

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

**REGULATED INDUSTRIES**  
**Senator Stargel, Chair**  
**Senator Braynon, Vice Chair**

**MEETING DATE:** Wednesday, March 26, 2014

**TIME:** 1:30 —3:30 p.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	<b>SB 1466</b> Lee (Similar CS/H 7037)	Residential Communities; Authorizing a claim of lien on a condominium parcel, cooperative parcel, or a parcel within a homeowners' association to be in a specific form; deleting a provision providing for the expiration of certain liens, etc.  RI 03/26/2014 Fav/CS JU AP	Fav/CS Yeas 7 Nays 1
2	<b>CS/SB 172</b> 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 RI 03/26/2014 Fav/CS	Fav/CS Yeas 6 Nays 3

Consideration of proposed committee bill:

3	<b>SPB 7120</b>	Malt Beverages; Defining the term "growler"; clarifying three-tier system exceptions and application with respect to the manufacture, distribution, and sale of malt beverages; adding an exception to the come-to-rest requirement, etc.	Submitted as Committee Bill Yeas 10 Nays 0
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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.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/SB 1466

INTRODUCER: Regulated Industries Committee and Senators Lee and Evers

SUBJECT: Residential Communities

DATE: March 26, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Fav/CS</b>
2.			JU	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1466 expands the services that may be performed by community association managers on behalf of condominiums, cooperatives, and homeowners' associations. The bill permits community association managers to:

- Determine the number of days required for statutory notices;
- Determine the amounts due the association;
- Collect amounts due to the association before filing a civil action;
- Calculate the votes required for a quorum or to approve a proposition or amendment;
- Complete forms related to the management of a community association that have been created by statute or by a state agency;
- Draft meeting notices and agendas;
- Calculate and prepare certificates of assessment and estoppel certificates;
- Respond to requests for certificates of assessment and estoppel certificates;
- Negotiate monetary or performance terms of a contract subject to approval by an association;
- Draft prearbitration demands;
- Coordinate or perform maintenance for real or personal property and other routine services involved in the operation of a community association; and
- Comply with the association's governing documents and the requirements of law as necessary to perform such practices.

The bill provides a “claim of lien” form, “notice of contest of lien” form, and “release of lien” form for condominium, cooperative, and homeowners’ associations. It provides a “delinquent assessment” form for condominium and homeowners’ associations. It also provides a “notice of contest of lien” form for cooperative associations.

The bill provides that the claim of lien of a cooperative association is not effective one year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. It provides that the one-year period is automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel. This conforms the requirements for a claim of lien by cooperative associations with the claim of lien requirements for condominium associations.

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

## **II. Present Situation:**

### **Community Association Management**

Community association managers (CAM’s) are regulated and licensed pursuant to part VIII of ch. 468, F.S. To be licensed, a community association manager must satisfactorily complete an examination for licensure.

Section 468.431(2), F.S., defines “community association management” to mean:

any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of \$100,000: controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, and coordinating maintenance for the residential development and other day-to-day services involved with the operation of a community association.

A license is not required for persons who perform clerical or ministerial functions under the direct supervision and control of a licensed manager or who only perform the maintenance of a community association and do not assist in any of the management services.<sup>1</sup>

Community association managers are regulated by the seven-member Regulatory Council of Community Association Managers. Five of the members must be licensed CAMs, one of whom must be a CAM for a timeshare. The other two must not be CAMs. Members are appointed to 4-year terms by the Governor and confirmed by the Senate.<sup>2</sup>

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<sup>1</sup> Section 468.431(2), F.S.

<sup>2</sup> Section 468.4315(1), F.S.

To become licensed as a CAM, a person must apply to the department to take the licensure examination and submit to a background check. Upon determination that the applicant is of good moral character, the applicant must attend a department-approved in-person training prior to taking the examination.<sup>3</sup> Licensed community association managers are required to complete continuing education hours as approved by the council.<sup>4</sup>

### **Unlicensed Practice of Law**

The Florida Bar has a Standing Committee that focuses on the unlicensed practice of law.<sup>5</sup> The Unlicensed Practice of Law Standing Committee (Standing Committee) held hearings in 1995 to determine if certain practices by CAMs constituted the unlicensed practice of law.

The Standing Committee determined that performance of the following activities by CAMs were ministerial in nature and did not constitute the unlicensed practice of law: completing the Secretary of State form CR2EO45 (Statement of Change of Registered Office or Registered Agent or Both for Corporations), and drafting certificates of assessments first notices of date of election, second notices of date of election, ballots, written notices of annual meeting, annual meeting agendas, affidavits of mailing notices of board meetings, and board meeting agendas.<sup>6</sup>

The standing committee determined that the following other duties commonly performed by CAMs did constitute the unlicensed practice of law:

- Completing department form BPR 33-032 (Frequently Asked Question and Answers Sheet);
- Drafting a Claim of Lien, Satisfaction of Claim of Lien, and Notice of Commencement form;
- Determining the timing, method, and form of giving notice of meetings;
- Determining the votes necessary for certain actions which would entail interpretation of certain statutes and rules; and
- Answering a community association's question about the application of law to a matter being considered or advising a community association that an action or course of action may not be authorized by law or rule.<sup>7</sup>

The Standing Committee determined the following actions may or may not involve the unlicensed practice of law, depending on the circumstances:

- Modifying form BPR 33-033 (Limited Proxy Form);
- Drafting a limited proxy form; and
- Drafting documents required to exercise the community association's right of approval or right of first refusal on the sale or lease of a parcel.

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<sup>3</sup> Section 468.433, F.S.

<sup>4</sup> Sections 468.4336 and 468.4337, F.S.

<sup>5</sup> See Florida Supreme Court, Standing Committees, Unlicensed Practice of Law, at: <https://www.floridabar.org/DIVEXE/BD/CMStanding.nsf/2021e58ed0c7505585256e45004b060d/494974ec1e28b2a785256c5b0055481e?OpenDocument> (Last visited March 19, 2014).

<sup>6</sup> *The Florida Bar re Advisory Opinion – Activities of Community Association Managers*, 681 So.2d 1119, 1122 (Fla. 1996).

<sup>7</sup> *Id.*

The Standing Committee provided a proposed advisory opinion to the Supreme Court for consideration. The Supreme Court reviewed the proposed advisory opinion of the Standing Committee's recommendations the following year.<sup>8</sup>

The Supreme Court noted that there is no generally comprehensive definition of what constitutes the unlicensed practice of law, and relied on the following to guide its opinion:

It is generally understood that the performance of services in representing another before the courts is the practice of law. But the practice of law also includes the giving of legal advice and counsel to others as to their rights and obligations under the law and the preparation of legal instruments, including contracts, by which legal rights are either obtained, secured or given away, although such matters may not then or ever be the subject of proceedings in a court.<sup>9</sup>

In determining whether a CAM activity constituted the unlicensed practice of law, the Court considered the potential harm to the public and the degree to which substantial rights of persons may be affected. Regarding the Frequently Asked Questions and Answers Sheet, the Court noted that completion of the form requires the interpretation of community association documents, and that the form could significantly affect an individual's legal rights because purchasers rely on the form when making a decision to purchase. Consequently, misleading or incorrect information could harm the purchaser. The Court stated that the initial completion of this form requires the assistance of a licensed attorney. However, it held that subsequent updates to the form that do not modify the form can be completed without the assistance of an attorney.<sup>10</sup>

The Supreme Court found that the drafting of both a claim of lien and satisfaction of claim of lien requires a legal description of the property, establishes rights of the community association with respect to the lien, the lien's duration, renewal information, the action to be taken on it, and the lien acts as an encumbrance on the property until it is satisfied. Drafting these documents must be completed with the assistance of a licensed attorney because they determine substantial rights. The Supreme Court held that the drafting of a notice of commencement form also constitutes the practice of law because failure to complete or prepare this form accurately could result in serious legal and financial harm to the property owner.<sup>11</sup>

Regarding determining the timing, method, and form of giving notices of meetings, the court held that these duties require the interpretation of statutes, administrative rules, governing documents, and rule 1.090(a) and (e), Florida Rules of Civil Procedure, and therefore constitutes the practice of law.<sup>12</sup>

On May 13, 2013, the Standing Committee proposed a subsequent advisory opinion to clarify the Court's earlier opinion regarding CAMs. The proposed advisory opinion requested that the 1996 Court opinion remain in effect, but also requested that the Court consider other common

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<sup>8</sup> *Id.* at 1122.

<sup>9</sup> *Id.* at 1123, quoting *State ex rel. Florida Bar v. Sperry*, 140 So.2d 587, 591 (Fla.1962), vacated on other grounds, 373 U.S. 379, 83 S.Ct. 1322, 10 L.Ed.2d 428 (1963).

<sup>10</sup> *Id.* at 1123.

<sup>11</sup> *Id.*

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

practices by CAMs that were not fully addressed in the 1996 opinion. Specifically, the Standing Committee proposed advisory opinion suggests that the following should constitute the unlicensed practice of law:

- Drafting amendments to declaration of covenants, bylaws, and articles of incorporation when such documents are to be voted upon by the members;
- Determining the number of days to be provided for statutory notice;
- Modifying limited proxy forms promulgated by the state if there is any discretion involved;
- Preparing documents concerning the right of the association to approve new prospective owners;
- Determining the votes needed to pass a proposition or amendment to recorded documents;
- Determining the number of owners' votes needed to establish a quorum;
- Preparing construction lien documents;
- Preparing, reviewing, drafting, and/or substantial involvement in the preparation/execution of contracts, including construction contracts, management contracts, cable television contracts, etc.;
- Determining who is the owner of a property that is to receive a statutory pre-lien letter; and
- Any activity that requires statutory or case law analysis to reach a legal conclusion.<sup>13</sup>

The Florida Supreme Court has not issued an opinion regarding the Standing Committee's proposed advisory opinion.

### **Condominiums**

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."<sup>14</sup> A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.<sup>15</sup> 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.<sup>16</sup>

A declaration "may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property."<sup>17</sup> A declaration of condominium may be amended as provided in the declaration.<sup>18</sup> If the declaration does not provide a method for amendment, it may generally be amended as to any matter by a vote of not

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<sup>13</sup> The Florida Bar Standing Committee on the Unlicensed Practice of Law, FAO #2012-2, *Activities of Community Association Managers*, Proposed Advisory Opinion, May 15, 2013.

<sup>14</sup> Section 718.103(11), F.S.

<sup>15</sup> Section 718.104(2), F.S.

<sup>16</sup> *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

<sup>17</sup> Section 718.104(5), F.S.

<sup>18</sup> See s. 718.110(1)(a), F.S.

less than the owners of two-thirds of the units.<sup>19</sup> Condominiums are administered by a board of directors referred to as a “board of administration.”<sup>20</sup>

### **Cooperative Associations**

Section 719.103(12), F.S., defines a “cooperative” to mean:

That form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative unit’s occupants receive an exclusive right to occupy the unit. The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.<sup>21</sup>

Section 719.108(4), F.S., provides that the cooperative association has a lien on each cooperative parcel for any unpaid rents and assessments, plus interest, and any authorized administrative late fees. If the cooperative documents attorney’s fees, the lien also secures reasonable attorney’s fees incurred by the association incident to the collection of the rents and assessments or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the cooperative parcel is located which states the description of the cooperative parcel, the name of the unit owner, the amount due, and the due dates. The association’s lien expires if a claim of lien has not been filed within one year after the date the assessment was due. The lien also does not continue for longer than one year after the claim of lien has been recorded unless, within that time, an action to enforce the lien has been commenced. The association must wait 30 days after the date a notice of intent to file a lien has been delivered to the owner before it can file a lien against a cooperative parcel.

Section 718.116(5)(a), F.S., provides that the claim of lien is not effective one year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. It provides that the one-year period is automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel.

### **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

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<sup>19</sup> 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.

<sup>20</sup> Section 718.103(4), F.S.

<sup>21</sup> *See* ss. 719.106(1)(g) and 719.107, F.S.

association members without unduly impairing the ability of such associations to perform their functions.<sup>22</sup>

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.<sup>23</sup>

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.<sup>24</sup>

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.<sup>25</sup> 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.<sup>26</sup> The officers and members of a homeowners’ association have a fiduciary relationship to the members who are served by the association.<sup>27</sup>

### **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.<sup>28</sup> 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.<sup>29</sup> In regards to homeowners’ associations, the division’s authority is limited to arbitration of recall election disputes.<sup>30</sup>

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<sup>22</sup> See s. 720.302(1), F.S.

<sup>23</sup> Section 720.301(9), F.S.

<sup>24</sup> Section 720.302(5), F.S.

<sup>25</sup> See ss. 720.303 and 720.307, F.S.

<sup>26</sup> See ss. 720.301 and 720.303, F.S.

<sup>27</sup> Section 720.303(1), F.S.

<sup>28</sup> Section 718.501(1), F.S., and s. 719.501(1), F.S., respectively.

<sup>29</sup> 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.

<sup>30</sup> See s. 720.303(10)(d), F.S.



### III. Effect of Proposed Changes:

The bill amends s. 468.431(2), F.S., to expand the list of duties or activities that constitute “community association management.” The bill permits CAM’s to provide the following additional services to residential communities:

- Determine the number of days required for statutory notices;
- Determine the amounts due the association;
- Collect amounts due to the association before filing a civil action;
- Calculate the votes required for a quorum or to approve a proposition or amendment;
- Complete forms related to the management of a community association that have been created by statute or by a state agency;
- Draft meeting notices and agendas;
- Calculate and prepare certificates of assessment and estoppel certificates;
- Respond to requests for certificates of assessment and estoppel certificates;
- Negotiate monetary or performance terms of a contract subject to approval by an association;
- Draft prearbitration demands;
- Coordinate or perform maintenance for real or personal property and other routine services involved in the operation of a community association; and
- Complying with the association’s governing documents and the requirements of law as necessary to perform such practices.

#### Statutory Forms

The bill amends ss. 718.116(5)(b), 719.108(4)(b), and 720.3085(1)(a), F.S., to provide a claim of lien form for a condominium, cooperative, and homeowners’ association, respectively. It is not clear whether the “claim of lien” form provided in the bill is a form “related to the management of a community association that have been created by statute or by a state agency,” within the meaning of s. 468.431(2), F.S., and whether a CAM may complete the “claim of lien form” without engaging in an activity that constitutes the unlicensed practice of law as has been previously determined by the Florida Supreme Court regarding the drafting of a claim of lien by a CAM.<sup>31</sup> The Supreme Court found that the drafting of a claim of lien required a legal description of the property when determining that drafting the claim of lien is the unlicensed practice of law. The forms in the bill also require a legal description of the property.

The bill amends ss. 718.116(5)(d), and 720.3085(1)(d), F.S., and creates s. 719.108(4)(d), F.S., to provide a release of lien form for a condominium, homeowners’ association, and cooperative, respectively. It is not clear whether the “release of lien” form provided in the bill is a form “related to the management of a community association that have been created by statute or by a state agency,” within the meaning of s. 468.431(2), F.S., and whether a CAM may complete the “claim of lien” form without engaging in an activity that constitutes the unlicensed practice of law as has been previously determined by the Florida Supreme Court in regards to the drafting of a satisfaction of a claim of lien by a CAM.<sup>32</sup> As with the claim of lien, the Supreme Court found that the drafting a satisfaction of a claim of lien required a legal description of the property when it determined that drafting the satisfaction of a claim of lien is the unlicensed practice of law.

<sup>31</sup> *Supra* at note 6.

<sup>32</sup> *Id.*

The forms in the bill also require a legal description of the property.

The bill amends ss. 718.116(6)(b) and 720.3085(5), F.S., to provide a “delinquent assessment” form for condominium and homeowners’ associations, respectively. The bill does not provide a “delinquent assessment” form for cooperative associations.

The bill amends s. 718.121(4), 719.108(4)(a), 720.3085(4)(a), to create a “notice of intent to record a claim of lien” form. It is not clear whether the “notice of intent to record a claim of lien” form provided in the bill is a form “related to the management of a community association that have been created by statute or by a state agency,” within the meaning of s. 468.431(2), F.S., and whether a CAM may complete the claim of lien form without engaging in an activity that constitutes the unlicensed practice of law.

The bill creates s. 719.108(4)(c), F.S., to create a “notice of contest of lien” form. Current law provides a comparable “notice of contest of lien” for condominium and homeowners’ associations in ss. 718.116(5)(c) and 720.3085(1)(b), respectively.

### **Charges and Liens**

The bill amends ss. 718.116(3), 719.108(3), and 720.3085(3)(a), F.S., to permit condominium, cooperative, and homeowners' associations, respectively, to recover from the delinquent owner any reasonable charges imposed upon the association under a contract with its management or bookkeeping company, or collection agent, incurred in connection with collecting a delinquent assessment.

The bill amends ss. 718.116(3), 719.108(3), and 720.3085(3)(b), F.S., to include the reasonable costs of collection services contracted by association in the schedule that assigns how the an association must apply payments it receives from a delinquent owner. The bill requires that payment received by the association be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney fees incurred in collection, then to any reasonable costs for collection services contracted by the association, and then to the delinquent assessment.

The bill amends ss. 718.116(5)(b), F.S., to provide that a condominium association’s claim of lien secures administrative late fees and fees incurred by the association incident to the collection process include any reasonable costs for collection services contracted by the association.

The bill amends s. 719.108(4), F.S., to delete the provision that the cooperative association’s lien expires if a claim of lien has not been filed within one year after the date the assessment was due, and that the lien also does not continue for longer than one year after the claim of lien has been recorded unless, within that time, an action to enforce the lien has been commenced.

The bill amends s. 719.108(4)(b), F.S., to provide that a cooperative association’s claim of lien is not effective one year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. It provides that the one-year period is automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other

person claiming an interest in the parcel. This conforms the requirements for a claim of lien for cooperative associations with the requirements in s. 718.116(5)(a), F.S., for a claim of lien by condominium associations.

The bill 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.

**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: 468.431, 718.116, 719.108, 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 Regulated Industries on March 26, 2014:**

The committee substitute (CS) differs from the bill as follows:

- The CS removes from s. 468.431(2), F.S., the authorization for CAM's to draft demand letters, pre-lien letters, and letters of intended action, and to prepare statutory construction lien documents for association projects. It also amends this section to permit CAM's to prepare certificates of assessment and estoppel certificates instead of for estoppel letters. It also permits CAM's to respond to requests for certificates of assessment and estoppel certificates instead of for estoppel letters.
- The CS amends ss. 718.116(3), 719.108(3), and 720.3085(3)(a), F.S., to permit condominium, cooperative, and homeowners' associations, respectively, to recover from the unit owner any reasonable charges imposed upon the association under a contract with its management or bookkeeping company, or collection agent, incurred in connection with collecting a delinquent assessment.
- The CS amends ss. 718.116(3), 719.108(3), and 720.3085(3)(b), F.S., to include the reasonable costs of collection services contracted by association in the schedule that assigns how an association must apply payments it receives from a member.
- The CS amends the claim of lien form in ss. 718.116(5)(b) and 720.3085(1)(a) F.S., for condominium and homeowners' associations, respectively, to include the dates of delinquency on the form, and provides that the lien may include any other amounts which a lien may secure pursuant to ch. 718, F.S., and ch. 720, F.S., respectively.
- The CS amends ss. 718.116(5)(b), F.S., to provide that a condominium association's claim of lien secures administrative late fees and fees incurred by the association incident to the collection process include any reasonable costs for collection services contracted by the association.
- The CS amends ss. 718.116(6)(b) and 720.3085(5), F.S., to provide a "delinquent assessment" form.
- The CS amends ss. 718.121(4), 719.108(4)(a), 720.3085(4)(a), F.S., to create a "notice of intent to record a claim of lien" form.
- The CS amends the Release of Lien form for cooperative associations in s. 719.108(4)(d), F.S., to reference the "cooperative parcel" instead of the "unit." It also deleted the portion of the form that provides that the description of the cooperative parcel includes, but is not limited to, all appurtenances to the cooperative unit.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2014	.	
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The Committee on Regulated Industries (Legg) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (2) of section 468.431, Florida  
Statutes, is amended to read:

468.431 Definitions.—As used in this part:

(2) "Community association management" means any of the  
following practices requiring substantial specialized knowledge,  
judgment, and managerial skill when done for remuneration and



659808

11 when the association or associations served contain more than 10  
12 units or have an annual budget or budgets in excess of \$100,000:  
13 controlling or disbursing funds of a community association,  
14 preparing budgets or other financial documents for a community  
15 association, assisting in the noticing or conduct of community  
16 association meetings, determining the number of days required  
17 for statutory notices, determining amounts due to the  
18 association, collecting amounts due to the association before  
19 filing of a civil action, calculating the votes required for a  
20 quorum or to approve a proposition or amendment, completing  
21 forms related to the management of a community association that  
22 have been created by statute or by a state agency, drafting  
23 meeting notices and agendas, calculating and preparing  
24 certificates of assessment and estoppel certificates, responding  
25 to requests for certificates of assessment and estoppel  
26 certificates, negotiating monetary or performance terms of a  
27 contract subject to approval by an association, drafting  
28 prearbitration demands, coordinating or performing maintenance  
29 for real or personal property and other related routine services  
30 involved in the operation of a community association, and  
31 complying with the association's governing documents and the  
32 requirements of law as necessary to perform such practices and  
33 ~~coordinating maintenance for the residential development and~~  
34 ~~other day-to-day services involved with the operation of a~~  
35 ~~community association.~~ A person who performs clerical or  
36 ministerial functions under the direct supervision and control  
37 of a licensed manager or who is charged only with performing the  
38 maintenance of a community association and who does not assist  
39 in any of the management services described in this subsection



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40 is not required to be licensed under this part.

41 Section 2. Subsections (3), (5), and (6) of section  
42 718.116, Florida Statutes, are amended to read:

43 718.116 Assessments; liability; lien and priority;  
44 interest; collection.-

45 (3) Assessments and installments on assessments which are  
46 not paid when due bear interest at the rate provided in the  
47 declaration, from the due date until paid. The rate may not  
48 exceed the rate allowed by law, and, if no rate is provided in  
49 the declaration, interest accrues at the rate of 18 percent per  
50 year. If provided by the declaration or bylaws, the association  
51 may, in addition to such interest, charge an administrative late  
52 fee of up to the greater of \$25 or 5 percent of each delinquent  
53 installment for which the payment is late. The association may  
54 also recover from the unit owner any reasonable charges imposed  
55 upon the association under a contract with its management or  
56 bookkeeping company, or collection agent, incurred in connection  
57 with collecting a delinquent assessment. Any payment received by  
58 an association must be applied first to any interest accrued by  
59 the association, then to any administrative late fee, then to  
60 any costs and reasonable attorney ~~attorney's~~ fees incurred in  
61 collection, then to any reasonable costs for collection services  
62 contracted by the association, and then to the delinquent  
63 assessment. The foregoing is applicable notwithstanding any  
64 restrictive endorsement, designation, or instruction placed on  
65 or accompanying a payment. A late fee is not subject to chapter  
66 687 or s. 718.303(4).

67 (5) (a) The association has a lien on each condominium  
68 parcel to secure the payment of assessments. Except as otherwise



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69 provided in subsection (1) and as set forth below, the lien is  
70 effective from and shall relate back to the recording of the  
71 original declaration of condominium, or, in the case of lien on  
72 a parcel located in a phase condominium, the last to occur of  
73 the recording of the original declaration or amendment thereto  
74 creating the parcel. However, as to first mortgages of record,  
75 the lien is effective from and after recording of a claim of  
76 lien in the public records of the county in which the  
77 condominium parcel is located. Nothing in this subsection shall  
78 be construed to bestow upon any lien, mortgage, or certified  
79 judgment of record on April 1, 1992, including the lien for  
80 unpaid assessments created herein, a priority which, by law, the  
81 lien, mortgage, or judgment did not have before that date.

82 (b) ~~To be valid,~~ A claim of lien must be in substantially  
83 the following form:

84  
85 CLAIM OF LIEN

86  
87 Before me, the undersigned notary public, personally appeared  
88 ...(name)..., who was duly sworn and says that he/she is the  
89 authorized agent of the lienor, ...(name of association)...,  
90 whose address is ...(address)..., and that in accordance with  
91 the Condominium Act and the declaration of ...(name of  
92 condominium)..., a condominium, and the articles of  
93 incorporation and bylaws of the association, the association  
94 makes this claim of lien for ...(basis for claim of lien and  
95 date(s) of delinquency)..., for the following described real  
96 property:

97







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127 Personally Known.... OR Produced.... as identification.  
128  
129 ~~must state the description of the condominium parcel, the name~~  
130 ~~of the record owner, the name and address of the association,~~  
131 ~~the amount due, and the due dates.~~ It must be executed and  
132 acknowledged by an officer or authorized agent of the  
133 association. The lien is not effective 1 year after the claim of  
134 lien was recorded unless, within that time, an action to enforce  
135 the lien is commenced. The 1-year period is automatically  
136 extended for any length of time during which the association is  
137 prevented from filing a foreclosure action by an automatic stay  
138 resulting from a bankruptcy petition filed by the parcel owner  
139 or any other person claiming an interest in the parcel. The  
140 claim of lien secures all unpaid assessments that are due and  
141 that may accrue after the claim of lien is recorded and through  
142 the entry of a final judgment, as well as interest, authorized  
143 administrative late fees, and all reasonable costs and attorney  
144 attorney's fees incurred by the association incident to the  
145 collection process, including but not limited to, any reasonable  
146 costs for collection services contracted by the association.  
147 Upon payment in full, the person making the payment is entitled  
148 to a satisfaction of the lien.

149 (c) By recording a notice in substantially the following  
150 form, a unit owner or the unit owner's agent or attorney may  
151 require the association to enforce a recorded claim of lien  
152 against his or her condominium parcel:

153 NOTICE OF CONTEST OF LIEN

154 TO: ...(Name and address of association)... You are  
155 notified that the undersigned contests the claim of lien filed



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156 by you on ....., ...(year)..., and recorded in Official Records  
157 Book .... at Page ....., of the public records of .... County,  
158 Florida, and that the time within which you may file suit to  
159 enforce your lien is limited to 90 days from the date of service  
160 of this notice. Executed this .... day of ....., ...(year)....

161 Signed: ...(Owner or Attorney)...

162  
163 After notice of contest of lien has been recorded, the clerk of  
164 the circuit court shall mail a copy of the recorded notice to  
165 the association by certified mail, return receipt requested, at  
166 the address shown in the claim of lien or most recent amendment  
167 to it and shall certify to the service on the face of the  
168 notice. Service is complete upon mailing. After service, the  
169 association has 90 days in which to file an action to enforce  
170 the lien; and, if the action is not filed within the 90-day  
171 period, the lien is void. However, the 90-day period shall be  
172 extended for any length of time during which the association is  
173 prevented from filing its action because of an automatic stay  
174 resulting from the filing of a bankruptcy petition by the unit  
175 owner or by any other person claiming an interest in the parcel.

176 (d) A release of lien must be in substantially the  
177 following form:

178  
179 RELEASE OF LIEN

180  
181 The undersigned lienor, in consideration of the final payment in  
182 the amount of \$....., hereby waives and releases its lien and  
183 right to claim a lien for unpaid assessments through .....,  
184 ...(year)..., recorded in the Official Records Book .... at Page



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185 ....., of the public records of .... County, Florida, for the  
186 following described real property:

187  
188 UNIT NO. .... OF (NAME OF CONDOMINIUM), A CONDOMINIUM  
189 AS SET FORTH IN THE DECLARATION OF CONDOMINIUM AND THE  
190 EXHIBITS ANNEXED THERETO AND FORMING A PART THEREOF,  
191 RECORDED IN OFFICIAL RECORDS BOOK ....., PAGE ....., OF  
192 THE PUBLIC RECORDS OF .... COUNTY, FLORIDA. THE ABOVE  
193 DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO, ALL  
194 APPURTENANCES TO THE CONDOMINIUM UNIT ABOVE DESCRIBED,  
195 INCLUDING THE UNDIVIDED INTEREST IN THE COMMON  
196 ELEMENTS OF SAID CONDOMINIUM.

197  
198 (signature of witness) (signature of authorized agent)  
199 Print name: Print name:

200  
201 (signature of witness)  
202 Print name:

203  
204 Sworn to (or affirmed) and subscribed before me this .... day of  
205 ....., ...(year)...., by ...(name of person making statement)....  
206 ...(Signature of Notary Public)...  
207 ...(Print, type, or stamp commissioned name of Notary Public)...  
208 Personally Known.... OR Produced.... as identification.

209 (6) (a) The association may bring an action in its name to  
210 foreclose a lien for assessments in the manner a mortgage of  
211 real property is foreclosed and may also bring an action to  
212 recover a money judgment for the unpaid assessments without  
213 waiving any claim of lien. The association is entitled to



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214 recover its reasonable attorney's fees incurred in either a lien  
215 foreclosure action or an action to recover a money judgment for  
216 unpaid assessments.

217 (b) No foreclosure judgment may be entered until at least  
218 30 days after the association gives written notice to the unit  
219 owner of its intention to foreclose its lien to collect the  
220 unpaid assessments. The notice must be in substantially the  
221 following form:

222  
223 DELINQUENT ASSESSMENT

224  
225 This letter is to inform you a Claim of Lien has been filed  
226 against your property because you have not paid the  
227 assessment to Association. The Association intends  
228 to foreclose the lien and collect the unpaid amount within 30  
229 days of this letter being provided to you.

230  
231 You owe the interest accruing from (month/year) to the present.  
232 As of the date of this letter, the total amount due with  
233 interest is \$ . . All costs of any action and interest from  
234 this day forward will also be charged to your account.

235  
236 Any questions concerning this matter should be directed to  
237 (insert name, addresses and phone numbers of Association  
238 representative).

239  
240 If this notice is not given at least 30 days before the  
241 foreclosure action is filed, and if the unpaid assessments,  
242 including those coming due after the claim of lien is recorded,



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243 are paid before the entry of a final judgment of foreclosure,  
244 the association shall not recover attorney's fees or costs. The  
245 notice must be given by delivery of a copy of it to the unit  
246 owner or by certified or registered mail, return receipt  
247 requested, addressed to the unit owner at his or her last known  
248 address; and, upon such mailing, the notice shall be deemed to  
249 have been given, and the court shall proceed with the  
250 foreclosure action and may award attorney's fees and costs as  
251 permitted by law. The notice requirements of this subsection are  
252 satisfied if the unit owner records a notice of contest of lien  
253 as provided in subsection (5). The notice requirements of this  
254 subsection do not apply if an action to foreclose a mortgage on  
255 the condominium unit is pending before any court; if the rights  
256 of the association would be affected by such foreclosure; and if  
257 actual, constructive, or substitute service of process has been  
258 made on the unit owner.

259 Section 3. Subsection (4) of section 718.121, Florida  
260 Statutes, is amended to read:

261 718.121 Liens.—

262 (4) Except as otherwise provided in this chapter, no lien  
263 may be filed by the association against a condominium unit until  
264 30 days after the date on which a notice of intent to file a  
265 lien has been delivered to the owner by registered or certified  
266 mail, return receipt requested, and by first-class United States  
267 mail to the owner at his or her last address as reflected in the  
268 records of the association, if the address is within the United  
269 States, and delivered to the owner at the address of the unit if  
270 the owner's address as reflected in the records of the  
271 association is not the unit address. If the address reflected in



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272 the records is outside the United States, sending the notice to  
273 that address and to the unit address by first-class United  
274 States mail is sufficient. Delivery of the notice shall be  
275 deemed given upon mailing as required by this subsection. The  
276 notice must be in substantially the following form:

277  
278 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

279  
280 Re: Unit \_\_\_\_\_ of (name of association)

281  
282 The following amounts are currently due on your account to  
283 \_\_\_\_\_ Association, and must be paid within thirty (30)  
284 days after your receipt of this letter. This letter shall serve  
285 as the Association's notice of intent to record a Claim of Lien  
286 against your property after thirty (30) days from your receipt  
287 of this letter, unless you pay in full the amounts set forth  
288 below:

289

290	Maintenance due _____ (dates)	\$ _____
291	Late fee, if applicable _____	\$ _____
292	Interest through _____ *	\$ _____
293	Certified mail charges _____	\$ _____
294	Other costs _____	\$ _____
295	_____	_____
296	TOTAL OUTSTANDING _____	\$ _____

297  
298 \* interest accrues at the rate of \$ \_\_\_\_\_ per day.

299 Section 4. Subsections (3) and (4) of section 719.108,  
300 Florida Statutes, are amended to read:



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301           719.108 Rents and assessments; liability; lien and  
302 priority; interest; collection; cooperative ownership.—

303           (3) Rents and assessments, and installments on them, not  
304 paid when due bear interest at the rate provided in the  
305 cooperative documents from the date due until paid. This rate  
306 may not exceed the rate allowed by law and, if a rate is not  
307 provided in the cooperative documents, accrues at 18 percent per  
308 annum. If the cooperative documents or bylaws so provide, the  
309 association may charge an administrative late fee in addition to  
310 such interest, not to exceed the greater of \$25 or 5 percent of  
311 each installment of the assessment for each delinquent  
312 installment that the payment is late. The association may also  
313 recover from the unit owner any reasonable charges imposed upon  
314 the association under a contract with its management or  
315 bookkeeping company, or collection agent, incurred in connection  
316 with collecting a delinquent assessment. Any payment received by  
317 an association must be applied first to any interest accrued by  
318 the association, then to any administrative late fee, then to  
319 any costs and reasonable attorney ~~attorney's~~ fees incurred in  
320 collection, then to any reasonable costs for collection services  
321 contracted for by the association, and then to the delinquent  
322 assessment. The foregoing applies notwithstanding any  
323 restrictive endorsement, designation, or instruction placed on  
324 or accompanying a payment. A late fee is not subject to chapter  
325 687 or s. 719.303(4).

326           (4) The association has a lien on each cooperative parcel  
327 for any unpaid rents and assessments, plus interest, authorized  
328 administrative late fees and any reasonable costs for collection  
329 services contracted for by the association, and any authorized





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330 administrative late fees. If authorized by the cooperative  
331 documents, the lien also secures reasonable attorney ~~attorney's~~  
332 fees incurred by the association and all reasonable collection  
333 costs incident to the collection of the rents and assessments or  
334 enforcement of such lien. The lien is effective from and after  
335 recording a claim of lien in the public records in the county in  
336 which the cooperative parcel is located which states the  
337 description of the cooperative parcel, the name of the unit  
338 owner, the amount due, and the due dates. ~~The lien expires if a~~  
339 ~~claim of lien is not filed within 1 year after the date the~~  
340 ~~assessment was due, and the lien does not continue for longer~~  
341 ~~than 1 year after the claim of lien has been recorded unless,~~  
342 ~~within that time, an action to enforce the lien is commenced.~~  
343 Except as otherwise provided in this chapter, a lien may not be  
344 filed by the association against a cooperative parcel until 30  
345 days after the date on which a notice of intent to file a lien  
346 has been delivered to the owner.

347 (a) The notice must be sent to the unit owner at the  
348 address of the unit by first-class United States mail and the  
349 notice must be in substantially the following form:

351 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

352  
353 Re: Unit \_\_\_\_\_ of (name of cooperative)

354  
355 The following amounts are currently due on your account to  
356 \_\_\_\_\_ Association, and must be paid within thirty (30)  
357 days after your receipt of this letter. This letter shall serve  
358 as the Association's notice of intent to record a Claim of Lien



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359 against your property after thirty (30) days from your receipt  
360 of this letter, unless you pay in full the amounts set forth  
361 below:

362		
363	Maintenance due (dates)	\$
364	Late fee, if applicable	\$
365	Interest through *	\$
366	Certified mail charges	\$
367	Other costs	\$
368		
369	TOTAL OUTSTANDING	\$

370  
371 \* interest accrues at the rate of \$ \_\_\_\_\_ per day

372 1. If the most recent address of the unit owner on the  
373 records of the association is the address of the unit, the  
374 notice must be sent by ~~registered~~ or certified mail, return  
375 receipt requested, to the unit owner at the address of the unit.

376 2. If the most recent address of the unit owner on the  
377 records of the association is in the United States, but is not  
378 the address of the unit, the notice must be sent by ~~registered~~  
379 ~~or~~ certified mail, return receipt requested, to the unit owner  
380 at his or her most recent address.

381 3. If the most recent address of the unit owner on the  
382 records of the association is not in the United States, the  
383 notice must be sent by first-class United States mail to the  
384 unit owner at his or her most recent address.

385 ~~(b)~~

386 A notice that is sent pursuant to this paragraph ~~subsection~~ is  
387 deemed delivered upon mailing.



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388 (b) A claim of lien must be in substantially the following  
389 form:

390

391 CLAIM OF LIEN

392

393 Before me, the undersigned notary public, personally appeared  
394 ...(name)... who was duly sworn and says that he/she is the  
395 authorized agent of the lienor, ...(name of association)...,  
396 whose address is ...(address)..., and that in accordance with  
397 the Cooperative Act and the cooperative documents of ...(name of  
398 cooperative)..., a cooperative, and the articles of  
399 incorporation and bylaws of the association, the association  
400 makes this claim of lien for ...(basis for claim of lien and  
401 date(s) of delinquency)..., for the following described  
402 property:

403

404 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. ....  
405 OF ...(NAME OF COOPERATIVE)..., A COOPERATIVE AS SET  
406 FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS  
407 ANNEXED THERETO AND FORMING A PART THEREOF, RECORDED  
408 IN OFFICIAL RECORDS BOOK ....., PAGE ....., OF THE  
409 PUBLIC RECORDS OF .... COUNTY, FLORIDA.

410

411 Upon which the association asserts this lien. The cooperative  
412 parcel is owned by ...(name of debtor)..., Debtor. There remains  
413 unpaid to the association, the sum of \$..... This lien secures  
414 these amounts, as well as any other amounts which a lien may  
415 secure pursuant to Chapter 719, Florida Statutes.

416





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446 require the association to enforce a recorded claim of lien  
447 against his or her cooperative parcel:

448  
449 NOTICE OF CONTEST OF LIEN  
450

451 TO: ... (Name and address of association)... You are  
452 notified that the undersigned contests the claim of lien filed  
453 by you on ...., ... (year)..., and recorded in Official Records  
454 Book .... at Page ...., of the public records of .... County,  
455 Florida, and that the time within which you may file suit to  
456 enforce your lien is limited to 90 days from the date of service  
457 of this notice. Executed this .... day of ...., ... (year)....  
458 Signed: ... (Owner or Attorney)...

459  
460 After notice of contest of lien has been recorded, the clerk of  
461 the circuit court shall mail a copy of the recorded notice to  
462 the association by certified mail, return receipt requested, at  
463 the address shown in the claim of lien or most recent amendment  
464 to it and shall certify to the service on the face of the  
465 notice. Service is complete upon mailing. After service, the  
466 association has 90 days in which to file an action to enforce  
467 the lien; and, if the action is not filed within the 90-day  
468 period, the lien is void. However, the 90-day period shall be  
469 extended for any length of time during which the association is  
470 prevented from filing its action because of an automatic stay  
471 resulting from the filing of a bankruptcy petition by the unit  
472 owner or by any other person claiming an interest in the parcel.

473 (d) A release of lien must be in substantially the  
474 following form:





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504 720.3085, Florida Statutes, are amended to read:

505 720.3085 Payment for assessments; lien claims.—

506 (1) When authorized by the governing documents, the  
507 association has a lien on each parcel to secure the payment of  
508 assessments and other amounts provided for by this section.  
509 Except as otherwise set forth in this section, the lien is  
510 effective from and shall relate back to the date on which the  
511 original declaration of the community was recorded. However, as  
512 to first mortgages of record, the lien is effective from and  
513 after recording of a claim of lien in the public records of the  
514 county in which the parcel is located. This subsection does not  
515 bestow upon any lien, mortgage, or certified judgment of record  
516 on July 1, 2008, including the lien for unpaid assessments  
517 created in this section, a priority that, by law, the lien,  
518 mortgage, or judgment did not have before July 1, 2008.

519 (a) ~~To be valid,~~ A claim of lien must be in substantially  
520 the following form:

521  
522 CLAIM OF LIEN

523  
524 Before me, the undersigned notary public, personally appeared  
525 ...(name)... who was duly sworn and says that he/she is the  
526 authorized agent of the lienor, ...(name of association)...,  
527 whose address is ...(address)..., and that in accordance with  
528 Chapter 720, Florida Statutes and the governing documents of  
529 ...(name of association)..., a homeowners' association, the  
530 association makes this claim of lien for ...(basis for claim of  
531 lien and date(s) of delinquency)..., for the following described  
532 real property:



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533  
534       (PARCEL NO. .... OR LOT AND BLOCK) OF  
535       SUBDIVISION AS SHOWN IN THE PLAT THEREOF, RECORDED AT  
536       PLAT BOOK , PAGE , OF THE OFFICIAL RECORDS  
537       OF COUNTY, FLORIDA.  
538  
539       (or insert appropriate metes and bounds description  
540       here)  
541  
542       upon which the association asserts this lien. The property is  
543       owned by ...(name of debtor)..., Debtor. There remains unpaid to  
544       the association, the sum of \$..... This lien secures these  
545       amounts, as well as any other amounts which a lien may secure  
546       pursuant to Chapter 720, Florida Statutes.  
547  
548       (signature of witness) (signature of authorized agent)  
549       Print name: Print name:  
550  
551       (signature of witness)  
552       Print name:  
553  
554       Sworn to (or affirmed) and subscribed before me this .... day of  
555       ..., ...(year)..., by ...(name of person making statement)....  
556       ...(Signature of Notary Public)...  
557       ...(Print, type, or stamp commissioned name of Notary Public)...  
558       Personally Known.... OR Produced.... as identification.  
559  
560       ~~must state the description of the parcel, the name of the record~~  
561       ~~owner, the name and address of the association, the assessment~~





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562 ~~amount due, and the due date.~~ The claim of lien secures all  
563 unpaid assessments that are due and that may accrue subsequent  
564 to the recording of the claim of lien and before entry of a  
565 certificate of title, as well as interest, late charges, and  
566 reasonable collection costs and attorney ~~attorney's~~ fees  
567 incurred by the association incident to the collection process.  
568 The person making payment is entitled to a satisfaction of the  
569 lien upon payment in full.

570 (b) By recording a notice in substantially the following  
571 form, a parcel owner or the parcel owner's agent or attorney may  
572 require the association to enforce a recorded claim of lien  
573 against his or her parcel:

574 NOTICE OF CONTEST OF LIEN

575 TO: ...(Name and address of association)...

576 You are notified that the undersigned contests the claim of lien  
577 filed by you on ....., ...(year)..., and recorded in Official  
578 Records Book .... at page ....., of the public records of ....  
579 County, Florida, and that the time within which you may file  
580 suit to enforce your lien is limited to 90 days following the  
581 date of service of this notice. Executed this .... day of .....,  
582 ...(year)....

583 Signed: ...(Owner or Attorney)...

584 After the notice of a contest of lien has been recorded, the  
585 clerk of the circuit court shall mail a copy of the recorded  
586 notice to the association by certified mail, return receipt  
587 requested, at the address shown in the claim of lien or the most  
588 recent amendment to it and shall certify to the service on the  
589 face of the notice. Service is complete upon mailing. After  
590 service, the association has 90 days in which to file an action



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591 to enforce the lien and, if the action is not filed within the  
592 90-day period, the lien is void. However, the 90-day period  
593 shall be extended for any length of time that the association is  
594 prevented from filing its action because of an automatic stay  
595 resulting from the filing of a bankruptcy petition by the parcel  
596 owner or by any other person claiming an interest in the parcel.

597 (c) The association may bring an action in its name to  
598 foreclose a lien for assessments in the same manner in which a  
599 mortgage of real property is foreclosed and may also bring an  
600 action to recover a money judgment for the unpaid assessments  
601 without waiving any claim of lien. The association is entitled  
602 to recover its reasonable attorney's fees incurred in an action  
603 to foreclose a lien or an action to recover a money judgment for  
604 unpaid assessments.

605 (d) A release of lien must be in substantially the  
606 following form:

607  
608 RELEASE OF LIEN

609  
610 The undersigned lienor, in consideration of the final payment in  
611 the amount of \$...., hereby waives and releases its lien and  
612 right to claim a lien for unpaid assessments through ....,  
613 ...(year)..., recorded in the Official Records Book .... at Page  
614 ...., of the public records of .... County, Florida, for the  
615 following described real property:

616  
617 (PARCEL NO. .... OR LOT AND BLOCK) OF  
618 SUBDIVISION AS SHOWN IN THE PLAT THEREOF, RECORDED AT  
619 PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, OF THE OFFICIAL RECORDS





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649 of the association, which rate may not exceed the rate allowed  
650 by law. If no rate is provided in the declaration or bylaws,  
651 interest accrues at the rate of 18 percent per year.

652 (a) If the declaration or bylaws so provide, the  
653 association may also charge an administrative late fee not to  
654 exceed the greater of \$25 or 5 percent of the amount of each  
655 installment that is paid past the due date. The association may  
656 also recover from the parcel owner any reasonable charges  
657 imposed upon the association under a contract with its  
658 management or bookkeeping company, or collection agent, incurred  
659 in connection with collecting a delinquent assessment.

660 (b) Any payment received by an association and accepted  
661 shall be applied first to any interest accrued, then to any  
662 administrative late fee, then to any costs and reasonable  
663 attorney ~~attorney's~~ fees incurred in collection, then to any  
664 reasonable costs for collection services contracted for by the  
665 association, and then to the delinquent assessment. This  
666 paragraph applies notwithstanding any restrictive endorsement,  
667 designation, or instruction placed on or accompanying a payment.  
668 A late fee is not subject to the provisions of chapter 687 and  
669 is not a fine.

670 (4) A homeowners' association may not file a record of lien  
671 against a parcel for unpaid assessments unless a written notice  
672 or demand for past due assessments as well as any other amounts  
673 owed to the association pursuant to its governing documents has  
674 been made by the association. The written notice or demand must:

675 (a) Provide the owner with 45 days following the date the  
676 notice is deposited in the mail to make payment for all amounts  
677 due, including, but not limited to, any attorney's fees and



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678 actual costs associated with the preparation and delivery of the  
679 written demand. The notice must be in substantially the  
680 following form:

681  
682 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

683  
684 Re: Parcel or (lot/block) of ...(name of association)...

685  
686 The following amounts are currently due on your account to  
687 Association, and must be paid within forty-five (45) days after  
688 your receipt of this letter. This letter shall serve as the  
689 Association's notice of intent to record a Claim of Lien against  
690 your property after forty-five (45) days from your receipt of  
691 this letter, unless you pay in full the amounts set forth below:

692

693	Maintenance due	(dates)	\$
694	Late fee, if applicable		\$
695	Interest through	*	\$
696	Certified mail charges		\$
697	Other costs		\$
698	<hr/>		
699	TOTAL OUTSTANDING		\$

700  
701 \*Interest accrues at the rate of \$ per day.

702 (b) Be sent by registered or certified mail, return receipt  
703 requested, and by first-class United States mail to the parcel  
704 owner at his or her last address as reflected in the records of  
705 the association, if the address is within the United States, and  
706 to the parcel owner subject to the demand at the address of the



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707 parcel if the owner's address as reflected in the records of the  
708 association is not the parcel address. If the address reflected  
709 in the records is outside the United States, then sending the  
710 notice to that address and to the parcel address by first-class  
711 United States mail is sufficient.

712 (5) The association may bring an action in its name to  
713 foreclose a lien for unpaid assessments secured by a lien in the  
714 same manner that a mortgage of real property is foreclosed and  
715 may also bring an action to recover a money judgment for the  
716 unpaid assessments without waiving any claim of lien. The action  
717 to foreclose the lien may not be brought until 45 days after the  
718 parcel owner has been provided notice of the association's  
719 intent to foreclose and collect the unpaid amount. The notice  
720 must be given in the manner provided in paragraph (4) (b), and  
721 the notice may not be provided until the passage of the 45 days  
722 required in paragraph (4) (a). The notice must be in  
723 substantially the following form:

724  
725 DELINQUENT ASSESSMENT  
726

727 This letter is to inform you a Claim of Lien has been filed  
728 against your property because you have not paid the  
729 assessment to Association. The Association intends to  
730 foreclose the lien and collect the unpaid amount within 45 days  
731 of this letter being provided to you.

732  
733 You owe the interest accruing from (month/year) to the present.  
734 As of the date of this letter, the total amount due with  
735 interest is \$ . All costs of any action and interest from



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736 this day forward will also be charged to your account.

737

738 Any questions concerning this matter should be directed to  
739 ...(insert name, addresses and phone numbers of Association  
740 representative)....

741 (a) The association may recover any interest, late charges,  
742 costs, and reasonable attorney's fees incurred in a lien  
743 foreclosure action or in an action to recover a money judgment  
744 for the unpaid assessments.

745 (b) The time limitations in this subsection do not apply if  
746 the parcel is subject to a foreclosure action or forced sale of  
747 another party, or if an owner of the parcel is a debtor in a  
748 bankruptcy proceeding.

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

750

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

752 And the title is amended as follows:

753 Delete everything before the enacting clause  
754 and insert:

755 A bill to be entitled  
756 An act relating to residential communities; amending  
757 s. 468.431, F.S.; revising the term "community  
758 association management"; amending s. 718.116, F.S.;  
759 allowing for reasonable charges to be imposed for  
760 collection of a delinquent assessment; requiring a  
761 claim of lien on a condominium parcel to be in a  
762 specific form; requiring a release of lien to be in a  
763 specific form; requiring a pre-foreclosure notice to  
764 be in a specific form; amending s. 718.121, F.S.;



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765 requiring a pre-lien notice to be in a specific form;  
766 amending s. 719.108, F.S.; allowing for reasonable  
767 charges to be imposed for collection of a delinquent  
768 assessment; deleting a provision providing for the  
769 expiration of certain liens; revising notice  
770 requirements; requiring a pre-lien notice to be in a  
771 specific form; requiring a claim of lien on a  
772 cooperative parcel to be in a specific form; providing  
773 for the content of a recording notice; requiring a  
774 release of lien to be in a specific form; amending s.  
775 720.3085, F.S.; requiring a claim of lien on a parcel  
776 within a homeowners' association to be in a specific  
777 form; requiring a release of lien to be in a specific  
778 form; allowing for reasonable charges to be imposed  
779 for collection of a delinquent assessment; requiring a  
780 pre-lien notice to be in a specific form; requiring a  
781 pre-foreclosure notice to be in a specific form;  
782 providing an effective date.



By Senator Lee

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1 A bill to be entitled  
 2 An act relating to residential communities; amending  
 3 s. 468.431, F.S.; revising the term "community  
 4 association management"; amending s. 718.116, F.S.;  
 5 authorizing a claim of lien on a condominium parcel to  
 6 be in a specific form; authorizing a release of lien  
 7 to be in a specific form; amending s. 719.108, F.S.;  
 8 deleting a provision providing for the expiration of  
 9 certain liens; revising notice requirements;  
 10 authorizing a claim of lien on a cooperative parcel to  
 11 be in a specific form; providing for the content of a  
 12 recording notice; authorizing a release of lien to be  
 13 in a specific form; amending s. 720.3085, F.S.;  
 14 authorizing a claim of lien on a parcel within a  
 15 homeowners' association to be in a specific form;  
 16 authorizing a release of lien to be in a specific  
 17 form; providing an effective date.  
 18  
 19 Be It Enacted by the Legislature of the State of Florida:  
 20  
 21 Section 1. Subsection (2) of section 468.431, Florida  
 22 Statutes, is amended to read:  
 23 468.431 Definitions.—As used in this part:  
 24 (2) "Community association management" means any of the  
 25 following practices requiring substantial specialized knowledge,  
 26 judgment, and managerial skill when done for remuneration and  
 27 when the association or associations served contain more than 10  
 28 units or have an annual budget or budgets in excess of \$100,000:  
 29 controlling or disbursing funds of a community association,

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30 preparing budgets or other financial documents for a community  
 31 association, assisting in the noticing or conduct of community  
 32 association meetings, determining the number of days required  
 33 for statutory notices, determining amounts due to the  
 34 association, collecting amounts due to the association before  
 35 filing of a civil action, calculating the votes required for a  
 36 quorum or to approve a proposition or amendment, completing  
 37 forms related to the management of a community association that  
 38 have been created by statute or by a state agency, drafting  
 39 demand letters, pre lien letters, and letters of intended  
 40 action, drafting meeting notices and agendas, calculating and  
 41 preparing certificates of assessments, responding to requests  
 42 for an estoppel letter, negotiating monetary or performance  
 43 terms of a contract subject to approval by an association,  
 44 drafting prearbitration demands, preparing statutory  
 45 construction lien documents for association projects,  
 46 coordinating or performing maintenance for real or personal  
 47 property and other routine services involved in the operation of  
 48 a community association, and complying with the association's  
 49 governing documents and the requirements of law as necessary to  
 50 perform such practices ~~and coordinating maintenance for the~~  
 51 ~~residential development and other day-to-day services involved~~  
 52 ~~with the operation of a community association.~~ A person who  
 53 performs clerical or ministerial functions under the direct  
 54 supervision and control of a licensed manager or who is charged  
 55 only with performing the maintenance of a community association  
 56 and who does not assist in any of the management services  
 57 described in this subsection is not required to be licensed  
 58 under this part.

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59 Section 2. Subsection (5) of section 718.116, Florida  
60 Statutes, is amended to read:

61 718.116 Assessments; liability; lien and priority;  
62 interest; collection.—

63 (5) (a) The association has a lien on each condominium  
64 parcel to secure the payment of assessments. Except as otherwise  
65 provided in subsection (1) and as set forth below, the lien is  
66 effective from and shall relate back to the recording of the  
67 original declaration of condominium, or, in the case of lien on  
68 a parcel located in a phase condominium, the last to occur of  
69 the recording of the original declaration or amendment thereto  
70 creating the parcel. However, as to first mortgages of record,  
71 the lien is effective from and after recording of a claim of  
72 lien in the public records of the county in which the  
73 condominium parcel is located. Nothing in this subsection shall  
74 be construed to bestow upon any lien, mortgage, or certified  
75 judgment of record on April 1, 1992, including the lien for  
76 unpaid assessments created herein, a priority which, by law, the  
77 lien, mortgage, or judgment did not have before that date.

78 (b) ~~To be valid,~~ A claim of lien may be in substantially  
79 the following form:

80  
81 CLAIM OF LIEN

82  
83 Before me, the undersigned notary public, personally appeared  
84 ...(name)..., who was duly sworn and says that he/she is the  
85 authorized agent of the lienor, ...(name of association)...,  
86 whose address is ...(address)..., and that in accordance with  
87 the Condominium Act and the declaration of ...(name of

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88 association)..., a condominium, and the articles of  
89 incorporation and bylaws of the association, the association  
90 makes this claim of lien for ...(basis for claim of lien)...,  
91 for the following described real property:

92  
93 UNIT NO. .... OF ...(NAME OF CONDOMINIUM)..., A  
94 CONDOMINIUM AS SET FORTH IN THE DECLARATION OF  
95 CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND  
96 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS  
97 BOOK ...., PAGE ...., OF THE PUBLIC RECORDS OF ....  
98 COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT  
99 IS NOT LIMITED TO, ALL APPURTENANCES TO THE  
100 CONDOMINIUM UNIT ABOVE DESCRIBED, INCLUDING THE  
101 UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID  
102 CONDOMINIUM.

103  
104 upon which the association asserts this lien. The property is  
105 owned by ...(name of debtor)..., Debtor. There remains unpaid to  
106 the association, the sum of \$.... This lien secures these  
107 amounts, as well as any unpaid assessments and monetary  
108 obligations, interest thereon, and costs of collection that may  
109 accrue in the future.

110  
111 ...(signature of witness)... ...(signature of authorized  
112 agent)...

113  
114 ...(signature of witness)...

115  
116 Sworn to ...(or affirmed)... and subscribed before me this ....

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117 day of ..., ..(year)..., by ...(name of person making  
 118 statement)...  
 119 ...(Signature of Notary Public)...  
 120 ...(Print, type, or stamp commissioned name of Notary Public)...  
 121 Personally Known.... OR Produced.... as identification.  
 122  
 123 ~~must state the description of the condominium parcel, the name~~  
 124 ~~of the record owner, the name and address of the association,~~  
 125 ~~the amount due, and the due dates.~~ It must be executed and  
 126 acknowledged by an officer or authorized agent of the  
 127 association. The lien is not effective 1 year after the claim of  
 128 lien was recorded unless, within that time, an action to enforce  
 129 the lien is commenced. The 1-year period is automatically  
 130 extended for any length of time during which the association is  
 131 prevented from filing a foreclosure action by an automatic stay  
 132 resulting from a bankruptcy petition filed by the parcel owner  
 133 or any other person claiming an interest in the parcel. The  
 134 claim of lien secures all unpaid assessments that are due and  
 135 that may accrue after the claim of lien is recorded and through  
 136 the entry of a final judgment, as well as interest and all  
 137 reasonable costs and attorney's fees incurred by the association  
 138 incident to the collection process. Upon payment in full, the  
 139 person making the payment is entitled to a satisfaction of the  
 140 lien.  
 141 (c) By recording a notice in substantially the following  
 142 form, a unit owner or the unit owner's agent or attorney may  
 143 require the association to enforce a recorded claim of lien  
 144 against his or her condominium parcel:  
 145

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146 NOTICE OF CONTEST OF LIEN  
 147  
 148 TO: ...(Name and address of association)... You are  
 149 notified that the undersigned contests the claim of lien filed  
 150 by you on ..., ..(year)..., and recorded in Official Records  
 151 Book .... at Page ...., of the public records of ... County,  
 152 Florida, and that the time within which you may file suit to  
 153 enforce your lien is limited to 90 days from the date of service  
 154 of this notice. Executed this ... day of ..., ..(year)....  
 155  
 156 Signed: ...(Owner or Attorney)..  
 157  
 158 After notice of contest of lien has been recorded, the clerk of  
 159 the circuit court shall mail a copy of the recorded notice to  
 160 the association by certified mail, return receipt requested, at  
 161 the address shown in the claim of lien or most recent amendment  
 162 to it and shall certify to the service on the face of the  
 163 notice. Service is complete upon mailing. After service, the  
 164 association has 90 days in which to file an action to enforce  
 165 the lien; and, if the action is not filed within the 90-day  
 166 period, the lien is void. However, the 90-day period shall be  
 167 extended for any length of time during which the association is  
 168 prevented from filing its action because of an automatic stay  
 169 resulting from the filing of a bankruptcy petition by the unit  
 170 owner or by any other person claiming an interest in the parcel.  
 171 (d) A release of lien may be in substantially the following  
 172 form:  
 173  
 174 RELEASE OF LIEN

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175  
176 The undersigned lienor, in consideration of the final payment in  
177 the amount of \$...., hereby waives and releases its lien and  
178 right to claim a lien for unpaid assessments through ....,  
179 ...(year)..., for the following described real property:

180  
181 UNIT NO. .... OF ...(NAME OF CONDOMINIUM)..., A  
182 CONDOMINIUM AS SET FORTH IN THE DECLARATION OF  
183 CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND  
184 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS  
185 BOOK ...., PAGE ...., OF THE PUBLIC RECORDS OF ....  
186 COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT  
187 IS NOT LIMITED TO, ALL APPURTENANCES TO THE  
188 CONDOMINIUM UNIT ABOVE DESCRIBED, INCLUDING THE  
189 UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID  
190 CONDOMINIUM.

191  
192 ...(signature of witness)... ..(signature of authorized  
193 agent)...

194  
195 ...(signature of witness)...

196  
197 Sworn to ...(or affirmed)... and subscribed before me this ....  
198 day of ...., ...(year)..., by ...(name of person making  
199 statement)....

200 ...(Signature of Notary Public)...

201 ...(Print, type, or stamp commissioned name of Notary Public)...

202 Personally Known.... OR Produced.... as identification.

203 Section 3. Subsection (4) of section 719.108, Florida

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204 Statutes, is amended to read:

205 719.108 Rents and assessments; liability; lien and  
206 priority; interest; collection; cooperative ownership.-

207 (4) The association has a lien on each cooperative parcel  
208 for any unpaid rents and assessments, plus interest, and any  
209 authorized administrative late fees. If authorized by the  
210 cooperative documents, the lien also secures reasonable  
211 attorney's fees incurred by the association incident to the  
212 collection of the rents and assessments or enforcement of such  
213 lien. The lien is effective from and after recording a claim of  
214 lien in the public records in the county in which the  
215 cooperative parcel is located which states the description of  
216 the cooperative parcel, the name of the unit owner, the amount  
217 due, and the due dates. ~~The lien expires if a claim of lien is~~  
218 ~~not filed within 1 year after the date the assessment was due,~~  
219 ~~and the lien does not continue for longer than 1 year after the~~  
220 ~~claim of lien has been recorded unless, within that time, an~~  
221 ~~action to enforce the lien is commenced.~~ Except as otherwise  
222 provided in this chapter, a lien may not be filed by the  
223 association against a cooperative parcel until 30 days after the  
224 date on which a notice of intent to file a lien has been  
225 delivered to the owner.

226 (a) The notice must be sent to the unit owner at the  
227 address of the unit by first-class United States mail and:

228 1. If the most recent address of the unit owner on the  
229 records of the association is the address of the unit, the  
230 notice must be sent by ~~registered or~~ certified mail, return  
231 receipt requested, to the unit owner at the address of the unit.

232 2. If the most recent address of the unit owner on the

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233 records of the association is in the United States, but is not  
 234 the address of the unit, the notice must be sent by ~~registered~~  
 235 ~~or~~ certified mail, return receipt requested, to the unit owner  
 236 at his or her most recent address.

237 3. If the most recent address of the unit owner on the  
 238 records of the association is not in the United States, the  
 239 notice must be sent by first-class United States mail to the  
 240 unit owner at his or her most recent address.

241 ~~(b)~~

242 A notice that is sent pursuant to this paragraph subsection is  
 243 deemed delivered upon mailing.

244 (b) A claim of lien may be in substantially the following  
 245 form:

246 CLAIM OF LIEN

247 Before me, the undersigned notary public, personally appeared  
 248 ...(name)... who was duly sworn and says that he/she is the  
 249 authorized agent of the lienor, ...(name of association)...,  
 250 whose address is ...(address)..., and that in accordance with  
 251 the Cooperative Act and the cooperative documents of ...(name of  
 252 association)..., a cooperative, and the articles of  
 253 incorporation and bylaws of the association, the association  
 254 makes this claim of lien for ...(basis for claim of lien)...,  
 255 for the following described real property:

256 UNIT NO. .... OF ...(NAME OF COOPERATIVE)..., A  
 257 COOPERATIVE AS SET FORTH IN THE COOPERATIVE DOCUMENTS  
 258 AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART

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262 THEREOF, RECORDED IN OFFICIAL RECORDS BOOK ...., PAGE  
 263 ...., OF THE PUBLIC RECORDS OF .... COUNTY, FLORIDA.  
 264 THE ABOVE DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO,  
 265 ALL APPURTENANCES TO THE COOPERATIVE UNIT ABOVE  
 266 DESCRIBED, INCLUDING THE UNDIVIDED INTEREST IN THE  
 267 COMMON ELEMENTS OF SAID COOPERATIVE.

268 Upon which the association asserts this lien. The property is  
 269 owned by ...(name of debtor)..., Debtor. There remains unpaid to  
 270 the association, the sum of \$.... This lien secures these  
 271 amounts, as well as any unpaid rents, assessments, and monetary  
 272 obligations, interest thereon, and costs of collection that may  
 273 accrue in the future.

274 ...(signature of witness)... ...(signature of authorized  
 275 agent)...

276 ...(signature of witness)...

277 Sworn to ...(or affirmed)... and subscribed before me this ....  
 278 day of ...., ...(year)..., by ...(name of person making  
 279 statement)...

280 ...(Signature of Notary Public)...

281 ...(Print, type, or stamp commissioned name of Notary Public)...  
 282 Personally Known.... OR Produced.... as identification.

283 The claim must be executed and acknowledged by an officer or  
 284 authorized agent of the association. The lien is not effective 1  
 285 year after the claim of lien was recorded unless, within that

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 291 time, an action to enforce the lien is commenced. The 1-year  
 292 period is automatically extended for any length of time during  
 293 which the association is prevented from filing a foreclosure  
 294 action by an automatic stay resulting from a bankruptcy petition  
 295 filed by the parcel owner or any other person claiming an  
 296 interest in the parcel. The claim of lien secures all unpaid  
 297 rents and assessments that are due and that may accrue after the  
 298 claim of lien is recorded and through the entry of a final  
 299 judgment, as well as interest and all reasonable costs and  
 300 attorney's fees incurred by the association incident to the  
 301 collection process. Upon payment in full, the person making the  
 302 payment is entitled to a satisfaction of the lien.

303 (c) By recording a notice in substantially the following  
 304 form, a unit owner or the unit owner's agent or attorney may  
 305 require the association to enforce a recorded claim of lien  
 306 against his or her cooperative parcel:

307  
 308 NOTICE OF CONTEST OF LIEN

309  
 310 TO: ... (Name and address of association) ... You are  
 311 notified that the undersigned contests the claim of lien filed  
 312 by you on ..., ... (year) ..., and recorded in Official Records  
 313 Book .... at Page ..., of the public records of .... County,  
 314 Florida, and that the time within which you may file suit to  
 315 enforce your lien is limited to 90 days from the date of service  
 316 of this notice. Executed this ... day of ..., ... (year) ...  
 317 Signed: ... (Owner or Attorney) ...

318  
 319 After notice of contest of lien has been recorded, the clerk of

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 320 the circuit court shall mail a copy of the recorded notice to  
 321 the association by certified mail, return receipt requested, at  
 322 the address shown in the claim of lien or most recent amendment  
 323 to it and shall certify to the service on the face of the  
 324 notice. Service is complete upon mailing. After service, the  
 325 association has 90 days in which to file an action to enforce  
 326 the lien; and, if the action is not filed within the 90-day  
 327 period, the lien is void. However, the 90-day period shall be  
 328 extended for any length of time during which the association is  
 329 prevented from filing its action because of an automatic stay  
 330 resulting from the filing of a bankruptcy petition by the unit  
 331 owner or by any other person claiming an interest in the parcel.

332 (d) A release of lien may be in substantially the following  
 333 form:

334  
 335 RELEASE OF LIEN

336  
 337 The undersigned lienor, in consideration of the final payment in  
 338 the amount of \$..., hereby waives and releases its lien and  
 339 right to claim a lien for unpaid assessments through ...,  
 340 ... (year) ..., for the following described real property:

341  
 342 UNIT NO. .... OF ... (NAME OF COOPERATIVE) ..., A  
 343 COOPERATIVE AS SET FORTH IN THE COOPERATIVE DOCUMENTS  
 344 AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART  
 345 THEREOF, RECORDED IN OFFICIAL RECORDS BOOK ..., PAGE  
 346 ..., OF THE PUBLIC RECORDS OF ... COUNTY, FLORIDA.  
 347 THE ABOVE DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO,  
 348 ALL APPURTENANCES TO THE COOPERATIVE UNIT ABOVE

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349 DESCRIBED, INCLUDING THE UNDIVIDED INTEREST IN THE  
 350 COMMON ELEMENTS OF SAID COOPERATIVE.  
 351  
 352 ...(signature of witness)... ...(signature of authorized  
 353 agent...)  
 354  
 355 ...(signature of witness)...  
 356  
 357 Sworn to ...(or affirmed)... and subscribed before me this ....  
 358 day of ...., ...(year)..., by ...(name of person making  
 359 statement)....  
 360 ...(Signature of Notary Public)...  
 361 ...(Print, type, or stamp commissioned name of Notary Public)...  
 362 Personally Known.... OR Produced.... as identification.  
 363 Section 4. Subsection (1) of section 720.3085, Florida  
 364 Statutes, is amended to read:  
 365 720.3085 Payment for assessments; lien claims.—  
 366 (1) When authorized by the governing documents, the  
 367 association has a lien on each parcel to secure the payment of  
 368 assessments and other amounts provided for by this section.  
 369 Except as otherwise set forth in this section, the lien is  
 370 effective from and shall relate back to the date on which the  
 371 original declaration of the community was recorded. However, as  
 372 to first mortgages of record, the lien is effective from and  
 373 after recording of a claim of lien in the public records of the  
 374 county in which the parcel is located. This subsection does not  
 375 bestow upon any lien, mortgage, or certified judgment of record  
 376 on July 1, 2008, including the lien for unpaid assessments  
 377 created in this section, a priority that, by law, the lien,

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378 mortgage, or judgment did not have before July 1, 2008.  
 379 (a) ~~To be valid,~~ A claim of lien may be in substantially  
 380 the following form:  
 381  
 382 CLAIM OF LIEN  
 383  
 384 Before me, the undersigned notary public, personally appeared  
 385 ...(name)... who was duly sworn and says that he/she is the  
 386 authorized agent of the lienor, ...(name of association)...,  
 387 whose address is ...(address)..., and that in accordance with  
 388 the Florida Statutes and the homeowners' association documents  
 389 of ...(name of association)..., a homeowners' association, and  
 390 the articles of incorporation and bylaws of the association, the  
 391 association makes this claim of lien for ...(basis for claim of  
 392 lien)..., for the following described real property:  
 393  
 394 (PARCEL NO. .... OR LOT AND BLOCK) OF ...(NAME OF  
 395 HOMEOWNERS' ASSOCIATION)..., A HOMEOWNERS' ASSOCIATION  
 396 AS SET FORTH IN THE HOMEOWNERS' ASSOCIATION DOCUMENTS  
 397 AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART  
 398 THEREOF, RECORDED IN OFFICIAL RECORDS BOOK ...., PAGE  
 399 ...., OF THE PUBLIC RECORDS OF .... COUNTY, FLORIDA.  
 400  
 401 ...(or insert appropriate metes and bounds description  
 402 here)...  
 403  
 404 upon which the association asserts this lien. The property is  
 405 owned by ...(name of debtor)..., Debtor. There remains unpaid to  
 406 the association, the sum of \$..... This lien secures these

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407 amounts, as well as any unpaid assessments and monetary  
 408 obligations, interest thereon, and costs of collection that may  
 409 accrue in the future.

410

411 ...(Signature of witness)... ...(Signature of authorized  
 412 agent)...

413

414 ...(Signature of witness)...

415

416 Sworn to ...(or affirmed)... and subscribed before me this ....  
 417 day of ...., ...(year)..., by ...(name of person making  
 418 statement)....

419 ...(Signature of Notary Public)...

420 .....(Print, type, or stamp commissioned name of Notary  
 421 Public)...

422 Personally Known.... OR Produced.... as identification.

423

424 ~~must state the description of the parcel, the name of the record~~  
 425 ~~owner, the name and address of the association, the assessment~~  
 426 ~~amount due, and the due date.~~ The claim of lien secures all  
 427 unpaid assessments that are due and that may accrue subsequent  
 428 to the recording of the claim of lien and before entry of a  
 429 certificate of title, as well as interest, late charges, and  
 430 reasonable costs and attorney's fees incurred by the association  
 431 incident to the collection process. The person making payment is  
 432 entitled to a satisfaction of the lien upon payment in full.

433 (b) By recording a notice in substantially the following  
 434 form, a parcel owner or the parcel owner's agent or attorney may  
 435 require the association to enforce a recorded claim of lien

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436 against his or her parcel:

437 NOTICE OF CONTEST OF LIEN

438 TO: ...(Name and address of association)...

439 You are notified that the undersigned contests the claim of lien

440 filed by you on ...., ...(year)..., and recorded in Official

441 Records Book .... at page ...., of the public records of ....

442 County, Florida, and that the time within which you may file

443 suit to enforce your lien is limited to 90 days following the

444 date of service of this notice. Executed this .... day of ....,

445 ...(year)....

446 Signed: ...(Owner or Attorney)...

447 After the notice of a contest of lien has been recorded, the

448 clerk of the circuit court shall mail a copy of the recorded

449 notice to the association by certified mail, return receipt

450 requested, at the address shown in the claim of lien or the most

451 recent amendment to it and shall certify to the service on the

452 face of the notice. Service is complete upon mailing. After

453 service, the association has 90 days in which to file an action

454 to enforce the lien and, if the action is not filed within the

455 90-day period, the lien is void. However, the 90-day period

456 shall be extended for any length of time that the association is

457 prevented from filing its action because of an automatic stay

458 resulting from the filing of a bankruptcy petition by the parcel

459 owner or by any other person claiming an interest in the parcel.

460 (c) The association may bring an action in its name to

461 foreclose a lien for assessments in the same manner in which a

462 mortgage of real property is foreclosed and may also bring an

463 action to recover a money judgment for the unpaid assessments

464 without waiving any claim of lien. The association is entitled



24-01084B-14 20141466\_\_

465 to recover its reasonable attorney's fees incurred in an action  
466 to foreclose a lien or an action to recover a money judgment for  
467 unpaid assessments.

468 (d) A release of lien may be in substantially the following  
469 form:

470  
471 RELEASE OF LIEN

472  
473 The undersigned lienor, in consideration of the final payment in  
474 the amount of \$..., hereby waives and releases its lien and  
475 right to claim a lien for unpaid assessments through ...,  
476 ...(year)..., for the following described real property:

477  
478 (PARCEL NO. .... OR LOT AND BLOCK) OF ...(NAME OF  
479 HOMEOWNERS' ASSOCIATION)..., A HOMEOWNERS' ASSOCIATION  
480 AS SET FORTH IN THE HOMEOWNERS' ASSOCIATION DOCUMENTS  
481 AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART  
482 THEREOF, RECORDED IN OFFICIAL RECORDS BOOK ..., PAGE  
483 ..., OF THE PUBLIC RECORDS OF ... COUNTY, FLORIDA.

484  
485 ...(or insert appropriate metes and bounds description  
486 here)...

487  
488 ...(Signature of witness)... ...(Signature of authorized  
489 agent)...

490  
491 ...(Signature of witness)...

492  
493 Sworn to ...(or affirmed)... and subscribed before me this ....

Page 17 of 18

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

24-01084B-14 20141466\_\_

494 day of ..., ...(year)..., by ...(name of person making  
495 statement)...

496 ...(Signature of Notary Public)...

497 ...(Print, type, or stamp commissioned name of Notary Public)...

498 Personally Known.... OR Produced.... as identification.

499  
500 (e)-(d) If the parcel owner remains in possession of the  
501 parcel after a foreclosure judgment has been entered, the court  
502 may require the parcel owner to pay a reasonable rent for the  
503 parcel. If the parcel is rented or leased during the pendency of  
504 the foreclosure action, the association is entitled to the  
505 appointment of a receiver to collect the rent. The expenses of  
506 the receiver must be paid by the party who does not prevail in  
507 the foreclosure action.

508 (f)-(e) The association may purchase the parcel at the  
509 foreclosure sale and hold, lease, mortgage, or convey the  
510 parcel.

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

Page 18 of 18

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Judiciary, *Chair*  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Ethics and Elections  
Gaming  
Rules  
Transportation

**SENATOR TOM LEE**  
*Deputy Majority Leader*  
24th District

March 6, 2014

The Honorable Kelli Stargel  
Senate Regulate Industries Committee, Chair  
324 Senate Office Building  
404 South Monroe St.  
Tallahassee, FL 32399

Dear Chair Stargel,

A handwritten signature in cursive script that reads "Kelli".

I respectfully request that SB 1466 related to the *Residential Communities*, be placed on the Senate Regulated Industries committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom Lee".

Tom Lee  
Senator, District 24

Cc: Patrick L. Imhof, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 663-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: [www.flsenate.gov](http://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)

3/26/14

*Meeting Date*

Topic SENATE BILL 1466

Bill Number 1466  
*(if applicable)*

Name Richard L. Morang

Amendment Barcode 659808  
*(if applicable)*

Job Title Community Association Manager

Address 5541 SW 81 LN  
*Street*

Phone 352-425-1157

Ocala FL 34476  
*City State Zip*

E-mail rmorang@gmail.com

Speaking:  For  Against  Information

Representing Property Manager

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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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)

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466 (if applicable)

Name MICHAEL SHEEHAN

Amendment Barcode 659808 (if applicable)

Job Title HOA BOARD MEMBER

Address 4225 SW 57 AVE
Street
OCALA FL 34474
City State Zip

Phone 352 390 8191

E-mail MANDUSHEE@KOU.COM

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

Representing HOMEOWNERS

Appearing at request of Chair: [ ] Yes [ ] 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.

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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)

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466  
*(if applicable)*

Name David Furlow

Amendment Barcode 659808  
*(if applicable)*

Job Title Business Owner

Address 4940 Oak Island Rd  
*Street*  
Orlando FL 32809  
*City State Zip*

Phone 407-826-5159

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing CAMS

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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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)

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466

Name Daniel Furlow

(if applicable)

Amendment Barcode 659808

(if applicable)

Job Title Director of Finance

Address 943 Fern Creek Ave

Phone 321-217-2629

Street

Orlando

FL

3903

City

State

Zip

E-mail DFurlow@hotmail.com

Speaking:  For  Against  Information

Representing Leland Management

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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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)

3/26/14

*Meeting Date*

Topic SENATE BILL 1466

Bill Number 1466  
*(if applicable)*

Name Greg Ashworth

Amendment Barcode 659808  
*(if applicable)*

Job Title Director of Management

Address 6972 Lake Gloria Blvd.  
*Street*

Phone 407-781-1836

Orlando FL 32809  
*City State Zip*

E-mail gashworth@lelandmanagement.com

Speaking:  For  Against  Information

Representing Leland Management

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

*Meeting Date* \_\_\_\_\_

Topic SENATE BILL 1466

Bill Number 1466

Name MARK ANDERSON

Amendment Barcode 659808  
*(if applicable)*

Job Title ADVOCATE

Address 121 NORTH MONROE STREET, #1401

Phone 8503206659

*Street*

TALLAHASSEE FL 32301

E-mail MARK@CONSULTANDERSON.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing C.E.O.M.C.

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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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)

March 26

Meeting Date

*Amendment  
and  
Bill*

Topic CAM Legislation

Bill Number 1466

Name Andrew Fortin

Amendment Barcode 659808  
(if applicable)

Job Title Senior VP, Associa

Address 5401 N. Central Exp. #260

Phone 202-

Dallas TX  
Street City State Zip

E-mail AFortin@Associaonline.com

Speaking:  For  Against  Information

Representing ASSOCIA

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**

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

3-26  
Meeting Date

Topic \_\_\_\_\_ Bill Number 1466  
Name Pete Dunbar Amendment Barcode \_\_\_\_\_  
Job Title \_\_\_\_\_ (if applicable)

Address 215 S. Monroe Phone 999-4100  
*Street* Tallahassee 32301 E-mail pdunbar@deanward.com  
*City* *State* *Zip*

Speaking:  For  Against  Information  
Representing Real Property, Probate & Trust Law Section  
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**

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

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466  
*(if applicable)*

Name CRAIG D. CALDWELL

Amendment Barcode 659808  
*(if applicable)*

Job Title PRESIDENT OF CONDOMINIUM ASSOC.

Address 3001 EXECUTIVE DR, #260  
*Street*

Phone (727) 573-9300

CLEARWATER, FL 33762  
*City State Zip*

E-mail craigc@condominiumassociates.com

Speaking:  For  Against  Information

Representing CEOWC FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466

Name AARON STRANGE

(if applicable)

Amendment Barcode 659808

(if applicable)

Job Title BRANCH MANAGER - BRICKMAN

Address 3904 SOUTHWEST 58<sup>TH</sup> AVE.

Phone 407-516-1569

Street

OCALA

City

FL

State

34474

Zip

E-mail aaron.strange@brickman  
group.com

Speaking:  For  Against  Information

Representing HGA BOARD

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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3/26/14

*Meeting Date*

Topic SENATE BILL 1466

Bill Number 1466  
*(if applicable)*

Name Sarah Richell

Amendment Barcode 659808  
*(if applicable)*

Job Title Board President

Address 4242 SW 50th Circle

Phone \_\_\_\_\_

*Street*  
Ocala FL 34474  
*City State Zip*

E-mail casper2193@hotmail.com

Speaking:  For  Against  Information

Representing Homeowner / Board President

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466

Name Brad van Rooyen

(if applicable)

Amendment Barcode 659808

(if applicable)

Job Title Managing Partner of Home Encounter

Address 1001 E. Columbus

Phone 813-404-8241

Street

Tampa

FL

33605

City

State

Zip

E-mail brad@homeencounter.com

Speaking:  For  Against  Information

Representing My homeowners Association of 1600 homes

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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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)

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466

Name DOMINICK SCANNAVINO

Amendment Barcode 659808  
*(if applicable)*

Job Title President. MANAGEMENT AND ASSOCIATES

*(if applicable)*

Address 6040 RIVIERA LANE  
*Street*

Phone 727-992-8384

New Port Richey FL 34655  
*City State Zip*

E-mail DSCANNAVINO@MGT-ASSOC.COM

Speaking:  For  Against  Information

Representing CEOMC; CONA, CAE-FLA.

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**

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

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466  
*(if applicable)*

Name DAVID M FELICE

Amendment Barcode 659808  
*(if applicable)*

Job Title PRES. TERRA LAW FIRM, P.A

Address 4809 EHRICH RD #105  
*Street*  
TAMPA FL 33624  
*City State Zip*

Phone 813-374-2363

E-mail DFELICE@TERRALAWFIRM.COM

Speaking:  For  Against  Information

Representing TERRA MANAGEMENT SERVICES, THE CEOMC

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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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)

3/26/14

Meeting Date

Topic SENATE BILL 1466

Bill Number 1466

Name Rebecca Furlow

(if applicable)

Amendment Barcode 659808

(if applicable)

Job Title President / CEO

Address 6972 Lake Gloria Blvd.

Phone 407-447-9955

Street

Orlando FL 32809-3200

City

State

Zip

E-mail r.furlow@lelandmanagement.com

Speaking:  For  Against  Information

Representing Leland Management

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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S-001 (10/20/11)

# APPEARANCE RECORD

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

3/26/2014

*Meeting Date*

Topic Residential Communities Bill Number SB 1466

Name Travis Moore Amendment Barcode 659808  
*(if applicable)*

Job Title \_\_\_\_\_  
*(if applicable)*

Address Post Office Box 781 Phone 7274216902

*Street*  
Largo FL 33779  
*City* *State* *Zip*

E-mail mooret@tampabay.rr.com

Speaking:  For  Against  Information

Representing FirstService Residential

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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S-001 (10/20/11)

# APPEARANCE RECORD

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

3/26/2014

*Meeting Date*

Topic Residential Communities

Bill Number SB 1466

Name Tony Kalliche, Esq

Amendment Barcode 659808  
*(if applicable)*

Job Title General Counsel

Address 2950 N. 28th Terrace

Phone 954.378.2289

*Street*  
Hollywood *City* FL *State* 33020 *Zip*

E-mail tony.kalliche@fsresidential.com

Speaking:  For  Against  Information

Representing FirstService Residential

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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S-001 (10/20/11)



**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 172

INTRODUCER: Regulated Industries Committee, Commerce and Tourism Committee, and Senator Soto

SUBJECT: Notaries Public

DATE: March 26, 2014

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/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 bill requires a notary employee of a law firm to maintain a separate journal for notarial acts which pertain to the law firm and its clients. The journal is the exclusive property of the law firm and must be maintained and kept by the firm in a secure area, even upon termination of the notary. Otherwise, a notarial journal is the exclusive property of the notary public. A paper journal must be kept in a locked and secured area, and an electronic journal must be password-protected.

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 of a notary public to comply with this section does not invalidate an otherwise lawful notarization. Failure to comply with this section does constitute 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.

This bill does not apply to employees of a law enforcement agency, office of a state attorney, or the Office of the Attorney General.

The bill provides an effective date of January 1, 2015.

## II. Present Situation:

### Notary Public Administration

Notaries are referenced in the State Constitution as public officers, which are appointed and commissioned by the Governor.<sup>1</sup> Their role it is to attest and certify documents by signature and official seal in order to give them credit and authenticity.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> Its primary function is to provide educational materials and assistance to Florida notaries public.<sup>7</sup> 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.<sup>8</sup>

---

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> Sections 117.03-.04, F.S.

<sup>4</sup> 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).

<sup>5</sup> Office of the Governor, Notary Introduction, available at [http://www.flgov.com/notary\\_intro/](http://www.flgov.com/notary_intro/) (Last visited March 18, 2014).

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

<sup>7</sup> *Id.*

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

## 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.<sup>9</sup> 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,<sup>10</sup> and
- Pay a required:
  - \$25 application fee;
  - \$10 commission fee; and
  - \$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,<sup>11</sup> so the application process must be completed even for renewal applicants or subsequent commissions.<sup>12</sup>

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.<sup>13</sup>

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.<sup>14</sup> 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;

---

<sup>9</sup> Section 117.01(1), F.S.

<sup>10</sup> Section 117.01, F.S.

<sup>11</sup> *Id.* at (1), (6), F.S.

<sup>12</sup> *Id.* at (6), F.S.

<sup>13</sup> Section 668.50(11)(b), F.S.

<sup>14</sup> 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.

- 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.<sup>15</sup> Notary misconduct is punishable as a third-degree felony or second-degree misdemeanor.<sup>16</sup>

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 poorly are targeted.<sup>17</sup> According to DOS, there were 400,432 notaries registered in the state as of January 14, 2014.<sup>18</sup> In 2013, the Governor removed 12 notaries from office and suspended 46 others.<sup>19</sup> As of March 5, 2014, 28 notaries have been suspended, two have been publicly censured, and none have been removed from office during 2014.<sup>20</sup>

### **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.<sup>21</sup> 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.<sup>22</sup> Currently, fourteen states and the District of Columbia require notarial journals.<sup>23</sup>

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;

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

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

<sup>17</sup> 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](http://cdn.nationalnotary.org/News_and_Resources/Library/reFraudfla.pdf) (Last visited March 5, 2014).

<sup>18</sup> DOS, Division of Corporations, *Yearly Statistics, Total Active Registrations & Notaries*, available at [http://sunbiz.org/corp\\_stat.html](http://sunbiz.org/corp_stat.html) (Last visited March 5, 2014).

<sup>19</sup> 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).

<sup>20</sup> 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).

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

<sup>22</sup> *Id.*

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



- 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.<sup>24</sup>

It recommends storing completed journals for at least 5 years.<sup>25</sup>

### 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;
- 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.<sup>26</sup> 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 must be retained for at least five years following the date of the last entry in the journal.<sup>27</sup> If a journal is lost, stolen, misplaced, destroyed, erased, compromised, rendered unusable, or otherwise inaccessible, the notary must immediately notify the Notary Section of the Executive Office of the Governor in writing of the circumstances of the incident.

A notary employee of a law firm is required to maintain a separate journal to record notarial acts of the employee subject to the requirements of this section which pertain to the law firm and its clients. The journal is the exclusive property of the law firm and must be maintained and kept by the firm in a secure area and must remain in the firm's custody upon termination of the employment of the notary.

Except for a journal of a law firm, a notary journal is the exclusive property of the notary public. A paper journal 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.

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<sup>24</sup> *Governor's Reference Manual* at 42.

<sup>25</sup> *Id.* at 43.

<sup>26</sup> 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.

<sup>27</sup> 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.

A notary's failure to comply with the requirements of the bill does not invalidate an otherwise lawful notarization, but does constitute grounds for suspension or nonrenewal of the notary's commission and grounds for the denial of any subsequent commission by the Governor.

The bill does not apply to employees of a law enforcement agency, office of a state attorney, or the Office of the Attorney General.

**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 January 1, 2015.

**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:

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/CS by Regulated Industries on March 26, 2014:**

The CS/CS:

- Requires only a paper journal to be kept in a locked and secure area, under the direct and exclusive control of the notary.
- Requires a notary employee of a law firm to maintain a separate 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 journal is the exclusive property of the law firm and must be maintained and kept by the firm in a secure area and must remain in the firm's custody upon termination of the employment of the notary.
- Provides that a notary's failure to comply with these requirements constitutes does not invalidate an otherwise lawful notarization.
- Provides that the bill does not apply to employees of a law enforcement agency, office of a state attorney, or the Office of the Attorney General.
- Provides an effective date of January 1, 2015.

**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.

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

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324058

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2014	.	
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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: RCS	.	
03/27/2014	.	
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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: RCS	.	
03/27/2014	.	
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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: RCS	.	
03/27/2014	.	
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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.



631106

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2014	.	
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	.	
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The Committee on Regulated Industries (Braynon) recommended the following:

**Senate Amendment**

Delete lines 72 - 73

and insert:

Section 3. This act shall take effect January 1, 2015.

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](http://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)

3/25/14  
Meeting Date

Topic Notary journals

Bill Number 192  
(if applicable)

Name Deborah Lawson

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 425 Pecan Branch  
Street

Phone 850-570-0033

Talla FL 32309  
City State Zip

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  
**APPEARANCE RECORD**

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

3/25/14

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 407 930 1982

Street

Longwood FL 32750

City

State

Zip

E-mail BKershner@att.net

Speaking:  For  Against  Information

Representing NACM Improved Construction Practices Committee and NUCA of Florida

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)

26 March 2014

*Meeting Date*

Topic Regulated Industries Bill Number SB 172  
*(if applicable)*

Name Jason Unger Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title lobbyist/attorney

Address 301 S. BRONOUGH STREET, STE. 600 Phone 850-577-9090

*Street*

Tallahassee

FL

32301

*City*

*State*

*Zip*

E-mail jason.unger@gray-robinson.com

Speaking:  For  Against  Information

Representing National Notary Association

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)

**PLEASE VOTE "NO" TO CS/SB 172 BY SOTO – NOTARY PUBLICS  
UP TODAY IN THE SENATE REGULATED INDUSTRIES COMMITTEE**

Although Senate Bill 172 is well intentioned, it will impose substantial record-keeping requirements on all notaries in Florida with questionable benefits. We ask you – If we want to reduce fraud, is this additional regulation on law abiding citizens, businesses and governmental entities going to deter those with criminal intent? Why would anyone with criminal intent comply with these journal requirements? **Weighing the potential benefits with the substantial burden simply does not support this additional regulation!**

Channel 9 news in Orlando reports that it has provided a list of 400 Florida notaries with criminal records to the Governor's Office.

- Does the Governor's Office need more manpower to quickly remove these notaries from office?
- When commissions are suspended or revoked, does the Governor's Office require the commission stamp or seal to be turned in so that it can't be used anymore?
- Should criminal records background checks be part of the notary commission application and renewal procedure?
- These bound and electronic journals will contain sensitive personal information and will be public record. Shouldn't we make sure first that they are not in the hands of convicted criminals? Is an accompanying public records exemption appropriate?

**Many states have grappled with the issue of notary journals:**

- Alabama imposed the requirements but repealed them in 2012.
- Florida imposed them for electronic notaries when the electronic notary act was adopted in 1997, but repealed the requirements two years later.
- Virginia and Delaware require journals for electronic notaries only.
- Cook County Illinois has a pilot project for residential property transfers that requires a special form from the notary and the thumbprint of all signators.
- Louisiana requires the journal for acts relating to "immovable property"
- Tennessee requires the journal for notaries who charge a fee

**THIS ISSUE NEEDS FURTHER STUDY. THIS IS THE BILLS LAST COMMITTEE STOP BEFORE  
THE FLOOR. PLEASE VOTE "NO" TODAY!**

**NACM Improved Construction Practices Committee**

**NUCA of Florida**





**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: SPB 7120

INTRODUCER: For consideration by the Regulated Industries Committee

SUBJECT: Malt Beverages

DATE: March 22, 2014

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

---

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>		<b><u>Pre-meeting</u></b>

---

**I. Summary:**

SPB 7120 defines the term “growler” to mean a clean container made of glass, ceramic, metal, or similar leak-proof material having a capacity of 32 ounces or 64 ounces that is filled with a malt beverage and sealed on the premises at or immediately before or after the time of sale in response to an order in a face-to-face transaction.

The bill provides the restrictions and permitted practices for malt beverage manufacturers that are also licensed as a vendor (vendor-licensed brewers). It permits vendor-licensed brewers to sell growlers to consumers for off-premises consumption with malt beverages that are brewed on the licensed premises by the vendor-licensed brewer. The malt beverages sold to consumers for off-premises consumption can only be sold in growlers.

The bill does not prohibit the sale of malt beverages that the manufacturer obtains from a licensed distributor. It prohibits deliveries of growlers off a licensed premises. It provides that the vendor-licensed brewer is responsible for the reporting and payment of excise taxes.

The bill prohibits brew pubs from filling growlers, shipping malt beverages between licensed premises owned by the licensee, and selling or distributing malt beverages outside the licensed premises.

The bill provides a statement of Legislative intent vendor-licensed brewer and brew pub licenses constitute limited exceptions to the manufacturing and vendor licensing requirements of the Beverage Law. It also provides that anything not specifically authorized in ss. 561.221(2) and (3), F.S., is prohibited unless otherwise authorized under the Beverage Law.

The bill limits the filling or refilling of growlers to vendor-licensed brewers with malt beverages that are brewed on the licensed premises, and to vendors licensed to sell alcoholic beverage only in sealed containers for consumption off the premises.

The bill limits the sale of growlers by vendor-licensed brewers to sales for consumption off the premises and requires that the sales must be conducted in face-to-face transactions.

A growler must have an unbroken seal, or its contents must be incapable of being immediately consumed. A growler must be clearly labeled as containing an alcoholic beverage, provide the name of the manufacturer, the brand, the volume, the percentage of alcohol by volume, and provide the required federal health warning notice for alcoholic beverages. A growler with a preexisting label or other identifying mark of a manufacturer or brand must be covered sufficiently to indicate the manufacturer and brand of the malt beverage being placed in the container at that refilling. The growler must be clean before being filled or refilled.

The bill provides a severability clause.

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

## II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,<sup>1</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor via manufacturers, distributors, and vendors.<sup>2</sup> The Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation (department) administers and enforces the Beverage Law.<sup>3</sup>

### Three Tier System

In the United States, the regulation of alcohol has traditionally been through what is termed the “three-tier system.” The system requires that the manufacture, distribution, and sale of alcoholic beverages be separated. Retailers must buy their products from distributors who in turn buy their products from the manufacturers. Manufacturers cannot sell directly to retailers or directly to consumers. The system is deeply rooted in the perceived evils of the “tied house” in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.<sup>4</sup>

In the three-tier system, each license classification has clearly delineated functions. For example, in Florida, distributors are licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages at retail.<sup>5</sup> Only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.<sup>6</sup> Vendors are limited to purchasing their alcoholic beverage inventory from licensed distributors, manufacturer, or bottler.<sup>7</sup> Licensing manufacturers, distributors, and registered exporters are prohibited from

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<sup>1</sup> The Beverage Law means chs. 561, 562, 563, 564, 565, 567, and 568, F.S. See s. 561.01(6), F.S.

<sup>2</sup> See s. 561.14, F.S.

<sup>3</sup> Section 561.02, F.S.

<sup>4</sup> Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington's Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, a copy can be found at: [http://www.lanepowell.com/wp-content/uploads/2009/04/prictee\\_001.pdf](http://www.lanepowell.com/wp-content/uploads/2009/04/prictee_001.pdf) (Last visited March 22, 2014).

<sup>5</sup> Section 561.14(2), F.S.

<sup>6</sup> Section 561.14(3), F.S. However, see discussion regarding the exception provided in s. 561.221, F.S.

<sup>7</sup> Section 561.14(3), F.S. Vendors may buy from vendors in a pool buying group if the initial purchase was by a single purchase by a pool buying agent.



being licensed as vendors.<sup>8</sup> In addition from being prohibited from having an interest in a vendor, manufacturers are also prohibited from distributing directly to a vendor other than to a vendor licensed under s. 561.221(2), F.S.<sup>9</sup> However, a manufacturer of wine may be licensed as a distributor.<sup>10</sup>

There are some exceptions to this regulatory system. The exceptions include allowing beer brew pubs to manufacture malt beverages and to sell them to consumers,<sup>11</sup> allowing individuals to bring small quantities of alcohol back from trips out-of-state,<sup>12</sup> and allowing in-state wineries to manufacture and sell directly to consumers.<sup>13</sup>

There are two license options that permit vendors to manufacture malt beverages for sale directly to consumers. Section 561.221(2), F.S., permits a vendor to be a manufacturer of malt beverages, even if the vendor is also licensed as a distributor. The malt beverages the vendor manufactures must be sold on property consisting of a single complex that includes a brewery and other structures that promote the brewery and the tourist industry of the state. The property may be divided by no more than one public street or highway. This type of license does not limit the amount of malt beverages that may be manufactured. It also does not limit the type of vendor license that the manufacturer may obtain, e.g., a license to sell beer, wine and liquor and licenses that permit package sales of other alcoholic beverage.

Section 561.221(3), F.S., permits a vendor also to be licensed as a manufacturer of malt beverages if the vendor is engaged in brewing malt beverages at a single location in an amount that does not exceed 10,000 kegs per year.<sup>14</sup> The malt beverages must be sold to consumers for consumption on the vendor's licensed premises or on contiguous licensed premises owned by the vendor. These vendors are known in the industry as "brew pubs."

Section 561.20, F.S., limits, per county, the number of alcoholic beverage licenses that may be issued that permit the sale of liquor along with beer and wine. Section 561.20, F.S., limits the number of licenses in a county to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as "quota" licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquor to one that does permit their sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation.

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<sup>8</sup> Section 561.22, F.S.

<sup>9</sup> Section 563.022(14), F.S.

<sup>10</sup> Section 561.221(1)(a), F.S.

<sup>11</sup> See s. 561.221(2), F.S., which permits the limited manufacture of beer by vendors (brew pubs).

<sup>12</sup> See s. 562.16, F.S., which permits the possession of less than one gallon of untaxed alcoholic beverages when purchased by the possessor out-of-state in accordance with the laws of the state where purchased and brought into the state by the possessor.

<sup>13</sup> See s. 561.221, F.S.

<sup>14</sup> Section 561.221(3)(a)1., F.S., defines the term "keg" as 15.5 gallons.

Section 565.02(a)-(f), F.S., prescribes the license taxes for vendors who are permitted to sell any alcoholic beverages, including beer, wine and distilled spirits, regardless of alcoholic content. This includes licensees who are authorized to sell:

- Any alcoholic beverages, where the sale is limited to consumption on the premises;
- Any alcoholic beverages for consumption on premises where off-premises sales are permitted, and
- Any alcoholic beverages, where the beverages are sold only in sealed containers for consumption off the premises.

### **On-Premises or Off-Premises Consumption-Malt Beverages**

Section 564.02, F.S., distinguishes between places of business where a vendor is licensed to only sell malt beverages for on-premises consumption<sup>15</sup> and places of business where such on-premises consumption is permitted.<sup>16</sup> According to the department, vendors licensed to sell malt beverages for on-premises consumption can also sell alcoholic beverages in sealed containers for the customer to take away from the licensed premises for off-premises consumption. Vendors licensed to sell malt beverages for consumption “only” on the licensed premises are not permitted to sell alcoholic beverages for off-premises consumption. The license fee for a license that does not permit the sale of alcoholic beverage in sealed containers for off-premises consumption is 50 percent less than the license fee for a license that permits the sale of sealed containers for off-premises consumption.<sup>17</sup>

According to alcoholic beverage industry representatives and a representative for the division, vendors with on-premises licenses routinely fill containers with a malt beverage and seal them for customers to take off-premises for later consumption. They note that current law does not prohibit this practice. The vendors typically seal the beverage container before the consumer leaves the premises so that the consumer will not violate any local ordinances that prohibit the carrying in public of open containers of alcoholic beverages or the state-law prohibition against the possession of open containers of alcoholic beverages in vehicles.<sup>18</sup> The beverage law does not define the term “sealed container.”

In 1995, the department repealed a rule which explicitly stated that an on-premises malt beverage licensee could sell malt beverages, for consumption off-premises, in “sealed containers” and could also sell wine and distilled spirits in the “original sealed containers as received from the distributor.”<sup>19</sup>

### **Malt Beverage Containers**

Section 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors must be packaged in individual containers containing no more than 32 ounces (one quart). However,

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<sup>15</sup> See s. 563.02(1)(a), F.S.

<sup>16</sup> See ss. 563.02(1)(b)-(f) and 565.045, F.S.

<sup>17</sup> See s. 563.02(1)(a), F.S.

<sup>18</sup> Section 316.1936, F.S.

<sup>19</sup> Rule 7A-1.008, F.A.C., as amended on March 10, 1985. This rule was subsequently transferred to rule 61A-1.008, F.A.C., and then repealed on July 5, 1995.

malt beverages may be packaged in bulk, kegs, barrels, or in any individual container containing one gallon or more of malt beverage regardless of individual container type.

Prior to 2001, s. 563.06(6), F.S., provided that malt beverages could be sold by vendors only in 8, 12, 16, or 32 ounce individual containers. Chapter 2001-78, L.O.F., amended that section to allow vendors to sell malt beverages in individual containers of “no more than 32 ounces.”<sup>20</sup> The current provision that allows containers of one gallon or more was unaffected by that amendment.

### **Growlers**

Some states permit vendors to sell malt beverages in containers known as “growlers,”<sup>21</sup> which typically are reusable containers of between 32 ounces and one gallon that the consumer can fill with the vendor’s malt beverage for consumption off the licensed premises. According to a representative for several vendors who manufacture malt beverages,<sup>22</sup> the national standard size for a growler is 64 ounces. Florida law does not permit the use of a 64 ounce growler.

### **Tied House Evil Prohibitions**

Section 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. Specifically, s. 561.42(1), F.S., provides in part:

No licensed manufacturer or distributor of any of the beverages herein referred to shall have any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law; nor shall such licensed manufacturer or distributor assist any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such licensed manufacturer or distributor; provided, however, that this does not apply to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section. (Emphasis supplied.)

Section 561.42(8), F.S., authorizes the division to establish rules and require reports to enforce limitation on credits and other forms of assistance. This rulemaking authority does not extend to cash deposits on beer sales, as provided in s. 563.08, F.S.

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<sup>20</sup> See also *Review of the Malt Beverage Container Size Restrictions*, Interim Report No. 2000-65, Florida Senate Committee on Regulated Industries, September 1999.

<sup>21</sup> The term “growlers” is derived from the late 1800s and early 1900s practice in which fresh beer was carried from the local pub to one’s home by means of a small-galvanized pail. When the beer sloshed around the pail, it created a rumbling sound as the carbon dioxide escaped through the lid. See “*The Growler: Beer-to-Go!*,” *Beer Advocate* (July 31, 2002). A copy of the article is available at: <http://beeradvocate.com/articles/384> (Last visited January 13, 2014).

<sup>22</sup> According to several representatives for vendors who manufacture malt beverages and sell 32-ounce growlers, the vendors are typically licensed under s. 561.221(2), F.S.

Section 561.42, F.S., defines the types of items or services that may be provided to vendors. For example, s. 561.42(10), F.S., prohibits manufacturers, distributors, importers, primary American sources of supply,<sup>23</sup> or brand owners or registrants, or their brokers, sales agents or sales persons, from directly or indirectly giving, lending, renting, selling, or in any other manner furnishing to a vendor any outside sign, printed, painted, electric, or otherwise.

### III. Effect of Proposed Changes:

#### “Growler” Defined

The bill creates s. 561.01(22), F.S., to define the term “growler.” It defines the term as a clean container made of glass, ceramic, metal, or similar leak-proof material having a capacity of 32 ounces or 64 ounces. It also defines the growler as filled with a malt beverage and sealed on the premises at or immediately before or after the time of sale in response to an order in a face-to-face transaction.

#### Growler Sales by Vendor-Licensed Brewers

The bill amends s. 561.221(2), F.S., to provide the restrictions and permitted practices for malt beverage manufacturers that are also licensed as a vendor (vendor-licensed brewers). It clarifies that the exemption for vendor-licensed brewers in s. 561.221(2), F.S., is notwithstanding the prohibitions in ss. 561.22 and 561.42, F.S., or any other provision in the beverage law.

Section 561.221(2)(a), F.S., permits vendor-licensed brewers to sell growlers to consumers for off-premises consumption filled with malt beverages that are brewed on the licensed premises, subject to the restrictions in s. 563.06(7), F.S. As drafted, this provision is unclear regarding whether malt beverages that are not brewed by the vendor-licensed brewer may be sold in growlers. However, s. 563.06(7), F.S., limits the malt beverages that may be sold in the growlers to those malt beverages that are brewed on the licensed premises by the vendor-licensed brewer. The malt beverages sold to consumers for off-premises consumption could only be sold in growlers.

Section 561.221(2)(a), F.S., provides that this paragraph does not prohibit the sale of malt beverages that the manufacturer obtains from a licensed distributor. The bill permits vendor-licensed brewers to only sell malt beverages in growlers for off-premises consumption. This provision permits vendor-licensed brewers to sell other malt beverages, including malt beverages that it manufactured, if the malt beverages were obtained from a licensed distributor.

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<sup>23</sup> Section 564.045(1), F.S., defines the term “primary American source of supply” as the:

manufacturer, vintner, winery, or bottler, or their legally authorized exclusive agent, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer. It shall also include any applicant who directly purchases vinous beverages from a manufacturer, vintner, winery, or bottler who represents that there is no primary American source of supply for the brand and such applicant must petition the division for approval of licensure.

The bill does not provide any additional restrictions on the types of alcoholic beverages that a vendor-licensed brewer could sell for consumption on-premises, including malt beverages manufactured by other brewers, commonly known as “guest taps.”

Section 561.221(2)(b), F.S., prohibits vendor-licensed brewers from delivering growlers off a licensed premises, including deliveries by common or premises carrier, privately owned vehicles or other conveyance. It also prohibits consumers or other persons from arranging the delivery of any growler off the licensed premises. It explicitly provides that the subsection does not prohibit a consumer from taking a purchased growler to another location by a privately owned vehicle or other conveyance.

Section 561.221(2)(c), F.S., provides that the vendor-licensed brewer is responsible for the applicable reports pursuant to ss. 561.50 and 561.55, F.S.,<sup>24</sup> with respect to the amount of malt beverages sold or given to consumers on the licensed premises each month. It requires that they pay the applicable excise taxes to the division by the 10<sup>th</sup> day of each month for the previous month.

Section 561.221(2)(d), F.S., provides that this subsection does not preclude a vendor-licensed brewer from also holding a permanent food service license at the licensed premises.

### **Brew Pubs**

The bill amends s. 561.221(3), F.S., to define the restriction and permitted practices for brew pubs. It clarifies that the exemption for brew pubs in s. 561.221(3), F.S., is notwithstanding the prohibitions in ss. 561.22 and 561.42, F.S., or any other provision in the beverage law.

Section 561.221(3)(a)3., F.S., requires that brew pubs must hold a permanent food service license.

Section 561.221(3)(b), F.S., specifies the types of alcoholic beverage that brew pubs may sell and requires that such sales must be in face-to-face transactions with consumers. Brew pubs may only sell the following alcoholic beverages:

- Malt beverages manufactured on the licensed premises;
- Malt beverages manufactured by other brewers for on-premises consumption as authorized by its vendor’s license; and
- Wine or liquor for on-premises consumption as authorized by its vendor’s license.

Section 561.221(3)(c), F.S., prohibits brew pubs from shipping malt beverages between licensed premises owned by the licensee. It also prohibits the sale or distribution of malt beverages outside the licensed premises, i.e., a brew pub could not sell growlers. It also clarifies that a brew pub is not a manufacturer for the purposes of s. 563.022(14), F.S., which prohibits malt beverage manufacturers from having an interest in the vendor.

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<sup>24</sup> Section 561.50, F.S., requires manufacturers and distributors to compute and submit applicable excise tax on alcoholic beverage along with the report required by s. 561.55, F.S., to the division each month, on or before the 10th of each month, for all beverages sold during the previous calendar month.

Section 561.221(3)(g), F.S., provides that a term “licensee,” as used in this subsection, means a vendor licensed as a manufacturer of malt beverages pursuant to the section.

### **Legislative Intent Statement**

Section 561.221(4), F.S., provides a statement of Legislative intent regarding the vendor and manufacturer licenses authorized under ss. 561.221(2) and (3), F.S. It provides that these licenses constitute limited exceptions to the manufacturing and vendor licensing requirements of the Beverage Law.

Section 561.221(4), F.S., also provides that anything not specifically authorized in subsections (2) and (3) is prohibited unless otherwise authorized under the Beverage Law. The effect or intent of this provision is unclear.

### **Conforming Provisions**

The bill amends the following provisions to incorporate ss. 561.221(2) and (3), F.S.:

- Section 561.5101(1), F.S., to exempt malt beverages manufactured under those subsections from the requirement that malt beverages must come to rest at the licensed premises of an alcoholic beverage wholesaler (distributor) for purposes of inspection and tax-revenue control; and
- Section 562.34(1), F.S., to clarify that the prohibition against the possession of containers of alcoholic beverages in this subsection does not apply to person in possession of a growler;

The bill also reenacts s. 563.022, F.S., to incorporate the amendments made to s. 561.221(2), F.S.

### **Additional Limitations on Growler Sales**

The bill creates s. 563.06(7), F.S., to limit the filling or refilling of growlers to the following licensees:

- Vendor-licensed brewers licensed pursuant to s. 561.221(2), F.S.; and
- Vendors holding a quota license under ss. 561.20(1) and 565.02(1)(a), F.S., i.e., vendors licensed to sell alcoholic beverage only in sealed containers for consumption off the premises.

The bill limits the sale of growlers by these licensees to sales for consumption off the premises and requires that the sales must be conducted in face-to-face transactions.

Section 563.06(7)(b), F.S., requires that the growler must have an unbroken seal, or that its contents must be incapable of being immediately consumed.

Section 563.06(7)(c), F.S., requires that the growler:

- Be clearly labeled as containing an alcoholic beverage;
- Provide the name of the manufacturer, the brand, the volume, the percentage of alcohol by volume, and
- Provide the required federal health warning notice for alcoholic beverages.

It also provides that, if a growler that is being refilled has an existing label or other identifying mark of a manufacturer or brand from a prior filling or refilling, that label must be covered sufficiently to indicate the manufacturer and brand of the malt beverage being placed in the container at that refilling

Section 563.06(7)(d), F.S., requires that the growler must be clean before being filled or refilled.

Section 563.06(7)(e), F.S., prohibits licensees that are authorized to fill or refill growlers from using growlers for the purpose of distribution or sale outside of the manufacturer's premises or vendor's premises, except as authorized under this subsection or s. 561.221(2), F.S.

The bill also amends s. 563.06(1), F.S., relating to the requirement that malt beverages packaged in the individual containers and possessed by a person in this state for the purpose of sale or resale must be imprinted with the word "Florida" or the abbreviation "FL," to delete the provision that applied this requirement to containers sold in this state on or after October 1, 1959.

### **Severability**

Section 7 of the bill provides a severability clause.

As noted in the *Manual for Drafting General Bills* for the Florida Senate, the "[c]ourts do not need a severability section to sever unconstitutional provisions or applications and allow the other provisions or applications to stand."<sup>25</sup> If a severability clause is included in a bill, the standard severability clause provides:

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.<sup>26</sup>

### **Effective Date**

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

## **IV. Constitutional Issues:**

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

None.

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

None.

<sup>25</sup> *Manual for Drafting General Bills*, Legal Research and Drafting Services, Office of the Secretary of the Senate, The Florida Senate (5th Edition, 1999) at page 50.

<sup>26</sup> *Id.*

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: 561.01, 561.221, 561.5101, 562.34, 563.022, and 563.06.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/28/2014	.	
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The Committee on Regulated Industries (Stargel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (22) is added to section 561.01,  
Florida Statutes, to read:

561.01 Definitions.—As used in the Beverage Law:

(22) "Growler" means a clean container made of glass,  
ceramic, metal, or similar leak-proof material having a capacity  
of 32 ounces, 64 ounces, or 128 ounces which, in response to an



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11 order in a face-to-face transaction for off-premises  
12 consumption, is filled with a malt beverage and sealed on the  
13 premises at or immediately before or after the time of sale.

14 Section 2. Section 561.221, Florida Statutes, is amended to  
15 read:

16 561.221 Licensing of manufacturers and distributors as  
17 vendors and of vendors as manufacturers; exceptions, conditions,  
18 and limitations.—

19 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
20 other provision of the Beverage Law prohibits the ownership,  
21 management, operation, or control of not more than three  
22 vendor's licenses for the sale of alcoholic beverages by a  
23 manufacturer of wine who is licensed and engaged in the  
24 manufacture of wine in this state, even if such manufacturer is  
25 also licensed as a distributor; provided that no such vendor's  
26 license shall be owned, managed, operated, or controlled by any  
27 licensed manufacturer of wine unless the licensed premises of  
28 the vendor are situated on property contiguous to the  
29 manufacturing premises of the licensed manufacturer of wine.

30 (b) The Division of Alcoholic Beverages and Tobacco shall  
31 issue permits to a certified Florida Farm Winery to conduct  
32 tasting and sales of wine produced by certified Florida Farm  
33 Wineries at Florida fairs, trade shows, expositions, and  
34 festivals. The certified Florida Farm Winery shall pay all entry  
35 fees and shall have a winery representative present during the  
36 event. The permit is limited to the length of the event.

37 (2) Notwithstanding s. 561.22, s. 561.42, or any other  
38 provision of the Beverage Law, the division is authorized to  
39 issue vendor's licenses to a manufacturer of malt beverages,



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40 even if such manufacturer is also licensed as a distributor, for  
41 the sale of alcoholic beverages on property consisting of a  
42 single complex, which property shall include a brewery and such  
43 other structures which promote the brewery and the tourist  
44 industry of the state. However, such property may be divided by  
45 no more than one public street or highway. A vendor's license  
46 issued under this subsection is subject to the following  
47 restrictions:

48 (a) Sales to consumers for off-premises consumption of  
49 malt beverages are limited to growlers that are filled or  
50 refilled with malt beverages manufactured on the licensed  
51 premises pursuant to the requirements of s. 563.06(7). Such  
52 sales must be made directly to consumers in face-to-face  
53 transactions. Malt beverages manufactured at another location,  
54 including another licensed manufacturing premises directly or  
55 indirectly owned in whole or in part by the manufacturer, and  
56 malt beverages manufactured by any other manufacturer may be  
57 sold as authorized by the manufacturer's vendor license,  
58 provided that malt beverages sold for consumption off the  
59 licensed premises shall be obtained from a licensed distributor  
60 and sold to the consumer in their original sealed containers.  
61 This paragraph does not prohibit the sale of other alcoholic  
62 beverages for on-premises or off-premises consumption, as  
63 authorized under the manufacturer's vendor license, provided  
64 that such beverages are obtained from a licensed distributor.

65 (b) Notwithstanding s. 561.57(1), the delivery of a growler  
66 off a licensed premises, whether by common or premises carrier  
67 or by an operator of a privately owned motor vehicle or other  
68 conveyance, is prohibited. In addition, a consumer or other



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69 person may not arrange for the delivery of any growler off the  
70 licensed premises to the consumer, whether by common or premises  
71 carrier or by an operator of a privately owned motor vehicle or  
72 other conveyance. However, this paragraph does not prohibit a  
73 consumer from taking the growler purchased by the consumer under  
74 this subsection from the licensed premises to another location  
75 by a privately owned motor vehicle or other conveyance.

76 (c) A manufacturer licensed as a vendor is responsible for  
77 applicable reports pursuant to ss. 561.50 and 561.55 with  
78 respect to the amount of malt beverages sold or given to  
79 consumers on the licensed premises each month and must pay the  
80 applicable excise taxes to the division by the 10th day of each  
81 month for the previous month.

82 (d) This subsection does not preclude a licensed  
83 manufacturer of malt beverages from also holding a permanent  
84 food service license at the licensed premises.

85 (e) This subsection is a limited exception to ss. 561.42  
86 and 561.22. Except as specifically provided in this subsection  
87 to permit a manufacturer of malt beverages to also be licensed  
88 as a vendor, a manufacturer of malt beverages is subject to the  
89 restrictions in ss. 561.42 and 561.22.

90 Section 3. Section 561.37, Florida Statutes, is amended to  
91 read:

92 561.37 Bond for payment of taxes.—Each manufacturer and  
93 each distributor shall file with the division a surety bond  
94 acceptable to the division in the sum of \$25,000 as surety for  
95 the payment of all taxes, provided, however, that when in the  
96 discretion of the division the amount of business done by the  
97 manufacturer or distributor is of such volume that a bond of



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98 less than \$25,000 will be adequate to secure the payment of all  
99 taxes assessed or authorized by the Beverage Law, the division  
100 may accept a bond in a lesser sum than \$25,000, but in no event  
101 shall it accept a bond of less than \$10,000, and it may at any  
102 time in its discretion require any bond in an amount less than  
103 \$25,000 to be increased so as not to exceed \$25,000; provided,  
104 however, that the amount of bond required for a brewer shall be  
105 \$5,000 ~~\$20,000~~, except that where, in the discretion of the  
106 division, the amount of business done by the brewer is of such  
107 volume that a bond of less than \$5,000 ~~\$20,000~~ will be adequate  
108 to secure the payment of all taxes assessed or authorized by the  
109 Beverage Law, the division may accept a bond in a lesser sum  
110 than \$5,000 ~~\$20,000~~, but in no event shall it accept a bond of  
111 less than \$2,500 ~~\$10,000~~, and it may at any time in its  
112 discretion require any bond in an amount less than \$5,000  
113 ~~\$20,000~~ to be increased so as not to exceed \$5,000 ~~\$20,000~~;  
114 provided further that the amount of the bond required for a wine  
115 or wine and cordial manufacturer shall be \$5,000, except that,  
116 in the case of a manufacturer engaged solely in the experimental  
117 manufacture of wines and cordials from Florida products, where  
118 in the discretion of the division the amount of business done by  
119 such manufacturer is of such volume that a bond of less than  
120 \$5,000 will be adequate to secure the payment of all taxes  
121 assessed or authorized by the Beverage Law, the division may  
122 accept a bond in a lesser sum than \$5,000, but in no event shall  
123 it accept a bond of less than \$1,000 and it may at any time in  
124 its discretion require a bond in an amount less than \$5,000 to  
125 be increased so as not to exceed \$5,000; provided, further, that  
126 the amount of bond required for a distributor who sells only



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127 beverages containing not more than 4.007 percent of alcohol by  
128 volume, in counties where the sale of intoxicating liquors,  
129 wines, and beers is prohibited, and to distributors who sell  
130 only beverages containing not more than 17.259 percent of  
131 alcohol by volume and wines regardless of alcoholic content, in  
132 counties where the sale of intoxicating liquors, wines, and  
133 beers is permitted, shall file with the division a surety bond  
134 acceptable to the division in the sum of \$25,000, as surety for  
135 the payment of all taxes; provided, however, that where in the  
136 discretion of the division the amount of business done by such  
137 distributor is of such volume that a bond of less than \$25,000  
138 will be adequate to secure the payment of all taxes assessed or  
139 authorized by the Beverage Law the division may accept a bond in  
140 a less sum than \$25,000 but in no event shall it accept a bond  
141 less than \$1,000 and it may at any time in its discretion  
142 require any bond in an amount less than \$25,000 to be increased  
143 so as not to exceed \$25,000; provided, further, that the amount  
144 of bond required for a distributor in a county having a  
145 population of 15,000 or less who procures a license by which his  
146 or her sales are restricted to distributors and vendors who have  
147 obtained licenses in the same county, shall be \$5,000.

148 Section 4. Subsection (1) of section 561.5101, Florida  
149 Statutes, is amended to read:

150 561.5101 Come-to-rest requirement; exceptions; penalties.-

151 (1) For purposes of inspection and tax-revenue control, all  
152 malt beverages, except those manufactured and sold pursuant to  
153 s. 561.221(2) or (3) ~~s. 561.221(3)~~, must come to rest at the  
154 licensed premises of an alcoholic beverage wholesaler in this  
155 state before being sold to a vendor by the wholesaler. The



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156 prohibition contained in this subsection does not apply to the  
157 shipment of malt beverages commonly known as private labels. The  
158 prohibition contained in this subsection does ~~shall~~ not prevent  
159 a manufacturer from shipping malt beverages for storage at a  
160 bonded warehouse facility if, ~~provided that~~ such malt beverages  
161 are distributed as provided in this subsection or to an out-of-  
162 state entity.

163 Section 5. Subsections (1) and (3) of section 562.34,  
164 Florida Statutes, are amended to read:

165 562.34 Containers; seizure and forfeiture.-

166 (1) A ~~It shall be unlawful for any person~~ may not ~~to~~ have  
167 in her or his possession, custody, or control any cans, jugs,  
168 jars, bottles, vessels, or any other type of containers that  
169 ~~which~~ are being used, are intended to be used, or are known by  
170 the possessor to have been used to bottle or package alcoholic  
171 beverages. ~~;~~ ~~however,~~ This subsection does ~~provision shall~~ not  
172 apply to a ~~any~~ person properly licensed to bottle or package  
173 such alcoholic beverages, a ~~or to any~~ person intending to  
174 dispose of such containers to a person, firm, or corporation  
175 properly licensed to bottle or package such alcoholic beverages,  
176 or a person that has in her or his possession a growler.

177 (3) A ~~It shall be unlawful for any person~~ may not ~~to~~  
178 transport any cans, jugs, jars, bottles, vessels, or any other  
179 type of containers intended to be used to bottle or package  
180 alcoholic beverages. ~~;~~ ~~however,~~ This subsection does ~~section~~  
181 ~~shall~~ not apply to a ~~any~~ firm or corporation holding a license  
182 to manufacture or distribute such alcoholic beverages, a ~~and~~  
183 ~~shall not apply to any person transporting such containers to a~~  
184 any person, firm, or corporation holding a license to



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185 manufacture or distribute such alcoholic beverages, or a person  
186 transporting a growler.

187 Section 6. Subsection (14) of section 563.022, Florida  
188 Statutes, is reenacted and amended to read:

189 563.022 Relations between beer distributors and  
190 manufacturers.—

191 (14) MANUFACTURER; PROHIBITED INTERESTS.—

192 (a) This subsection applies to:

193 1. A manufacturer;

194 2. An ~~Any~~ officer, director, agent, or employee of a  
195 manufacturer; or

196 3. An affiliate of a ~~any~~ manufacturer, regardless of  
197 whether the affiliation is corporate or by management,  
198 direction, or control.

199 (b) Except as provided in paragraph (c), an ~~no~~ entity or  
200 person specified in paragraph (a) may not have an interest in  
201 the license, business, assets, or corporate stock of a licensed  
202 distributor and may not ~~nor shall such entity~~ sell directly to a  
203 ~~any~~ vendor in this state other than a vendor ~~to vendors who are~~  
204 licensed pursuant to s. 561.221(2).

205 (c) An ~~Any~~ entity or person specified ~~described~~ in  
206 paragraph (a) may financially assist a proposed distributor in  
207 acquiring ownership of the distributorship through participation  
208 in a limited partnership arrangement in which the entity or  
209 person specified ~~described~~ in paragraph (a) is a limited partner  
210 and the proposed distributor seeking to acquire ownership of the  
211 distributorship is the general partner. Such a limited  
212 partnership arrangement ~~arrangements~~ may exist for up to ~~no~~  
213 ~~longer than~~ 8 years from its ~~their~~ creation and may ~~shall~~ not be





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214 extended or renewed by means of a transfer of full ownership to  
215 an entity or person specified ~~described~~ in paragraph (a)  
216 followed by the creation of a new limited partnership or by any  
217 other means. In any such arrangement for financial assistance,  
218 the federal basic permit and distributor's license issued by the  
219 division shall be issued in the name of the distributor and not  
220 in the name of an entity or person specified ~~described~~ in  
221 paragraph (a). If, after the creation of a limited partnership  
222 pursuant to this paragraph, an entity or person specified  
223 ~~described~~ in paragraph (a) acquires title to the distributorship  
224 that ~~which~~ was the subject of the limited partnership, the  
225 entity or person specified ~~described~~ in paragraph (a) shall  
226 divest itself of the distributorship within 180 days, and the  
227 distributorship shall be ineligible for limited partnership  
228 financing for 20 years thereafter. An ~~No~~ entity or person  
229 specified ~~described~~ in paragraph (a) may not ~~shall~~ enter into a  
230 limited partnership arrangement with a licensed distributor  
231 whose distributorship existed and was operated before ~~prior to~~  
232 the creation of such limited partnership arrangement.

233 (d) ~~Nothing in~~ The Beverage Law does not ~~shall be construed~~  
234 ~~to~~ prohibit a manufacturer from shipping products to or between  
235 its breweries without a distributor's license.

236 (e) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~  
237 entity or person specified ~~named~~ in paragraph (a) may have an  
238 interest in the license, business, assets, or corporate stock of  
239 a licensed distributor for a maximum of 180 consecutive days as  
240 the result of a judgment of foreclosure against the distributor  
241 or for 180 consecutive days after acquiring title pursuant to  
242 the written request of the licensed distributor. Under either of



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243 these circumstances, manufacturer ownership of an interest in  
244 the license, business, assets, or corporate stock of a licensed  
245 distributor may ~~shall~~ only be for 180 days and only for the  
246 purpose of facilitating an orderly transfer of the  
247 distributorship to an owner not affiliated with a manufacturer.

248 (f) Notwithstanding ~~the provisions of~~ paragraph (b), an ~~any~~  
249 entity or person specified ~~named~~ in paragraph (a) may have a  
250 security interest in the inventory or property of its licensed  
251 distributors to secure payment for that ~~said~~ inventory or other  
252 loans for other purposes.

253 Section 7. Subsection (6) of section 563.06, Florida  
254 Statutes, is amended to read:

255 563.06 Malt beverages; imprint on individual container;  
256 size of containers; growlers; exemptions.-

257 (6) All malt beverages packaged in individual containers  
258 sold or offered for sale by vendors at retail in this state,  
259 except for malt beverages sold in growlers pursuant to section  
260 563.061, must ~~shall~~ be in individual containers containing no  
261 more than 32 ounces of such malt beverages. ~~; provided, however,~~  
262 ~~that nothing contained in~~

263 Section 8. Section 563.061, Florida Statutes, is created to  
264 read:

265 563.061 Malt beverages; filling and refilling of growlers.-

266 (1) The filling or refilling of a growler is limited to:

267 (a) A manufacturer of malt beverages who holds a valid  
268 vendor's license pursuant to s. 561.221(2) if the growler is  
269 filled or refilled with malt beverages manufactured on the  
270 licensed premises for sale for off-premises consumption to  
271 consumers in a face-to-face transaction on the licensed



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272 premises; or

273 (b) A vendor holding a quota license under ss. 561.20(1)  
274 and 565.02(1)(a) with malt beverages authorized under that  
275 license for sale for off-premises consumption to consumers in a  
276 face-to-face transaction on the licensed premises;

277 (2) The growler must have an unbroken seal, or its contents  
278 must be incapable of being immediately consumed.

279 (3) The growler must be clearly labeled as containing an  
280 alcoholic beverage and provide the name of the manufacturer, the  
281 brand, the volume, the percentage of alcohol by volume, and the  
282 required federal health warning notice for alcoholic beverages.

283 If a growler being refilled has an existing label or other  
284 identifying mark of a manufacturer or brand from a prior filling  
285 or refilling, that label must be covered sufficiently to  
286 indicate the manufacturer and brand of the malt beverage being  
287 placed in the container at that refilling.

288 (4) The growler must be clean before being filled or  
289 refilled.

290 (5) A licensee authorized to fill and refill growlers may  
291 not use growlers for purposes of distribution or sale outside  
292 the manufacturer's or vendor's licensed premises, except as  
293 authorized under this subsection and s. 561.221(2).

294 Section 9. If any provision of this act or its application  
295 to any person or circumstance is held invalid, the invalidity  
296 does not affect other provisions or applications of the act  
297 which can be given effect without the invalid provision or  
298 application, and to this end the provisions of this act are  
299 severable.

300 Section 10. This act shall take effect July 1, 2014.



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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to malt beverages; amending s. 561.01, F.S.; defining the term "growler"; amending s. 561.221, F.S.; clarifying three-tier system exceptions and application with respect to the manufacture, distribution, and sale of malt beverages; revising requirements for licensure and operation of manufacturers and vendors; providing legislative intent; amending s. 561.37, F.S., to revise bond requirements for brewers; amending s. 561.5101, F.S.; adding an exception to the come-to-rest requirement; amending s. 562.34, F.S.; authorizing the possession and transportation of a growler; reenacting s. 563.022(14), F.S., relating to prohibited interests between a manufacturer and a distributor of malt beverages, to incorporate the amendments made to s. 561.221, F.S., in a reference thereto; amending s. 563.06, F.S.; revising provisions relating to the sale of malt beverages at retail in containers of specified sizes, to conform to changes made by the act; creating s. 563.061, F.S.; providing requirements for and limitations on the filling, refilling, and sale or distribution of growlers; providing penalties; providing severability; providing an effective date.



591936

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/28/2014	.	
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The Committee on Regulated Industries (Legg) recommended the following:

**Senate Amendment to Amendment (563586)**

Delete lines 65 - 75  
and insert:

(b) Notwithstanding s. 561.57(1), the delivery of a sealed container or growler containing a malt beverage off a licensed premises, whether by common or premises carrier or by an operator of a privately owned motor vehicle or other conveyance, is prohibited. In addition, a consumer or other person may not arrange for the delivery of a sealed container or growler



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11 containing a malt beverage off the licensed premises to the  
12 consumer, whether by common or premises carrier or by an  
13 operator of a privately owned motor vehicle or other conveyance.  
14 However, this paragraph does not prohibit a consumer from taking  
15 the sealed container or growler containing a malt beverage  
16 purchased by the consumer under this subsection from the  
17 licensed premises to another location by a privately owned motor  
18 vehicle or other conveyance.



458902

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/28/2014	.	
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The Committee on Regulated Industries (Stargel) recommended the following:

**Senate Amendment to Amendment (563586)**

Delete lines 90 - 91

and insert:

(3) ~~(a)~~ Notwithstanding s. 561.22, s. 561.42, or any other provision ~~Notwithstanding other provisions~~ of the Beverage Law, a ~~any~~ vendor licensed in this state may be licensed as a manufacturer of malt beverages if the vendor satisfies the requirements of this subsection. ~~upon a finding by the division that:~~



458902

11 (a) The division may issue a license if it finds that all  
12 of the following conditions are met:

13 1. The vendor will be engaged in brewing malt beverages at  
14 a single licensed premises location and in an amount that which  
15 will not exceed 10,000 kegs per year. As used in For purposes of  
16 this subparagraph subsection, the term "keg" means 15.5 gallons.

17 2. The malt beverages ~~so~~ brewed will be sold to consumers  
18 for consumption on the vendor's licensed premises or on  
19 contiguous licensed premises owned by the vendor.

20 3. The applicant holds a permanent food service license.

21 (b) A licensee may sell the following alcoholic beverages,  
22 which may be sold only in face-to-face transactions with  
23 consumers:

24 1. Malt beverages that are manufactured on the licensed  
25 premises for on-premises consumption.

26 2. Malt beverages that are manufactured by other  
27 manufacturers for on-premises consumption as authorized under  
28 its vendor's license.

29 3. Wine or liquor for on-premises consumption as authorized  
30 under its vendor's license.

31 (c) A licensee may not:

32 1. Ship malt beverages to or between licensed premises  
33 owned by the licensee. A licensee is not a manufacturer for the  
34 purposes of s. 563.022(14).

35 2. Distribute or sell malt beverages off the licensed  
36 premises.

37 (d) ~~(b)~~ A licensee is Any vendor which is also licensed as a  
38 manufacturer of malt beverages pursuant to this subsection shall  
39 be responsible for applicable reports pursuant to ss. 561.50 and





458902

40 561.55 with respect to the amount of beverage manufactured each  
41 month and must ~~shall~~ pay the applicable excise taxes ~~thereon~~ to  
42 the division by the 10th day of each month for the previous  
43 month.

44 ~~(e)(c)~~ A ~~It shall be unlawful for any~~ licensed distributor  
45 of malt beverages or an ~~any~~ officer, agent, or other  
46 representative thereof may not ~~to~~ discourage or prohibit a  
47 licensee ~~any vendor licensed as a manufacturer under this~~  
48 ~~subsection~~ from offering malt beverages brewed for consumption  
49 on the licensed premises of the vendor.

50 ~~(f)(d)~~ A ~~It shall be unlawful for any~~ manufacturer of malt  
51 beverages or an ~~any~~ officer, agent, or other representative  
52 thereof may not ~~to~~ take any action to discourage or prohibit a  
53 ~~any~~ distributor of the manufacturer's product from distributing  
54 such product to a licensee ~~licensed vendor which is also~~  
55 ~~licensed as a manufacturer of malt beverages pursuant to this~~  
56 ~~subsection.~~

57 (g) As used in this subsection, the term "licensee" means a  
58 vendor licensed as a manufacturer of malt beverages pursuant to  
59 this subsection.

60 (4) The Legislature intends that the provisions relating to  
61 the sale of malt beverages by a malt beverage manufacturer  
62 pursuant to subsection (2) and the operation of a licensed  
63 vendor pursuant to subsection (3) constitute limited exceptions  
64 to the manufacturing and vendor licensing requirements of the  
65 Beverage Law. Anything not specifically authorized in  
66 subsections (2) and (3) is prohibited unless otherwise  
67 authorized under the Beverage Law.

68 Section 3. Section 561.37, Florida Statutes, is amended to



458902

69 read:  
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471092

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/28/2014	.	
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The Committee on Regulated Industries (Sachs) recommended the following:

**Senate Amendment to Amendment (563586)**

Delete lines 272 - 276

and insert:

premises;

(b) A vendor holding a quota license under ss. 561.20(1) and 565.02(1)(a) with malt beverages authorized under that license for sale for off-premises consumption to consumers in a face-to-face transaction on the licensed premises; or

(c) A vendor holding a license under s. 563.02(1)(b)-(f),



471092

11 s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f) which authorizes  
12 consumption of malt beverages on the premises, unless such  
13 license restricts the consumption of malt beverages to the  
14 premises only.  
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286098

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2014	.	
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The Committee on Regulated Industries (Gibson) recommended the following:

1       **Senate Substitute for Amendment (563586) (with title**  
2 **amendment)**

3  
4       Delete everything after the enacting clause  
5 and insert:

6       Section 1. Section 561.221, Florida Statutes, is amended to  
7 read:

8       561.221 Retail exceptions to manufacturing licenses;  
9 brewing exceptions to vendor licenses ~~Licensing of manufacturers~~  
10 ~~and distributors as vendors and of vendors as manufacturers;~~



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11 conditions and limitations.-

12 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
13 other provision of the Beverage Law prohibits the ownership,  
14 management, operation, or control of not more than three  
15 vendor's licenses for the sale of alcoholic beverages by a  
16 manufacturer of wine who is licensed and engaged in the  
17 manufacture of wine in this state, even if such manufacturer is  
18 also licensed as a distributor; provided that no such vendor's  
19 license shall be owned, managed, operated, or controlled by any  
20 licensed manufacturer of wine unless the licensed premises of  
21 the vendor are situated on property contiguous to the  
22 manufacturing premises of the licensed manufacturer of wine.

23 (b) The Division of Alcoholic Beverages and Tobacco shall  
24 issue permits to a certified Florida Farm Winery to conduct  
25 tasting and sales of wine produced by certified Florida Farm  
26 Wineries at Florida fairs, trade shows, expositions, and  
27 festivals. The certified Florida Farm Winery shall pay all entry  
28 fees and shall have a winery representative present during the  
29 event. The permit is limited to the length of the event.

30 (2) A manufacturer of malt beverages which is licensed and  
31 engaged in the manufacture of malt beverages in this state may  
32 sell directly to consumers in face-to-face transactions, which,  
33 notwithstanding s. 561.57(1), requires the physical presence of  
34 the consumer to make payment for and take receipt of the  
35 beverages on the licensed manufacturing premises, if such  
36 manufacturer satisfies the requirements of paragraphs (a) or  
37 (b):

38 (a) At a taproom, a manufacturer may sell malt beverages  
39 brewed by the manufacturer to consumers for on-premises or off-



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40 premises consumption without obtaining a vendor's license. A  
41 manufacturer of malt beverages shall comply with the following  
42 requirements related to its taproom:

43 1. The taproom must be a room or rooms located on the  
44 licensed manufacturing premises consisting of a single complex,  
45 which must include a brewery. Such premises may be divided by a  
46 single public street or highway. The taproom shall be included  
47 on the sketch or diagram defining the licensed premises  
48 submitted with the manufacturer's license application pursuant  
49 to s. 561.01(11). All sketch or diagram revisions by the  
50 manufacturer must be approved by the division, verifying that  
51 the taproom operated by the licensed manufacturer is owned or  
52 leased by the manufacturer and is located on the licensed  
53 manufacturing premises.

54 2. At least 70 percent by volume of the malt beverages sold  
55 or given to consumers per calendar year in the taproom must be  
56 brewed on the licensed manufacturing premises. No more than 30  
57 percent by volume of the malt beverages sold or given to  
58 consumers per calendar year in the taproom may be brewed by the  
59 manufacturer at other manufacturing premises and shipped to the  
60 licensed manufacturing premises pursuant to s. 563.022(14)(d).

61 3. Malt beverages may be sold to consumers in the taproom  
62 for off-premises consumption in authorized containers pursuant  
63 to s. 563.06(6) and (7).

64 4. A manufacturer of malt beverages is responsible for  
65 applicable reports pursuant to ss. 561.50 and 561.55 with  
66 respect to the amount of malt beverage sold or given to  
67 consumers in the taproom each month and shall pay applicable  
68 excise taxes thereon to the division by the 10th day of each



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69 month for the previous month.

70 5. This paragraph does not preclude a licensed manufacturer  
71 of malt beverages which operates a taproom from holding a  
72 permanent public food service establishment license under  
73 chapter 509 for the taproom.

74 6. A manufacturer may not hold a vendor's license at a  
75 licensed manufacturing premises that operates a taproom pursuant  
76 to this paragraph.

77 (b) The division ~~may~~ ~~is authorized to~~ issue a vendor's  
78 license ~~licenses~~ to a manufacturer of malt beverages for each of  
79 up to two licensed manufacturing premises for which the  
80 manufacturer has an interest, directly or indirectly, in the  
81 license if the manufacturer meets the following requirements:

82 1. A licensed manufacturer may obtain a vendor's license  
83 for each of up to two of the licensed manufacturing premises for  
84 which the manufacturer has an interest, directly or indirectly,  
85 in the license. Any additional licensed manufacturing premises  
86 for which the manufacturer has an interest, directly or  
87 indirectly, in the license may operate a taproom without a  
88 vendor's license pursuant to paragraph (a).

89 2. The vendor's license shall be located on the licensed  
90 manufacturing premises consisting of a single complex, which  
91 must include a brewery. Such premises may be divided by a single  
92 public street or highway. The licensed vendor premises shall be  
93 included on the sketch or diagram defining the licensed premises  
94 submitted with the manufacturer's license application pursuant  
95 to s. 561.01(11). All sketch or diagram revisions by the  
96 manufacturer must be approved by the division to verify that the  
97 vendor premises operated by the licensed manufacturer is owned





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98 or leased by the manufacturer and is located on the licensed  
99 manufacturing premises.

100 3. The manufacturer may sell alcoholic beverages under its  
101 vendor's license as follows:

102 a. Malt beverages manufactured on the licensed  
103 manufacturing premises or at another licensed manufacturing  
104 premises for which the manufacturer has an interest, directly or  
105 indirectly, in the license for:

106 (I) On-premises consumption.

107 (II) Off-premises consumption in authorized containers  
108 pursuant to s. 563.06(6).

109 (III) Off-premises consumption in growlers pursuant to s.  
110 563.06(7).

111 b. Malt beverages manufactured exclusively by other  
112 manufacturers for:

113 (I) On-premises consumption.

114 (II) Off-premises consumption in authorized containers  
115 pursuant to s. 563.06(6).

116 (III) Off-premises consumption in growlers pursuant to s.  
117 563.06(7) by holders of a quota license.

118 c. Wine or liquor for on-premises or off-premises  
119 consumption as authorized under such vendor's license.

120 4. A manufacturer of malt beverages under this subsection  
121 is responsible for applicable reports required under ss. 561.50  
122 and 561.55 with respect to the amount of malt beverages  
123 manufactured and sold pursuant to its vendor's license or given  
124 to consumers each month, and shall pay applicable excise taxes  
125 thereon to the division by the 10th day of each month for the  
126 previous month.



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127       5. This paragraph does not preclude a licensed manufacturer  
128 of malt beverages with a vendor's license from holding a  
129 permanent public food service establishment license under  
130 chapter 509 for the licensed manufacturing premises.

131       6. An entity that has applied for a manufacturer's and  
132 vendor's license at more than two licensed manufacturing  
133 premises pursuant to this paragraph before March 15, 2014, or  
134 that has been issued a manufacturer's and vendor's license at  
135 more than two licensed manufacturing premises pursuant to this  
136 paragraph before July 1, 2014, may maintain the licenses  
137 previously obtained or received based on the application filed  
138 before March 15, 2014, but may not obtain or apply for  
139 additional vendor's licenses. However, except as to the  
140 allowance for manufacturers holding a vendor's license at more  
141 than two licensed manufacturing premises before July 1, 2014, a  
142 vendor's license held by a manufacturer of malt beverages  
143 pursuant to this paragraph, regardless of when the license was  
144 first obtained, is subject to the requirements of subparagraphs  
145 1.-5.

146       7. An entity with direct or indirect interests in vendor  
147 licenses issued to not more than two licensed manufacturing  
148 premises under this paragraph may not be related, directly or  
149 indirectly, to any other entities having interests, directly or  
150 indirectly, in other vendor licenses issued to other separate  
151 manufacturing premises. This subparagraph prohibits the creation  
152 of a chain of more than two vendor licensed manufacturing  
153 premises under common control of entities having direct or  
154 indirect interests in such vendor licensed manufacturing  
155 premises. This subparagraph does not prohibit the purchase or



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156 ownership of stock in a publicly traded corporation if the  
157 licensee does not have and does not obtain a controlling  
158 interest in the corporation. For entities lawfully operating  
159 with more than two licensed manufacturing premises with vendor  
160 licenses pursuant to subparagraph 6, the limit of two is  
161 replaced with the actual number of manufacturing premises with  
162 vendor licenses the entity operates, even if such manufacturer  
163 is also licensed as a distributor, for the sale of alcoholic  
164 beverages on property consisting of a single complex, which  
165 property shall include a brewery and such other structures which  
166 promote the brewery and the tourist industry of the state.  
167 However, such property may be divided by no more than one public  
168 street or highway.

169 (3) The division may issue a manufacturer's license and a  
170 vendor's license to a brewpub. To operate as a brewpub, the  
171 following requirements must be met:

172 (a) Notwithstanding other provisions of the Beverage Law,  
173 any vendor licensed in this state may be licensed as a  
174 manufacturer of malt beverages upon a finding by the division  
175 that:

176 1. The brewpub vendor must will be engaged in brewing malt  
177 beverages at a single licensed brewpub premises location and in  
178 an amount that does which will not exceed 10,000 kegs per  
179 calendar year. For purposes of this paragraph subsection, the  
180 term "keg" means 15.5 gallons.

181 (b) A brewpub may sell alcoholic beverages in a face-to-  
182 face transaction with a consumer as follows:

183 1. Malt beverages manufactured on the licensed brewpub  
184 premises for on-premises consumption.



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185 2. Malt beverages manufactured exclusively by other  
186 manufacturers for on-premises consumption as authorized under  
187 its vendor's license.

188 3. Any wine or liquor for on-premises consumption as  
189 authorized under its vendor's license.

190 (c) A brewpub may not ship malt beverages to or between  
191 licensed brewpub premises owned by the licensed entity. A  
192 brewpub is not a manufacturer for the purposes of s.  
193 563.022(14) (d).

194 (d) A brewpub may not distribute or sell malt beverages  
195 outside of the licensed brewpub premises.

196 (e) A brewpub must hold a permanent public food service  
197 establishment license under chapter 509.

198 ~~2. The malt beverages so brewed will be sold to consumers~~  
199 ~~for consumption on the vendor's licensed premises or on~~  
200 ~~contiguous licensed premises owned by the vendor.~~

201 ~~(f)(b) A brewpub is Any vendor which is also licensed as a~~  
202 ~~manufacturer of malt beverages pursuant to this subsection shall~~  
203 ~~be responsible for applicable reports pursuant to ss. 561.50 and~~  
204 ~~561.55 with respect to the amount of beverage manufactured each~~  
205 ~~month and shall pay applicable excise taxes thereon to the~~  
206 ~~division by the 10th day of each month for the previous month.~~

207 ~~(g)(c) A It shall be unlawful for any licensed distributor~~  
208 ~~of malt beverages or any officer, agent, or other representative~~  
209 ~~thereof may not to discourage or prohibit a brewpub any vendor~~  
210 ~~licensed as a manufacturer under this subsection from offering~~  
211 ~~malt beverages brewed for consumption on the licensed premises~~  
212 ~~of the brewpub vendor.~~

213 ~~(h)(d) A It shall be unlawful for any manufacturer of malt~~



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214 beverages or any officer, agent, or other representative thereof  
215 may not ~~to~~ take any action to discourage or prohibit a any  
216 distributor of the manufacturer's product from distributing such  
217 product to a brewpub ~~licensed vendor which is also licensed as a~~  
218 ~~manufacturer of malt beverages~~ pursuant to this subsection.

219 Section 2. Subsection (1) of section 561.5101, Florida  
220 Statutes, is amended to read:

221 561.5101 Come-to-rest requirement; exceptions; penalties.-

222 (1) For purposes of inspection and tax-revenue control, all  
223 malt beverages, except those manufactured and sold pursuant to  
224 s. 561.221(2) or (3) ~~561.221(3)~~, must come to rest at the  
225 licensed premises of an alcoholic beverage wholesaler in this  
226 state before being sold to a vendor by the wholesaler. The  
227 prohibition contained in this subsection does not apply to the  
228 shipment of malt beverages commonly known as private labels. The  
229 prohibition contained in this subsection shall not prevent a  
230 manufacturer from shipping malt beverages for storage at a  
231 bonded warehouse facility, provided that such malt beverages are  
232 distributed as provided in this subsection or to an out-of-state  
233 entity.

234 Section 3. Subsection (6) of section 561.57, Florida  
235 Statutes, is amended to read:

236 561.57 Deliveries by licensees.-

237 (6) Common carriers are not required to have vehicle  
238 permits to transport alcoholic beverages. Common carriers may  
239 not make deliveries of malt beverages directly to a consumer.

240 Section 4. Subsections (1) and (3) of section 562.34,  
241 Florida Statutes, are amended to read:

242 562.34 Containers; seizure and forfeiture.-



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243           (1) ~~A It shall be unlawful for any person~~ may not ~~to~~ have  
244 in her or his possession, custody, or control any cans, jugs,  
245 jars, bottles, vessels, or any other type of containers which  
246 are being used, are intended to be used, or are known by the  
247 possessor to have been used to bottle or package alcoholic  
248 beverages; however, this subsection does ~~provision shall~~ not  
249 apply to a any person properly licensed to bottle or package  
250 such alcoholic beverages, a ~~or to any~~ person intending to  
251 dispose of such containers to a person, firm, or corporation  
252 properly licensed to bottle or package such alcoholic beverages,  
253 or a person who has in her or his possession, custody, or  
254 control a growler as defined in s. 563.06(7).

255           (3) ~~A It shall be unlawful for any person~~ may not ~~to~~  
256 transport any cans, jugs, jars, bottles, vessels, or any other  
257 type of containers intended to be used to bottle or package  
258 alcoholic beverages; however, this subsection does ~~section shall~~  
259 not apply to a any firm or corporation holding a license to  
260 manufacture or distribute such alcoholic beverages, a ~~and shall~~  
261 ~~not apply to any~~ person transporting such containers to a any  
262 person, firm, or corporation holding a license to manufacture or  
263 distribute such alcoholic beverages, or a person transporting a  
264 growler as defined in s. 563.06(7).

265           Section 5. Section 563.06, Florida Statutes, is amended to  
266 read:

267           563.06 Malt beverages; imprint on individual container;  
268 size of containers; growlers; exemptions.—

269           (1) ~~On and after October 1, 1959,~~ All taxable malt  
270 beverages packaged in individual containers possessed by any  
271 person in the state for the purpose of sale or resale in the



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272 state, except operators of railroads, sleeping cars, steamships,  
273 buses, and airplanes engaged in interstate commerce and licensed  
274 under this section, shall have imprinted thereon in clearly  
275 legible fashion by any permanent method the word "Florida" or  
276 "FL" and no other state name or abbreviation of any state name  
277 in not less than 8-point type. The word "Florida" or "FL" shall  
278 appear first or last, if imprinted in conjunction with any  
279 manufacturer's code. A facsimile of the imprinting and its  
280 location as it will appear on the individual container shall be  
281 submitted to the division for approval.

282 (2) Nothing herein contained shall require such designation  
283 to be attached to individual containers of malt beverages which  
284 are transported through this state and which are not sold,  
285 delivered, or stored for sale therein, if transported in  
286 accordance with such rules and regulations as adopted by the  
287 division; nor shall this requirement apply to malt beverages  
288 packaged in individual containers and held on the premises of a  
289 brewer or bottler, which malt beverages are for sale and  
290 delivery to persons outside the state.

291 (3) Possession by any person in the state, except as  
292 otherwise provided herein, of more than 4 1/2 gallons of malt  
293 beverages in individual containers which do not have the word  
294 "Florida" or "FL" as herein provided, shall be prima facie  
295 evidence that said malt beverage is possessed for the purpose of  
296 sale or resale.

297 (4) Except as otherwise provided herein, any malt beverages  
298 in individual containers held or possessed in the state for the  
299 purpose of sale or resale within the state which do not bear the  
300 word "Florida" or "FL" thereon shall, at the direction of the



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301 division, be confiscated in accordance with the provisions of  
302 the Beverage Law.

303 (5) (a) Nothing contained in this section shall require that  
304 malt beverages packaged in individual containers and possessed  
305 by any person in the state for purposes of sale or resale in the  
306 state have imprinted thereon the word "Florida" or "FL" if the  
307 manufacturer of the malt beverages can establish before the  
308 division that the manufacturer has a tracking system in place,  
309 by use of code or otherwise, which enables the manufacturer,  
310 with at least 85 percent reliability by July 1, 1996, and 90  
311 percent reliability by January 1, 2000, to identify the  
312 following:

313 1. The place where individual containers of malt beverages  
314 were produced;

315 2. The state into which the individual containers of malt  
316 beverages were shipped; and

317 3. The individual distributors within the state which  
318 received the individual containers of malt beverages.

319 (b) Prior to shipping individual containers of malt  
320 beverages into the state which do not have the word "Florida" or  
321 "FL" imprinted thereon, the manufacturer must file an  
322 application with the division to claim the exemption contained  
323 herein and must obtain approval from the division to ship  
324 individual containers of malt beverages into the state which do  
325 not have the word "Florida" or "FL" imprinted thereon.  
326 Information furnished by the manufacturer to establish the  
327 criteria contained within paragraph (a) may be subject to an  
328 annual audit and verification by the division. The division may  
329 revoke an approved exemption if the manufacturer refuses to





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330 furnish the information required in paragraph (a) upon request  
331 of the division, or if the manufacturer fails to permit a  
332 subsequent verification audit, or if the manufacturer fails to  
333 fully cooperate with the division during the conducting of an  
334 audit.

335 (c) When a distributor has information that malt beverages  
336 may have been shipped into Florida on which payment of Florida  
337 excise taxes has not been made, such information may be provided  
338 to the division and the division shall investigate to ascertain  
339 whether any violations of Florida law have occurred.

340 (6) With the exception of growlers as defined in subsection  
341 (7), all malt beverages packaged in individual containers sold  
342 or offered for sale by vendors at retail in this state shall be  
343 in individual containers containing no more than 32 ounces of  
344 such malt beverages; ~~provided,~~ however, ~~that~~ nothing contained  
345 in this section shall affect malt beverages packaged in bulk, ~~or~~  
346 in kegs, or in barrels or in any individual container containing  
347 1 gallon or more of such malt beverage regardless of individual  
348 container type.

349 (7) (a) As used in the Beverage Law, the term "growler"  
350 means any container between 32 ounces and 128 ounces in size  
351 which was originally manufactured to hold malt beverages.

352 (b) A growler may be filled or refilled with:

353 1. A malt beverage manufactured by a manufacturer that  
354 holds a valid manufacturer's license and operates a taproom  
355 pursuant to s. 561.221(2) (a).

356 2. A malt beverage manufactured by a manufacturer that  
357 holds a valid manufacturer's license and a valid vendor's  
358 license pursuant to s. 561.221(2) (b).



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359       3. Malt beverages manufactured by any manufacturer, if the  
360 manufacturer filling the growler holds a valid manufacturer's  
361 license pursuant to s. 561.221(2)(b) and a valid quota license  
362 at that location pursuant to ss. 561.20(1) and 565.02(1)(a)-(f).

363       4. A malt beverage sold by a vendor who holds a valid quota  
364 license pursuant to ss. 561.20(1) and 565.02(1)(a)-(f).

365       (c) A growler must have an unbroken seal or be incapable of  
366 being immediately consumed.

367       (d) A growler must be clearly labeled as containing an  
368 alcoholic beverage and provide the name of the manufacturer, the  
369 brand, the volume, the percentage of alcohol by volume, and the  
370 required label information for alcoholic beverages under 27  
371 C.F.R. s. 16.21. If a growler being refilled has an existing  
372 label or other identifying mark from a manufacturer or brand,  
373 that label shall be covered sufficiently to indicate the  
374 manufacturer and brand of the malt beverage placed in the  
375 growler.

376       (e) A growler must be clean before being filled.

377       (f) A licensee authorized to fill growlers may not use  
378 growlers for purposes of distribution or sale outside the  
379 licensed manufacturing premises or licensed vendor premises.

380       ~~(8)-(7)~~ A Any person, firm, or corporation, or an agent,  
381 officer, or employee thereof, who violates, its agents, officers  
382 or employees, violating any of the provisions of this section  
383 commits, shall be guilty of a misdemeanor of the first degree,  
384 punishable as provided in s. 775.082 or s. 775.083, and the  
385 license, if any, shall be subject to revocation or suspension by  
386 the division.

387       Section 6. If a provision of s. 561.221(2), Florida



388 Statutes, as amended by this act, is held invalid, or if the  
389 application of that subsection to any person or circumstance is  
390 held invalid, the invalidity does not affect other provisions or  
391 applications of this act which can be given effect without the  
392 invalid provision or application, and to this end s. 561.221(2),  
393 Florida Statutes, is severable.

394 Section 7. This act shall take effect July 1, 2014.

395  
396 ===== T I T L E A M E N D M E N T =====

397 And the title is amended as follows:

398 Delete everything before the enacting clause  
399 and insert:

400 A bill to be entitled  
401 An act relating to malt beverages; amending s.  
402 561.221, F.S.; providing requirements for a licensed  
403 manufacturer of malt beverages to sell such beverages  
404 directly to consumers; providing requirements for a  
405 taproom; prohibiting a manufacturer from holding a  
406 vendor's license at specified premises; providing  
407 requirements for a licensed manufacturer to obtain a  
408 vendor's license; specifying the circumstances under  
409 which a manufacturer may sell alcoholic beverages  
410 under its vendor's license; requiring a manufacturer  
411 to complete certain reports; providing applicability;  
412 providing requirements for a brewpub to be licensed as  
413 a manufacturer or vendor; providing requirements that  
414 must be satisfied by a brewpub before selling  
415 alcoholic beverages to consumers; amending s.  
416 561.5101, F.S.; conforming a cross-reference; amending



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417 s. 561.57, F.S.; prohibiting common carriers from  
418 making deliveries of malt beverages to consumers;  
419 amending s. 562.34, F.S.; providing that possessing  
420 and transporting a growler is lawful; amending s.  
421 563.06, F.S.; defining the term "growler"; providing  
422 requirements for growlers; providing construction and  
423 severability; providing an effective date.



258644

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2014	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete lines 352 - 356

and insert:

premises;

2. A vendor holding a quota license under ss. 561.20(1) and 565.02(1)(a) with malt beverages authorized under that license for sale for off-premises consumption to consumers in a face-to-face transaction on the licensed premises; or

3. A vendor holding a license under s. 563.02(1)(b)-(f), s.



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11 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f) which authorizes  
12 consumption of malt beverages on the premises, unless such  
13 license restricts the consumption of malt beverages to the  
14 premises only.

FOR CONSIDERATION By the Committee on Regulated Industries

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1 A bill to be entitled  
 2 An act relating to malt beverages; amending s. 561.01,  
 3 F.S.; defining the term "growler"; amending s.  
 4 561.221, F.S.; clarifying three-tier system exceptions  
 5 and application with respect to the manufacture,  
 6 distribution, and sale of malt beverages; revising  
 7 requirements for licensure and operation of  
 8 manufacturers and vendors; providing legislative  
 9 intent; amending s. 561.5101, F.S.; adding an  
 10 exception to the come-to-rest requirement; amending s.  
 11 562.34, F.S.; authorizing the possession and  
 12 transportation of a growler; reenacting s.  
 13 563.022(14), F.S., relating to prohibited interests  
 14 between a manufacturer and a distributor of malt  
 15 beverages, to incorporate the amendments made to s.  
 16 561.221, F.S., in a reference thereto; amending s.  
 17 563.06, F.S.; revising provisions relating to the sale  
 18 of malt beverages at retail in containers of specified  
 19 sizes, to conform to changes made by the act;  
 20 providing requirements for and limitations on the  
 21 filling, refilling, and sale or distribution of  
 22 growlers; providing penalties; providing severability;  
 23 providing an effective date.

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

26  
 27 Section 1. Subsection (22) is added to section 561.01,  
 28 Florida Statutes, to read:  
 29 561.01 Definitions.—As used in the Beverage Law:

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

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30 (22) "Growler" means a clean container made of glass,  
 31 ceramic, metal, or similar leak-proof material having a capacity  
 32 of 32 ounces or 64 ounces which, in response to an order in a  
 33 face-to-face transaction for off-premises consumption, is filled  
 34 with a malt beverage and sealed on the premises at or  
 35 immediately before or after the time of sale.

36 Section 2. Section 561.221, Florida Statutes, is amended to  
 37 read:

38 561.221 Licensing of manufacturers and distributors as  
 39 vendors and of vendors as manufacturers; exceptions, conditions,  
 40 and limitations.—

41 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any  
 42 other provision of the Beverage Law prohibits the ownership,  
 43 management, operation, or control of not more than three  
 44 vendor's licenses for the sale of alcoholic beverages by a  
 45 manufacturer of wine who is licensed and engaged in the  
 46 manufacture of wine in this state, even if such manufacturer is  
 47 also licensed as a distributor; provided that no such vendor's  
 48 license shall be owned, managed, operated, or controlled by any  
 49 licensed manufacturer of wine unless the licensed premises of  
 50 the vendor are situated on property contiguous to the  
 51 manufacturing premises of the licensed manufacturer of wine.

52 (b) The Division of Alcoholic Beverages and Tobacco shall  
 53 issue permits to a certified Florida Farm Winery to conduct  
 54 tasting and sales of wine produced by certified Florida Farm  
 55 Wineries at Florida fairs, trade shows, expositions, and  
 56 festivals. The certified Florida Farm Winery shall pay all entry  
 57 fees and shall have a winery representative present during the  
 58 event. The permit is limited to the length of the event.

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59 (2) Notwithstanding s. 561.22, s. 561.42, or any other  
 60 provision of the Beverage Law, the division is authorized to  
 61 issue vendor's licenses to a manufacturer of malt beverages,  
 62 even if such manufacturer is also licensed as a distributor, for  
 63 the sale of alcoholic beverages on property consisting of a  
 64 single complex, which property shall include a brewery and such  
 65 other structures which promote the brewery and the tourist  
 66 industry of the state. However, such property may be divided by  
 67 no more than one public street or highway. A vendor's license  
 68 issued under this subsection is subject to the following  
 69 restrictions:

70 (a) Sales to consumers for off-premises consumption of malt  
 71 beverages that are brewed on the licensed premises are limited  
 72 to growlers only, subject to the requirements under s.  
 73 563.06(7). Such sales must be made directly to consumers in  
 74 face-to-face transactions. This paragraph does not prohibit the  
 75 sale of malt beverages that the manufacturer obtains from a  
 76 licensed distributor.

77 (b) Notwithstanding s. 561.57(1), the delivery of a growler  
 78 off a licensed premises, whether by common or premises carrier  
 79 or by an operator of a privately owned motor vehicle or other  
 80 conveyance, is prohibited. In addition, a consumer or other  
 81 person may not arrange for the delivery of any growler off the  
 82 licensed premises to the consumer, whether by common or premises  
 83 carrier or by an operator of a privately owned motor vehicle or  
 84 other conveyance. However, this paragraph does not prohibit a  
 85 consumer from taking the growler purchased by the consumer under  
 86 this subsection from the licensed premises to another location  
 87 by a privately owned motor vehicle or other conveyance.

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88 (c) A manufacturer licensed as a vendor is responsible for  
 89 applicable reports pursuant to ss. 561.50 and 561.55 with  
 90 respect to the amount of malt beverages sold or given to  
 91 consumers on the licensed premises each month and must pay the  
 92 applicable excise taxes to the division by the 10th day of each  
 93 month for the previous month.

94 (d) This subsection does not preclude a licensed  
 95 manufacturer of malt beverages from also holding a permanent  
 96 food service license at the licensed premises.

97 (3) ~~(a)~~ Notwithstanding s. 561.22, s. 561.42, or any other  
 98 provision ~~Notwithstanding other provisions of the Beverage Law,~~  
 99 a ~~any~~ vendor licensed in this state may be licensed as a  
 100 manufacturer of malt beverages ~~if the vendor satisfies the~~  
 101 requirements of this subsection. ~~upon a finding by the division~~  
 102 ~~that:~~

103 (a) The division may issue a license if it finds that all  
 104 of the following conditions are met:

105 1. The vendor will be engaged in brewing malt beverages at  
 106 a single ~~licensed premises location~~ and in an amount ~~that which~~  
 107 will not exceed 10,000 kegs per year. ~~As used in For purposes of~~  
 108 this ~~subparagraph subsection,~~ the term "keg" means 15.5 gallons.

109 2. The malt beverages ~~are~~ brewed will be sold to consumers  
 110 for consumption on the vendor's licensed premises or on  
 111 contiguous licensed premises owned by the vendor.

112 3. The applicant holds a permanent food service license.

113 (b) A licensee may sell the following alcoholic beverages,  
 114 which may be sold only in face-to-face transactions with  
 115 consumers:

116 1. Malt beverages that are manufactured on the licensed

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117 premises for on-premises consumption.

118 2. Malt beverages that are manufactured by other  
 119 manufacturers for on-premises consumption as authorized under  
 120 its vendor's license.

121 3. Wine or liquor for on-premises consumption as authorized  
 122 under its vendor's license.

123 (c) A licensee may not:

124 1. Ship malt beverages to or between licensed premises  
 125 owned by the licensee. A licensee is not a manufacturer for the  
 126 purposes of s. 563.022(14).

127 2. Distribute or sell malt beverages outside the licensed  
 128 premises.

129 (d) (b) A licensee is Any vendor which is also licensed as a  
 130 manufacturer of malt beverages pursuant to this subsection shall  
 131 be responsible for applicable reports pursuant to ss. 561.50 and  
 132 561.55 with respect to the amount of beverage manufactured each  
 133 month and must shall pay the applicable excise taxes thereon to  
 134 the division by the 10th day of each month for the previous  
 135 month.

136 (e) (e) A It shall be unlawful for any licensed distributor  
 137 of malt beverages or an any officer, agent, or other  
 138 representative thereof may not to discourage or prohibit a  
 139 licensee any vendor licensed as a manufacturer under this  
 140 subsection from offering malt beverages brewed for consumption  
 141 on the licensed premises of the vendor.

142 (f) (d) A It shall be unlawful for any manufacturer of malt  
 143 beverages or an any officer, agent, or other representative  
 144 thereof may not to take any action to discourage or prohibit a  
 145 any distributor of the manufacturer's product from distributing

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146 such product to a licensee licensed vendor which is also  
 147 licensed as a manufacturer of malt beverages pursuant to this  
 148 subsection.

149 (g) As used in this subsection, the term "licensee" means a  
 150 vendor licensed as a manufacturer of malt beverages pursuant to  
 151 this subsection.

152 (4) The Legislature intends that the provisions relating to  
 153 the sale of malt beverages by a malt beverage manufacturer  
 154 pursuant to subsection (2) and the operation of a licensed  
 155 vendor pursuant to subsection (3) constitute limited exceptions  
 156 to the manufacturing and vendor licensing requirements of the  
 157 Beverage Law. Anything not specifically authorized in  
 158 subsections (2) and (3) is prohibited unless otherwise  
 159 authorized under the Beverage Law.

160 Section 3. Subsection (1) of section 561.5101, Florida  
 161 Statutes, is amended to read:

162 561.5101 Come-to-rest requirement; exceptions; penalties.-

163 (1) For purposes of inspection and tax-revenue control, all  
 164 malt beverages, except those manufactured and sold pursuant to  
 165 s. 561.221(2) or (3) s. 561.221(3), must come to rest at the  
 166 licensed premises of an alcoholic beverage wholesaler in this  
 167 state before being sold to a vendor by the wholesaler. The  
 168 prohibition contained in this subsection does not apply to the  
 169 shipment of malt beverages commonly known as private labels. The  
 170 prohibition contained in this subsection does shall not prevent  
 171 a manufacturer from shipping malt beverages for storage at a  
 172 bonded warehouse facility if, provided that such malt beverages  
 173 are distributed as provided in this subsection or to an out-of-  
 174 state entity.

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175 Section 4. Subsections (1) and (3) of section 562.34,  
 176 Florida Statutes, are amended to read:  
 177 562.34 Containers; seizure and forfeiture.—  
 178 (1) ~~A~~ It shall be unlawful for any person may not ~~to~~ have  
 179 in her or his possession, custody, or control any cans, jugs,  
 180 jars, bottles, vessels, or any other type of containers that  
 181 ~~which~~ are being used, are intended to be used, or are known by  
 182 the possessor to have been used to bottle or package alcoholic  
 183 beverages. ~~however,~~ This subsection does ~~provision shall~~ not  
 184 apply to a ~~any~~ person properly licensed to bottle or package  
 185 such alcoholic beverages, ~~a~~ ~~or~~ ~~to~~ ~~any~~ person intending to  
 186 dispose of such containers to a person, firm, or corporation  
 187 properly licensed to bottle or package such alcoholic beverages,  
 188 or a person that has in her or his possession a growler.

189 (3) ~~A~~ It shall be unlawful for any person may not ~~to~~  
 190 transport any cans, jugs, jars, bottles, vessels, or any other  
 191 type of containers intended to be used to bottle or package  
 192 alcoholic beverages. ~~however,~~ This subsection does ~~section~~  
 193 ~~shall~~ not apply to a ~~any~~ firm or corporation holding a license  
 194 to manufacture or distribute such alcoholic beverages, a ~~and~~  
 195 ~~shall not apply to any~~ person transporting such containers to a  
 196 ~~any~~ person, firm, or corporation holding a license to  
 197 manufacture or distribute such alcoholic beverages, or a person  
 198 transporting a growler.

199 Section 5. Subsection (14) of section 563.022, Florida  
 200 Statutes, is reenacted and amended to read:  
 201 563.022 Relations between beer distributors and  
 202 manufacturers.—  
 203 (14) MANUFACTURER; PROHIBITED INTERESTS.—

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204 (a) This subsection applies to:  
 205 1. A manufacturer;  
 206 2. ~~An~~ Any officer, director, agent, or employee of a  
 207 manufacturer; or  
 208 3. An affiliate of ~~a~~ any manufacturer, regardless of  
 209 whether the affiliation is corporate or by management,  
 210 direction, or control.

211 (b) Except as provided in paragraph (c), ~~an~~ no entity or  
 212 person specified in paragraph (a) may not have an interest in  
 213 the license, business, assets, or corporate stock of a licensed  
 214 distributor and may not ~~nor shall such entity~~ sell directly to a  
 215 ~~any~~ vendor in this state other than a vendor ~~to vendors who are~~  
 216 licensed pursuant to s. 561.221(2).

217 (c) ~~An~~ Any entity or person specified ~~described~~ in  
 218 paragraph (a) may financially assist a proposed distributor in  
 219 acquiring ownership of the distributorship through participation  
 220 in a limited partnership arrangement in which the entity or  
 221 person specified ~~described~~ in paragraph (a) is a limited partner  
 222 and the proposed distributor seeking to acquire ownership of the  
 223 distributorship is the general partner. Such a limited  
 224 partnership arrangement ~~arrangements~~ may exist for up to ~~no~~  
 225 ~~longer than~~ 8 years from its ~~their~~ creation and may ~~shall~~ not be  
 226 extended or renewed by means of a transfer of full ownership to  
 227 an entity or person specified ~~described~~ in paragraph (a)  
 228 followed by the creation of a new limited partnership or by any  
 229 other means. In any such arrangement for financial assistance,  
 230 the federal basic permit and distributor's license issued by the  
 231 division shall be issued in the name of the distributor and not  
 232 in the name of an entity or person specified ~~described~~ in

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233 paragraph (a). If, after the creation of a limited partnership  
 234 pursuant to this paragraph, an entity or person specified  
 235 ~~described~~ in paragraph (a) acquires title to the distributorship  
 236 ~~that which~~ was the subject of the limited partnership, the  
 237 entity or person specified ~~described~~ in paragraph (a) shall  
 238 divest itself of the distributorship within 180 days, and the  
 239 distributorship shall be ineligible for limited partnership  
 240 financing for 20 years thereafter. ~~An~~ entity or person  
 241 specified ~~described~~ in paragraph (a) may not ~~shall~~ enter into a  
 242 limited partnership arrangement with a licensed distributor  
 243 whose distributorship existed and was operated before ~~prior to~~  
 244 the creation of such limited partnership arrangement.

245 (d) ~~Nothing in The Beverage Law does not shall be construed~~  
 246 ~~to~~ prohibit a manufacturer from shipping products to or between  
 247 its breweries without a distributor's license.

248 (e) Notwithstanding ~~the provisions of~~ paragraph (b), an any  
 249 entity or person specified ~~named~~ in paragraph (a) may have an  
 250 interest in the license, business, assets, or corporate stock of  
 251 a licensed distributor for a maximum of 180 consecutive days as  
 252 the result of a judgment of foreclosure against the distributor  
 253 or for 180 consecutive days after acquiring title pursuant to  
 254 the written request of the licensed distributor. Under either of  
 255 these circumstances, manufacturer ownership of an interest in  
 256 the license, business, assets, or corporate stock of a licensed  
 257 distributor may ~~shall~~ only be for 180 days and only for the  
 258 purpose of facilitating an orderly transfer of the  
 259 distributorship to an owner not affiliated with a manufacturer.

260 (f) Notwithstanding ~~the provisions of~~ paragraph (b), an any  
 261 entity or person specified ~~named~~ in paragraph (a) may have a

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262 security interest in the inventory or property of its licensed  
 263 distributors to secure payment for that ~~said~~ inventory or other  
 264 loans for other purposes.

265 Section 6. Section 563.06, Florida Statutes, is amended to  
 266 read:

267 563.06 Malt beverages; imprint on individual container;  
 268 size of containers; growlers; exemptions.-

269 (1) ~~On and after October 1, 1959,~~ All taxable malt  
 270 beverages packaged in individual containers possessed by a any  
 271 person in the state for the purpose of sale or resale in the  
 272 state, except operators of railroads, sleeping cars, steamships,  
 273 buses, and airplanes engaged in interstate commerce and licensed  
 274 under this section, must ~~shall~~ have imprinted thereon in clearly  
 275 legible fashion by any permanent method the word "Florida" or  
 276 "FL" and no other state name or abbreviation of any state name  
 277 in not less than 8-point type. The word "Florida" or "FL" shall  
 278 appear first or last, if imprinted in conjunction with any  
 279 manufacturer's code. A facsimile of the imprinting and its  
 280 location as it will appear on the individual container must  
 281 ~~shall~~ be submitted to the division for approval.

282 (2) Nothing herein contained shall require such designation  
 283 to be attached to individual containers of malt beverages which  
 284 are transported through this state and which are not sold,  
 285 delivered, or stored for sale therein, if transported in  
 286 accordance with such rules and regulations as adopted by the  
 287 division; nor shall this requirement apply to malt beverages  
 288 packaged in individual containers and held on the premises of a  
 289 brewer or bottler, which malt beverages are for sale and  
 290 delivery to persons outside the state.

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291 (3) Possession by any person in the state, except as  
 292 otherwise provided herein, of more than 4 1/2 gallons of malt  
 293 beverages in individual containers which do not have the word  
 294 "Florida" or "FL" as herein provided, shall be prima facie  
 295 evidence that said malt beverage is possessed for the purpose of  
 296 sale or resale.

297 (4) Except as otherwise provided herein, any malt beverages  
 298 in individual containers held or possessed in the state for the  
 299 purpose of sale or resale within the state which do not bear the  
 300 word "Florida" or "FL" thereon shall, at the direction of the  
 301 division, be confiscated in accordance with the provisions of  
 302 the Beverage Law.

303 (5) (a) Nothing contained in this section shall require that  
 304 malt beverages packaged in individual containers and possessed  
 305 by any person in the state for purposes of sale or resale in the  
 306 state have imprinted thereon the word "Florida" or "FL" if the  
 307 manufacturer of the malt beverages can establish before the  
 308 division that the manufacturer has a tracking system in place,  
 309 by use of code or otherwise, which enables the manufacturer,  
 310 with at least 85 percent reliability by July 1, 1996, and 90  
 311 percent reliability by January 1, 2000, to identify the  
 312 following:

313 1. The place where individual containers of malt beverages  
 314 were produced;

315 2. The state into which the individual containers of malt  
 316 beverages were shipped; and

317 3. The individual distributors within the state which  
 318 received the individual containers of malt beverages.

319 (b) ~~Before~~ ~~Prior to~~ shipping individual containers of malt

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320 beverages into the state which do not have the word "Florida" or  
 321 "FL" imprinted thereon, the manufacturer must file an  
 322 application with the division to claim the exemption contained  
 323 herein and must obtain approval from the division to ship  
 324 individual containers of malt beverages into the state which do  
 325 not have the word "Florida" or "FL" imprinted thereon.  
 326 Information furnished by the manufacturer to establish the  
 327 criteria contained within paragraph (a) may be subject to an  
 328 annual audit and verification by the division. The division may  
 329 revoke an approved exemption if the manufacturer refuses to  
 330 furnish the information required in paragraph (a) upon request  
 331 of the division, or if the manufacturer fails to permit a  
 332 subsequent verification audit, or if the manufacturer fails to  
 333 fully cooperate with the division during the conducting of an  
 334 audit.

335 (c) When a distributor has information that malt beverages  
 336 may have been shipped into Florida on which payment of Florida  
 337 excise taxes has not been made, such information may be provided  
 338 to the division and the division shall investigate to ascertain  
 339 whether any violations of Florida law have occurred.

340 (6) All malt beverages packaged in individual containers  
 341 sold or offered for sale by vendors at retail in this state,  
 342 except for malt beverages sold in growlers pursuant to  
 343 subsection (7), must ~~shall~~ be in individual containers  
 344 containing no more than 32 ounces of such malt beverages,  
 345 ~~provided, however, that nothing contained in~~

346 (7) (a) The filling or refilling of a growler is limited to:

347 1. A manufacturer of malt beverages who holds a valid  
 348 vendor's license pursuant to s. 561.221(2) if the growler is

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349 filled or refilled with malt beverages manufactured on the  
 350 licensed premises for sale for off-premises consumption to  
 351 consumers in a face-to-face transaction on the licensed  
 352 premises; or

353 2. A vendor holding a quota license under ss. 561.20(1) and  
 354 565.02(1)(a) with malt beverages authorized under that license  
 355 for sale for off-premises consumption to consumers in a face-to-  
 356 face transaction on the licensed premises.

357 (b) The growler must have an unbroken seal, or its contents  
 358 must be incapable of being immediately consumed.

359 (c) The growler must be clearly labeled as containing an  
 360 alcoholic beverage and provide the name of the manufacturer, the  
 361 brand, the volume, the percentage of alcohol by volume, and the  
 362 required federal health warning notice for alcoholic beverages.  
 363 If a growler being refilled has an existing label or other  
 364 identifying mark of a manufacturer or brand from a prior filling  
 365 or refilling, that label must be covered sufficiently to  
 366 indicate the manufacturer and brand of the malt beverage being  
 367 placed in the container at that refilling.

368 (d) The growler must be clean before being filled or  
 369 refilled.

370 (e) A licensee authorized to fill and refill growlers may  
 371 not use growlers for purposes of distribution or sale outside  
 372 the manufacturer's or vendor's licensed premises, except as  
 373 authorized under this subsection and s. 561.221(2).

374 (8) This section does not shall affect malt beverages  
 375 packaged in bulk, ~~or~~ in kegs or ~~in~~ barrels, or in any individual  
 376 container containing 1 gallon or more of such malt beverage  
 377 regardless of individual container type.

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378 (9)(7) Any person, firm, or corporation, or any of its  
 379 agents, officers or employees, which violates ~~violating any of~~  
 380 the provisions of this section commits, ~~shall be guilty of a~~  
 381 misdemeanor of the first degree, punishable as provided in s.  
 382 775.082 or s. 775.083; and the license, if any, ~~is shall be~~  
 383 subject to revocation or suspension by the division.

384 Section 7. If any provision of this act or its application  
 385 to any person or circumstance is held invalid, the invalidity  
 386 does not affect other provisions or applications of the act  
 387 which can be given effect without the invalid provision or  
 388 application, and to this end the provisions of this act are  
 389 severable.

390 Section 8. 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)

3/26/14  
Meeting Date

Topic Malt Beverages Bill Number 7120  
Name Ron Pierce Amendment Barcode \_\_\_\_\_  
Job Title President, RSA Consulting Group LLC (if applicable)  
Address 235 W. Brandon Blvd. Ste 10 Brandon Phone 813-777-5578  
FL 33511 E-mail ron@rsaconsultingllc.com  
City State Zip

Speaking:  For  Against  Information

Representing Pepin Distributing

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)

3/26/14  
Meeting Date

Topic Brewery Regulation Bill Number 7120  
Name BEN DAVIS Amendment Barcode 563586  
Job Title FOUNDER (if applicable)  
Address 720 King St. Phone 904 710 8911  
JAX FL 32204 E-mail ben@intuitionale.com  
City State Zip (if applicable)

Speaking:  For  Against  Information

Representing Intuition ALE Works

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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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)

March 26, 2014  
Meeting Date

Topic Beer

Bill Number 7120  
(if applicable)

Name Josh Aubuchon

Amendment Barcode 563 586  
(if applicable)

Job Title Executive Director

Address 315 S. Calhoun

Phone \_\_\_\_\_

Street

Tallahassee

City

FL

State

32301

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Florida Brewers Guild

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)

3/26/14

Meeting Date

Topic Beer

Bill Number SB 7120

Name Craig Birkmaier

Amendment Barcode 563586  
(if applicable)

Job Title Brewer

Address 3140 SW 42nd Way

Phone 352-258-2543

Street

Gainesville FL 32608

City

State

Zip

E-mail craig@swamphead.com

Speaking:  For  Against  Information

Representing Swamp Head Brewing / Florida Brewers Guild

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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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)

3/26/14

Meeting Date

Topic BEER

Bill Number 7128 (if applicable)

Name BYRON BURZOGUS

Amendment Barcode 563586 (if applicable)

Job Title OWNER PIRATE BREWING Co

Address 1717 W TENNESSEE ST

Phone 850-443-6257

Street

TALAMASSEE FL 32304

City

State

Zip

E-mail BYRON@PIRATE BREWING Co. com

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

Representing PIRATE BREWING Co

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)

03-26-14

Meeting Date

Topic CRAFT Breweries / Guedlus

Bill Number 7120

Name Scott Dick

Amendment Barcode 563586  
(if applicable)

Job Title lobbyst

Address 210 S. Monroe St.

Phone 850 421-9100

Tallahassee FL 32301  
City State Zip

E-mail Scott@SKDCraft.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  
**APPEARANCE RECORD**

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

March 26, 2014  
Meeting Date

Topic SB PCB 7120 Malt Bev

Bill Number 7120

Name Mitchell Rubin

Amendment Barcode 563586  
(if applicable)  
AS  
(if applicable)

Job Title Executive Director

Address 215 S. Monroe St. #348

Phone 950-224-2337

Tallahassee, FL 32301  
Street City State Zip

E-mail MRubin2505@aol.com

Speaking:  For  Against  Information

Representing Florida Beer Wholesalers Assn

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).

3/26

Meeting Date

Topic Beer

Bill Number SPB 7120

Name Eric Criss

Amendment Barcode 458902 <sup>(if applicable)</sup> 563586 <sup>(if applicable)</sup> 591936

Job Title President

Address 110 S. Monroe St.

Phone 850-491-3903

Street

Tallahassee FL 32301

City

State

Zip

E-mail eric@floridabeer.org

Speaking:  For  Against  Information

Representing Beer Industry of FL

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: 3/26/2014 1:36:18 PM

Ends: 3/26/2014 3:02:53 PM

Length: 01:26:36

1:36:31 PM Meeting called to order  
1:36:35 PM Roll call  
1:36:56 PM SB 1466 - Senator Lee  
1:37:31 PM Senator Lee to explain the amendment #659808  
1:40:16 PM Senator Detert questioning  
1:40:40 PM Senator Lee responding  
1:41:49 PM Senator Sachs questioning  
1:43:17 PM Senator Gibson questioning  
1:45:19 PM Senator Galvano questioning  
1:47:21 PM Mark Anderson, CEOMC  
1:49:41 PM Andrew Furtin, Associa  
1:51:15 PM Pete Dunbar, Real Property, Probate & Trust Law Section  
1:55:16 PM Dominick Scannavino, CEOMC, CONA, CAT-Fla  
1:57:14 PM David Felice, Terra Management Services Inc. & CEOMC  
2:02:37 PM Travis Moore, FirstService Residential  
2:03:12 PM Tony Kalliche, FirstService Residential  
2:05:47 PM Amendment adopted  
2:06:02 PM Senator Sachs commenting  
2:07:50 PM Senator Galvano commenting  
2:08:16 PM Senator Braynon commenting  
2:08:50 PM Senator Legg moves a CS  
2:09:20 PM Senator Lee commenting and closing on CSSB 1466  
2:11:41 PM CSSB 1466 - Passes  
2:12:03 PM CSSB 172 - Senator Soto  
2:13:04 PM Senator Soto to explain the bill  
2:15:29 PM Senator Soto to explain amendment #631106  
2:15:37 PM Amendment adopted  
2:15:56 PM Bruce Kershner, NACM  
2:18:04 PM Deborah Lawson, NACM  
2:20:29 PM Jason Unger, National Notary Association  
2:22:12 PM Senator Thrasher questioning  
2:22:25 PM Mr. Unger responding  
2:22:49 PM Senator Sachs questioning  
2:24:10 PM Senator Braynon moves a CS for CSSB 172  
2:24:22 PM Senator Flores commenting  
2:25:05 PM Senator Legg commenting  
2:25:27 PM Senator Sobel commenting  
2:25:51 PM Senator Sachs commenting  
2:26:43 PM Senator Soto to close on the bill  
2:29:03 PM CSCSSB 172 - Passes  
2:29:30 PM Senator Braynon takes the chair  
2:29:55 PM SPB 7120 by Regulated Industries  
2:30:29 PM Senator Stargel to explain the amendment #563586 and the bill  
2:31:34 PM Amendent to the Amendment #591936 - Senator Legg  
2:32:03 PM Amendment adopted  
2:32:22 PM Amendment Senator Stargel to explain  
2:32:45 PM Amendment # 458902 passes  
2:33:16 PM Amendment #471092 - Senator Sachs  
2:33:49 PM Amendment adopted  
2:34:18 PM Senator Gibson Amendment #286098  
2:37:10 PM Amendment withdrawn  
2:37:30 PM Amendment as Amended adopted

**2:38:29 PM** Bryan Buriruous, Proof Brewing Company  
**2:40:06 PM** Senator Braynon questioning  
**2:40:46 PM** Craig Birknaier, Swamp Head Brewery/ Florida Brewers Guild  
**2:46:19 PM** Josh Aubuchon, Florida Brewers Guild  
**2:51:54 PM** Senator Sachs commenting  
**2:53:08 PM** Senator Stargel commenting  
**2:54:05 PM** Mr. Aubuchon responding  
**2:58:13 PM** Ben Davis, Intuition Ale Works  
**3:00:07 PM** Senator Gibson commenting  
**3:01:01 PM** Amendment as Amended - Senator Stargel commenting  
**3:01:26 PM** Amendment Passes  
**3:01:54 PM** Senator Stargel moves a CS  
**3:02:15 PM** SPB 7120 submitted as a committee bill  
**3:02:36 PM** Senator Stargel commenting  
**3:02:44 PM** Meeting adjourned