at least 5 years.²⁵

III. Effect of Proposed Changes:

Section 1 creates s. 117.055, F.S., to require a notary to keep a bound, sequentially numbered paper journal, or to keep an electronic journal that creates sequential and non-modifiable record of each notarial act. The journal must include:

- The date and time of the notarial act;

¹⁷ National Notary Association, *The Growing Real Estate Problem in Florida: How Requiring a Thumbprint in a Notary Recordbook Can Significantly Diminish Real Property Scams in the State*, 4, March 2003, available at http://cdn.nationalnotary.org/News_and_Resources/Library/reFraudfla.pdf (Last visited March 5, 2014).

¹⁸ DOS, Division of Corporations, *Yearly Statistics, Total Active Registrations & Notaries*, available at http://sunbiz.org/corp_stat.html (Last visited March 5, 2014).

¹⁹ Executive Orders issued by Governor Rick Scott, Executive orders issued in 2013, available at <http://www.flgov.com/2013-executive-orders> (Last visited March 5, 2014).

²⁰ Executive Orders issued by Governor Rick Scott, Executive orders issued in 2014, available at <http://www.flgov.com/2014-executive-orders> (Last visited March 5, 2014).

²¹ *Governor's Reference Manual for Notaries*, 42 (Dec. 1, 1999 ed.) available at http://www.flgov.com/wp-content/uploads/notary/notary_manual.pdf (Last visited March 5, 2014).

²² *Id.*

²³ *Notary Recordbook Requirements*, American Society of Notaries, available at <http://www.notaries.org/notaryrecordbookrequirements.html> (Last visited March 5, 2014).

²⁴ *Governor's Reference Manual* at 42.

²⁵ *Id.* at 43.

- The type of notarial act;
- The type, title, name, or description of the document, proceeding, or transaction;
- The signer's printed name, signature, or, in the case of an electronic journal, the signer's name and electronic signature pursuant to s. 668.50(2)(h), F.S., and his or her address;
- An indication that the signer is personally known to the notary or presented a satisfactory form of identification.²⁶ The notary must record the type, last four digits of the unique identification number, and expiration date of any identification presented; and
- The names of any witnesses.

The journal is the exclusive property of the notary and must be kept in a locked and secure area, under the direct and exclusive control of the notary. Access to an electronic journal must be protected by a password or other secure means of authentication. The journal must be retained for at least five years following the date of the last entry in the journal.²⁷ If a journal is lost, stolen, misplaced, destroyed, erased, compromised, rendered unusable, or otherwise inaccessible, the notary must immediately notify Department of State in writing of the circumstances of the incident.

A notary's failure to comply with these requirements constitutes grounds for suspension or nonrenewal of the notary's commission and grounds for the denial of any subsequent commission by the Governor.

Section 2 amends s. 117.10, F.S., to provide that certain types of law enforcement, correctional, and investigative officers are exempt from the journal requirement.

Section 3 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁶ Acceptable forms of identification include a state-issued identification card or driver's license, an identification card or driver's license issued by Canada or Mexico, and a military-issued identification card. Section 117.05(5)(b)2., F.S.

²⁷ Due to the nature of electronic journals, it is unclear what would constitute the last entry in such a journal for the purposes of triggering the 5-year retention period requirement in the bill.

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

None.

B. Private Sector Impact:

Notaries in Florida will be required to purchase, accurately maintain, and retain for at least 5 years a notarial journal.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 117.10 of the Florida Statutes.

This bill creates section 117.055 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Commerce and Tourism on March 10, 2014:**

The committee substitute:

- Requires the journal to be either a bound sequential paper journal or an electronic journal that creates sequential and non-modifiable records;
- Provides that an electronic journal must include the signer's name and electronic signature pursuant to s. 688.50(2)(h), F.S.;
- Requires notaries to record only the last four digits of the unique identification number of the identification document presented;
- Requires notaries to include the names of any witnesses in the journal;
- Clarifies under what conditions a notary is required to inform DOS when a journal becomes inaccessible;
- Provides that the journal is the property of the notary and must be kept in a locked and secured area, or in the case of an electronic journal, must be password-protected;
- Exempts certain law enforcement, correctional, and investigative officers from the bill; and

- Removes rule-making authority provided to the DOS to implement the act.

B. Amendments:

None.

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



324058

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/20/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Braynon) recommended the following:

Senate Amendment (with title amendment)

1 Delete line 50
2
3 and insert:
4 notary public must immediately notify the Notary Section of the
5 Executive Office of the Governor in
6

7
8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 Delete line 8



324058

11 and insert:

12 the Notary Section of the Executive Office of the
13 Governor if a notarial journal is



918642

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/20/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Braynon) recommended the following:

Senate Amendment (with title amendment)

Delete lines 52 - 60
and insert:

(3) A notary employee of a law firm shall maintain a separate notarial journal to record notarial acts of the employee subject to the requirements of this section which pertain to the law firm and its clients. Such notarial journal is the exclusive property of the law firm and shall be maintained and kept by the law firm in a secure area. Any such



918642

11 notarial journal must remain in the law firm's custody upon the
12 termination of the employment of the notary employee. A law firm
13 shall comply with all applicable provisions of subsection (2) as
14 it relates to notarial journals maintained by its notary
15 employees to record notarial acts pertaining to the law firm and
16 its clients.

17 (4) Except as specifically provided in subsection (3), a
18 notarial journal is the exclusive property of the notary public
19 and must be kept in a locked and secure area, under the direct
20 and exclusive control of the notary public. Access to an
21 electronic notarial journal must be protected by a password or
22 other secure means of authentication.

23 (5) Failure of a notary public to comply with this section
24 does not invalidate an otherwise lawful notarization.

25 (6) This section does not apply to employees of a law
26 enforcement agency, an office of state attorney, or the Office
27 of the Attorney General when acting within the scope of their
28 employment.

29
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

32 Delete lines 11 - 17

33 and insert:

34 inaccessible during the retention period; requiring
35 notary employees of a law firm to maintain a separate
36 notarial journal for certain notarial acts pertaining
37 to the law firm and its clients; providing that such a
38 notarial journal is the exclusive property of the law
39 firm; requiring the law firm to comply with notarial



918642

40 journal maintenance and security requirements;
41 providing that all other notarial journals are the
42 exclusive property of a notary public; requiring a
43 notary public to secure a notarial journal; providing
44 that failure to comply with notarial journal
45 requirements does not invalidate a lawful
46 notarization; providing applicability; amending s.
47 117.10, F.S.; exempting



886058

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/20/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Braynon) recommended the following:

Senate Amendment to Amendment (918642)

Delete lines 18 - 19
and insert:
notarial journal is the exclusive property of the notary public.
A paper journal must be kept in a locked and secure area, under
the direct



317768

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/20/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Braynon) recommended the following:

1 **Senate Amendment to Amendment (918642) (with title**
2 **amendment)**

3
4 Delete lines 25 - 28
5 and insert:

6 (6) Failure of a notary public to comply with this section
7 constitutes grounds for suspension or nonrenewal of the notary
8 public's commission and grounds for the denial of a subsequent
9 commission by the Governor.

10 (7) This section does not apply to employees of a law



317768

11 enforcement agency, an office of state attorney, or the Office
12 of the Attorney General when acting within the scope of their
13 employment.

14

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

16 And the title is amended as follows:

17 Delete line 46

18 and insert:

19 notarization; providing that failure to comply with
20 the notarial journal requirements constitutes grounds
21 for suspension, nonrenewal, or denial of a notary
22 public commission; providing applicability; amending
23 s.

By the Committee on Commerce and Tourism; and Senator Soto

577-02388-14

2014172c1

1 A bill to be entitled
 2 An act relating to notaries public; creating s.
 3 117.055, F.S.; requiring a notary public to record
 4 specified information in a notarial journal when
 5 performing certain notarial acts; requiring that a
 6 notary public retain a notarial journal for a
 7 specified period; requiring a notary public to notify
 8 the Department of State if the notarial journal is
 9 lost, stolen, misplaced, destroyed, erased,
 10 compromised, rendered unusable, or becomes otherwise
 11 inaccessible during the retention period; providing
 12 that a notarial journal is the exclusive property of a
 13 notary public; requiring a notary public to secure the
 14 journal; providing that failure to comply with the
 15 notarial journal requirements constitutes grounds for
 16 suspension, nonrenewal, or denial of a notary public
 17 commission; amending s. 117.10, F.S.; exempting
 18 certain acts of specified law enforcement and
 19 correctional officers from the notarial journal
 20 requirements; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 117.055, Florida Statutes, is created to
 25 read:

26 117.055 Notarial journal.—

27 (1) When performing a notarial act that requires notarizing
 28 a signature, a notary public shall record the following
 29 information in a bound sequential paper journal or an electronic

Page 1 of 3

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

577-02388-14

2014172c1

30 journal that creates sequential and nonmodifiable records:
 31 (a) The date and time of the notarial act.
 32 (b) The type of notarial act.
 33 (c) The type, title, name, or description of the document,
 34 proceeding, or transaction requiring the notarial act.
 35 (d) The signer's printed name and signature or, in the case
 36 of an electronic journal, the signer's name and electronic
 37 signature pursuant to s. 668.50(2)(h).
 38 (e) The signer's complete residence address.
 39 (f) Whether the signer is personally known to the notary
 40 public or presented satisfactory evidence of his or her identity
 41 pursuant to s. 117.05(5)(b). The notary shall record the type,
 42 last 4 digits of the unique identification number, and
 43 expiration date of the identification presented.
 44 (g) The names of witnesses to the notarial act, if any.
 45 (2) A notary public must retain a notarial journal for at
 46 least 5 years after the date of the last recorded notarial act
 47 in the notarial journal. If a notarial journal is lost, stolen,
 48 misplaced, destroyed, erased, compromised, rendered unusable, or
 49 becomes otherwise inaccessible during the retention period, the
 50 notary public must immediately notify the Department of State in
 51 writing of the circumstances of the incident.
 52 (3) The notarial journal is the exclusive property of the
 53 notary public and must be kept in a locked and secure area,
 54 under the direct and exclusive control of the notary public.
 55 Access to an electronic notarial journal must be protected by a
 56 password or other secure means of authentication.
 57 (4) Failure of a notary public to comply with this section
 58 constitutes grounds for suspension or nonrenewal of the notary

Page 2 of 3

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

577-02388-14

2014172c1

59 public's commission and grounds for the denial of a subsequent
60 commission by the Governor.

61 Section 2. Section 117.10, Florida Statutes, is amended to
62 read:

63 117.10 Law enforcement and correctional officers.—Law
64 enforcement officers, correctional officers, and correctional
65 probation officers, as defined in s. 943.10, and traffic
66 accident investigation officers and traffic infraction
67 enforcement officers, as described in s. 316.640, are authorized
68 to administer oaths when engaged in the performance of official
69 duties. Sections 117.01, 117.04, 117.045, 117.05, 117.055, and
70 117.103 do not apply to the provisions of this section. An
71 officer may not notarize his or her own signature.

72 Section 3. This act shall take effect July 1, 2014.

73



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General Government
Community Affairs
Environmental Preservation and Conservation
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR DARREN SOTO

Deputy Democratic Whip
14th District

March 17, 2014

The Honorable Kelli Stargel
Committee on Regulated Industries
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairwoman Stargel,

I respectfully request that Senate Bill 172, Notaries Public, be placed on the agenda as soon as possible.

Senate Bill 172 requires a notary public to record certain information about each notarial act in a journal for at least 5 years following the date of the last entry. If a notarial journal is lost, stolen, misplaced, destroyed, or rendered unusable during the retention period, the notary public must immediately notify the Department of State in writing of the circumstances of the incident. Failure to comply constitutes ground for suspension or nonrenewal of the commission of the notary public and grounds for the denial of any subsequent commission by the Executive Office of the Governor.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren M. Soto".

Darren M. Soto
State Senator, District 14

Cc: Patrick L. "Booter" Imhof, Staff Director
Lynn Koon, Committee Administrative Assistant

REPLY TO:

220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/14

Meeting Date

Topic Notaries Public

Bill Number SB 172
(if applicable)

Name Bruce Kershner

Amendment Barcode _____
(if applicable)

Job Title _____

Address 231 West Bay Ave.

Phone 407 830 1882

Longwood FL 32750
City State Zip

E-mail BKershner@att.net

Speaking: For Against Information

Representing NACM - Improved Construction Practices Committee

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-20
Meeting Date

Topic NOTARIES

Bill Number 172
(if applicable)

Name Jason Unger

Amendment Barcode _____
(if applicable)

Job Title _____

Address 301 S. Beaugh St. 600

Phone 577 9090

Street

TLH

E-mail Junger@gray-robinson.com

City

State

Zip

Speaking: For Against Information

Representing National Notary Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/14
Meeting Date

Topic Notary Publics

Bill Number SB 172
(if applicable)

Name Deborah Lawson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 4125 Pecan Branch Rd
Street
TLH FL 32309
City State Zip

Phone 850-570-0033

E-mail deborahlawson@comcast.net

Speaking: For Against Information

Representing NACM Improved Construction Practices Committee

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Regulated Industries

BILL: CS/SB 1462

INTRODUCER: Regulated Industries Committee and Senator Stargel

SUBJECT: Residential Properties

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1462 relates to the liability of condominium associations, homeowners' associations, and persons, including mortgageholders, who acquire title to a condominium unit or a parcel for unpaid assessments.

For condominium associations, the bill provides that the association is not considered a previous owner, for purposes of the liability of the previous unit owner for unpaid assessments. An association that acquires title to a unit through foreclosure, or by a deed in lieu of foreclosure, would not be liable for unpaid assessments that came due before the association acquired the title to the unit. The bill would limit the liability of the unit owner to any assessments that came due before the association acquired title. This limitation of liability is comparable to that provided for homeowners' associations in current law in s. 720.3085(2)(b), F.S.

For condominium associations and homeowners' associations, the bill increases the liability of a first mortgagee, or its successor or assignee, who acquires title to a condominium unit by foreclosure or by deed in lieu of foreclosure. It increases the first mortgagee's liability to include the amount of unpaid common expenses and regular periodic assessments and other costs. It also increases the liability period from the 12 months to the 24 months immediately preceding the acquisition of title.

The bill provides that 24-month period of liability is for the period immediately preceding the acquisition of title by the first mortgageholder or the acquisition of title by the association, whichever occurs first.

The bill also increases the alternative liability limitation from 1 percent to 2 percent of the original mortgage amount. However, this liability applies to a unit or parcel if the titleholder was the first mortgagee who acquired title by foreclosure.

The bill limits the amount of attorney fees for which the first mortgagee or his or her successor or assignee who acquires title to a unit by foreclosure or by deed in lieu of foreclosure. The bill limits liability for attorney fees to \$4,000, unless a court of competent jurisdiction finds exceptional circumstances that justify a greater amount.

For condominium associations, the bill requires that the person who acquires title must pay, within 30 days after transfer of title, late fees and interest charges. Current law requires only the payment of the unpaid assessments.

II. Present Situation:

Condominium

A condominium is a “form of ownership of real property created pursuant to [ch. 718, F.S.,] which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.”¹ A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.² A declaration is like a constitution in that it:

Strictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.³

A declaration “may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property.”⁴ A declaration of condominium may be amended as provided in the declaration.⁵ If the declaration does not provide a method for amendment, it may generally be amended as to any matter by a vote of not less than the owners of two-thirds of the units.⁶ Condominiums are administered by a board of directors referred to as a “board of administration.”⁷

Section 718.103(8), F.S., defines the term “common elements” to mean the portions of the condominium property not included in the units.

Section 718.103(12), F.S., defines the term “condominium parcel” to mean a unit, together with the undivided share in the common elements appurtenant to the unit.

¹ Section 718.103(11), F.S.

² Section 718.104(2), F.S.

³ *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

⁴ Section 718.104(5), F.S.

⁵ See s. 718.110(1)(a), F.S.

⁶ Section 718.110(1)(a), F.S. *But see*, s. 718.110(4) and (8), F.S., which provides exceptions to the subject matter and procedure for amendments to a declaration of condominium.

⁷ Section 718.103(4), F.S.

Section 718.103(19), F.S., defines the term “limited common elements” to mean those common elements that are reserved for the use of a certain unit or units to the exclusion of all other units, as specified in the declaration.

Homeowners’ Associations

Florida law provides statutory recognition to corporations that operate residential communities in this state and procedures for operating homeowners’ associations, and protects the rights of association members without unduly impairing the ability of such associations to perform their functions.⁸

A “homeowners’ association” is defined 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, 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.⁹

Homeowners’ associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.¹⁰

Section 720.301(4), F.S., defines the terms "declaration of covenants," or "declaration," to mean:

a recorded written instrument in the nature of covenants running with the land which subjects the land comprising the community to the jurisdiction and control of an association or associations in which the owners of the parcels, or their association representatives, must be members.

Homeowners’ associations are administered by a board of directors whose members are elected.¹¹ The powers and duties of homeowners’ associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include recorded declaration of covenants, bylaws, articles of incorporation, and duly adopted amendments to these documents.¹² The officers and members of a homeowners’ association have a fiduciary relationship to the members who are served by the association.¹³

⁸ See s. 720.302(1), F.S.

⁹ Section 720.301(9), F.S.

¹⁰ Section 720.302(5), F.S.

¹¹ See ss. 720.303 and 720.307, F.S.

¹² See ss. 720.301 and 720.303, F.S.

¹³ Section 720.303(1), F.S.

State Regulation of Homeowners' Associations

Unlike condominium and cooperative associations,¹⁴ which are regulated by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department), homeowners' associations are not regulated by a state agency.

Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

The number of homeowners' associations or persons living in homeowners' associations in Florida is unknown. Although homeowners' associations are required to file articles of incorporation with the Division of Corporations (division) in the Department of State, the division cannot identify corporations that are homeowners' associations under ch. 720, F.S.¹⁵ However, a greater understanding of the number of homeowners' association may become available in consequence of s. 720.303(13), F.S., which requires community association managers, or the association if there is no manager, to report the following information to the division:

- The legal name of the association;
- The Federal Employee Identification Number of the association;
- The mailing and physical addresses of the association;
- The number of parcels; and
- The total amount of revenues and expenses from the annual budget of the association.

For associations in which the developer retains control, the following additional information is required:

- The legal name of the developer;
- The mailing address of the developer; and
- The number of parcels the developer owns as of the date of reporting.

¹⁴ See chs. 718 and 719, F.S., respectively.

¹⁵ Homeowners' Association Task Force, *Final Report of the Homeowners' Association Task Force*, February 2004, page 5. A copy of the report is available on the internet at <http://www.ccfj.net/DBPRTFfinalreport.pdf> (last visited March 15, 2014).

This reporting requirement became effective on November 22, 2013.¹⁶ The reporting requirement is a continuing obligation on each association to report until the required information is submitted. An association is required to submit the required information only once. The department is required to prepare an annual report of the data reported pursuant to this subsection and present it to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2013, and each year thereafter.¹⁷

This requirement will expire on July 1, 2016, unless reenacted by the Legislature.¹⁸

Division of Florida Condominiums, Timeshares, and Mobile Homes

The division is afforded complete jurisdiction to investigate complaints and enforce compliance with ch. 718, F.S., and ch. 719, F.S., with respect to condominium and cooperative associations that are still under developer control.¹⁹ The division also has the authority to investigate complaints against developers involving improper turnover or failure to turnover, pursuant to s. 718.301, F.S. After control of the condominium is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records pursuant to s. 718.111(12), F.S.²⁰

In regards to homeowners' associations, the division's authority is limited to arbitration of recall election disputes.²¹

Condominium – Assessments and Foreclosures

Section 718.103(1), F.S., defines an "assessment" as the "share of the funds which are required for the payment of common expenses, which from time to time is assessed against the unit owner." Section 718.103(24), F.S., defines a "special assessment" to mean "any assessment levied against a unit owner other than the assessment required by a budget adopted annually."

A unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner.²²

Section 718.116(1)(b), F.S., provides that if a first mortgagee, e.g., the mortgage lending financial institution, or its successor or assignee, acquires title to a condominium unit by foreclosure or by deed in lieu of foreclosure, the first mortgagee's liability for unpaid assessments is limited to the amount of assessments that came due during the 12 months immediately preceding the acquisition of title or one percent of the original mortgage debt,

¹⁶ Section 720.303(13), F.S.

¹⁷ Section 720.303(13)(e), F.S.

¹⁸ Section 720.303(12)(g), F.S.

¹⁹ Section 718.501(1), F.S., and s. 719.501(1), F.S., respectively.

²⁰ Section 718.501(1), F.S. See Peter M. Dunbar, *The Condominium Concept: A Practical Guide for Officers, Owners, Realtors, Attorneys, and Directors of Florida Condominiums*, 12 ed. (2010-2011) s. 14.2.

²¹ See s. 720.303(10)(d), F.S.

²² Section 718.116(1), F.S.

whichever is less. However, this limitation applies only if the first mortgagee is joined by the association as a defendant in the foreclosure action. This gives the association the right to defend its claims for unpaid assessments in the foreclosure proceeding. A first mortgagee who acquires title to a foreclosed condominium unit is exempt from liability for all unpaid assessments if the first mortgage was recorded prior to April 1, 1992.²³

The successor or assignee, in respect to the first mortgagee, includes only a subsequent holder of the first mortgage.

Section 718.116(3), F.S., provides for the payment of assessments, including late fees and interest. The subsection provides:

Assessments and installments on assessments which are not paid when due bear interest at the rate provided in the declaration, from the due date until paid. The rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, interest accrues at the rate of 18 percent per year. If provided by the declaration or bylaws, the association may, in addition to such interest, charge an administrative late fee of up to the greater of \$25 or 5 percent of each delinquent installment for which the payment is late. Any payment received by an association must be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. The foregoing is applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee is not subject to chapter 687 or s. 718.303(4).

Homeowners' Associations – Assessments and Foreclosures

Section 720.301(1), F.S., defines an “assessment” or “amenity fee” to mean:

a sum or sums of money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel.

A parcel owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner.²⁴

Section 720.3085(1), F.S., limits the priority of any lien, mortgage, or certified judgment of record on July 1, 2008, to the priority it had before July 1, 2008.

Section 720.3085(2), F.S., provides a limitation on the liability of a first mortgagee, e.g., the mortgage lending financial institution, for unpaid assessments by a parcel owner that is similar to

²³ Section 718.116(1)(e), F.S.

²⁴ Section 720.3085(2)(b), F.S.

that provided in s. 718.116, F.S., for condominiums. If a first mortgagee acquires title to a parcel by foreclosure or by deed in lieu of foreclosure, the first mortgagee's liability for unpaid assessments is limited to the amount of assessments that came due during the 12 months immediately preceding the acquisition of title or one percent of the original mortgage debt, whichever is less. However, this limitation applies only if the first mortgagee is joined by the association as a defendant in the foreclosure action. This gives the association the right to defend its claims for unpaid assessments in the foreclosure proceeding.

Section 720.3085(3)(b), F.S., provides that any payment received by an association and accepted must be applied to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment.

Liability of the Association as an Owner

In *Aventura Management, L.L.C., v. Piaggia Ocean Condominium Association, Inc.*,²⁵ the Third District Court of Appeal held that a condominium association that had acquired title to a unit through foreclosure, was a previous owner for purposes of liability under s. 718.116(1), F.S. Consequently, the present owner of the unit, who had acquired the title from the association, was not liable for the unpaid assessments for time before the association acquired title.

Section 720.3085(2)(d), F.S., provides that a homeowners' association, or its successor or assignee, that acquires title to a parcel through the foreclosure of its lien for assessments is not liable for any unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the association's acquisition of title in favor of any other homeowners' association or condominium association, as defined in s. 718.103(2), F.S., or s. 720.301(9), F.S., which holds a superior lien interest on the parcel.

Fannie Mae and Freddie Mac

The underwriting standards of the Federal National Mortgage Association (Fannie Mae)²⁶ requires that mortgage lenders consider the state's liability limitations for common expense assessments, which Fannie Mae refers to as "permitted priority of common expense assessments."²⁷ Fannie Mae requires that mortgage lenders consider the "permitted priority" for common assessment when determining the eligibility of a mortgage loan secured by a condominium unit or parcel in a homeowners' association. Fannie Mae's policy supports a maximum six-month limited priority for common expense assessments. Fannie Mae considers the six-month period to be clear and provide a discrete and measurable risk exposure for mortgage lending on units and homeowners' association projects. However, Fannie Mae's policy permits underwriting in states that have a priority limit of greater than six months if the state's limit was in effect on January 14, 2014. Fannie's Mae's policy permits lenders to make loans in in Florida with its 12-month "permitted priority." The governing documents of the condominium

²⁵ *Aventura Management, L.L.C., v. Piaggia Ocean Condominium Association, Inc.*, 105 So. 3d 637 (Fla. 3rd D.C.A. 2013).

²⁶ Fannie Mae is a leading source of residential mortgage credit in the U.S. secondary market. It guarantees and purchases loans from mortgage lenders. See <http://www.fanniemae.com/portal/about-us/company-overview/about-fm.html> (Last visited March 18, 2014).

²⁷ Fannie Mae, *Selling Guide Announcement SEL-2014-02, Priority of Common Assessments*, January 14, 2014. A copy is available at: <https://www.fanniemae.com/content/announcement/sel1402.pdf> (Last visited March 18, 2014).

or homeowners' association must evidence that the unit or parcel do not exceed the 12-month priority limit.

The servicing guidelines of the Federal Home Loan Mortgage Corporation (Freddie Mac),²⁸ require that its servicers to pay any community association regular assessments that are assessed prior to the foreclosure sale date. For Florida mortgages with notes dated prior to February 14, 2014, Freddie Mac will continue to reimburse servicers for community association regular assessments in an amount equal to the lesser of:

- The actual amount of regular assessments advanced by the servicer;
- The maximum amount of regular assessments that, pursuant to the project declaration or bylaws, would take priority over the mortgage; or
- The maximum amount of regular assessments that, pursuant to applicable state statute, would take priority over the mortgage.

For mortgages with notes dated on or after February 14, 2014, Freddie Mac will reimburse its servicers for community association regular assessments in an amount equal to the lesser of:

- The actual amount advanced, or
- Twelve months or any lesser amount provided by state statute.²⁹

Freddie Mac refers to Florida and Connecticut, which has a lien priority of nine months, as “super lien states.”³⁰

III. Effect of Proposed Changes:

Condominiums

The bill amends s. 718.116(1)(a), F.S., to provide that, for purposes of the liability of the previous unit owner for unpaid assessments, the association is not considered a previous owner. An association that acquires title to a unit through foreclosure, or by a deed in lieu of foreclosure, would not be liable for unpaid assessments that came due before the association acquired the title to the unit. The bill would limit the liability of the unit owner to any assessments that came due before the association acquired title. This limitation of liability is comparable to that provided for homeowners' associations in s. 720.3085(2)(b), F.S.

The bill also provides that the present unit owner's payments must be applied consistent with s. 718.116(3), F.S.

The bill amends s. 718.116(1)(b)1.a., F.S., to increase the liability of a first mortgagee, or its successor or assignee, who acquires title to a condominium unit by foreclosure or by deed in lieu of foreclosure. It increases the first mortgagee's liability to include the amount of unpaid

²⁸ Freddie Mac is a public government-sponsored enterprise. It is a leading source of residential mortgage credit in the U.S. secondary market. It guarantees and purchases loans from mortgage lenders. It finances one out of every four home loans. See http://www.freddie.com/corporate/company_profile/faqs/?intcmp=AFCPFA (Last visited March 19, 2014).

²⁹ Freddie Mac, Bulletin 2014, February 14, 2014. A copy is available at: <http://www.freddie.com/singlefamily/guide/bulletins/pdf/bll1402.pdf> (Last visited March 20, 2014).

³⁰ *Id.* However, Connecticut is limited to 9 months.

common expenses and regular periodic assessments and other costs. It also increases the liability period from the 12 months to the 24 months immediately preceding the acquisition of title.

The bill also provides that 24-month period of liability is for the period immediately preceding the acquisition of title by the first mortgageholder or the acquisition of title by the association, whichever occurs first.

The bill also amends s. 718.116(1)(b)1.b., F.S., to increase the alternative liability limitation from 1 percent to 2 percent of the original mortgage amount.

The bill creates s. 718.116(1)(b)4., F.S., to limit the amount of attorney fees for which the first mortgagee or his or her successor or assignee who acquires title to a unit by foreclosure or by deed in lieu of foreclose. The bill limits liability for attorney fees to \$4,000, unless a court of competent jurisdiction finds exceptional circumstances that justify a greater amount.

The bill amends s. 718.116(1)(c), F.S., to include other charges authorized by s. 718.116(3), F.S., which include late fees and interest charges, among the amounts owed to the association that the person acquiring title must pay after acquiring title. Current law requires only the payment of the unpaid assessments.

Homeowners' Association

The bill amends s. 720.3085(2)(a), F.S., to provide that the parcel owner's payments must be applied consistent with s. 720.3085(3)(b), F.S. It also amends s. 720.3085(2)(b) F.S., to provide that the present parcel owner's payments must be applied consistent with s. 720.3085(3)(b), F.S.³¹

The bill amends s. 720.3085(2)(c)1.a., F.S., to increase the liability of a first mortgagee, or its successor or assignee, who acquires title to parcel by foreclosure or by deed in lieu of foreclosure. It increases the first mortgagee's liability to include the amount of unpaid common expenses and regular periodic assessments and other costs. It also increases the liability period from the 12 months to the 24 months immediately preceding the acquisition of title.

The bill also provides that 24-month period of liability is for the period immediately preceding the acquisition of title by the first mortgageholder or the acquisition of title by the association, whichever occurs first.

The bill also amends s. 720.3085(2)(c)1.b., F.S., to increase the alternative liability limitation from 1 percent to 2 percent of the original mortgage amount if the titleholder was the first mortgagee who acquired title by foreclosure.

³¹ Section 720.3085(3)(b), F.S., provides that "any payment received by an association and accepted shall be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. This paragraph applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee is not subject to the provisions of chapter 687 and is not a fine."

The bill creates s. 720.3085(2)(c)2., F.S., to limit the amount of attorney fees for which the first mortgagee or his or her successor or assignee who acquires title to a unit by foreclosure or by deed in lieu of foreclose. The bill limits liability for attorney fees to \$4,000, unless a court of competent jurisdiction finds exceptional circumstances that justify a greater amount.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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: 718.116 and 720.3085.

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 Regulate Industries on March 20, 2014:

The committee substitute (CS) amends s. 718.116(1)(b)1.a., F.S., to replace the term “mortgageholder” with the term “mortgagee.”

The CS amends s. 718.116(1)(b)1.b., F.S., to provide that the liability limitation of 2 percent of the original mortgage amount applies if the titleholder was the first mortgagee who acquired title by foreclosure to conform with the same provisions for liens in homeowners’ associations in s. 720.3085(2)(c)2., F.S.

- B. **Amendments:**

None.



280914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
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	.	

The Committee on Regulated Industries (Stargel) recommended the following:

Senate Amendment

Delete line 42
and insert:
first mortgagee or the acquisition of title by the



552864

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Stargel) recommended the following:

Senate Amendment

Delete line 45

and insert:

b. Two ~~One~~ percent of the original mortgage debt if the titleholder was the first mortgagee who acquired title by foreclosure

By Senator Stargel

15-00983-14

20141462__

A bill to be entitled

An act relating to residential properties; amending s. 718.116, F.S.; defining the term "previous owner"; revising and providing liability of certain condominium owners acquiring title; amending s. 720.3085, F.S.; revising and providing liability of certain homeowners' association parcel owners acquiring title; providing an effective date.

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

Section 1. Paragraphs (a), (b), and (c) of subsection (1) of section 718.116, Florida Statutes, are amended to read:

718.116 Assessments; liability; lien and priority; interest; collection.—

(1) (a) A unit owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while he or she is the unit owner. Additionally, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. For purposes of this paragraph, the term "previous owner" does not include an association that acquires title to a delinquent property through foreclosure or by deed in lieu of foreclosure. The present unit owner's liability for unpaid assessments is limited to any unpaid assessments that accrued before the association acquired title to the delinquent property through foreclosure or by deed in lieu of foreclosure. The present unit owner's payments shall be applied consistent

Page 1 of 5

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

15-00983-14

20141462__

with subsection (3). This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner.

(b)1. The liability of a first mortgagee or its successor or assignees who acquire title to a unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title is limited to the lesser of:

a. The unit's unpaid common expenses and regular periodic assessments and other costs that ~~which~~ accrued or came due pursuant to the association's governing documents during the 24 ~~12~~ months immediately preceding the acquisition of title by the first mortgageholder or the acquisition of title by the association, whichever occurs first, and for which payment in full has not been received by the association; or

b. Two ~~One~~ percent of the original mortgage debt.

2. The provisions of This subsection applies ~~paragraph~~ apply only if the first mortgagee initially joined the association as a defendant in the foreclosure action. Joinder of the association is not required if, on the date the complaint is filed, the association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the mortgagee.

3.2- An association, or its successor or assignee, that acquires title to a unit through the foreclosure of its lien for assessments is not liable for any unpaid assessments, late fees, interest, or reasonable attorney ~~attorney's~~ fees and costs that came due before the association's acquisition of title in favor of any other association, as defined in s. 718.103(2) or s.

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

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59 720.301(9), which holds a superior lien interest on the unit.
60 This subparagraph is intended to clarify existing law.

61 4. The liability of a first mortgagee or his or her
62 successor or assignee who acquires title to a unit by
63 foreclosure or by deed in lieu of foreclosure for attorney fees
64 under this subsection is limited to \$4,000, unless a court of
65 competent jurisdiction finds exceptional circumstances that
66 justify a greater award.

67 (c) The person acquiring title shall pay the amount owed to
68 the association within 30 days after transfer of title. Failure
69 to pay the full amount when due shall entitle the association to
70 record a claim of lien against the parcel and proceed in the
71 same manner as provided in this section for the collection of
72 the amount owed, any unpaid assessments, and other charges
73 authorized by subsection (3) coming due after the acquisition of
74 title.

75 Section 2. Paragraphs (a), (b), and (c) of subsection (2)
76 of section 720.3085, Florida Statutes, are amended to read:

77 720.3085 Payment for assessments; lien claims.—

78 (2) (a) A parcel owner, regardless of how his or her title
79 to property has been acquired, including by purchase at a
80 foreclosure sale or by deed in lieu of foreclosure, is liable
81 for all assessments that come due while he or she is the parcel
82 owner. The parcel owner's liability for assessments may not be
83 avoided by waiver or suspension of the use or enjoyment of any
84 common area or by abandonment of the parcel upon which the
85 assessments are made. A parcel owner's payments shall be applied
86 pursuant to paragraph (3) (b).

87 (b) A parcel owner is jointly and severally liable with the

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88 previous parcel owner for all unpaid assessments that came due
89 up to the time of transfer of title. This liability is without
90 prejudice to any right the present parcel owner may have to
91 recover any amounts paid by the present owner from the previous
92 owner. For the purposes of this paragraph, the term "previous
93 owner" ~~does shall~~ not include an association that acquires title
94 to a delinquent property through foreclosure or by deed in lieu
95 of foreclosure. The present parcel owner's liability for unpaid
96 assessments is limited to any unpaid assessments that accrued
97 before the association acquired title to the delinquent property
98 through foreclosure or by deed in lieu of foreclosure. The
99 present parcel owner's payments shall be applied pursuant to
100 paragraph (3) (b).

101 (c) 1. Notwithstanding anything to the contrary contained in
102 this section, the liability of a first mortgagee, or his or her
103 ~~its~~ successor or assignee as a subsequent holder of the first
104 mortgage who acquires title to a parcel by foreclosure or by
105 deed in lieu of foreclosure for the unpaid assessments that
106 became due before the mortgagee's acquisition of title, shall be
107 the lesser of:

108 a.1- The parcel's unpaid common expenses and regular
109 periodic or special assessments and other costs that accrued or
110 came due pursuant to the association's governing documents
111 during the 24 12 months immediately preceding the acquisition of
112 title by a purchaser at a mortgage foreclosure sale or the
113 acquisition of title by the association, whichever occurs first,
114 and for which payment in full has not been received by the
115 association; or

116 b.2- Two ~~One~~ percent of the original mortgage debt if the

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117 titleholder was the first mortgagee who acquired title by
118 foreclosure.

119 2. The liability of a first mortgagee or his or her
120 successor or assignee who acquires title to a parcel by
121 foreclosure or by deed in lieu of foreclosure for attorney fees
122 under this subsection is limited to \$4,000, unless a court of
123 competent jurisdiction finds exceptional circumstances that
124 justify a greater award.

125

126 The limitations on first mortgagee liability provided by this
127 paragraph apply only if the first mortgagee filed suit against
128 the parcel owner and initially joined the association as a
129 defendant in the mortgagee foreclosure action. Joinder of the
130 association is not required if, on the date the complaint is
131 filed, the association was dissolved or did not maintain an
132 office or agent for service of process at a location that was
133 known to or reasonably discoverable by the mortgagee.

134 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.20.14
Meeting Date

Topic SAFE HARBOR

Bill Number 1462
(if applicable)

Name JAE HEINBERG

Amendment Barcode _____
(if applicable)

Job Title FOUNDER

Address 1712 W. MORRISON AVE

Phone 813/310-3035

Street
TAMPA FL 33606
City State Zip

E-mail JAE@BVGIAIC.NET

Speaking: For Against Information

Representing ACR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/14

Meeting Date

Topic SAFE Harbor

Bill Number 1462
(if applicable)

Name William D. Meyer GR

Amendment Barcode _____
(if applicable)

Job Title COO

Address 721 E ANDREW EAGLE DR.
Street

Phone _____

ST. AUGUSTINE FL 32092
City State Zip

E-mail BEU@ASSOCIATIONCAPITAL.COM

Speaking: For Against Information

Representing ACR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/14

Meeting Date

Topic Bill

Bill Number 1462
(if applicable)

Name Anthony DiMarco

Amendment Barcode _____
(if applicable)

Job Title VP of Govt. Affairs

Address 1001 Thomonville Rd

Phone 224-2265

Street

Tallahassee FL 32303

City

State

Zip

E-mail adimarco@floridabankers.com

Speaking: For Against Information

Representing Florida Bankers Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-20-14

Meeting Date

Topic Residential Properties

Bill Number 1962
(if applicable)

Name TRAVIS MOORE

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. Box 781

Phone 727.421.6902

Street

Largo

FL

33779

E-mail mooret@tampabay.com

City

State

Zip

Speaking: For Against Information

Representing Community Associations Institute (CAI)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/20/14
Meeting Date

Topic RESIDENTIAL PROPERTIES

Bill Number SB 1462 (if applicable)

Name MIKE FIELDS

Amendment Barcode (if applicable)

Job Title FL. PRESIDENT

Address 301 S. CALHOUN ST
Street

Phone 850 561-5922

TALLAHASSEE, FL 32301
City State Zip

E-mail mike.fields@bankofamerica.com

Speaking: For Against Information

Representing BANK OF AMERICA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/14

Meeting Date

Topic SB 1462

Bill Number SB 1462
(if applicable)

Name MARK ANDERSON

Amendment Barcode _____
(if applicable)

Job Title ADVOCATE

Address 121 NORTH MONROE STREET

Phone 850-320-6659

Street

TALLAHASSEE FL 32301

E-mail MARK@CONSULTANDERSON.COM

City

State

Zip

Speaking: For Against Information

Representing LM FUNDING, LLC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

CourtSmart Tag Report

Room: SB 301

Caption: Regulated Industries Committee

Case:

Judge:

Type:

Started: 3/20/2014 8:32:57 AM

Ends: 3/20/2014 9:36:50 AM

Length: 01:03:54

8:33:13 AM Meeting called to order
8:33:18 AM Roll call
8:34:07 AM CSSB 278 - Senator Grimsley
8:34:21 AM Senator Grimsley presenting the bill
8:34:47 AM Late filed Amendments 126704 and 690618 Withdrawn
8:35:07 AM Late Filed Substitute Amendment adopted - Barcode 447118
8:35:54 AM Larry Gonzales, FL Society of Health Systems Pharmacists
8:37:17 AM CS moved by Sen. Galvano
8:37:32 AM CS/CS/SB 278 - Passed
8:37:50 AM SB 1098 - Senator Dean
8:38:07 AM Chase Daniels, Aide, presenting the bill
8:38:21 AM Amendment 727280
8:38:36 AM Amendment Adopted
8:39:04 AM CS moved
8:39:18 AM CSSB 1098 - Passed
8:39:50 AM SB 1462 - Senator Stargel
8:40:05 AM Senator Stargel presenting the bill
8:41:18 AM Amendment 280914 - Senator Staargel
8:41:24 AM Amendment adopted
8:41:38 AM Amendment 552864
8:41:44 AM Amendment Adopted
8:42:46 AM Anthony Demarco, Florida Bankers Association
8:45:05 AM Senator Gibson questioning
8:46:03 AM Mr. Demarco responding
8:48:29 AM Travis Moore, Community Associations Institute
8:49:36 AM Mike Fields, Bank of America
8:52:31 AM Senator Stargel questioning
8:52:42 AM Mr. Fields responding
8:55:28 AM William Miller, ACR
8:58:11 AM Senator Sobel questioning
8:58:11 AM Senator Sobel questioning
8:58:31 AM Mr. Fields responding
8:59:54 AM Senator Sachs questioning
9:00:25 AM Mr. Miller responding
9:02:42 AM Jae Heinberg, ACR
9:04:01 AM Senator Detert commenting
9:06:25 AM Senator Sachs commenting
9:07:43 AM Senator Thrasher commenting
9:09:14 AM Senator Gibson commenting
9:10:27 AM Senator Sobel commenting
9:11:23 AM Senator Stargel makes motion to report bill as CS
9:11:38 AM Senator Stargel closes on the bill
9:12:26 AM CSSB 1462 - Passes
9:13:19 AM CSSB 172 - Senator Soto
9:13:36 AM Christine Brion, Legislative Assistant Presenting Bill
9:13:46 AM Amendment 324058
9:14:15 AM Senator Sachs questioning
9:14:23 AM Amendment adopted
9:14:38 AM Amendment 918642
9:15:13 AM Amendment to the Amendent 886058
9:15:33 AM Amendment adopted as amended
9:15:45 AM Amendment 317768

9:15:54 AM Amendment adopted
9:16:13 AM Senator Flores questioning
9:17:06 AM Legislative Aide responding
9:18:39 AM Senator Detert commenting
9:22:18 AM Jason Unger, National Notary Association
9:26:01 AM Senator Stargel questioning
9:27:05 AM Senator Galvano questioning
9:28:25 AM Mr. Unger responding
9:29:25 AM Bruce Kershner, NACM
9:34:52 AM Senator Sobel commenting and questioning
9:35:09 AM Bruce Kershner responding
9:36:31 AM Senator Braynon moves that the bill be TD's
9:36:40 AM Meeting adjourned