

Tab 3	SB 512 by Burgess; (Identical to H 00325) Vacation Rentals					
Tab 4	SB 994 by Diaz (CO-INTRODUCERS) Powell, Jones; (Similar to H 00849) Pet Protection					
732580	A	S	RI, Diaz	Delete L.361 - 375:		01/07 01:54 PM
Tab 5	SB 996 by Diaz; (Compare to H 00849) Fees/Pet Store License					
660938	A	S	RI, Diaz	Delete L.17 - 18:		01/07 01:55 PM
Tab 6	SB 1024 by Bradley; (Identical to H 00741) Net Metering					
611262	A	S	RI, Hutson	Before L.18:		01/10 01:42 PM
Tab 7	SB 352 by Hooper; (Similar to H 00263) Construction Liens					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, January 11, 2022
TIME: 4:00—6:00 p.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Hutson, Chair; Senator Book, Vice Chair; Senators Albritton, Gruters, Hooper, Passidomo, Rodrigues, Rouson, and Stewart

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.

Florida Public Service Commission

1	Fay, Andrew (Tallahassee)	01/01/2026	
2	Graham, Art (Tallahassee)	01/01/2026	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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3	SB 512 Burgess (Identical H 325, Compare S 286)	Vacation Rentals; Requiring advertising platforms to collect and remit taxes for certain transactions; revising the regulated activities of public lodging establishments and public food service establishments preempted to the state to include licensing; expanding the authority of local laws, ordinances, or regulations to include requiring vacation rentals to register with local vacation rental registration programs; authorizing local governments to adopt vacation rental registration programs and impose fines for failure to register; requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements and attest to certain information, etc.	
		RI 01/11/2022 CA RC	

4	SB 994 Diaz (Similar H 849, Linked S 996)	Pet Protection; Creating the "Florida Pet Protection Act"; requiring the licensure of retail pet stores; limiting the sources from which retail pet stores may acquire household pets for specified purposes; requiring the Department of Business and Professional Regulation to conduct periodic inspections of retail pet stores and to audit sales records; requiring the department to deny a retail pet store license under certain circumstances; prohibiting county and municipal ordinances and regulations from prohibiting or regulating the breeding, purchase, or sale of certain working dogs, etc.	
		RI 01/11/2022 CA AP	

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, January 11, 2022, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 996 Diaz (Compare H 849, Linked S 994)	Fees/Pet Store License; Requiring an initial or renewal pet store license application to be accompanied by a specified nonrefundable license fee per licensed location, etc. RI 01/11/2022 CA AP	
6	SB 1024 Bradley (Identical H 741)	Net Metering; Revising and providing legislative findings relating to the redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers; requiring the Public Service Commission to propose new net metering rules that comply with specified criteria by a certain date; authorizing certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time, etc. RI 01/11/2022 CA RC	
7	SB 352 Hooper (Similar H 263)	Construction Liens; Revising the threshold for determining whether certain direct contracts to repair or replace an existing heating or air-conditioning system are exempt from specified notice of commencement and applicability of lien requirements for authorities issuing building permits, etc. CA 11/03/2021 Favorable RI 01/11/2022 RC	

Other Related Meeting Documents

2020

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Andrew Fay

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the First day of January, A.D., 2022,
until the First day of January, A.D., 2026 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Eighth day of October, A.D., 2021.*



Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida" appears in small letters across the face of this 8 1/2 x 11" document



RON DESANTIS
GOVERNOR

RECEIVED

2021 OCT -8 AM 10:30

DIVISION - ELECTIONS
TALLAHASSEE, FL

September 8, 2021

Secretary Laurel M. Lee
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 350.01, Florida Statutes:

Mr. Andrew Fay
1125 Waverly Road
Tallahassee, Florida 32312

as a member of the Florida Public Service Commission. This appointment is effective January 1, 2022, for a term ending January 1, 2026.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/kk

OATH OF OFFICE RECEIVED
(Art. II, § 5(b), Fla. Const.)

2021 OCT 26 PM 2:34

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of LEON

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Public Service Commissioner
(Title of Office)

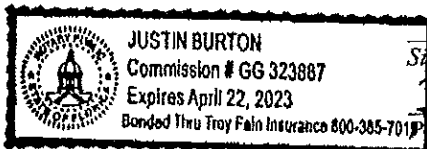
on which I am now about to enter, so help me God.

HAND DELIVERED

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me by means of physical presence or
online notarization, this 22 day of OCTOBER, 2021.



[Signature]
Signature of Officer Administering Oath or of Notary Public

JUSTIN BURTON
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

2540 Shumard Oaks
Street or Post Office Box

Tallahassee, FL, 32399
City, State, Zip Code

Andrew Fay
Print Name

[Signature]
Signature



Questionnaire for Senate Confirmation

126 900

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

10/20/2021

Date Completed

1. Name: Mr. Fay Andrew Giles
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 2540 Shumard Oak Blvd. Tallahassee
Street Office # City
FL 32311 850 - 413 - 6046
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 1125 Waverly Rd. Tallahassee Leon
Street City County
Florida 32312
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
1125 Waverly Road	Tallahassee, FL	September 2017 to Present	
312 East Georgia St.	Tallahassee, FL	October 2013 to September 2017	

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
N/A			

5. Date of Birth: _____ Place of Birth: Tampa

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

RECEIVED
DEPARTMENT OF STATE
DIVISION OF ELECTIONS
2021 OCT 26 PM 2:59

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1983

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: LEON B. Current Party Affiliation: Republican

12. Education

A. High School: H.B. Plant High School 2415 S. Himes Ave. Tampa, FL 33629 Year Graduated: 2002
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Florida State University & Tallahassee, FL</u>	<u>July 2002 to May 2006</u>	<u>B.S.</u>
<u>Florida State University College of Law & Tallahassee, FL</u>	<u>August 2007 to May 2010</u>	<u>J.D.</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
<u>During 2000</u>	<u>Tampa, FL</u>	<u>Trespassing as a Minor</u>	<u>Diversionary Program</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Public Service Commission 2540 Shumard Oak Blvd. Tallahassee FL</u>	<u>Government</u>	<u>Commissioner</u>	<u>2018 - Present</u>
<u>Attorney General's Office & PL 01 The Capitol Tallahassee, FL</u>	<u>Government</u>	<u>Special Counsel</u>	<u>November 2014 - 2018</u>
<u>Pam Bondi for Attorney General & 2907 W. Bay to Bay Blvd. Tamp, FL</u>	<u>Campaign</u>	<u>Director of Policy and Statewide Operations</u>	<u>July 2014 to November 2014</u>
<u>Attorney General's Office & PL 01 The Capitol Tallahassee, FL</u>	<u>Government</u>	<u>Assistant Attorney General</u>	<u>Jan 2011 to June 2014</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Commissioner</u>	<u>Florida Public Service Commission</u>	<u>2018 - Present</u>
<u>Special Counsel</u>	<u>Attorney General's Office</u>	<u>November 2014 - 2018</u>
<u>Assistant Attorney General</u>	<u>Attorney General's Office</u>	<u>January 2011 to June 2014</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

See Attachment A

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

Juris Doctorate Degree from Florida State University College of Law

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

Florida Trend "Legal Elite Government and Non-Profit Attorneys" for 2016 & 2017

Florida Government Bar Association's "2016 Government Lawyer of the Year"

Named by Public Utilities Fortnightly as an "Under Forty Rising Star"

D. Identify all association memberships and association offices held by you that relate to this appointment:

Member of the National Association of State Energy Officials' Cybersecurity Advisory Team for State Solar

Member of the Defense Critical Electrical Infrastructure Advisory Council

Member of the Federal Telecommunication Relay Service Advisory Council

Member of the National Association of Regulatory Utility Commissioners(NARUC) Critical Infrastructure Committee

Member of the NARUC Education and Research Subcommittee

Member of the NARUC Regulatory and Industry Diversity Subcommittee

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

N/A

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
Public Service Commission	Appointed in 2018	Four Year Term	State

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: At least once a month

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>I have never missed a scheduled Commission meeting</u>		

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
<u>N/A</u>		

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: Public Service Commissioner

B. Term of Appointment: 4 Year Term

C. Confirmation results: Confirmed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>85875</u>	<u>10/01/2010</u>	<u>The Florida Bar</u>	<u>None</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Florida Legislature	Attorney General's Office

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Carlos Muniz			
Kim Kirtley			
Nicholas Abrahams			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Leadership Florida	215 S. Monroe St.	Member	October 2014 to present
Epilepsy Florida	105 E Gregory St Suite C Pensacola FL	Member	August 2018 to Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

Senate Confirmation Questionnaire

Please mail to: Room316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.
Please type or use blue ink.

1. Board of Interest: Public Service Commission

2. Current Employer and Occupation: Attorney General's Office

3. Are you applying for reappointment: Yes No

4. *Do you have a disability? Yes No If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

5. *Sex: Male Female

6. *Race: White African-American

Hispanic-American Asian/Pacific Islander

Native-American/Alaskan Native

7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor. *NO*

8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

Andrew Giles Fay

Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

Questionnaire for Senate Confirmation Attachment A

Public Affairs: Since being appointed as a Commissioner in 2018, I have regularly communicated with customers and various interested parties in a manner that is consistent with the limitations placed on ex parte communications set out by Section 250.041 of the Florida Statutes. One form of engagement that I have found particularly helpful is participating in customer service hearings. These hearings allow utility customers the opportunity to provide direct feedback to the Commission about the quality of service they are receiving. I have found this form of customer engagement to be very beneficial because it provides the Commission with firsthand experience of the challenges that customers may be facing. The more customer hearings I have participated in, the better I have gotten at identifying and comprehending how this feedback can be used in making our decisions.

In addition to customer engagement, I have also had the opportunity to present to various groups about the regulatory functions of the Commission and to opine on some of the more pressing issues that our state is facing. Those issues include the growth of electric vehicle charging infrastructure, threats of cybersecurity to the electric grid, and the need for a more diversified energy workforce. One of my greatest honors from my time on the Commission thus far has been representing Florida and other state utility commissioners annually as a faculty member of National Association of Regulatory Utility Commission's "Rate School" program. This program educates and trains Commissioners, Commission staff, and industry employees from all 50 states on how to better understand and apply the various concepts within the ratemaking process.

Law: Prior to my appointed to the Commission, I served the state as Special Counsel to the Attorney General, which provided me with the opportunity to work on a number of complex state and federal legal issues. That experience not only allowed me to learn how to correctly apply the law, but it also provided me with a thorough understanding of the legislative process. One highlight of my time there was serving as the lead author and advocate for Florida's Information Protection Act(FIPA), a law that protects consumers who have had their personal information compromised. My experience with FIPA, along with my other responsibilities within the Attorney General's Office sufficiently prepared me for the role of Commissioner.

Utility matters that come before the Commission are rarely simple. Some of these cases include hundreds, if not thousands, of pages of expert testimony and evidence. I have found that my training as an attorney allows me to better navigate the legal complexities that are involved in each of these dockets. I have also found in my time with the Commission that the procedural decisions we make can be just as important as the rulings on the merits of each case. Consistent execution of these procedural parameters is essential to ensuring that all of the parties in these cases are afforded the necessary due process under the law. Overall, I believe it is my legal experience and training as an attorney, more than any other skill, that best serves me in my role as a Public Service Commissioner.

Economics: Economic forecasts are used regularly in Commission determinations including Staff Assisted Rate Cases, Limited Rate Cases, and Full Utility Rate Cases. More specifically, they provide a basis for the rate setting calculations that are applied to the utilities. The forecasts give the Commission and the parties a clearer picture of the varying costs of service between customer classes, and allow for a greater consideration of the impacts to those customers. These economic forecasts are also used in determining the reasonableness of newer generation including renewable options.

I've learned that the economics of the rate setting process introduce specific challenges to serving customers in rural areas. When it comes to the distribution of essential services, more rural and isolated areas can be disproportionately impacted by a lack of resources. The reality is that some customers cost more to serve than others, and that is especially true in Florida's rural areas. It is through firsthand experience with this process that I am able to ensure the decisions I make uphold the principles of fairness and are consistent with the state energy compact to provide utility service to all of the customers in a specific territory.

Accounting and Finance: The application of accounting and finance principles is inherent in almost every Commission Ruling. Understanding the financial models and industry accounting methods that are used to depreciate and capitalize assets and projects is absolutely necessary to the financial soundness of the decisions made by the Commission. I have invested, and continue to invest, significant time and effort in better comprehending these utility related financial concepts in order to allocate additional focus to other technical and legal issues that arise in the dockets before us.

Natural Resource Conservation: The Commission's regulation over water, natural gas, and other natural resources is a significant role within our responsibilities as Commissioners. The Commission's authority to set rates for privately owned water utilities is one of the most important responsibilities that we have. These cases usually involve an evaluation of the quality and quantity of water that is being used by the average customer, and examine any efforts to incentivize conservation of those resources in our State. The Commission can also continue to establish rates that encourage re-use of treated wastewater to minimize the use of groundwater.

The Commission also evaluates the diversity of the fuel portfolio for our State's larger electric utilities. During my time at the Commission, our decisions have reflected a growing support towards more renewable energy in large part due to the concerns of the environmental impact and costs of the use of nonrenewable resources. These decisions include a declaratory statement exempting third party solar companies from Commission regulation, and approval of a docket that included the largest Community Solar project in the country. These decisions are designed to encourage the use of renewable resources, while ensuring costs are reasonable for customers.

Energy: During my three years serving as a Commissioner, I have been exposed to the full range of energy issues concerning generation, distribution, and transmission. I have had the

opportunity to hear and rule on cases relating to renewable generation, electric vehicles, community solar, consumer solar, grid resiliency, storm restoration, and energy efficiency. I believe that these decisions have been in the public interest and that they will have a meaningful impact on the long-term success of providing reliable service to customers.

To keep up with constant changes within the energy sector, I have stayed actively involved with energy policy on a national level. I have had the opportunity to serve in a number of leadership roles within the National Association of Regulated Utility Commissions (NARUC). These roles include service on NARUC's Critical Infrastructure Committee; NARUC's Subcommittee on Education and Research Subcommittee; NARUC's Select Committee on Regulatory and Industry Diversity; and NARUC's Telecommunications Committee. I have also recently been appointed to represent Florida as a member of the Federal Telecommunications Relay Services Advisory Council, an organization that helps to oversee the distribution of telecommunication resources to those with hearing or speech disabilities.

Another Field Substantially Related to the Duties and Functions of the Commission

Cybersecurity: The top priority of most State Utility Commissions around the country is the safety and reliability of the grid. Cyber-attacks on essential services, including utility services, have become more prevalent over the past year demonstrating potential vulnerabilities in the energy grid across the United States. As a member of the NARUC Critical Infrastructure Committee, I have participated in a "Black Sky" exercise, attended an onsite cybersecurity training known as "GridEx", met with various cybersecurity experts within the Federal Government, and reached out to over a dozen other state Commissions to learn how they are addressing cybersecurity issues in their States.

I have also recently been appointed to the Defense Critical Electrical Infrastructure Advisory Council. This Council is reviewing ways that States, the Federal Government, and other interested parties can improve the reliability of the energy that is provided to the military bases located throughout our Country. As one of only three Commissioners nationally serving on this Advisory Council, I hope to use the experience and knowledge that I acquired to help improve the reliability of service to military facilities located within Florida. Finally, through my service as a member of NARUC's Cybersecurity Advisory Team for State Solar, I am working on ways to better protect solar investments from cybersecurity threats. I believe that protecting Florida's energy grid from cybersecurity threats will continue to be a top priority for Florida and the United States, and I hope to have the opportunity to continue my work in this area.

CERTIFICATION

RECEIVED
DEPARTMENT OF STATE
2021 OCT 26 PM 3:00

DEPARTMENT OF STATE
DIVISION OF ELECTIONS

STATE OF FLORIDA
COUNTY OF LEON

Before me, the undersigned Notary Public of Florida, personally appeared

Andrew Fay

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

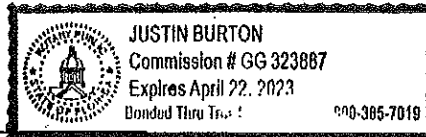
Andrew Fay

Signature of Applicant-Affiant

Sworn to and subscribed before me this 22 day of October, 2021.

Justin Burton

Signature of Notary Public-State of Florida



Justin Burton

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 4/22/2023

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

**The Florida Senate
Committee Notice Of Hearing**

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Andrew Fay
Florida Public Service Commission

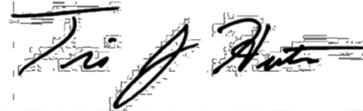
NOTICE OF HEARING

TO: Commissioner Andrew Fay

YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, January 11, 2022, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 3rd day of January, 2022

Committee on Regulated Industries



Senator Travis Hutson
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

2020

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Arthur L. Graham

is duly appointed a member of the

Florida Public Service Commission

for a term beginning on the First day of January, A.D., 2022,
until the First day of January, A.D., 2026 and is subject to be
confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Eighth day of October, A.D., 2021.*

Laurel M. Lee

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.



RON DESANTIS
GOVERNOR

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2021 OCT -8 AM 10:30

DIVISION OF ELECTIONS
TALLAHASSEE, FL

September 8, 2021

Secretary Laurel M. Lee
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 350.01, Florida Statutes:

Mr. Arthur Graham
1000 8th Street North
Jacksonville Beach, Florida 32250

as a member of the Florida Public Service Commission. This appointment is effective January 1, 2022, for a term ending January 1, 2026.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/kk

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

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STATE OF FLORIDA

County of Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

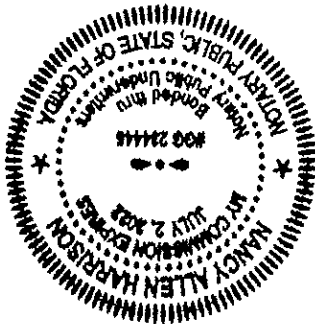
Florida Public Service Commissioner

(Title of Office)

HAND DELIVERED

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



[Signature]
Signature

Sworn to and subscribed before me by means of physical presence or online notarization, this 26 day of October, 2021.

[Signature]
Signature of Officer Administering Oath or of Notary Public

Nancy Allen Harrison
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced in person

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

1000 8th Street North

Street or Post Office Box

Jacksonville Beach, FL 32250

City, State, Zip Code

Arthur "Art" L. Graham

Print Name

[Signature]
Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

October 26, 2021

Date Completed			
1. Name: <u>Mr.</u>	<u>Graham</u>	<u>Arthur</u>	<u>L.</u>
Mr./Mrs./Ms.	Last	First	Middle/Maiden
2. Business Address: <u>2540 Shumard Oak Boulevard</u>			<u>Tallahassee</u>
	Street	Office #	City
<u>N/A</u>	<u>FL</u>	<u>32399-0850</u>	<u>(850) 413-6040</u>
Post Office Box	State	Zip Code	Area Code/Phone Number
3. Residence Address: <u>1000 8th Street North</u>			<u>Jacksonville Beach</u>
	Street	City	County
<u>N/A</u>	<u>FL</u>	<u>32250</u>	<u>(904) 318-0485</u>
Post Office Box	State	Zip Code	Area Code/Phone Number
Specify the preferred mailing address: Business <input checked="" type="checkbox"/> Residence <input type="checkbox"/> Fax # _____ (optional)			

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u>1000 8th Street N.</u>	<u>Jacksonville Beach, FL</u>	<u>2020</u>	<u>current</u>
<u>602 3rd Avenue North</u>	<u>Jacksonville Beach, FL</u>	<u>2016</u>	<u>2020</u>

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u>23680 Hillhurst Dr.</u>	<u>Laguna Niguel, CA 92677</u>	<u>1988</u>	<u>1991</u>
<u>703 Techwood Dr.</u>	<u>Atlanta, GA 30313</u>	<u>1982</u>	<u>1988</u>

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5. Date of Birth: _____ Place of Birth: Paris, France

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1991 _____

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Duval _____ B. Current Party Affiliation: Republican _____

12. Education

A. High School: Redan High School; Stone Mountain, Georgia _____ Year Graduated: 1982 _____
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
GA Tech; Atlanta, GA	9/1982 - 3/1988	Chemical Engineering

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
37 years ago, as a 20 year old student,		I was charged with DUI for sitting in a parked vehicle with the motor running. I entered a plea of nolo contendere and was fined \$100.	

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
FL Public Service Commission 2540 Shumard Oak Blvd., Tallahassee, FL 32399	State Govt.	Commissioner	7/2010 - Current

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Commissioner	FL Public Service Commission	7/2010 - Current
City Councilman/County Commissioner	City of Jacksonville, FL	7/2003 - 6/2010
City Councilman	City of Jacksonville Beach, FL	1998 - 2002

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Serves as a Florida Public Service Commissioner, regulating rates and service quality in a quasi-judicial role, including reviewing briefs, hearing oral testimony, and applying state code to complex and highly technical information in the evidentiary record. Ten years as an environmental engineer in paper mills, optimizing water use and recovering material used to fuel electric generation. Eleven years city council experience exercising quasi-judicial responsibility and making public policy.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

Bachelor of Chemical Engineering from Georgia Tech.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

National Association of Regulatory Utility Commissioners (NARUC)

NARUC Executive Committee

NARUC Board of Directors

Institute of Electrical and Electronics Engineers (IEEE), National Electrical Safety Code (NESC) Sub-Committee 5

Responsible for developing the NESC standards for power pole strength

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
PSC Commissioner	July 2010, plus reappointments	4 years	State
Jacksonville City Councilman	2003 - 2010	4 years	City/County
Jacksonville Beach City Council	1988 - 2002	4 years	City
Jacksonville Beach Community Redevelopment Agency	2016 - Present	4 years	City

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Twice a month, with frequent additional meetings.

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>99.9</u>	<u>One</u>	<u>Due to late developments, meeting was rescheduled</u>

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: Commissioner, Florida Public Service Commission
B. Term of Appointment: July 2010 - January 2014, January 2014 - January 2018, January 2018 - January 2022
C. Confirmation results: Confirmed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>Art Environmental Consulting - HMOC 08-00100094</u>	<u>December 2007</u>	<u>City of Jacksonville Beach</u>	<u>None</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
John Peyton			
John Thrasher			
John Rood		7	

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Rotary Club	PO Box 37028, Jacksonville, FL	32236	1998 - Current

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

CERTIFICATION

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DEPARTMENT OF STATE
DIVISION OF ELECTIONS

STATE OF FLORIDA
COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared Arthur Graham, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]
Signature of Applicant-Affiant

Sworn to and subscribed before me this 26th day of October, 2021.

[Signature]
Signature of Notary Public-State of Florida

Nancy A. Harrison
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 7/2/2022

Personally Known OR Produced Identification

Type of Identification Produced n/a



(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

Senate Confirmation Questionnaire

Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.

Please type or use blue ink.

1. Board of Interest: Florida Public Service Commission

2. Current Employer and Occupation: State of Florida, Public Service Commissioner

3. Are you applying for reappointment: Yes No

4. *Do you have a disability? Yes No If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

5. *Sex: Male Female

6. *Race: White African-American
Hispanic-American Asian/Pacific Islander
Native-American/Alaskan Native

7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor.

NO

8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

Arthur L. "Art" Graham
Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

**The Florida Senate
Committee Notice Of Hearing**

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Art Graham
Florida Public Service Commission

NOTICE OF HEARING

TO: Commissioner Art Graham

YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, January 11, 2022, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 3rd day of January, 2022

Committee on Regulated Industries



Senator Travis Hutson
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

By Senator Burgess

20-00473A-22

2022512__

1 A bill to be entitled
 2 An act relating to vacation rentals; amending s.
 3 212.03, F.S.; requiring advertising platforms to
 4 collect and remit taxes for certain transactions;
 5 reordering and amending s. 509.013, F.S.; defining the
 6 term "advertising platform"; amending s. 509.032,
 7 F.S.; conforming a cross-reference; revising the
 8 regulated activities of public lodging establishments
 9 and public food service establishments preempted to
 10 the state to include licensing; revising an exemption
 11 to the prohibition against certain local regulation of
 12 vacation rentals; expanding the authority of local
 13 laws, ordinances, or regulations to include requiring
 14 vacation rentals to register with local vacation
 15 rental registration programs; authorizing local
 16 governments to adopt vacation rental registration
 17 programs and impose fines for failure to register;
 18 authorizing local governments to charge fees for
 19 processing registration applications; specifying
 20 requirements, procedures, and limitations for local
 21 vacation rental registration programs; authorizing
 22 local governments to terminate or refuse to issue or
 23 renew vacation rental registrations under certain
 24 circumstances; preempting the regulation of
 25 advertising platforms to the state; amending s.
 26 509.241, F.S.; requiring applications for vacation
 27 rental licenses to include certain information;
 28 authorizing the Division of Hotels and Restaurants of
 29 the Department of Business and Professional Regulation

Page 1 of 29

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

20-00473A-22

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30 to issue temporary licenses upon receipt of vacation
 31 rental license applications; providing for expiration
 32 of temporary vacation rental licenses; requiring
 33 licenses issued by the division to be displayed
 34 conspicuously to the public inside the licensed
 35 establishment; requiring the owner or operator of
 36 certain vacation rentals to also display its vacation
 37 rental license number and applicable local
 38 registration number; creating s. 509.243, F.S.;
 39 requiring advertising platforms to require that
 40 persons placing advertisements for vacation rentals
 41 include certain information in the advertisements and
 42 attest to certain information; requiring advertising
 43 platforms to display and check such information;
 44 requiring the division to maintain certain information
 45 in a readily accessible electronic format by a certain
 46 date; requiring advertising platforms to remove an
 47 advertisement or listing under certain conditions and
 48 within a specified timeframe; requiring advertising
 49 platforms to collect and remit taxes for certain
 50 transactions; authorizing the division to issue and
 51 deliver a notice to cease and desist for certain
 52 violations; providing that such notice does not
 53 constitute agency action for which certain hearings
 54 may be sought; authorizing the division to file
 55 certain proceedings; authorizing the division to seek
 56 certain remedies for the purpose of enforcing a cease
 57 and desist notice; authorizing the division to collect
 58 attorney fees and costs under certain circumstances;

Page 2 of 29

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20-00473A-22

2022512__

59 authorizing the division to impose a fine on
 60 advertising platforms for certain violations;
 61 requiring the division to issue written warnings or
 62 notices before commencing certain legal proceedings;
 63 requiring advertising platforms to adopt an
 64 antidiscrimination policy and to inform their users of
 65 the policy's provisions; providing construction;
 66 amending s. 509.261, F.S.; authorizing the division to
 67 revoke, refuse to issue or renew, or suspend vacation
 68 rental licenses under certain circumstances; amending
 69 s. 775.21, F.S.; revising the definition of the term
 70 "temporary residence"; amending ss. 159.27, 212.08,
 71 316.1955, 404.056, 477.0135, 509.221, 553.5041,
 72 559.955, 705.17, 705.185, 717.1355, and 877.24, F.S.;
 73 conforming cross-references to changes made by the
 74 act; providing applicability; authorizing the
 75 Department of Revenue to adopt emergency rules;
 76 providing requirements and an expiration for the
 77 emergency rules; providing for the expiration of such
 78 rulemaking authority; providing effective dates.

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

81
 82 Section 1. Effective January 1, 2023, subsection (2) of
 83 section 212.03, Florida Statutes, is amended to read:

84 212.03 Transient rentals tax; rate, procedure, enforcement,
 85 exemptions.—

86 (2) (a) The tax provided for herein shall be in addition to
 87 the total amount of the rental, shall be charged by the lessor

Page 3 of 29

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20-00473A-22

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88 or person receiving the rent in and by said rental arrangement
 89 to the lessee or person paying the rental, and shall be due and
 90 payable at the time of the receipt of such rental payment by the
 91 lessor or person, as defined in this chapter, who receives said
 92 rental or payment. The owner, lessor, or person receiving the
 93 rent shall remit the tax to the department at the times and in
 94 the manner hereinafter provided for dealers to remit taxes under
 95 this chapter. The same duties imposed by this chapter upon
 96 dealers in tangible personal property respecting the collection
 97 and remission of the tax; the making of returns; the keeping of
 98 books, records, and accounts; and the compliance with the rules
 99 and regulations of the department in the administration of this
 100 chapter shall apply to and be binding upon all persons who
 101 manage or operate hotels, apartment houses, roominghouses,
 102 tourist and trailer camps, and the rental of condominium units,
 103 and to all persons who collect or receive such rents on behalf
 104 of such owner or lessor taxable under this chapter.

105 (b) If a guest uses a payment system on or through an
 106 advertising platform, as defined in s. 509.013, to pay for the
 107 rental of a vacation rental located in this state, the
 108 advertising platform shall collect and remit taxes as provided
 109 in this paragraph.

110 1. An advertising platform, as defined in s. 509.013, which
 111 owns, operates, or manages a vacation rental or which is related
 112 within the meaning of ss. 267(b), 707(b), or 1504 of the
 113 Internal Revenue Code of 1986 to a person who owns, operates, or
 114 manages the vacation rental shall collect and remit all taxes
 115 due under this section and ss. 125.0104, 125.0108, 205.044,
 116 212.0305, and 212.055 which are related to the rental.

Page 4 of 29

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20-00473A-22

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117 2. An advertising platform to which subparagraph 1. does
 118 not apply shall collect and remit all taxes due from the owner,
 119 operator, or manager under this section and ss. 125.0104,
 120 125.0108, 205.044, 212.0305, and 212.055 which are related to
 121 the rental. Of the total amount paid by the lessee or rentee,
 122 the amount retained by the advertising platform for reservation
 123 or payment service is not taxable under this section or ss.
 124 125.0104, 125.0108, 205.044, 212.0305, and 212.055.

125
 126 In order to facilitate the remittance of such taxes, the
 127 department and counties that have elected to self-administer the
 128 taxes imposed under chapter 125 must allow advertising platforms
 129 to register, collect, and remit such taxes.

130 Section 2. Section 509.013, Florida Statutes, is reordered
 131 and amended to read:

132 509.013 Definitions.—As used in this chapter, the term:

133 (1) “Advertising platform” means a person as defined in s.
 134 1.01 who:

135 (a) Provides an online application, software, a website, or
 136 a system through which a vacation rental located in this state
 137 is advertised or held out to the public as available to rent for
 138 transient occupancy;

139 (b) Provides or maintains a marketplace for the renting of
 140 a vacation rental for transient occupancy; and

141 (c) Provides a reservation or payment system that
 142 facilitates a transaction for the renting of a vacation rental
 143 for transient occupancy and for which the person collects or
 144 receives, directly or indirectly, a fee in connection with the
 145 reservation or payment service provided for the rental

20-00473A-22

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146 transaction.

147 ~~(3)(1)~~ “Division” means the Division of Hotels and
 148 Restaurants of the Department of Business and Professional
 149 Regulation.

150 ~~(8)(2)~~ “Operator” means the owner, licensee, proprietor,
 151 lessee, manager, assistant manager, or appointed agent of a
 152 public lodging establishment or public food service
 153 establishment.

154 ~~(4)(3)~~ “Guest” means any patron, customer, tenant, lodger,
 155 boarder, or occupant of a public lodging establishment or public
 156 food service establishment.

157 ~~(10)(a)(4)(a)~~ “Public lodging establishment” includes a
 158 transient public lodging establishment as defined in
 159 subparagraph 1. and a nontransient public lodging establishment
 160 as defined in subparagraph 2.

161 1. “Transient public lodging establishment” means any unit,
 162 group of units, dwelling, building, or group of buildings within
 163 a single complex of buildings which is rented to guests more
 164 than three times in a calendar year for periods of less than 30
 165 days or 1 calendar month, whichever is less, or which is
 166 advertised or held out to the public as a place regularly rented
 167 to guests.

168 2. “Nontransient public lodging establishment” means any
 169 unit, group of units, dwelling, building, or group of buildings
 170 within a single complex of buildings which is rented to guests
 171 for periods of at least 30 days or 1 calendar month, whichever
 172 is less, or which is advertised or held out to the public as a
 173 place regularly rented to guests for periods of at least 30 days
 174 or 1 calendar month.

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175
176 License classifications of public lodging establishments, and
177 the definitions therefor, are set out in s. 509.242. For the
178 purpose of licensure, the term does not include condominium
179 common elements as defined in s. 718.103.

180 (b) The following are excluded from the definitions in
181 paragraph (a):

182 1. Any dormitory or other living or sleeping facility
183 maintained by a public or private school, college, or university
184 for the use of students, faculty, or visitors.

185 2. Any facility certified or licensed and regulated by the
186 Agency for Health Care Administration or the Department of
187 Children and Families or other similar place regulated under s.
188 381.0072.

189 3. Any place renting four rental units or less, unless the
190 rental units are advertised or held out to the public to be
191 places that are regularly rented to transients.

192 4. Any unit or group of units in a condominium,
193 cooperative, or timeshare plan and any individually or
194 collectively owned one-family, two-family, three-family, or
195 four-family dwelling house or dwelling unit that is rented for
196 periods of at least 30 days or 1 calendar month, whichever is
197 less, and that is not advertised or held out to the public as a
198 place regularly rented for periods of less than 1 calendar
199 month, provided that no more than four rental units within a
200 single complex of buildings are available for rent.

201 5. Any migrant labor camp or residential migrant housing
202 permitted by the Department of Health under ss. 381.008-
203 381.00895.

Page 7 of 29

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20-00473A-22

2022512__

204 6. Any establishment inspected by the Department of Health
205 and regulated by chapter 513.

206 7. Any nonprofit organization that operates a facility
207 providing housing only to patients, patients' families, and
208 patients' caregivers and not to the general public.

209 8. Any apartment building inspected by the United States
210 Department of Housing and Urban Development or other entity
211 acting on the department's behalf that is designated primarily
212 as housing for persons at least 62 years of age. The division
213 may require the operator of the apartment building to attest in
214 writing that such building meets the criteria provided in this
215 subparagraph. The division may adopt rules to implement this
216 requirement.

217 9. Any roominghouse, boardinghouse, or other living or
218 sleeping facility that may not be classified as a hotel, motel,
219 timeshare project, vacation rental, nontransient apartment, bed
220 and breakfast inn, or transient apartment under s. 509.242.

221 (9) (a) (5) (a) "Public food service establishment" means any
222 building, vehicle, place, or structure, or any room or division
223 in a building, vehicle, place, or structure where food is
224 prepared, served, or sold for immediate consumption on or in the
225 vicinity of the premises; called for or taken out by customers;
226 or prepared ~~before~~ ~~prior~~ to being delivered to another location
227 for consumption. The term includes a culinary education program,
228 as defined in s. 381.0072(2), which offers, prepares, serves, or
229 sells food to the general public, regardless of whether it is
230 inspected by another state agency for compliance with sanitation
231 standards.

232 (b) The following are excluded from the definition in

Page 8 of 29

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20-00473A-22

2022512__

233 paragraph (a):

234 1. Any place maintained and operated by a public or private
235 school, college, or university:

236 a. For the use of students and faculty; or

237 b. Temporarily to serve such events as fairs, carnivals,
238 food contests, cook-offs, and athletic contests.239 2. Any eating place maintained and operated by a church or
240 a religious, nonprofit fraternal, or nonprofit civic
241 organization:

242 a. For the use of members and associates; or

243 b. Temporarily to serve such events as fairs, carnivals,
244 food contests, cook-offs, or athletic contests.

245

246 Upon request by the division, a church or a religious, nonprofit
247 fraternal, or nonprofit civic organization claiming an exclusion
248 under this subparagraph must provide the division documentation
249 of its status as a church or a religious, nonprofit fraternal,
250 or nonprofit civic organization.251 3. Any eating place maintained and operated by an
252 individual or entity at a food contest, cook-off, or a temporary
253 event lasting from 1 to 3 days which is hosted by a church or a
254 religious, nonprofit fraternal, or nonprofit civic organization.255 Upon request by the division, the event host must provide the
256 division documentation of its status as a church or a religious,
257 nonprofit fraternal, or nonprofit civic organization.258 4. Any eating place located on an airplane, train, bus, or
259 watercraft that ~~which~~ is a common carrier.260 5. Any eating place maintained by a facility certified or
261 licensed and regulated by the Agency for Health Care

20-00473A-22

2022512__

262 Administration or the Department of Children and Families or
263 other similar place that is regulated under s. 381.0072.264 6. Any place of business issued a permit or inspected by
265 the Department of Agriculture and Consumer Services under s.
266 500.12.267 7. Any place of business where the food available for
268 consumption is limited to ice, beverages with or without
269 garnishment, popcorn, or prepackaged items sold without
270 additions or preparation.271 8. Any theater, if the primary use is as a theater and if
272 patron service is limited to food items customarily served to
273 the admittees of theaters.274 9. Any vending machine that dispenses any food or beverages
275 other than potentially hazardous foods, as defined by division
276 rule.277 10. Any vending machine that dispenses potentially
278 hazardous food and which is located in a facility regulated
279 under s. 381.0072.280 11. Any research and development test kitchen limited to
281 the use of employees and which is not open to the general
282 public.283 (2) ~~(6)~~ "Director" means the Director of the Division of
284 Hotels and Restaurants of the Department of Business and
285 Professional Regulation.286 (11) ~~(7)~~ "Single complex of buildings" means all buildings
287 or structures that are owned, managed, controlled, or operated
288 under one business name and are situated on the same tract or
289 plot of land that is not separated by a public street or
290 highway.

20-00473A-22

2022512__

291 (12)~~(9)~~ "Temporary food service event" means any event of
 292 30 days or less in duration where food is prepared, served, or
 293 sold to the general public.

294 (13)~~(9)~~ "Theme park or entertainment complex" means a
 295 complex comprised of at least 25 contiguous acres owned and
 296 controlled by the same business entity and which contains
 297 permanent exhibitions and a variety of recreational activities
 298 and has a minimum of 1 million visitors annually.

299 (14)~~(10)~~ "Third-party provider" means, for purposes of s.
 300 509.049, any provider of an approved food safety training
 301 program that provides training or such a training program to a
 302 public food service establishment that is not under common
 303 ownership or control with the provider.

304 (16)~~(11)~~ "Transient establishment" means any public lodging
 305 establishment that is rented or leased to guests by an operator
 306 whose intention is that such guests' occupancy will be
 307 temporary.

308 (17)~~(12)~~ "Transient occupancy" means occupancy when it is
 309 the intention of the parties that the occupancy will be
 310 temporary. There is a rebuttable presumption that, when the
 311 dwelling unit occupied is not the sole residence of the guest,
 312 the occupancy is transient.

313 (15)~~(13)~~ "Transient" means a guest in transient occupancy.

314 (6)~~(14)~~ "Nontransient establishment" means any public
 315 lodging establishment that is rented or leased to guests by an
 316 operator whose intention is that the dwelling unit occupied will
 317 be the sole residence of the guest.

318 (7)~~(15)~~ "Nontransient occupancy" means occupancy when it is
 319 the intention of the parties that the occupancy will not be

Page 11 of 29

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20-00473A-22

2022512__

320 temporary. There is a rebuttable presumption that, when the
 321 dwelling unit occupied is the sole residence of the guest, the
 322 occupancy is nontransient.

323 (5)~~(16)~~ "Nontransient" means a guest in nontransient
 324 occupancy.

325 Section 3. Paragraph (c) of subsection (3) and paragraphs
 326 (a) and (b) of subsection (7) of section 509.032, Florida
 327 Statutes, are amended, and paragraph (d) is added to subsection
 328 (7) of that section, to read:

329 509.032 Duties.—

330 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE
 331 EVENTS.—The division shall:

332 (c) Administer a public notification process for temporary
 333 food service events and distribute educational materials that
 334 address safe food storage, preparation, and service procedures.

335 1. Sponsors of temporary food service events shall notify
 336 the division not less than 3 days before the scheduled event of
 337 the type of food service proposed, the time and location of the
 338 event, a complete list of food service vendors participating in
 339 the event, the number of individual food service facilities each
 340 vendor will operate at the event, and the identification number
 341 of each food service vendor's current license as a public food
 342 service establishment or temporary food service event licensee.
 343 Notification may be completed orally, by telephone, in person,
 344 or in writing. A public food service establishment or food
 345 service vendor may not use this notification process to
 346 circumvent the license requirements of this chapter.

347 2. The division shall keep a record of all notifications
 348 received for proposed temporary food service events and shall

Page 12 of 29

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20-00473A-22

2022512__

349 provide appropriate educational materials to the event sponsors
350 and notify the event sponsors of the availability of the food-
351 recovery brochure developed under s. 595.420.

352 3.a. Unless excluded under s. 509.013 ~~s. 509.013(5)(b)~~, a
353 public food service establishment or other food service vendor
354 must obtain one of the following classes of license from the
355 division: an individual license, for a fee of no more than \$105,
356 for each temporary food service event in which it participates;
357 or an annual license, for a fee of no more than \$1,000, that
358 entitles the licensee to participate in an unlimited number of
359 food service events during the license period. The division
360 shall establish license fees, by rule, and may limit the number
361 of food service facilities a licensee may operate at a
362 particular temporary food service event under a single license.

363 b. Public food service establishments holding current
364 licenses from the division may operate under the regulations of
365 such a license at temporary food service events.

366 (7) PREEMPTION AUTHORITY.—

367 (a) The regulation of public lodging establishments and
368 public food service establishments, including, but not limited
369 to, sanitation standards, licensing, inspections, training and
370 testing of personnel, and matters related to the nutritional
371 content and marketing of foods offered in such establishments,
372 is preempted to the state. This paragraph does not preempt the
373 authority of a local government or local enforcement district to
374 conduct inspections of public lodging and public food service
375 establishments for compliance with the Florida Building Code and
376 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
377 633.206.

Page 13 of 29

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20-00473A-22

2022512__

378 (b)1. A local law, ordinance, or regulation may not
379 prohibit vacation rentals or regulate the duration or frequency
380 of rental of vacation rentals. This paragraph does not apply to
381 any local law, ordinance, or regulation adopted on or before
382 June 1, 2011, including when such law, ordinance, or regulation
383 is amended to be less restrictive or to comply with the local
384 registration requirements provided in this paragraph.
385 Notwithstanding paragraph (a), a local law, ordinance, or
386 regulation may require the registration of vacation rentals with
387 a local vacation rental registration program. Local governments
388 may adopt a vacation rental registration program pursuant to
389 subparagraph 3. and impose a fine for failure to register under
390 the vacation rental registration program.

391 2. Local governments may charge a fee of no more than \$50
392 for processing a registration application. A local law,
393 ordinance, or regulation may not require renewal of a
394 registration more than once per year. However, if there is a
395 change of ownership, the new owner may be required to submit a
396 new application for registration.

397 3. As a condition of registration, the local law,
398 ordinance, or regulation may only require the owner or operator
399 of a vacation rental to:

400 a. Submit identifying information about the owner or the
401 owner's agents and the subject vacation rental property.

402 b. Obtain a license as a transient public lodging
403 establishment issued by the division within 60 days after local
404 registration.

405 c. Obtain all required tax registrations, receipts, or
406 certificates issued by the Department of Revenue, a county, or a

Page 14 of 29

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20-00473A-22

2022512__

407 municipal government.

408 d. Update required information on a continuing basis to
 409 ensure it is current.

410 e. Comply with parking standards and solid waste handling
 411 and containment requirements, so long as such standards and
 412 requirements are not imposed solely on vacation rentals.

413 f. Designate and maintain at all times a responsible party
 414 who is capable of responding to complaints and other immediate
 415 problems related to the vacation rental, including being
 416 available by telephone at a listed phone number.

417 g. Pay in full all recorded municipal or county code liens
 418 against the subject property. The local government may withdraw
 419 its acceptance of a registration on the basis of an unsatisfied
 420 recorded municipal or county code lien.

421 4.a. Within 15 business days after receiving an application
 422 for registration of a vacation rental, the local government must
 423 review the application for completeness and accept the
 424 registration of the vacation rental or issue a written notice
 425 specifying with particularity any areas that are deficient.

426 b. The vacation rental owner or operator and the local
 427 government may agree to a reasonable request to extend the
 428 timeframes provided in this subparagraph, particularly in the
 429 event of a force majeure or other extraordinary circumstance.

430 c. When a local government denies an application for
 431 registration of a vacation rental, the local government must
 432 give written notice to the applicant. Such notice may be
 433 provided by United States mail or electronically. The written
 434 notice must specify with particularity the factual reasons for
 435 the denial and include a citation to the applicable portions of

Page 15 of 29

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20-00473A-22

2022512__

436 an ordinance, a rule, a statute, or other legal authority for
 437 the denial of the registration. A local government may not deny
 438 any applicant from reapplying if the applicant cures the
 439 identified deficiencies.

440 d. If the local government fails to accept or deny the
 441 registration within the timeframes provided in this
 442 subparagraph, the application is deemed accepted.

443 e. Upon an accepted registration of a vacation rental, a
 444 local government shall assign a unique registration number to
 445 the vacation rental or other indicia of registration and provide
 446 the registration number or other indicia of registration to the
 447 owner or operator of the vacation rental in writing or
 448 electronically.

449 5. The local government may terminate or refuse to issue or
 450 renew a vacation rental registration when:

451 a. The operation of the subject premises violates a
 452 registration requirement authorized pursuant to this paragraph
 453 or a local law, ordinance, or regulation that does not apply
 454 solely to vacation rentals; or

455 b. The premises and its owner are the subject of a final
 456 order or judgment lawfully directing the termination of the
 457 premises' use as a vacation rental.

458 (d) The regulation of advertising platforms is preempted to
 459 the state as provided in this chapter.

460 Section 4. Effective January 1, 2023, subsections (2) and
 461 (3) of section 509.241, Florida Statutes, are amended to read:
 462 509.241 Licenses required; exceptions.—

463 (2) APPLICATION FOR LICENSE.—Each person who plans to open
 464 a public lodging establishment or a public food service

Page 16 of 29

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20-00473A-22

2022512__

465 establishment shall apply for and receive a license from the
 466 division ~~before~~ prior to the commencement of operation. A
 467 condominium association, as defined in s. 718.103, which does
 468 not own any units classified as vacation rentals or timeshare
 469 projects under s. 509.242(1)(c) or (g) is not required to apply
 470 for or receive a public lodging establishment license. All
 471 applications for a vacation rental license must, if applicable,
 472 include the local registration number or other proof of
 473 registration required by local law, ordinance, or regulation.
 474 Upon receiving an application for a vacation rental license, the
 475 division may grant a temporary license that authorizes the
 476 vacation rental to begin operation while the application is
 477 pending and to post the information required under s.
 478 509.243(1)(c). The temporary license automatically expires upon
 479 final agency action regarding the license application.

480 (3) DISPLAY OF LICENSE.—Any license issued by the division
 481 must ~~shall~~ be conspicuously displayed to the public inside ~~in~~
 482 the ~~office or lobby of the~~ licensed establishment. Public food
 483 service establishments ~~that which~~ offer catering services must
 484 ~~shall~~ display their license number on all advertising for
 485 catering services. The owner or operator of a vacation rental
 486 offered for transient occupancy through an advertising platform
 487 must also display the vacation rental license number and, if
 488 applicable, the local registration number.

489 Section 5. Effective January 1, 2023, section 509.243,
 490 Florida Statutes, is created to read:

491 509.243 Advertising platforms.—

492 (1) (a) An advertising platform must require that a person
 493 who places an advertisement for the rental of a vacation rental:

20-00473A-22

2022512__

494 1. Include in the advertisement the vacation rental license
 495 number and, if applicable, the local registration number; and
 496 2. Attest to the best of the person's knowledge that the
 497 license number for the vacation rental property and the local
 498 registration are current, valid, and accurately stated in the
 499 advertisement.

500 (b) An advertising platform must display the vacation
 501 rental license number and, if applicable, the local registration
 502 number. Effective July 1, 2023, the advertising platform must
 503 check that the vacation rental license number provided by the
 504 owner or operator appears as current in the information posted
 505 by the division pursuant to paragraph (c) and applies to the
 506 subject vacation rental before publishing the advertisement on
 507 its platform and again at the end of each calendar quarter that
 508 the advertisement remains on its platform.

509 (c) By July 1, 2023, the division shall maintain vacation
 510 rental license information in a readily accessible electronic
 511 format that is sufficient to facilitate prompt compliance with
 512 the requirements of this subsection by an advertising platform
 513 or a person placing an advertisement on an advertising platform
 514 for transient rental of a vacation rental.

515 (2) An advertising platform must remove from public view an
 516 advertisement or a listing from its online application,
 517 software, website, or system within 15 business days after being
 518 notified by the division in writing that the subject
 519 advertisement or listing for the rental of a vacation rental
 520 located in this state fails to display a valid license number
 521 issued by the division.

522 (3) If a guest uses a payment system on or through an

20-00473A-22 2022512__
 523 advertising platform to pay for the rental of a vacation rental
 524 located in this state, the advertising platform must collect and
 525 remit all taxes due under ss. 125.0104, 125.0108, 205.044,
 526 212.03, 212.0305, and 212.055 related to the rental as provided
 527 in s. 212.03(2)(b).

528 (4) If the division has probable cause to believe that a
 529 person not licensed by the division has violated this chapter or
 530 any rule adopted pursuant thereto, the division may issue and
 531 deliver to such person a notice to cease and desist from the
 532 violation. The issuance of a notice to cease and desist does not
 533 constitute agency action for which a hearing under s. 120.569 or
 534 s. 120.57 may be sought. For the purpose of enforcing a cease
 535 and desist notice, the division may file a proceeding in the
 536 name of the state seeking the issuance of an injunction or a
 537 writ of mandamus against any person who violates any provision
 538 of the notice. If the division is required to seek enforcement
 539 of the notice for a penalty pursuant to s. 120.69, it is
 540 entitled to collect attorney fees and costs, together with any
 541 cost of collection.

542 (5) The division may fine an advertising platform an amount
 543 not to exceed \$1,000 per offense for violations of this section
 544 or of the rules of the division. For the purposes of this
 545 subsection, the division may regard as a separate offense each
 546 day or portion of a day in which an advertising platform is
 547 operated in violation of this section or rules of the division.
 548 The division shall issue a written warning or notice and provide
 549 the advertising platform 15 days to cure a violation before
 550 commencing any legal proceeding under subsection (4).

551 (6) Advertising platforms shall adopt an antidiscrimination

20-00473A-22 2022512__
 552 policy to help prevent discrimination among their users and
 553 shall inform all users of their services that it is illegal to
 554 refuse accommodation to an individual based on race, creed,
 555 color, sex, pregnancy, physical disability, or national origin
 556 pursuant to s. 509.092.

557 (7) Advertising platforms that comply with the requirements
 558 of this section are deemed to be in compliance with the
 559 requirements of this chapter. This section does not create and
 560 is not intended to create a private cause of action against
 561 advertising platforms. An advertising platform may not be held
 562 liable for any action it takes voluntarily in good faith in
 563 relation to its users to comply with this chapter or the
 564 advertising platform's terms of service.

565 Section 6. Subsections (10) and (11) are added to section
 566 509.261, Florida Statutes, to read:

567 509.261 Revocation or suspension of licenses; fines;
 568 procedure.—

569 (10) The division may revoke, refuse to issue or renew, or
 570 suspend for a period of not more than 30 days a vacation rental
 571 license when:

572 (a) The operation of the subject premises violates the
 573 terms of an applicable lease or property restriction, including
 574 any property restriction adopted pursuant to chapter 718,
 575 chapter 719, or chapter 720, as determined by a final order of a
 576 court of competent jurisdiction or a written decision by an
 577 arbitrator authorized to arbitrate a dispute relating to the
 578 subject property and a lease or property restriction;

579 (b) The owner or operator fails to provide proof of
 580 registration, if required by local law, ordinance, or

20-00473A-22

2022512__

581 regulation;582 (c) The registration of the vacation rental is terminated
583 by a local government as provided in s. 509.032(7)(b)5.; or584 (d) The premises and its owner are the subject of a final
585 order or judgment lawfully directing the termination of the
586 premises' use as a vacation rental.587 (11) The division may suspend, for a period of not more
588 than 30 days, a vacation rental license when the owner or
589 operator has been cited for two or more code violations related
590 to the vacation rental during a period of 90 days. The division
591 shall issue a written warning or notice and provide an
592 opportunity to cure a violation before commencing any legal
593 proceeding under this subsection.594 Section 7. Paragraph (n) of subsection (2) of section
595 775.21, Florida Statutes, is amended to read:

596 775.21 The Florida Sexual Predators Act.—

597 (2) DEFINITIONS.—As used in this section, the term:

598 (n) "Temporary residence" means a place where the person
599 abides, lodges, or resides, including, but not limited to,
600 vacation, business, or personal travel destinations in or out of
601 this state, for a period of 3 or more days in the aggregate
602 during any calendar year and which is not the person's permanent
603 address or, for a person whose permanent residence is not in
604 this state, a place where the person is employed, practices a
605 vocation, or is enrolled as a student for any period of time in
606 this state. The term also includes a vacation rental, as defined
607 in s. 509.242(1)(c), where a person lodges for 24 hours or more.608 Section 8. Subsection (12) of section 159.27, Florida
609 Statutes, is amended to read:

Page 21 of 29

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20-00473A-22

2022512__

610 159.27 Definitions.—The following words and terms, unless
611 the context clearly indicates a different meaning, shall have
612 the following meanings:613 (12) "Public lodging or restaurant facility" means property
614 used for any public lodging establishment as defined in s.
615 509.242 or public food service establishment as defined in s.
616 509.013 ~~s. 509.013(5)~~ if it is part of the complex of, or
617 necessary to, another facility qualifying under this part.618 Section 9. Paragraph (jj) of subsection (7) of section
619 212.08, Florida Statutes, is amended to read:620 212.08 Sales, rental, use, consumption, distribution, and
621 storage tax; specified exemptions.—The sale at retail, the
622 rental, the use, the consumption, the distribution, and the
623 storage to be used or consumed in this state of the following
624 are hereby specifically exempt from the tax imposed by this
625 chapter.626 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
627 entity by this chapter do not inure to any transaction that is
628 otherwise taxable under this chapter when payment is made by a
629 representative or employee of the entity by any means,
630 including, but not limited to, cash, check, or credit card, even
631 when that representative or employee is subsequently reimbursed
632 by the entity. In addition, exemptions provided to any entity by
633 this subsection do not inure to any transaction that is
634 otherwise taxable under this chapter unless the entity has
635 obtained a sales tax exemption certificate from the department
636 or the entity obtains or provides other documentation as
637 required by the department. Eligible purchases or leases made
638 with such a certificate must be in strict compliance with this

Page 22 of 29

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20-00473A-22

2022512__

639 subsection and departmental rules, and any person who makes an
640 exempt purchase with a certificate that is not in strict
641 compliance with this subsection and the rules is liable for and
642 shall pay the tax. The department may adopt rules to administer
643 this subsection.

644 (jj) *Complimentary meals.*—Also exempt from the tax imposed
645 by this chapter are food or drinks that are furnished as part of
646 a packaged room rate by any person offering for rent or lease
647 any transient living accommodations as described in s. 509.013
648 ~~s. 509.013(4)(a)~~ which are licensed under part I of chapter 509
649 and which are subject to the tax under s. 212.03, if a separate
650 charge or specific amount for the food or drinks is not shown.
651 Such food or drinks are considered to be sold at retail as part
652 of the total charge for the transient living accommodations.
653 Moreover, the person offering the accommodations is not
654 considered to be the consumer of items purchased in furnishing
655 such food or drinks and may purchase those items under
656 conditions of a sale for resale.

657 Section 10. Paragraph (b) of subsection (4) of section
658 316.1955, Florida Statutes, is amended to read:

659 316.1955 Enforcement of parking requirements for persons
660 who have disabilities.—

661 (4)

662 (b) Notwithstanding paragraph (a), a theme park or an
663 entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~
664 which provides parking in designated areas for persons who have
665 disabilities may allow any vehicle that is transporting a person
666 who has a disability to remain parked in a space reserved for
667 persons who have disabilities throughout the period the theme

Page 23 of 29

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20-00473A-22

2022512__

668 park is open to the public for that day.

669 Section 11. Subsection (5) of section 404.056, Florida
670 Statutes, is amended to read:

671 404.056 Environmental radiation standards and projects;
672 certification of persons performing measurement or mitigation
673 services; mandatory testing; notification on real estate
674 documents; rules.—

675 (5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification
676 shall be provided on at least one document, form, or application
677 executed at the time of, or before ~~prior to~~, contract for sale
678 and purchase of any building or execution of a rental agreement
679 for any building. Such notification must ~~shall~~ contain the
680 following language:

681 "RADON GAS: Radon is a naturally occurring radioactive gas
682 that, when it has accumulated in a building in sufficient
683 quantities, may present health risks to persons who are exposed
684 to it over time. Levels of radon that exceed federal and state
685 guidelines have been found in buildings in Florida. Additional
686 information regarding radon and radon testing may be obtained
687 from your county health department."

688
689
690 The requirements of this subsection do not apply to any
691 residential transient occupancy, as described in s. 509.013 ~~s.~~
692 ~~509.013(12)~~, provided that such occupancy is 45 days or less in
693 duration.

694 Section 12. Subsection (6) of section 477.0135, Florida
695 Statutes, is amended to read:

696 477.0135 Exemptions.—

Page 24 of 29

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20-00473A-22

2022512__

697 (6) A license is not required of any individual providing
698 makeup or special effects services in a theme park or
699 entertainment complex to an actor, stunt person, musician,
700 extra, or other talent, or providing makeup or special effects
701 services to the general public. The term "theme park or
702 entertainment complex" has the same meaning as in s. 509.013 ~~s.~~
703 ~~509.013(9)~~.

704 Section 13. Paragraph (b) of subsection (2) of section
705 509.221, Florida Statutes, is amended to read:

706 509.221 Sanitary regulations.—

707 (2)

708 (b) Within a theme park or entertainment complex as defined
709 in s. 509.013 ~~s. 509.013(9)~~, the bathrooms are not required to
710 be in the same building as the public food service
711 establishment, so long as they are reasonably accessible.

712 Section 14. Paragraph (b) of subsection (5) of section
713 553.5041, Florida Statutes, is amended to read:

714 553.5041 Parking spaces for persons who have disabilities.—

715 (5) Accessible perpendicular and diagonal accessible
716 parking spaces and loading zones must be designed and located to
717 conform to ss. 502 and 503 of the standards.

718 (b) If there are multiple entrances or multiple retail
719 stores, the parking spaces must be dispersed to provide parking
720 at the nearest accessible entrance. If a theme park or an
721 entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~
722 provides parking in several lots or areas from which access to
723 the theme park or entertainment complex is provided, a single
724 lot or area may be designated for parking by persons who have
725 disabilities, if the lot or area is located on the shortest

Page 25 of 29

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20-00473A-22

2022512__

726 accessible route to an accessible entrance to the theme park or
727 entertainment complex or to transportation to such an accessible
728 entrance.

729 Section 15. Paragraph (b) of subsection (5) of section
730 559.955, Florida Statutes, is amended to read:

731 559.955 Home-based businesses; local government
732 restrictions.—

733 (5) The application of this section does not supersede:

734 (b) Local laws, ordinances, or regulations related to
735 transient public lodging establishments, as defined in s.
736 509.013 ~~s. 509.013(4)(a)1.~~, that are not otherwise preempted
737 under chapter 509.

738 Section 16. Subsection (2) of section 705.17, Florida
739 Statutes, is amended to read:

740 705.17 Exceptions.—

741 (2) Sections 705.1015-705.106 do not apply to any personal
742 property lost or abandoned on premises located within a theme
743 park or entertainment complex, as defined in s. 509.013 ~~s.~~
744 ~~509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or
745 on the premises of a public food service establishment or a
746 public lodging establishment licensed under part I of chapter
747 509, if the owner or operator of such premises elects to comply
748 with s. 705.185.

749 Section 17. Section 705.185, Florida Statutes, is amended
750 to read:

751 705.185 Disposal of personal property lost or abandoned on
752 the premises of certain facilities.—When any lost or abandoned
753 personal property is found on premises located within a theme
754 park or entertainment complex, as defined in s. 509.013 ~~s.~~

Page 26 of 29

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

20-00473A-22

2022512__

755 ~~509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or
 756 on the premises of a public food service establishment or a
 757 public lodging establishment licensed under part I of chapter
 758 509, if the owner or operator of such premises elects to comply
 759 with this section, any lost or abandoned property must be
 760 delivered to such owner or operator, who must take charge of the
 761 property and make a record of the date such property was found.
 762 If the property is not claimed by its owner within 30 days after
 763 it is found, or a longer period of time as may be deemed
 764 appropriate by the owner or operator of the premises, the owner
 765 or operator of the premises may not sell and must dispose of the
 766 property or donate it to a charitable institution that is exempt
 767 from federal income tax under s. 501(c)(3) of the Internal
 768 Revenue Code for sale or other disposal as the charitable
 769 institution deems appropriate. The rightful owner of the
 770 property may reclaim the property from the owner or operator of
 771 the premises at any time before the disposal or donation of the
 772 property in accordance with this section and the established
 773 policies and procedures of the owner or operator of the
 774 premises. A charitable institution that accepts an electronic
 775 device, as defined in s. 815.03(9), access to which is not
 776 secured by a password or other personal identification
 777 technology, shall make a reasonable effort to delete all
 778 personal data from the electronic device before its sale or
 779 disposal.

780 Section 18. Section 717.1355, Florida Statutes, is amended
 781 to read:

782 717.1355 Theme park and entertainment complex tickets.—This
 783 chapter does not apply to any tickets for admission to a theme

Page 27 of 29

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20-00473A-22

2022512__

784 park or entertainment complex as defined in s. 509.013 ~~s.~~
 785 ~~509.013(9)~~, or to any tickets to a permanent exhibition or
 786 recreational activity within such theme park or entertainment
 787 complex.

788 Section 19. Subsection (8) of section 877.24, Florida
 789 Statutes, is amended to read:

790 877.24 Nonapplication of s. 877.22.—Section 877.22 does not
 791 apply to a minor who is:

792 (8) Attending an organized event held at and sponsored by a
 793 theme park or entertainment complex as defined in s. 509.013 ~~s.~~
 794 ~~509.013(9)~~.

795 Section 20. The application of this act does not supersede
 796 any current or future declaration or declaration of condominium
 797 adopted pursuant to chapter 718, Florida Statutes, cooperative
 798 document adopted pursuant to chapter 719, Florida Statutes, or
 799 declaration or declaration of covenant adopted pursuant to
 800 chapter 720, Florida Statutes.

801 Section 21. (1) The Department of Revenue is authorized,
 802 and all conditions are deemed to be met, to adopt emergency
 803 rules pursuant to s. 120.54(4), Florida Statutes, for the
 804 purpose of implementing s. 212.03, Florida Statutes, including
 805 establishing procedures to facilitate the remittance of taxes.

806 (2) Notwithstanding any other law, emergency rules adopted
 807 pursuant to subsection (1) are effective for 6 months after
 808 adoption and may be renewed during the pendency of procedures to
 809 adopt permanent rules addressing the subject of the emergency
 810 rules.

811 (3) This section expires January 1, 2025.

812 Section 22. Except as otherwise expressly provided in this

Page 28 of 29

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20-00473A-22

2022512__

813 act, this act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 15, 2021

I respectfully request that **Senate Bill #512**, relating to Vacation Rentals , be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

Senator Danny Burgess
Florida Senate, District 20



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 512</u>
BILL TITLE:	<u>Vacation Rentals</u>
BILL SPONSOR:	<u>Sen. Burgess</u>
EFFECTIVE DATE:	<u>Click or tap here to enter text.</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Community Affairs
3) Rules
4) <u>Click or tap here to enter text.</u>
5) <u>Click or tap here to enter text.</u>

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	SB 286 (compare)
SPONSOR:	Sen. Garcia

PREVIOUS LEGISLATION

BILL NUMBER:	<u>Click or tap here to enter text.</u>
SPONSOR:	<u>Click or tap here to enter text.</u>
YEAR:	<u>Click or tap here to enter text.</u>
LAST ACTION:	<u>Click or tap here to enter text.</u>

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	<u>Click or tap here to enter text.</u>

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 15, 2021
LEAD AGENCY ANALYST:	Michelle Keith, Division of Hotels & Restaurants
ADDITIONAL ANALYST(S):	Marc Drexler, Office of the General Counsel, Division of Hotels and Restaurants Tracy Dixon, Service Operations Robin Jordan, Technology Jake Whealdon, Acting OGC Rules

LEGAL ANALYST:	Ross Marshman, OGC
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill defines the term “advertising platform” and creates s. 509.243, F.S. The bill preempts the regulation of advertising platforms and the licensing of public lodging and public food service establishments to the State, mandates advertising platforms to require certain information be included in vacation rental advertisements, requires each advertising platform to verify the validity of certain posted information, requires advertising platforms to remove listings not displaying the valid vacation rental license number, requires the operator of a vacation rental display the division license and local registration number at the rental property and authorizes the division to issue temporary licenses with a specified expiration date upon receipt of a vacation rental license application. The bill expands local authority by revising an exemption to certain prohibitions of local vacation rental regulations, allowing local governments to adopt vacation rental registration programs. The bill provides specific requirements, procedures and limitations on the local registration program, authorizes local governments to impose fines for non-registration, to charge registration processing fees, and allows local governments to terminate or deny the issuance or renewal of vacation rental registrations under certain circumstances. The bill requires the division to maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance by advertising platforms or person placing advertisements with certain requirements by July 1, 2023. The bill requires the advertising platform to collect and remit all taxes imposed under chs. 212 and 125, F.S., to the Department of Revenue, grants rule authority to the Department of Revenue to implement the act, and requires the Department of Revenue and counties that have elected to self-administer tourist development taxes to allow advertising platforms to register, collect, and remit those taxes. The bill requires advertising platforms to adopt an anti-discrimination policy for refusal of accommodations pursuant to s. 509.092, F.S., allows the division to issue cease and desist notices, authorizes the division to file certain proceedings, to impose fines on advertising platforms for specific violations, requires the division to issue written warnings or notices before beginning certain legal proceedings and authorizes the division to revoke, suspend or refuse to issue or renew vacation rental licenses under certain circumstances.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Transient public lodging establishments are defined in s. 509.013, F.S., as units or dwellings that are rented to guests more than 3 times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which are advertised or held out to the public as a place regularly rented to guests. The division only licenses and regulates the rental of the entire unit or dwelling. The rental of individual rooms within a condominium unit or house is excluded from licensure and regulation under the rooming-house/boardinghouse exclusion.

A vacation rental is defined in s. 509.242, F.S., as any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four family, house or dwelling unit that is also a transient lodging establishment but that is not a timeshare project. Public lodging establishments classified as vacation rentals are not issued temporary operating licenses upon receipt of an application and are not subject to statutorily required division inspections but they may be inspected by request or upon receipt of a consumer complaint. Local agencies may also inspect establishments for compliance with the Florida Building Code and Florida Fire Prevention Code.

The division currently posts electronic records in .csv format on the DBPR website. Current fiscal year extracts are provided and updated weekly with summary data for inspections, licenses, new establishments and owner changes of both public lodging and public food service establishments. The public lodging license extract provides the operator and business name, the license code and classification type, the mailing and location addresses, associated telephone numbers, the division license number, application approval date, license expiration date and number of units under the license.

Individual properties covered under single, group or collective vacation rental licenses are not currently available or readily accessible on demand in the division’s public license data extracts. To view and verify individual properties covered under a single, group or collective vacation rental license requires individual file research. The primary name, DBA name or license number must be provided and the list, if available, can be furnished by public records request.

Under ch. 61C-1.002(4)(a)2., F.A.C., vacation rental license holders are responsible for reporting to the division any and all houses or units to be included under a license, and must notify the division at least 60 days prior to the expiration of the license anytime a change in the units occurs. License holders may provide lists and report changes using the division's "Notification of Change for Vacation Rental Form" (DBPR HR-7010), or may notify the division by email or letter.

Licenses issued by the division should be conspicuously displayed in the office or lobby of the establishment and caterers should include their division issued license number on all advertisements.

The division does not currently define, monitor or regulate advertising platforms.

2. EFFECT OF THE BILL:

Section 1 creates subparagraph (b) under s. 212.03, F.S. stating that if a guest uses a payment service on or through a statutorily defined advertising platform to pay for the rental of a vacation rental in Florida, the advertising platform must collect and remit all applicable taxes as set forth in this section. It also states that in order to facilitate this process, the jurisdictions requiring the taxes must allow advertising platforms to register, collect and remit the taxes. Section 1 would take effect January 1, 2023.

Section 2 of the bill re-numbers the existing definitions at s. 509.013, F.S. and adds a definition for "advertising platform." To be considered an advertising platform, the platform must meet all three stated criteria: provides an online application/software/website/system, provides or maintains a marketplace for vacation rentals, and provides a reservation or payment system for the renting of vacation rentals for which a fee is collected or received based on the transaction. The definition only applies to the advertisement of vacation rentals.

Section 3 updates the reference to s. 509.013 in s. 509.032(3)(c)3.a. to reflect the numbering changes made in section 2 of the bill. Section 3 also adds the licensing of public lodging establishments and public food service establishments to the list of items preempted to the state. The bill allows local regulations to be amended to be less restrictive or to comply with local registration requirements and still maintain a grandfathered status. The bill allows local governments to charge a registration fee of \$50 or less and for the registration to be renewed annually unless a change of ownership occurs. The bill limits local registration requirements to an owner or operator submitting identifying information about the owner or the owner's agents and the subject vacation rental property; obtaining a license as a transient public lodging establishment issued by the division within 60 days after local registration; obtaining all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipal government; updating required information on a continuing basis to be current; complying with parking standards and solid waste handling and containment requirements so long as such standards are not imposed solely on vacation rentals; designating and maintaining at all times a responsible party who is capable of responding to complaints and other immediate problems related to the vacation rental, including being available by telephone at a listed phone number; and paying in full all recorded municipal or county code liens against the subject property. The bill allows a local government to withdraw registration acceptance if there is an unsatisfied recorded municipal or county code lien. The bill sets standards for local governments to review, process, accept, and deny registration applications. The bill requires local governments to issue a unique registration number or other indication of registration upon acceptance of the registration and to provide it to the owner or operator by written or electronic means. The bill sets forth standards for local governments to renew and terminate accepted applications. The bill preempts the regulation of advertising platforms to the state.

Section 4 of the bill would take effect January 1, 2023 and mandates that licenses must be displayed to the public inside a division licensed establishment instead of in the office or lobby. Section 4 also requires that vacation rental owners or operators must display the rental's division license number and local registration number if offered through an advertising platform. This bill also requires division vacation rental applications to include the local registration number, if applicable. The bill also allows the division to issue temporary licenses allowing a vacation rental to operate while an application is pending and to post the information required by section 5 of the bill in its database. The bill also states that temporary licenses automatically expire upon final agency action on the license application.

Section 5 of the bill creates s. 509.243, F.S., and would take effect January 1, 2023. The section states that an advertising platform must require a person placing a vacation rental advertisement include the division license number and local registration number if applicable. An advertising platform must also require a person placing a vacation rental advertisement to attest to the validity of the aforementioned information. The advertising platform must display both the division license number and the local registration number. Beginning July 1, 2023, the advertising platform must verify the validity of the vacation rental license number before the advertisement is posted to the platform and again at the end of each calendar year quarter the advertisement remains on the platform. By July 1, 2023, the bill requires the division to maintain information on vacation rental licenses in an easily accessible electronic format to facilitate compliance by advertising platforms or person placing an advertisement. The bill requires the advertising

platform to remove a Florida vacation rental advertisement or listing from public view within 15 business days if notified in writing by the division that the vacation rental advertisement or listing has failed to display a valid division license number. Section 3 reinforces that an advertising platform shall collect and remit all applicable taxes if a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental. The section grants the division the right to issue notices to cease and desist if it has probable cause to believe a person not licensed under ch. 509, F.S., has violated the chapter or rules adopted pursuant thereto, allows the division to file for injunctive or mandamus relief to enforce a notice to cease and desist, and entitles the department to collect any attorney fees and costs, together with cost of collection if the department is required to enforce a notice of penalty pursuant to s. 120.69, F.S. Section 5 permits the division to fine an advertising platform up to \$1,000 per violation of this section or division rule and to regard as a separate offense each day or portion of a day that the advertising platform is in violation. The bill requires advertising platforms to adopt anti-discrimination plans and inform its users that it is illegal to refuse accommodations based on any of items listed in s. 509.092, F.S. The bill specifies that this section does not create a private cause of action against advertising platforms and may not be held liable for any voluntary action taken in good faith in relation to its users to comply with chapter 509 or the advertising platform's terms of service.

Section 6 of the bill adds subsections (10) and (11) to 509.261, F.S. to include procedures for the division to revoke, refuse to issue or renew, or suspend up to 30 days a vacation rental license in four circumstances: (1) a court or arbitrator determines the operation of the subject premises violates the terms of an applicable lease or property restriction, including any condominium, cooperative or homeowners' association property restrictions; (2) the owner or operator fails to provide proof of required local registration; (3) the registration of the vacation rental is terminated by a local government as provided in s. 509.032(7)(b)5.; or (4) the premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental. Additionally, it allows the division to suspend up to 30 days a vacation rental license when the owner or operator has been cited for two or more code violations related to the vacation rental within 90 days. It also requires the division to issue a written warning and provide an opportunity to cure violations before disciplining the license.

Section 7 of the bill amends the definition of "temporary residence" in paragraph (n) of subsection (2) of s. 775.21, F.S., to include a place where a person lodges in a vacation rental for 24 hours or more.

Section 8 updates the citation of s. 509.013, F.S., in subsection (12) of s. 159.27, F.S., to reflect the changes made in Section 2 of the bill.

Section 9 updates the citation of s. 509.013 in paragraph (jj) of subsection (7) of s. 212.08, F.S., to reflect the changes made in Section 2 of the bill.

Section 10 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (4) of s. 316.1955, F.S., to reflect the changes made in Section 2 of the bill.

Section 11 updates the citation of s. 509.013, F.S., in subsection (5) of s. 404.056, F.S., to reflect the changes made in Section 2 of the bill.

Section 12 updates the citation of s. 509.013, F.S., in subsection (6) of s. 477.0135, F.S., to reflect the changes made in Section 2 of the bill.

Section 13 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (2) of s. 509.221, F.S., to reflect the changes made in Section 2 of the bill.

Section 14 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (5) of s. 553.5041, F.S., to reflect the changes made in Section 2 of the bill.

Section 15 updates the citation of s. 509.013, F.S., in paragraph (b) of subsection (5) of s. 559.955, F.S., to reflect the changes made in Section 2 of the bill.

Section 16 updates the citation of s. 509.013, F.S., in subsection (2) of s. 705.17, F.S., to reflect the changes made in Section 2 of the bill.

Section 17 updates the citation of s. 509.013, F.S., in s. 705.185, F.S., to reflect the changes made in Section 2 of the bill.

Section 18 updates the citation of s. 509.013, F.S., in s. 717.1355, F.S., to reflect the changes made in Section 2 of the bill.

Section 19 updates the citation of s. 509.013, F.S., in subsection (8) of s. 877.24, F.S., to reflect the changes made in Section 2 of the bill.

Section 20 states the act does not supersede any current or future declaration of condominium, any cooperative documents, or any homeowners' association covenants or declarations.

Section 21 authorizes the Department of Revenue to adopt emergency rules to implement the tax provisions. The section states the emergency rules will be effective for 6 months after adoption but can be renewed, and that the section expires January 1, 2025.

Section 22 states that with the exception of sections 1, 4, and 5, the act would take effect upon becoming a law.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	The division will need to update its rules based on Section 5 allowing the division to fine an advertising platform for violations of the section or violation of rules of the division.
Is the change consistent with the agency's core mission?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Rule(s) impacted (provide references to F.A.C., etc.):	61C-1.005, FAC

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	To date, the division has not been contacted by proponents or opponents of the legislation with any stated positions.
Opponents and summary of position:	To date, the division has not been contacted by proponents or opponents of the legislation with any stated positions.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y N

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Y N

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A

Bill Section Number(s):	N/A
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FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y N

Revenues:	Yes, potential increase in tourism taxes and revenue if local registration fees required.
Expenditures:	Unknown.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y N

Revenues:	Yes, indeterminate increase in licensing revenue, but it is unknown how many rental advertisements which are currently exempt from licensing would then require licensure. The bill may also result in an indeterminate increase in fines due to noncompliance
Expenditures:	<p>Increase in staff and costs needed to implement the bill.</p> <p>The division estimates an additional 4 FTE will be required to implement the provisions of the bill. See Additional Comments.</p> <p>The Division of Service Operations will require 1 FTE to implement the provisions of the bill. See Additional Comments.</p> <p>The Office of the General Counsel estimates that it will initially require a minimum of 1 FTE to implement the provisions of the bill. See Legal comments.</p> <p>Additional costs are anticipated to be \$497,671 (\$435,974 recurring). See Additional Comments.</p>
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y N

Revenues:	Unknown.
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Expenditures:	Vacation rentals previously operating without a division public lodging license would now require proof of licensure to post an ad on an advertising platform.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

If yes, explain impact.	The bill does not directly increase or decrease taxes or fees. However, there may be an indeterminate increase in the amount of taxes and fees collected due to increased compliance with the law and there may be an indeterminate increase in fines imposed due to noncompliance.
Bill Section Number:	Sections 3, 4 and 5.

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

<p>If yes, describe the anticipated impact to the agency including any fiscal impact.</p>	<p>This bill will require modification to the department's licensing and document management system to support the issuing of temporary licenses for vacation rentals applications. It will also require modifications to online services and the inspection app.</p> <ul style="list-style-type: none"> • Versa: Regulation - 40 hours • Versa Online - 24 hours • Inspection app – 24 hours • OnBase – 24 hours <p>Total 112 hours can be accomplished with existing resources.</p> <p><u>Infrastructure and Licensing Costs</u></p> <p>Additional staffing required to implement the provisions of this bill (see comments below) would result in technology infrastructure and licensing costs. Assuming employees are located in office space outside of existing offices, additional undetermined infrastructure costs will be incurred based on number, location and suitability.</p> <ul style="list-style-type: none"> • For four (4) additional administrative and support staff in DHR: <ul style="list-style-type: none"> ○ Non-recurring costs for network drop - \$600.00 ○ Non-recurring costs for software licenses – \$5,809.40 ○ Recurring software license maintenance – \$1,021.26 • For one (1) additional staff in the Office of the General Counsel to address workload and case increases (1 attorney): <ul style="list-style-type: none"> ○ Non-recurring cost for 1 laptop - \$1,100.00 ○ Non-recurring cost for network drops - \$150.00 ○ Non-recurring costs for software licenses - \$1,694.15 ○ Recurring costs for software maintenance - \$301.26 • For one (1) additional Customer Contact Center agent <ul style="list-style-type: none"> ○ Non-recurring cost for network drops - \$150.00 ○ Non-recurring costs for software licenses - \$3,711.14 ○ Recurring costs for software maintenance - \$701.26
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

<p>If yes, describe the anticipated impact including any fiscal impact.</p>	<p>N/A</p>
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ADDITIONAL COMMENTS

Hotels and Restaurants License Processing, Complaints and Investigations:

If passed, the division would be able to notify advertising platforms in writing of a vacation rental advertisement that did not display a valid license number. The division's total number of vacation rental complaints received has increased more than 12% since FY 2018-19 and hit a record high of 1,391 in FY 2019-2020, so anticipating an increase based on the bill as written is difficult to determine. The division anticipates a large but indeterminate influx of complaints from local jurisdictions, tax collectors, vacation rental guests, license holders and concerned homeowners. The division received a total of 2,895 lodging complaints for Fiscal Year 2020-21, with one Operations Review Specialist assigned to complaint

intake and processing. Based on this assumption, one new Operations Review Specialist FTE is required to process new complaints and to provide written removal notices to advertising platforms regarding valid license numbers. One additional Operations Review Specialist will be needed for every additional 5,000 complaints received.

The division also anticipates a large increase in lodging compliance activity based on the requirements of the bill. The division issued a total of 6,062 compliance cases in FY 2020-21 with three Operations Review Specialist FTEs assigned to the compliance processing team. Based on this assumption, one new Operations Review Specialist FTE is required to process cease and desist notices to unlicensed operators and to issue fines to advertising platforms per offense per day or partial day if found in violation of the section or division rule. One additional Operations Review Specialist FTE will be needed for every 2,000 additional compliance cases

One new Sanitation and Safety Specialist FTE is required based on the increase of incoming complaints and compliance cases. The proposed language requiring a vacation rental operator to display the rental's license in all rental units, and license number in all advertisements may result in an indeterminate number of violations and may require additional field staff resources to implement. For every 785 actionable complaints, the Division of Hotels and Restaurants will require one Sanitation and Safety Specialist FTE to inspect.

To process the licensing of previously unlicensed entities, the Division of Hotels and Restaurants will require one Regulatory Specialist II FTE. One additional Regulatory Specialist II FTE will be required for every 15,000 licenses processed.

The division is not requesting any FTEs for auditing rental advertisement content. The bill does not require the division to check the validity of information in a vacation rental advertisement. In its current state, the bill requires the license holder to attest to the validity of information on the rental advertisement and requires the advertising platform to verify the validity of the license number on the advertisement. Should the proposal language change, the division will require additional staff to audit and verify vacation rental listings.

The division will require rental advertisement data from advertising platforms to ensure compliance with this section. The division will need to adopt rules outlining the data required to be submitted by advertising platforms such as property addresses which are not provided on most vacation rental advertisements. The division will require assistance from Technology to implement an electronic data submission system and database to collect and organize property data received from advertising platforms.

Hotels and Restaurants General Comments:

As of October 2021, there are 30,967 vacation rental public lodging licenses issued by the division, with a total of 164,411 units.

The division has found that listings per advertising platform vary from as many as 391,798 to as little as 4. Vacation rental owners may list their properties on multiple advertising platforms which causes overlapping and duplication in total advertisement numbers. There are some platforms which are subgroups of larger platforms, in addition to platforms that are compilations of advertisements found on other vacation rental websites. There are also some online platforms which create mirror ads on their connected family platforms. As defined in the bill, the subgroups, mirror, and compilation sites are all deemed advertising platforms. This presents complications in determining the total number of vacation rentals and anticipated division work load.

The bill preempts the regulation of advertising platforms to the division, but does not provide instructions on how advertising platforms should be regulated. The bill is unclear if the division would need to create a new license classification or online registration for advertising platforms to allow regulation and enforcement and does not grant the division with rulemaking authority. The bill does not provide terms for how often valid license compliance notices should be provided to advertising platforms by the division and it does not set terms for how long the records should be maintained by the advertising platforms.

The temporary license provision reinforces the interpretation that the local registration information must only be provided to the division at the time of initial application. There would be no requirement to provide this information for units already licensed or units added to an existing license.

If the legislative intent is to make the single, group and collective unit listing disclosure part of the division's readily accessible public information, statutory authority to require online submission of unit lists for vacation rental licenses should be considered. Units lists submitted in an electronic format will integrate easier with DBPR's existing technology systems and will help facilitate compliance with the law.

It is unclear if the bill's requirements will apply to existing vacation rental licenses at time of renewal or only to initial applications. If the bill language applies only to initial vacation rental applications, then units on existing licenses and units added to existing licenses would not be subject to local registration and verification. If the bill language does apply to existing licenses at the time of renewal, it is unclear whether local registration will apply retroactively to all units or only to newly added units since the previous renewal.

There may be concerns regarding the effect of the language on single, group, and collective licenses containing multiple units. Single licenses may contain multiple units, while group and collective licenses always do. For example, suspending a group license containing 2,000 units based on one unit being out of compliance would punish the other 1,999 units that are in compliance. Additionally, collective licenses can span multiple municipalities and counties. Using a similar example, suspending a collective license containing 75 units based on one unit being out of compliance would also punish the other 74 units that are in compliance. Additionally, if that one unit was located in a different local government, it would also affect 74 units not located under that same local government. These scenarios could result in a significant shift away from licenses containing multiple units towards single unit licenses, which would impact the vacation rental management industry.

Navigating differing local requirements for different rental units may be difficult for both applicants and the division. Applicants would have to know the requirements for each and every local government where a unit is located. This may have the most noticeable impact on collective licenses, where a license may contain rental units that are located in many different municipalities, provided the units are located in the same division district as required. Division districts are divided geographic regions containing between 2 -18 counties each and include all of the municipalities located within those counties. It would also be difficult for the division to know the specific requirements enacted by each local government, including when local registration information is required as part of an application. Based on this, the division would need to consider restricting the geographic scope of collective licenses.

DSO: The impact to the division is indeterminate at this time. Based on the analysis, the Call Center will see an increase in the number of calls regarding advertising platforms, general inquiries on compliance with new requirements for vacation rentals, and complaints from the public. The Call Center is requesting an additional Regulatory Specialist III position. BCIL will have an increase in the amount of applications and citations which would impact the Intake Services unit.

OGC Rules: No additional comments.

Fiscal Impact:

Total anticipated Division of Hotels and Restaurants staff needed: 4 FTE

- 2 Operations Review Specialist FTE
- 1 Regulatory Specialist II FTE
- 1 Sanitation and Safety Specialist FTE

Total Division of Service Operations staff needed: 1 FTE

- 1 Regulatory Specialist III FTE

Total Office of General Counsel staff needed: 1 FTE

- 1 Senior Attorney FTE

Total Anticipated Costs: \$497,671 (\$435,974 recurring).

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

<p>Issues/concerns/comments:</p>	<p>The bill language contains several new requirements that could lead to a large increase in workload. Additional workload includes: final agency action for applications due to new license requirements (lines 471-479 and 569-586), administrative actions resulting from new license display requirements (lines 485-488), enforcing notices to cease and desist (lines 534-538), administrative actions against advertising platforms (lines 542-544), revoking or suspending vacation rental licenses for violating new provisions of law (lines 569-586), and suspending vacation rental licenses for local code violations (lines 587-590). This additional workload does not include tasks that the division may be able to handle without the Office of the General Counsel such as issuing notices to cease and desist (lines 528-532), issuing 15 day written warnings to advertising platforms (lines 548-550), and issuing written warnings to cure local code violations (lines 590-593). If the Office of the General Counsel is involved in these tasks, there would be a further increase in workload.</p> <p>While the amount of the workload increase cannot be projected at this time, the Office of the General Counsel estimates a minimum of 1 FTE senior attorney will initially be needed to support increased legal responsibilities, caseload, and litigation demands for up to 200 new cases. Computer/workstation equipment would also be needed for the new position. An additional FTE senior attorney position would be needed for every 200 cases or portion thereof beyond the initial 200. An FTE AAI position would be needed for every 1-3 senior attorney positions added beyond the initial one.</p> <p>Lines 548-550 differs from similar language found in an amendment to CS/CS SB 522 (2021). The former language required the division to issue a written warning to an advertising platform providing 15 days to cure a violation before commencing any legal proceeding under this subsection (subsection 5). The new language requires the division to issue a written warning to an advertising platform providing 15 days to cure a violation before commencing any legal proceeding under subsection (4). It is unclear if this was intentional or a mistake. Subsection (4) refers to notices to cease and desist against persons not licensed by the division, whereas subsection (5) refers to the division imposing a fine against an advertising platform.</p> <p>A more efficient way to implement the suspension processes in section 6 could be to add language similar to that contained in section 559.79(3), Florida Statutes. The language in that section allows the department to suspend or deny a license of any licensee found not to be in compliance with child support obligations when directed by the Department of Revenue or a court and to reinstate the license without additional charge upon direction of the Department of Revenue or a court. The language also states that the department is not liable for any license suspension or denial resulting from the discharge of its duties under this section. Absent such language, each revocation or suspension would need to run its course through the normal Chapter 120, F.S, process with division needing to prove the underlying reason for the revocation or suspension. This would result in increased costs to the division, increased costs to local governments, a process that takes many months versus days, and a vastly reduced ability for the division to handle a large volume.</p>
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2022 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
BILL NUMBER:	SB 512
BILL TITLE:	Vacation Rentals
BILL SPONSOR:	Senator Burgess
EFFECTIVE DATE:	Effective Upon Becoming Law

COMMITTEES OF REFERENCE
1) Regulated Industries
2) Community Affairs
3) Rules
4)
5)

CURRENT COMMITTEE
Regulated Industries

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	SB 522
SPONSOR:	Senator Diaz
YEAR:	2021
LAST ACTION:	Died in Rules

IDENTICAL BILLS	
BILL NUMBER:	HB 325
SPONSOR:	Representative Fischer

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	November 15, 2021
LEAD AGENCY ANALYST:	Lori Mizell
ADDITIONAL ANALYST(S):	Chad Brown, Peter Warren, Heather Faulkner, Vicki Ward, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Elisabeth Yerkes
FISCAL ANALYST:	Cynthia Barr

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Requires advertising platforms to collect and remit taxes for certain transactions; revises the regulated activities of public lodging establishments and public food service establishments preempted to the state to include licensing; expands the authority of local laws, ordinances, or regulations to include requiring vacation rentals to register with local vacation rental registration programs; authorizes local governments to adopt vacation rental registration programs and impose fines for failure to register; requires advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements and attest to certain information, etc; amends the definition of “temporary residence” in the Florida Sexual Predators Act to include a vacation rental, as defined in s. 509.242(1)(c), where a person lodges for 24 hours or more. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Section 775.21, FS, the Florida Sexual Predator Act, defines a “permanent residence” as a place where the person abides, lodges or resides for three or more consecutive days and “temporary residence” as a place where the person abides, lodges or resides, including, but not limited to, vacation, business or personal travel destinations in or out of this state, for a period of three or more days in the aggregate during any calendar year and which is not the person’s permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. “Transient residence” means a county where a person lives, remains or is located for a period of three or more days in the aggregate during a calendar year and which is not the person’s permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

Florida’s registration laws currently require sexual offenders and sexual predators to register in person with the sheriff’s office within 48 hours of establishing a residence as defined in section s. 775.21, FS. Permanent, temporary and transient residencies are defined as three or more days. There is no provision in current Florida sexual offender/predator registration laws that require registration after a sexual offender or sexual predator has been in a vacation rental for 24 hours.

2. **EFFECT OF THE BILL:** Adds language to s. 775.21, FS, defining “temporary residence” to include “...a vacation rental, as defined in s. 509.242(1)(c), where a person lodges for 24 hours or more.” This change will require both sexual predators required to register pursuant to s. 775.21, F.S., and sexual offenders required to register pursuant to s. 943.0435, FS, to register such vacation rentals in person with the sheriff’s office within 48 hours of establishing a residence in such vacation rental. Section 509.242, FS, defines a “vacation rental” as “any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project,” and s. 509.013, FS, defines a “transient public lodging establishment” as “any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.”
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y N

If yes, explain:	
What is the expected impact to the agency’s core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
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Provide a summary of the proponents' and opponents' positions:	
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5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number:	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y N

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	<ul style="list-style-type: none"> Requires sexual predators and offenders to register in person at the sheriff's office in the county of the vacation rental if they are lodging in the vacation rental for 24 hours or more. This will lead to a substantial increase in the number of sexual predators and offenders required to complete a registration in person at sheriffs' offices throughout the state, potentially requiring an increase in registration staff to accommodate the growth in registrants who must appear in person to register. It may also require increased hours of availability for the sheriffs' offices to allow for the substantially decreased time to establish a residency in a vacation rental. For example, at least 14 sheriffs' offices have three or more consecutive days where registration is unavailable. Eight registration offices require appointments to register, and only 4 are open for registration 24 hours a day. As written, the bill offers no monetary provisions for sheriffs' offices and may require that sheriffs' offices seek additional funds from their own local government to expand registration hours and hire additional registration staff.
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum	

or local governing body public vote prior to implementation of the tax or fee increase?	
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2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

Revenues:	
Expenditures:	<ul style="list-style-type: none"> Currently, there are more than 78,600 sexual predators and offenders on the Florida registry. Based on travel statistics and the percentage of the population required to register, it is anticipated the increase in Florida's registered population will be substantial. This generates a workload that involves research required for new registrants coming into Florida and establishing a residency within 24 hours and a significant increase in temporary address changes for existing registrants. The workload associated with researching out-of-state offenders and predators, which could represent a substantial portion of those registering vacation rentals, will be significant. FDLE is requesting four FTE positions (three Government Operations Consultant IIIs and one Senior Management Analyst Supervisor) to accommodate the increased workload and associated additional research and legal reviews totaling \$337,930 (\$319,750 recurring). The department will also need to update Registration Guidelines and Field Guides totaling \$47,000, provide updated training for local law enforcement agencies totaling \$4,800 and mail (certified) registrants notice of responsibilities totaling \$174,000. In addition, this will require updated programming for the registry totaling \$130,000 (see Technology Impact). <p>Total FDLE Fiscal: \$693,730 (\$319,750 recurring)</p> <ul style="list-style-type: none"> This will also significantly impact the Florida Department of Highway Safety and Motor Vehicles (DHSMV), as those individuals who complete an initial registration in Florida are required to report in person to the DHSMV within 48 hours of the registration. This may require staffing to accommodate the large increase in number of registrants reporting to DHSMV and the short timeframe in which they are required to report.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y N

Does the bill increase taxes, fees or fines?	
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Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION IMPACT THE AGENCY’S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	This will require changes to an existing system. Estimated IT work (analysis, design, programming and testing) will take 11 months to complete and total approximately \$130,000. Due to the time estimated to complete changes, FDLE is recommending that the effective date be amended to June 1, 2023.
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FEDERAL IMPACT

1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	
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LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments and recommended action:	<ul style="list-style-type: none"> Changing the definition of “temporary residence” for sexual predators s.775.21(2)(n), FS, will impact sexual offenders under s. 943.0435, FS, as s. 943.0435, FS references s. 775.21, FS, to define temporary residence. The definition of “temporary residence” already includes locations that would include vacation residences. The statute requires registration within 48 hours of establishing a “temporary residence” where a sexual predator or sexual offender abides, lodges, or resides for vacation, business, or personal travel for a period of 3 or more days in the aggregate. The amended definition reduces the length of time from three days to 24 hours to establish residency, but only if the sexual offender or sexual predator resides in a “vacation rental” as defined in s. 509.242. The amended definition creates different time tables for registration based solely on the type of lodging in which an individual stays. The registry is a vital public safety and investigative tool. Amending the definition of “temporary residence” is a departure from the previously vetted language. When making any changes to registration requirements or criteria, it is essential to understand sexual offender and predator registration is civil and regulatory. Legal challenges filed a result of changes to registration requirements risk the viability of the registry as whole, putting our law enforcement officers and citizens at risk of losing access to the critical information the registry provides. Therefore, any changes must be carefully considered.
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ADDITIONAL COMMENTS

- The department has significant concerns with the amended language of “temporary residence” in s. 775.21(2)(n), FS, as it will have a significant impact on the Florida Sexual Offender and Predator Registry and will certainly lead to litigation challenging the statutes (and registry). The department recommends removing the language amending the definition of “temporary residence.”

- The proposed language significantly expands both the affected population and the requirements of registration laws in Florida. Such an expansion beyond current registration laws in Florida, which have been closely examined and vetted through the courts and upheld as constitutional, could seriously impact Florida's sexual offender/predator registration laws.
- Both ss. 775.21 and 943.0435, FS, require in person registration upon establishing a residence in Florida. Such a report must occur during the hours in which the county sheriff's office accepts sexual offender registration and transient check-in information and updates. These hours vary from county to county and may not include every day of the week, hour of the day or the same hours on each day available for such reporting. Therefore, the requirement to register in person within 24 hours of establishing a residency in a vacation rental could create a substantial burden on Florida sheriffs' offices, and in counties that do not change their available reporting hours, registrants may not be able to register lodging in a vacation rental prior to vacating it.
- Affords no direction, responsibilities, mechanisms or timelines regarding the distribution of such "Vacation Rental registration information." If the intent is to provide updated information on sexual offenders and predators in vacation rentals immediately upon registration, this is not attainable for persons coming into Florida that have not previously registered in the state (which is expected to be a large proportion of registrations received under this bill). Registrants coming to Florida from other states require research and information from out-of-state criminal justice partners prior to their information being disseminated to the public. Those partners, such as other state registries and clerks of court, are generally open on regular weekday business hours and therefore may not provide the information required for the department to notify the public that a registrant is in a vacation rental until they have already vacated it.
- Takes effect upon becoming law, which allows no time for any of the requisite technological updates, notice and training to law enforcement partners or notice to offenders and predators regarding the change to registration requirement. Such a circumstance will place registrants at risk of a second or third-degree felony arrest for failure to register.

State of Florida
Office of the Attorney General
Informal Legal Opinion

Number: INFORMAL
Date: October 22, 2013
Subject: Vacation Rental Operations -- Local Ordinances

Mr. Albert J. Hadeed
Flagler County Attorney
1769 East Moody Boulevard, Building 2
Bunnell, Florida 32110

Dear Mr. Hadeed:

Thank you for contacting this office for assistance in determining whether Flagler County may intercede and stop vacation rental operations, as defined in Chapter 509, Florida Statutes, in private homes that were zoned, prior to June 1, 2011, for single-family residential use. Due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood. You state that Flagler County has no regulations governing vacation rentals which predate the 2011 legislation.

In sum, absent the existence of a local ordinance on or before June 1, 2011, regulating the rental of vacation homes in Flagler County, section 509.032(7), Florida Statutes, preempts local regulation of lodging establishments and public food establishments to the state and precludes a local ordinance or regulation enacted after June 1, 2011, restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, use, or occupancy.

A number of county residents have argued that transient vacation rentals are a commercial activity which is a non-conforming use of a house constructed under a permit for a single-family residence and located in an area zoned for single-family residences. The county has considered this argument and concluded that a residential zoning category, in and of itself, is not sufficient to serve as a pre-existing prohibition of vacation rentals in private homes.

Section 509.032(7)(a), Florida Statutes, preempts the regulation of lodging establishments and public food establishments to the state. Subsection (b) of the statute states:

"A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011." [1] (e.s.)

A "vacation rental" is defined as "any unit or group of units in a condominium, cooperative, or time-share plan or any individual or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment." [2] (e.s.) Thus, the plain language of the statute recognizes that a single-family house or dwelling may be a "vacation rental" which is used as a transient public lodging establishment subject to regulation by the state. As this office has previously recognized, with the enactment of section 509.032(7)(b), Florida Statutes, the ability of a local government to regulate vacation rentals by enactment of an ordinance after June 1, 2011, has been preempted to the state. [3] While you have premised your question on the existence of a single-family zoning regulation in existence prior to June 1, 2011, you have also indicated that no county regulations of vacation rentals existed on that date.

This office agrees with the county's conclusion that a local zoning ordinance for single-family homes existing on or before June 1, 2011, that did not restrict the rental of such property as a vacation rental, cannot now be interpreted to do so. The clear language in section 509.032(7), Florida Statutes, prohibits any local regulation on or after June 1, 2011, based upon the use of a residence as a vacation rental.

Sincerely,

Lagran Saunders
Attorney General

ALS/tsrh

[1] Section 509.032(7)(c), Fla. Stat., provides:

"Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation."

[2] Section 509.242(1)(c), Fla. Stat. See s. 509.013(4), Fla. Stat., defining "[p]ublic lodging establishment" for purposes of Ch. 509, Fla. Stat.:

"(4)(a) 'Public lodging establishment' includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. 'Transient public lodging establishment' means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests."

[3] Informal Op. to Marino, dated August 3, 2012. Cf. City of Venice v. Gwynn, 76 So. 3d 401 (Fla. 2d DCA 2011), in which a city's code prohibited owners of single-family dwellings in residential neighborhoods from renting their property for short periods of times; the court affirmed the city's

administrative determination that owner's non-conforming use of property as a vacation rental violated city's ordinance regarding short-term rentals.



732580

LEGISLATIVE ACTION

Senate

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. .
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. .

House

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

Senate Amendment

Delete lines 361 - 375
and insert:
prohibit or regulate a person who offers for sale, directly to the public, only dogs that the person has bred or has trained to be hunting dogs, field trial dogs, sporting dogs, conformation dogs, cattle dogs, police dogs, or service dogs as defined under the Americans with Disabilities Act.

Section 12. Section 468.921, Florida Statutes, is created



732580

11 to read:

12 468.921 Local regulation; grandfathering of existing local
13 regulations.-

14 (1) A county or municipality may not prohibit or regulate a
15 person who offers for sale, directly to the public, only dogs
16 that the person has bred or has trained to be hunting dogs,
17 field trial dogs, sporting dogs, conformation dogs, cattle dogs,
18 police dogs, or service dogs as defined under the Americans with
19 Disabilities Act.

20 (2) (a) A county or municipality may adopt an ordinance or a
21 regulation on or after July 1, 2022, which regulates, but does
22 not prohibit, the operation of retail pet stores or the
23 breeding, purchase, or sale of household pets, provided the
24 ordinances or regulations are consistent and not in conflict
25 with the requirements of s. 468.907.

By Senator Diaz

36-00362B-22

2022994__

1 A bill to be entitled
 2 An act relating to pet protection; providing a
 3 directive to the Division of Law Revision; creating s.
 4 468.901, F.S.; providing a short title; creating s.
 5 468.903, F.S.; defining terms; creating s. 468.905,
 6 F.S.; requiring the licensure of retail pet stores;
 7 requiring the Department of Business and Professional
 8 Regulation to adopt standards and procedures for such
 9 licensure; prohibiting unlicensed retail pet stores
 10 from taking certain actions regarding certain
 11 household pets; creating s. 468.907, F.S.; defining
 12 the term "qualified breeder"; limiting the sources
 13 from which retail pet stores may acquire household
 14 pets for specified purposes; prohibiting certain
 15 household pets from being used by retail pet stores
 16 for specified purposes; requiring certain
 17 documentation of the sources from which retail pet
 18 stores acquire household pets for sale; providing
 19 requirements for the living conditions for household
 20 pets at retail pet stores; providing retail pet store
 21 veterinarian, exercise, and socialization
 22 requirements; creating s. 468.909, F.S.; requiring the
 23 department to conduct periodic inspections of retail
 24 pet stores and to audit sales records; requiring the
 25 department to establish procedures for the inspections
 26 and records of the inspections; authorizing contracts
 27 with certain veterinarians to conduct inspections;
 28 creating s. 468.911, F.S.; requiring the department to
 29 deny a retail pet store license under certain

Page 1 of 20

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

36-00362B-22

2022994__

30 circumstances; authorizing disciplinary action under
 31 certain circumstances; specifying administrative
 32 procedures; providing civil penalties; authorizing the
 33 department to adopt rules; creating s. 468.913, F.S.;
 34 authorizing civil actions for purposes of enforcement;
 35 creating s. 468.915, F.S.; providing criminal
 36 penalties for specified violations; creating s.
 37 468.917, F.S.; requiring certain moneys to be
 38 deposited into the department's Professional
 39 Regulation Trust Fund; creating s. 468.919, F.S.;
 40 providing construction; creating s. 468.921, F.S.;
 41 prohibiting county and municipal ordinances and
 42 regulations from prohibiting or regulating the
 43 breeding, purchase, or sale of certain working dogs;
 44 providing applicability with regard to new and
 45 existing county and municipal ordinances and
 46 regulations; amending s. 823.15, F.S.; requiring
 47 certain public or private animal agencies to report on
 48 a monthly basis certain animal records to the
 49 Department of Agriculture and Consumer Services;
 50 requiring public animal rescues to make records
 51 available to the public; requiring the department to
 52 make the data reported by the agencies available on
 53 its website in a specified manner; requiring public
 54 and private animal rescues and humane organizations to
 55 provide for the sterilization of adopted dogs and cats
 56 according to certain requirements; authorizing public
 57 or private animal rescues to implant dogs and cats
 58 with radio frequency identification microchips and to

Page 2 of 20

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36-00362B-22

2022994__

59 contact the owners of such devices to verify pet
60 ownership; requiring certain public or private animal
61 agencies to disclose a dog's bite history before
62 adoption; prohibiting certain public or private animal
63 agencies from intentionally breeding dogs or cats for
64 sale to the public and from exchanging payment or
65 compensation to obtain dogs or cats from certain
66 persons; providing applicability; amending s. 474.203,
67 F.S.; conforming a provision to changes made by the
68 act; providing an effective date.

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

71
72 Section 1. The Division of Law Revision is directed to
73 create part XVII of chapter 468, Florida Statutes, consisting of
74 ss. 468.901-468.921, Florida Statutes, to be entitled "Retail
75 Pet Stores."

76 Section 2. Section 468.901, Florida Statutes, is created to
77 read:

78 468.901 Short title.—This part may be cited as the "Florida
79 Pet Protection Act."

80 Section 3. Section 468.903, Florida Statutes, is created to
81 read:

82 468.903 Definitions.—As used in this part, the term:

83 (1) "Animal rescue" means a nonprofit organization exempt
84 from federal income taxation under s. 501(c)(3) of the Internal
85 Revenue Code which keeps, houses, and maintains household pets
86 and which is dedicated to the welfare, health, safety, and
87 protection of such pets. The term includes an organization that

Page 3 of 20

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36-00362B-22

2022994__

88 offers spayed or neutered household pets for adoption and
89 charges only reasonable adoption fees to cover the
90 organization's costs, including, but not limited to, costs
91 related to spaying or neutering the pets.

92 (2) "Animal shelter" means a public facility, or a private
93 facility operated by a nonprofit organization exempt from
94 federal income taxation under s. 501(c)(3) of the Internal
95 Revenue Code, which keeps, houses, and maintains household pets,
96 such as a county or municipal animal control agency or pound, a
97 humane society, an animal welfare society, a society for the
98 prevention of cruelty to animals, or another nonprofit
99 organization devoted to the welfare, protection, and humane
100 treatment of household pets.

101 (3) "Department" means the Department of Business and
102 Professional Regulation.

103 (4) "Household pet" means a domestic dog or a domestic cat.

104 (5) "Pet broker" means a person who buys, sells, or offers
105 for sale household pets for resale to other persons, or who
106 sells or gives one or more pets to a retail pet store, and who
107 holds a valid Class B animal dealer license issued by the United
108 States Department of Agriculture.

109 (6) "Professional breeder" means a person required to be
110 licensed as a Class A animal dealer by the United States
111 Department of Agriculture.

112 (7) "Retail pet store" means a retail store that sells or
113 offers for sale household pets to the public. The term does not
114 include an animal rescue; an animal shelter; or a breeder who
115 sells or transfers, directly to the public, household pets bred
116 and raised on the breeder's premises.

Page 4 of 20

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

36-00362B-22

2022994__

117 (8) "Veterinarian" means a health care practitioner
 118 licensed under chapter 474, or licensed in another state by the
 119 applicable entity in that state, to engage in the practice of
 120 veterinary medicine.

121 Section 4. Section 468.905, Florida Statutes, is created to
 122 read:

123 468.905 Licensure of retail pet stores.-

124 (1) A person may not operate a retail pet store in this
 125 state without having a valid retail pet store license issued by
 126 the department in accordance with this section.

127 (2) The department shall adopt standards and procedures for
 128 the licensure of retail pet stores consistent with this act. An
 129 applicant for a retail pet store license must apply to the
 130 department on a form prescribed by the department for each
 131 premises. Upon licensure, the department shall assign a unique
 132 license number for each licensed premises.

133 (3) The department may establish annual licenses that are
 134 valid for 1 year and that may be renewed. An application for
 135 renewal of a license must be submitted to the department in a
 136 format prescribed by the department.

137 (4) A retail pet store that does not have a valid license
 138 may not display, offer for sale, deliver, barter, auction,
 139 broker, give away, transfer, or sell any household pet from the
 140 store.

141 Section 5. Section 468.907, Florida Statutes, is created to
 142 read:

143 468.907 Sale or transfer of household pets by retail pet
 144 stores.-

145 (1) As used in this section, the term "qualified breeder"

Page 5 of 20

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36-00362B-22

2022994__

146 means a professional breeder located within or outside this
 147 state who meets all of the following requirements:

148 (a) Holds a valid Class A animal license issued by the
 149 United States Department of Agriculture and, if required by the
 150 state in which he or she is located, is licensed by a state
 151 agency.

152 (b) Has not been issued a report of a finally adjudicated
 153 direct noncompliance violation by the United States Department
 154 of Agriculture under the federal Animal Welfare Act, 7 U.S.C.
 155 ss. 2131 et seq., in the 2 years immediately before offering for
 156 sale, delivering, bartering, auctioning, brokering, giving away,
 157 transferring, or selling a household pet. However, a
 158 professional breeder is not considered a qualified breeder until
 159 any pending report of a direct noncompliance violation is
 160 finally adjudicated.

161 (c) Has not had three or more finally adjudicated
 162 noncompliance violations documented in any report issued by the
 163 United States Department of Agriculture under the federal Animal
 164 Welfare Act, 7 U.S.C. ss. 2131 et seq., for the year immediately
 165 before offering for sale, delivering, bartering, auctioning,
 166 brokering, giving away, transferring, or selling a household
 167 pet. However, a professional breeder is not considered a
 168 qualified breeder until any pending report of a noncompliance
 169 violation is finally adjudicated.

170 (2) A retail pet store may not display, offer for sale,
 171 deliver, barter, auction, broker, give away, transfer, or sell
 172 any household pet from the store unless such pet was acquired
 173 from one of the following sources:

174 (a) A qualified breeder.

Page 6 of 20

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36-00362B-22

2022994

- 175 (b) A person who, pursuant to 9 C.F.R. s. 2.1(a)(3)(ii)-
 176 (vii), is exempt from licensure by the United States Department
 177 of Agriculture.
- 178 (c) An animal rescue.
- 179 (d) An animal shelter.
- 180 (e) A pet broker; however, if the pet broker acquires the
 181 pet from a professional breeder, the breeder must be a qualified
 182 breeder.
- 183 (3) A retail pet store may not sell, deliver, barter,
 184 auction, broker, give away, or transfer any household pet:
- 185 (a) Younger than 8 weeks of age.
- 186 (b) That has not been implanted with an International
 187 Organization for Standardization (ISO) identification microchip.
- 188 (c) That does not have a valid veterinary certification,
 189 including the United States Interstate and International
 190 Certificate of Health Examination for Small Animals prescribed
 191 by the United States Department of Agriculture or the official
 192 certificate of veterinary inspection prescribed by the
 193 Department of Agriculture and Consumer Services pursuant to s.
 194 828.29.
- 195 (d) To a person younger than 18 years of age, as verified
 196 by a valid driver license, state identification card, or other
 197 government-issued identification card bearing a photograph of
 198 the cardholder.
- 199 (e) Acquired from a qualified breeder or pet broker, unless
 200 the retail pet store provides to the buyer acquiring the pet,
 201 before completing the transaction, a written certification that
 202 includes the following:
- 203 1. The name, address, and, if applicable, United States

Page 7 of 20

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36-00362B-22

2022994

- 204 Department of Agriculture license number of the breeder who bred
 205 the household pet.
- 206 2. An electronic or paper copy of the breeder's most recent
 207 United States Department of Agriculture inspection report, if
 208 applicable.
- 209 3. The household pet's date of birth, if known.
- 210 4. The date the retail pet store took possession of the
 211 household pet.
- 212 5. The breed, gender, color, and any identifying marks of
 213 the household pet.
- 214 6. A signed statement by the retail pet store's Florida-
 215 licensed veterinarian, in a format prescribed by the department,
 216 which describes any known disease, illness, or congenital or
 217 hereditary condition that adversely affects the health of the
 218 household pet at the time of examination.
- 219 7. A document signed by the owner or a manager or an
 220 employee of the retail pet store certifying that all information
 221 required to be provided to the person acquiring the household
 222 pet under this paragraph is accurate.
- 223
- 224 A retail pet store shall keep an electronic or paper copy of the
 225 certification for at least 3 years after the date the buyer
 226 acquires the household pet. The owner or a manager or an
 227 employee of a retail pet store may not fraudulently alter or
 228 provide false information on a certification provided in
 229 accordance with this paragraph.
- 230 (4) A licensed retail pet store shall provide the buyer of
 231 a household pet with all of the following information:
- 232 (a) The pet's microchip identification number.

Page 8 of 20

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36-00362B-22

2022994

233 (b) The complete name, address, and telephone number of all
 234 professional breeders, pet brokers, or other persons who kept,
 235 housed, or maintained the pet before the retail pet store took
 236 possession of the animal or proof that the pet was acquired
 237 through an animal rescue or animal shelter.

238 (c) A photograph or digital image and the name and
 239 registration number of both of the pet's parents, sire and dam.

240
 241 A retail pet store shall keep a copy of the documentation
 242 required under this subsection for at least 3 years after the
 243 date it acquired the household pet.

244 (5) A retail pet store shall provide for all of the
 245 following:

246 (a) Flooring in the primary enclosures that house household
 247 pets which is constructed of a solid surface or, if grid-style
 248 or wire flooring is used, the surface of which is covered with a
 249 rubberized or coated material that prevents a pet's toe or foot
 250 from passing through or being caught in the flooring. A retail
 251 pet store shall clean all primary enclosures daily, or as often
 252 as necessary to prevent accumulation of bodily waste, and keep a
 253 daily sanitation log.

254 (b) An isolation enclosure with separate ventilation which
 255 allows a household pet to be kept separately from other pets
 256 while under veterinarian-directed isolation.

257 (c) Climate control that ensures that the ambient air
 258 temperature of the retail pet store's premises is kept between
 259 67 and 78 degrees at all times. Retail pet stores shall keep
 260 daily logs of the temperature. If, for any reason, the
 261 temperature falls outside the required range, a corrective

36-00362B-22

2022994

262 action record detailing steps taken to adjust the temperature
 263 must be kept.

264 (d) A Florida-licensed veterinarian who visits the retail
 265 pet store at least twice each week to observe the condition of
 266 the pets' health and overall well-being.

267 (e) An enrichment program for puppies which consists of
 268 exercise and socialization for at least two 30-minute periods
 269 each day. A retail pet store must keep a log for each puppy of
 270 the daily activities that the puppy participates in as part of
 271 the program.

272 (f) A photograph or digital image and video footage
 273 depicting each breeding facility from which the retail pet store
 274 acquires household pets.

275 Section 6. Section 468.909, Florida Statutes, is created to
 276 read:

277 468.909 Inspections.-

278 (1) (a) At least annually, the department shall inspect each
 279 retail pet store that is subject to licensure to ensure
 280 compliance with this part and with rules adopted under this
 281 part. The inspection must include, but need not be limited to,
 282 an audit of the records that the licensee maintains pursuant to
 283 s. 468.907(3) (e) and (4).

284 (b) The department also may conduct an inspection upon
 285 receipt of a complaint or other information alleging a violation
 286 of this part or rules adopted under this part.

287 (2) The department shall establish procedures for
 288 conducting inspections and making records of inspections.
 289 Inspections must be conducted during regular business hours in
 290 accordance with the department's procedures and may be conducted

36-00362B-22

2022994__

291 without prior notice. The department shall maintain a record of
 292 each inspection in accordance with such procedures.

293 (3) The department may enter into a contract or an
 294 agreement with one or more veterinarians to conduct inspections
 295 under this section. Such veterinarians must be independent and
 296 may not be affiliated with a retail pet store or an animal
 297 rights advocacy organization.

298 Section 7. Section 468.911, Florida Statutes, is created to
 299 read:

300 468.911 Administrative remedies; penalties.-

301 (1) The department must deny an application for issuance or
 302 renewal of a retail pet store license if either of the following
 303 applies:

304 (a) The licensee or applicant violates this part or any
 305 rule or order issued under this part, if the violation
 306 materially threatens the health or welfare of a household pet.

307 (b) The licensee or applicant, in the past 20 years, has
 308 been convicted of or pled guilty or nolo contendere to,
 309 regardless of adjudication, a misdemeanor or felony under
 310 chapter 828 or a misdemeanor or felony under chapter 741
 311 involving an act of domestic violence.

312 (2) The department may enter an order for one or more of
 313 the following if the department finds that an owner of a retail
 314 pet store, or a person employed or contracted by a retail pet
 315 store about whom the owner knows or reasonably should have
 316 known, has violated or is operating in violation of this part or
 317 any rule or order issued pursuant to this part:

318 (a) Issuing a notice of noncompliance under s. 120.695.

319 (b) Imposing an administrative fine for each act or

36-00362B-22

2022994__

320 omission, not to exceed the following amounts:

321 1. For a first violation, \$250.

322 2. For a second violation, \$500.

323 3. For a third or subsequent violation, \$1,000.

324
 325 Each day that a violation continues constitutes a separate
 326 violation.

327 (c) Directing that the person cease and desist specified
 328 activities.

329 (d) Refusing to issue or renew a license or revoking or
 330 suspending a license.

331 (e) Placing the licensee on probation, subject to
 332 conditions specified by the department.

333 (3) The administrative proceedings that could result in the
 334 entry of an order imposing any of the penalties specified in
 335 subsection (1) or subsection (2) are governed by chapter 120.

336 (4) The department may adopt rules to administer this part.

337 Section 8. Section 468.913, Florida Statutes, is created to
 338 read:

339 468.913 Civil penalties; remedies.-The department may bring
 340 a civil action in a court of competent jurisdiction to recover
 341 any penalties or damages authorized by this part and for
 342 injunctive relief to enforce compliance with this part.

343 Section 9. Section 468.915, Florida Statutes, is created to
 344 read:

345 468.915 Criminal penalties.-A person commits a misdemeanor
 346 of the second degree, punishable as provided in s. 775.082 or s.
 347 775.083, if he or she violates either of the following:

348 (1) Section 468.905(1) or (4), relating to operation of a

36-00362B-22

2022994__

349 retail pet store without a license.

350 (2) Section 468.907(2) or (3), relating to unlawful
 351 practices in the sale of household pets by a retail pet store.

352 Section 10. Section 468.917, Florida Statutes, is created
 353 to read:

354 468.917 Deposit of funds.—All moneys collected by the
 355 department under this part from civil penalties must be
 356 deposited into the department’s Professional Regulation Trust
 357 Fund for use by the department for administration of this part.

358 Section 11. Section 468.919, Florida Statutes, is created
 359 to read:

360 468.919 Construction.—This part may not be construed to
 361 prohibit or regulate the breeding, purchase, or sale of hunting
 362 dogs, field trial dogs, sporting dogs, or cattle dogs.

363 Section 12. Section 468.921, Florida Statutes, is created
 364 to read:

365 468.921 Local regulation; grandfathering of existing local
 366 regulations.—

367 (1) A county or municipality may not prohibit or regulate
 368 the breeding, purchase, or sale of hunting dogs, field trial
 369 dogs, sporting dogs, or cattle dogs.

370 (2) (a) A county or municipality may adopt an ordinance or a
 371 regulation on or after July 1, 2022, which regulates, but does
 372 not prohibit, the operation of retail pet stores or the
 373 breeding, purchase, or sale of household pets, provided the
 374 ordinances or regulations are consistent and not in conflict
 375 with the rules imposed under s. 468.907.

376 (b) This subsection does not affect any of the following:

377 1. Any county or municipal ordinance or regulation in

36-00362B-22

2022994__

378 effect on or before June 1, 2021, which prohibits the operation
 379 of retail pet stores within its jurisdiction.

380 2. Any county or municipal ordinance or regulation adopted
 381 before July 1, 2022, which imposes a moratorium on the
 382 establishment of new retail pet stores, or that otherwise
 383 regulates such stores within its jurisdiction.

384 (c) This subsection does not affect a local government’s
 385 authority to levy a local business tax pursuant to chapter 205.

386 Section 13. Section 823.15, Florida Statutes, is amended to
 387 read:

388 823.15 Public or private animal agencies; sterilization,
 389 ~~required for dogs and cats released,~~ recordkeeping, and
 390 disclosure requirements; microchipping.—

391 (1) The Legislature ~~finds has determined~~ that the
 392 importation of dogs and cats into, and the uncontrolled breeding
 393 of dogs and cats in, this state pose risks to the well-being of
 394 dogs and cats, the health of humans and animals, and the
 395 agricultural interests in this state. Importation of dogs and
 396 cats from outside the United States could result in the
 397 transmission of diseases that have been eradicated in the United
 398 States to dogs and cats, other animals, and humans living in
 399 this state. Uncontrolled breeding results in the birth of many
 400 more puppies and kittens than are needed to provide pet animals
 401 to new owners or to replace pet animals that have died or become
 402 lost. This leads to many dogs, cats, puppies, and kittens being
 403 unwanted, becoming strays and suffering privation and death,
 404 being impounded and destroyed at great expense to the community,
 405 and constituting a public nuisance and public health hazard. It
 406 is therefore declared to be the public policy of the state that

36-00362B-22

2022994__

407 every feasible means be used to reduce the incidence of birth of
 408 unneeded and unwanted puppies and kittens. Determining which
 409 programs result in improved adoption rates and in reduced
 410 euthanasia rates for animals in shelters and animal control
 411 agencies is crucial to this effort.

412 (2) (a) Each public or private animal shelter, animal
 413 rescue, humane organization, or animal control agency operated
 414 by a humane organization or by a county, municipality, or other
 415 incorporated political subdivision, shall prepare and maintain
 416 the ~~following~~ records required by this paragraph and make them
 417 available for public inspection and dissemination for the 3
 418 preceding years. The following data ~~must will~~ be available and
 419 reported to the Department of Agriculture and Consumer Services
 420 on a monthly basis ~~commencing July 31, 2013~~:

421 1. The total number of dogs and cats taken in by the animal
 422 shelter, animal rescue, humane organization, or animal control
 423 agency, divided into species, in the following categories:

- 424 a. Surrendered by owner;
- 425 b. Stray;
- 426 c. Impounded;
- 427 d. Confiscated;
- 428 e. Transferred from within this state Florida;
- 429 f. Transferred into or imported from out of this the state;
- 430 and
- 431 g. Born in shelter.

432
 433 Species other than domestic cats and domestic dogs should be
 434 recorded as "other."

435 2. The disposition of all animals taken in by a public or

Page 15 of 20

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36-00362B-22

2022994__

436 private animal shelter, animal rescue, humane organization, or
 437 animal control agency operated by a humane society or by a
 438 county, municipality, or other incorporated political
 439 subdivision, divided into species. These data must include
 440 dispositions by:

- 441 a. Adoption;
- 442 b. Reclamation by owner;
- 443 c. Death in kennel;
- 444 d. Euthanasia at the owner's request;
- 445 e. Transfer to another public or private animal shelter,
 446 animal rescue, humane organization, or animal control agency
 447 operated by a humane society or by a county, municipality, or
 448 other incorporated political subdivision;
- 449 f. Euthanasia;
- 450 g. Released in field/Trapped, Neutered, Released (TNR);
- 451 h. Lost in care/missing animals or records; and
- 452 i. Ending inventory/shelter count at end of the last day of
 453 the month.

454 3. A public or private animal shelter, animal rescue,
 455 humane organization, or animal control agency operated by a
 456 humane society, or by a county, municipality, or other
 457 incorporated political subdivision, which routinely euthanizes
 458 dogs based on size or breed alone must provide a written
 459 statement of such policy. Dogs euthanized due to breed,
 460 temperament, or size must be recorded and included in the
 461 calculation of the total euthanasia percentage.

462 4. Certificates of veterinary inspections for all dogs and
 463 cats imported into this state.

464 (b) Records of a public animal shelter, animal rescue,

Page 16 of 20

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36-00362B-22

2022994__

465 humane organization, or animal control agency operated by a
 466 humane society must be made available to the public pursuant to
 467 ~~provisions in~~ chapter 119.

468 (c) The Department of Agriculture and Consumer Services
 469 shall make the data it receives pursuant to this subsection
 470 available to the public on a monthly basis and in a searchable
 471 format on its website.

472 (3) In furtherance of this policy, provision shall be made
 473 for the sterilization of all dogs and cats ~~sold or~~ released for
 474 adoption from any public or private animal shelter, animal
 475 rescue, humane organization, or animal control agency operated
 476 by a humane society or by a county, municipality city, or other
 477 incorporated political subdivision, by either:

478 (a) Providing sterilization by a licensed veterinarian
 479 before relinquishing custody of the animal; or

480 (b) Entering into a written agreement with the adopter or
 481 purchaser guaranteeing that sterilization will be performed
 482 within 30 days or before ~~prior to~~ sexual maturity. The shelter
 483 or animal control agency shall require a sufficient deposit from
 484 the adopter or purchaser, which deposit shall be refundable upon
 485 presentation to the shelter or animal control agency of written
 486 evidence by the veterinarian performing the sterilization that
 487 the animal has been sterilized. ~~The deposit or donation may be~~
 488 ~~based upon recommended guidelines established by the Florida~~
 489 ~~Federation of Humane Societies.~~ Failure by either party to
 490 comply with ~~the provisions of~~ this paragraph constitutes shall
 491 ~~be~~ a noncriminal violation as defined in s. 775.08(3),
 492 punishable by a fine, forfeiture, or other civil penalty, and,
 493 in addition thereto, the deposit or donation shall be forfeited

Page 17 of 20

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36-00362B-22

2022994__

494 to the shelter or animal control agency. Any legal fees or court
 495 costs used for the enforcement of this paragraph are the
 496 responsibility of the adopter. Upon the request of a licensed
 497 veterinarian, and for a valid reason, the shelter or animal
 498 control agency shall extend the time limit within which the
 499 animal must be sterilized.

500 (4) All costs of sterilization pursuant to this section
 501 shall be paid by the prospective adopter unless otherwise
 502 provided for by ordinance of the local governing body, with
 503 respect to animal control agencies or shelters operated or
 504 subsidized by a unit of local government, or provided for by the
 505 humane society governing body, with respect to an animal control
 506 agency or shelter operated solely by the humane society and not
 507 subsidized by public funds.

508 (5) Employees, agents, or contractors of a public or
 509 private animal shelter, animal rescue, ~~a~~ humane organization, or
 510 ~~a~~ animal control agency operated by a humane organization or by
 511 a county, municipality, or other incorporated political
 512 subdivision may implant dogs and cats with radio frequency
 513 identification microchips as part of their work with such public
 514 or private animal shelter, animal rescue, humane organization,
 515 or animal control agency.

516 (6) Notwithstanding s. 474.2165, employees, agents, or
 517 contractors of a public or private animal shelter, animal
 518 rescue, ~~a~~ humane organization, or ~~a~~ animal control agency
 519 operated by a humane organization or by a county, municipality,
 520 or other incorporated political subdivision may contact the
 521 owner of record listed on a radio frequency identification
 522 microchip to verify pet ownership.

Page 18 of 20

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36-00362B-22

2022994__

523 (7) Any public or private animal shelter, animal rescue,
 524 humane organization, or animal control agency operated by a
 525 humane society or any county, municipality, or other
 526 incorporated political subdivision shall disclose any bite
 527 history that exists for a dog before releasing the animal for
 528 adoption.

529 (8) A public or private animal shelter, animal rescue,
 530 humane organization, or animal control agency operated by a
 531 humane society or any county, municipality, or other
 532 incorporated political subdivision may not intentionally breed
 533 dogs or cats for sale to the public or, in exchange for payment
 534 or any other compensation, obtain a dog or cat from a person who
 535 breeds dogs or cats, resells dogs or cats from a breeder, or
 536 sells dogs or cats at auction. This subsection does not apply to
 537 or affect the ability of a person who offers for sale, directly
 538 to the public, dogs or cats that the person has bred or trained
 539 on his or her own property.

540 Section 14. Subsection (9) of section 474.203, Florida
 541 Statutes, is amended to read:

542 474.203 Exemptions.—This chapter does not apply to:

543 (9) An employee, an agent, or a contractor of a public or
 544 private animal shelter, animal rescue, humane organization, or
 545 animal control agency operated by a humane organization or by a
 546 county, a municipality, or another incorporated political
 547 subdivision whose work is confined solely to the implantation of
 548 a radio frequency identification device microchip for dogs and
 549 cats in accordance with s. 823.15.

550

551 For the purposes of chapters 465 and 893, persons exempt

36-00362B-22

2022994__

552 pursuant to subsection (1), subsection (2), or subsection (4)
 553 are deemed to be duly licensed practitioners authorized by the
 554 laws of this state to prescribe drugs or medicinal supplies.

555 Section 15. This act shall take effect July 1, 2022.

ORDINANCE

20-4

ORDINANCE NO. 20-4

AN ORDINANCE AMENDING HILLSBOROUGH COUNTY CODE OF LAWS AND ORDINANCES, PART A, CHAPTER 6, ARTICLE II, SECTIONS 6-20 and 6-61-6-65 (HILLSBOROUGH COUNTY ORDINANCE NO. 17-12), AS PERTAINING TO PET RETAIL SALES; PROVIDING FOR DEFINITION REVISIONS; PROVIDING FOR ELIMINATION OF THE GRANDFATHER PRIVILEGE FOR EXISTING PET SHOPS; PROVIDING FOR A TIME FRAME FOR ELIMINATION; PROVIDING FOR RESTRICTIONS AND PENALTIES FOR VIOLATIONS OF THE ORDINANCE BY EXISTING PET SHOPS PENDING TERMINATION OF THE GRANDFATHER PRIVILEGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR APPLICABILITY; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THIS 4th DAY OF March, 2020, AS FOLLOWS:

1. Section 6-20 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby amended to read as follows:

Adoption-Based Business Model shall mean a business model whereby all dogs and cats offered for Retail Sale at a Pet Shop shall only be sourced from stray and unwanted pets that have been taken in by an Animal Shelter or a Rescue Organization established in accordance with Section 501(c)(3) of the United States Internal Revenue Code to rehome stray and other unwanted pets, or some other sourcing model, as approved by the Department, that does not include commercially bred intact animals to be resold to the public, whether purchased directly from a commercial breeder or from some other intermediary such as a broker or wholesaler.

Animal Services shall mean a direct service provided to a dog and/or cat, including, but not limited to, grooming, bathing, and/or boarding; except if provided by a licensed veterinarian facility.

Animal Shelter shall mean the local animal control authority, public animal shelter, or private animal shelter maintained by or under contract with the county or municipality, devoted to the rescue, care, and adoption of stray, abandoned, or unwanted animals; or any brick and mortar animal shelter whose primary mission is to find permanent homes or rescues for sterilized, unwanted, and homeless pets.

Breeder shall mean any person who intentionally seeks to have animals reproduce for sale or other commercial purpose, and/or to selectively mate animals with

desirable genetic traits, and/or to maintain or enhance the traits in future generations.

Department shall mean the County's Pet Resources Department, or some other designated County Department.

Person shall mean any natural person, society, firm, corporation, partnership, association, or other legal entity or business unit and every officer, agent, or employee thereof.

Pet Shop shall mean any retail establishment, open to the public, that sells or transfers, or offers for sale or transfer, dogs and/or cats, regardless of the age of the dog or cat or the physical location of the animal. Such an establishment may be a permanent, temporary, or virtual establishment. An Animal Shelter or Rescue Organization shall not be considered a Pet Shop under this Ordinance. An "existing" Pet Shop is one that has been determined by the Department: 1) to be legally operating on or before the effective date of this Ordinance; 2) found to not have received, after the effective date of the Ordinance or at any time while the existing Pet Shop is enjoying the grandfather privilege and any and all rights appurtenant thereto, any final determination or adjudication of one or more violations of any federal or state administrative rule, regulation, or statute administered or enforced by the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other state agency with jurisdiction, resulting in one or more final determination or adjudication of violation, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere (including Pet Shops that are transferred, assigned and/or sold by the original existing Pet Shop owner after the effective date); and 3) therefore, entitled to the grandfather privileges outlined herein. A "new" Pet Shop is one that has been opened after the effective date of this Ordinance, the opening of which, in no way, is associated with the sale, transfer or assignment by an owner of an existing Pet Shop, and is subject to the Adoption-Based Business Model, as defined, and all other requirements prescribed herein.

The grandfather privilege for existing Pet Shops shall end in accordance with the terms herein and all existing Pet Shops shall be required to transition to the "Adoption Based Model", as defined, in order to continue operating as a Pet Shop in the County.

Rescue Organization shall mean a duly incorporated non-profit organization that has tax exempt status in accordance with Section 501(c)(3) of the United States Internal Revenue Code, founded or chartered with the primary mission being the welfare, care, and adoption/placement of stray, abandoned, or surrendered animals, and which does not breed dogs or cats or obtain these animals for any form of payment or compensation from any source other than an Animal Shelter. Such organizations make pets available on a cost-recovery basis and/or foster animals or enlist others to foster animals.

Retail Sale shall mean to sell (whether or not exchange of consideration for the animal, and/or animal services, takes place at the same time and/or location), offer for sale, auction, barter, display for sale, adopt, rehome, exchange (for compensation or otherwise), give away, trade, transfer, deliver, lease, rent, include as part of a package deal, advertise to do any of the aforementioned, or otherwise dispose of dogs and/or cats to a person/s in a Pet Shop or in association with a Pet Shop.

2. Section 6-61 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby amended to read as follows:

Elimination of Grandfather Privilege for Existing Pet Shops and providing for Certain Regulations.

A. All lawfully operating Pet Shops in existence, on or before the effective date of this Ordinance, and found to not have received, after the effective date of the Ordinance or at any time while the existing Pet Shop is enjoying the grandfather privilege and any and all rights appurtenant thereto, any final determination or adjudication of one or more violations of any federal or state administrative rule, regulation, or statute administered or enforced by the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other state agency with jurisdiction, resulting in one or more final determination or adjudication of violation, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere, shall be permitted to continue the Retail Sale of dogs and/or cats in Hillsborough County in accordance with their respective business models, provided, however, each existing Pet Shop is at all times in full compliance with any and all existing and future Retail Sale regulations adopted by the County for existing Pet Shops and provided they are in compliance with the applicable provisions of this Ordinance and the additional restrictions set forth below:

- (1) An owner of an existing Pet Shop shall be permitted to transfer, assign, sell, or relocate their existing Pet Shop. The transferee, assignee, or new owner must comply with any and all existing and future Retail Sale regulations adopted by the County for existing Pet Shops, the applicable provisions of this Ordinance, and any additional restrictions set forth herein.
- (2) An owner of an existing Pet Shop shall not be permitted to open any additional Pet Stores as of the date the Ordinance was adopted (the date the Board of County Commissioners voted and approved the passage of the Ordinance). Any Pet Shop opened as of the adoption date of this Ordinance shall be considered a new Pet Shop and said owner shall be obligated to fully comply with the Adoption-Based Business Model for the Retail Sale of dogs and/or cats and all other

requirements prescribed for all new Pet Shops in the County.

- (3) An existing Pet Shop owner that allows any of their federal, state, and/or local occupational business license/s, or other requirement/s related to the operation of their business, to lapse, making them legally ineligible to operate their business, or voluntarily abandons their respective Retail Sale business model, for a period of more than ninety (90) days, shall lose their grandfather privilege of reopening and operating in its usual manner and shall be obligated to fully comply with the Adoption-Based Business Model for the Retail Sale of dogs and/or cats in the County and all other requirements pertaining thereto.
- (4) Pet shops in existence, on or before the effective date of this Ordinance, and found to have received, after the effective date of the Ordinance or at any time while the existing Pet Shop is enjoying the grandfather privilege and any and all rights appurtenant thereto, any final determination or adjudication of one or more violations of any federal or state administrative rule, regulation, or statute administered or enforced by the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other state agency with jurisdiction, resulting in one or more final determination or adjudication of violation, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere, shall lose their grandfather privilege and not be permitted to continue the Retail Sale of dogs and/or cats in the County in accordance with their respective business models. Such Pet Shops shall be considered a "new Pet Shop" and shall be obligated to fully comply with the Adoption – Based Business Model for the Retail Sale of dogs and/or cats and all other requirements pertaining thereto.

The grandfather privilege for existing Pet Shops shall end in accordance with the terms herein and all existing Pet Shops shall be required to transition to the "Adoption Based Model", as defined, in order to continue operating as a Pet Shop in the County.

- B. All owners of existing Pet Shops (including any and all transferees, assignees, or new owners), shall be obligated to annually register their business/es by submitting the following information, which may be subject to independent audit, to the Department by the first of February each year:
 - (1) Business Name; and
 - (2) Business Mailing Address/physical location; and

- (3) Business Owner's Name and Mailing Address; and
 - (4) Federal Tax ID #, if applicable; and
 - (5) USDA License number, if applicable; and
 - (6) Certain supporting business documentation, including:
 - a. Proof of its business operations through any federal, state, or local business/occupational licenses, tax receipts, or other documentation readily authenticated as true and correct documents; and
 - b. Proof of its Retail Sales business and location through franchise agreements, leases, or other documentation readily authenticated as true and correct documents; and
 - c. Any other such documentation related to the acquisition, care, and sale of the animals that may be found necessary by the Department in any internal policies and procedures promulgated for the implementation of this Ordinance.
- C. All owners of existing Pet Shops (those in existence on or before the effective date of this Ordinance) shall be required to initially register for the grandfather privilege, by complying with the registration requirements set forth above, within ninety (90) days of the effective date of this Ordinance. Pet Shops that are transferred, sold, or assigned by an existing Pet Shop owner, after the effective date of this Ordinance, shall be required to register, by complying with the registration requirements set forth above, within ninety (90) days of the transfer, sell, or assignment.
- D. All lawfully operating Pet Shops in existence on or before May 17, 2017, the effective date of the original Ordinance, and the owners which registered for and were approved to receive the grandfather privilege, as described above, shall:
- (1) Lose their grandfather privilege one year from the date this Amendment was adopted (the date the Board of County Commissioners voted and approved the passage of the Amendment);
 - (2) Transition to the "Adoption Based Model", as defined, in order for the existing Pet Shop to continue operating as a Pet Shop in the County;
 - (3) Discontinue purchasing dogs and/or cats from commercial breeders, wholesalers, or distributors for resale to the public, thirty (30) days prior to the grandfather privilege termination. Existing Pet Shops shall be subject to inspection by the Department to determine

compliance.

3. Section 6-62 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby amended to read as follows:

Additional Retail Sale Regulations for Existing Pet Shops.

All owners of existing Pet Shops, including any and all transferees, assignees, or new owners, shall be obligated to comply with the following additional Retail Sale regulations pending the termination date of the grandfather privilege:

A. Sourcing Transparency:

All existing Pet Shop owners shall have the following information, pertaining to any remaining unsold dogs and/or cats, readily available for all potential purchasers, the Department, and the state:

- (1) The name of the United States Department of Agriculture (USDA) breeding facility where the dog and/or cat was bred; and
- (2) The license number of the USDA breeding facility; and
- (3) The city and state of the dog's and/or cat's breeding origin;
- (4) Specific contact information for the breeder of the dog and/or cat may be provided at the discretion of the Pet Shop to its potential purchasers, however, this information is required to be provided to the Department in accordance with the record keeping standards outlined in Section E. below;
- (5) A sign, in poster format, shall be placed in the existing Pet Shop, in clear view, stating that the information required above is available for review by all potential purchasers, the Department, and the state upon request;
- (6) A certificate from a local humane society entity [i.e. American Society for the Prevention of Cruelty to Animals, (ASPCA)] as to the breeding source conditions for all remaining unsold dogs and/or cats purchased from a commercial breeder, wholesaler, or distributor to be resold to the public;
- (7) Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

B. Buying Standards:

- (1) All existing Pet Shop owners shall only purchase dogs and/or cats that are intended to be sold to potential purchasers from breeders:
 - a. Approved and licensed by the USDA; and
 - b. That have not received any direct violations from the USDA in the past two (2) years; and
 - c. That have not received more than four (4) indirect violations from the USDA in the past two (2) years; and
 - d. That have not received any state law violations, such as those set forth in Section 828.29, Florida Statutes, pertaining to vaccinations and veterinarian inspection certificates, in the past two (2) years.
- (2) All existing Pet Shop owners shall have readily available for all potential purchasers, the Department, and the state and shall maintain for six (6) months following termination of the grandfather privilege, USDA inspection reports in their entirety for the breeders of all dogs and/or cats being offered for Retail Sale in the existing Pet Shops. For breeders that have been in business between one (1) year and two (2) years, the USDA pre-licensing inspection, the first USDA post-licensing inspection, and a statement that no other inspections have been completed shall suffice.
- (3) A sign, in poster format, shall be placed in the existing Pet Shop, in clear view, stating that this information is available for review by all potential purchasers, the Department, and the state upon request. In addition, this information shall be posted and maintained on each animal's cage, kennel, or enclosure, within clear view and in a reasonable proximity thereof.
- (4) Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

C. Microchip Requirement:

Except for the dogs and/or cats that are already microchipped at the time they are received by the existing Pet Shop, all dogs and/or cats offered for Retail Sale in an existing Pet Shop must be implanted with a permanent electronic animal Radio Frequency Identification Device (RFID-microchipped) by a licensed veterinarian facility. All dogs and/or cats offered for Retail Sale by the existing Pet Shop must have the microchip registered to the existing Pet Shop as the primary owner within five (5) business days of the receipt of the dog and/or cat by the existing Pet Shop.

D. Record Keeping:

- (1) The following records must be maintained by owners of existing Pet Shops:
 - a. Health certificate from a Florida licensed veterinarian; and
 - b. Microchip information; and
 - c. Sourcing/Purchase information.
- (2) The above records for all dogs and/or cats that are present in the existing Pet Shop shall be maintained, in hard copy, for immediate inspection by potential purchasers and/or the Department.
- (3) The above records for all dogs and/or cats sold by the existing Pet Shop and, therefore, no longer present in the existing Pet Shop, must be kept in either electronic or hard copy form for six (6) months following termination of the grandfather privilege and be available for inspection within three (3) days of the Department's request.
- (4) Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

E. Adoption Promotion:

- (1) Owners of existing Pet Shops shall be required to place, on a sign that is in poster format and in clear view, and in a readable disclaimer on their Pet Shop website and any and all of their marketing materials, a message promoting adoption from Animal Shelters and Rescue Organizations as another option to acquire a dog and/or cat, information about their adoption programs and their contact information, including website addresses to view the dogs and/or cats available for adoption.
- (2) Owners of existing Pet Shops shall require potential purchasers, at the time of their transactions, to sign an affidavit attesting that they were informed about the adoption options, had the opportunity to read the poster, website, or marketing information with the adoption options and other information included, and reviewed the USDA breeder reports, records and other breeder contact and background information required to be maintained by the existing Pet Shops.
 - a. The signed affidavits for dogs and/or cats sold in a given business day and, therefore, no longer present in the existing Pet Shop, shall be maintained in hard copy for immediate inspection by the Department.

- b. All other signed affidavits for dogs and/or cats sold by the Pet Shop must be kept in either electronic or hard copy form for three (3) years and available for inspection within three (3) days of the Department's request.
- c. Falsification of records by existing Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

F. Inspections:

- (1) The Department shall conduct, at a minimum, two (2) inspections of the existing Pet Shops.
- (2) Owners of existing Pet Shops, or designated representatives, shall be required to personally inspect the USDA breeding facilities from which they receive their dogs and/or cats.

4. Section 6-63 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby added to read as follows:

Adoption-Based Business Model for Retail Sale of Dogs and Cats and Other Requirements for New Pet Shops.

- A. No new Pet Shop shall offer for Retail Sale dogs or cats in Hillsborough County, unless that dog or cat was obtained from:
 - (1) An Animal Shelter;
 - (2) A Rescue Organization;
 - (3) Some other sourcing model, as approved by the Department, which does not include commercially bred intact animals to be resold to the public, whether purchased directly from a commercial breeder or from some other intermediary such as a broker or wholesaler.
- B. All dogs and/or cats offered for Retail Sale in Hillsborough County, by a new Pet Shop, an Animal Shelter, Rescue Organization, or some other approved sourcing model, shall be required to be implanted with a permanent electronic animal Radio Frequency Identification Device (RFID-microchipped), registered to the legal owner of the animal.
- C. The following record keeping and disclosure requirements shall apply to all new Pet Shops:
 - (1) New Pet Shops shall post and maintain on each animal's cage, kennel, or enclosure, within clear view and in a reasonable proximity thereof, a label stating the name and address, including city and

state, of the Animal Shelter or Rescue Organization from which the new Pet Shop acquired the animal or that owns the animal kept in the cage, kennel, or enclosure.

- (2) New Pet Shops shall maintain records, stating the name and address of the Animal Shelter or Rescue Organization that each dog or cat was obtained from, for three (3) years following the date of acquisition or in accordance with the required retention time set forth by business standards and practices governing the particular commercial establishment record, whichever is greater, and, annually submit a copy of the record for the previous year to the County's animal control officers or any other County officials charged with enforcing the provisions of this Section, by February 1st of each year.
- (3) Any such records shall be made available, immediately upon request, to the County's animal control officers, any other County officials charged with enforcing the provisions of this Section, and/or law enforcement.
- (4) Falsification of records by new Pet Shops is hereby deemed unlawful and subject to the penalties under this Ordinance.

5. Section 6-64 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby added to read as follows:

Prohibition on Retail Sale in Public Places.

- A. There shall be no Retail Sale of dogs or cats on any public thoroughfare, public common areas, or other places of public accommodations, flea markets, festivities, yard sales, medians, parks, recreation areas, outdoor markets, parking lots, or other similar activities, regardless of whether such access is authorized by the owner.
- B. This section shall not apply to the following:
 - (1) The Retail Sale of dogs and/or cats by an Animal Shelter, Rescue Organization, or some other approved sourcing model;
 - (2) The Retail Sale of dogs and/or cats as part of a state or county fair exhibition, 4-H program, or similar exhibition or education program.

6. Section 6-65 of Part A, Chapter 6, Article II of the Hillsborough County Code of Laws and Ordinances is hereby added to read as follows:

Penalties.

- A. It shall be a violation of this Ordinance to fail to comply with any of the

requirements or restrictions contained herein, which, for existing Pet Shops operating under the grandfather privilege, can result in the loss of said privilege and any and all rights appurtenant thereto.

- B. Consistent with Florida Law, any violation of this Ordinance is a civil infraction punishable by a maximum civil penalty not to exceed \$500.00 and the amount of any penalties shall be established by BOCC Resolution.
- C. Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this Ordinance, including, but not limited to, pursuit of injunctive and/or declaratory relief and/or injunction, or other equitable relief in a court of competent jurisdiction, or initiating an action to recover any and all damages that may result from a violation of, or refusal to comply with, any part of this Ordinance.
- D. Each day of a continuing violation shall constitute a separate and distinct violation. A separate and distinct offense occurs per animal.
- E. Pending termination of the grandfather privilege, existing Pet Shops shall be subject to the following if they are found to have sold dogs and/or cats acquired from commercial breeders, wholesalers, or distributors with USDA or State law violations, such as those set forth in Section 828.29, Florida Statutes, pertaining to vaccinations and veterinarian inspection certificates:
 - (1) For the first violation, a written warning notice shall be issued by the Department; and
 - (2) A second violation shall result in the immediate loss of the grandfather privilege, requiring the existing Pet Shop to transition to the Adoption-Based Model, as defined, in order for the existing Pet Shop to continue operating as a Pet Shop in the County, within thirty (30) calendar days or sooner, to be determined by the Department if less than thirty (30) calendar days remain before termination of the grandfather privilege; and
 - a. All dogs and/or cats in inventory at the time of violation must be sterilized within ten (10) calendar days. In the event there are less than ten (10) calendar days remaining prior to the termination of the grandfather privilege, the Department shall determine the deadline for sterilization and copies of sterilization records are to be submitted to the Department upon request; and
 - b. All dogs and/or cats in inventory at the time of violation must be sold within fifteen (15) calendar days. In the event there are less

than fifteen (15) calendar days remaining prior to the termination of the grandfather privilege, the Department shall determine the deadline for sale and copies of receipts and other relevant documentation are to be submitted to the Department upon request; and

- c. Existing Pet Shops shall provide the Department, upon request, copies of all invoices of dogs and/or cats purchased from commercial breeders, wholesalers, or distributors prior to the violation, and shall be prohibited from any further purchasing of dogs and/or cats from commercial breeders, wholesalers, or distributors, as of the date of the violation that resulted in immediate loss of the grandfather privilege.

7. Severability.

If any clause, sentence, paragraph, subdivision or other part of this Ordinance or applications shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Ordinance which shall remain in full force and effect except as limited by such order or judgment.

8. Inclusion in the Code of Laws and Ordinances.

The provision of this Ordinance shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established. The recitations contained in the "WHEREAS" clauses are incorporated herein by reference, but are not required to be reproduced and included in the Code.

9. Applicability.

All provisions of this Ordinance shall be applicable throughout the incorporated and unincorporated areas of the Hillsborough County where there is no existing conflict of law, municipal Ordinances concerning this matter, or unless any municipality determines to opt-out of this Ordinance's provisions.

10. Filing of Ordinance.

In accordance with the provisions of Section 125.66, Florida Statutes, governing Ordinances, a certified copy of this Ordinance shall be filed with the Florida Department of State by the Clerk of the Board of County Commissioners.

11. Effective Date.

This Ordinance shall take effect upon filing with the Department of State.

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, **PAT FRANK**, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of the Ordinance adopted by the Board at its regular meeting of March 4, 2020, by a vote of 6 voting yes and 0 voting no, the same appears in record in Minute Book 526 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 6th day of March, 2020.

PAT FRANK
CLERK OF THE CIRCUIT COURT

BY: *Sharon Sweet Grant*
Deputy Clerk

Approved by County Attorney
As to Form and Legal Sufficiency:

BY: *[Signature]*
Sr. Assistant County Attorney





FLORIDA DEPARTMENT OF STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

March 6, 2020

Honorable Pat Frank
Clerk of the Circuit Court
Hillsborough County
419 Pierce Street, Room 140
Tampa, Florida 33601

Attention: Sharon Sweet

Dear Mrs. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 20-4, which was filed in this office on March 6, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb



SENATOR MANNY DIAZ, JR.
36th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

December 14, 2021

Honorable Senator Travis Hutson
Chair
Committee on Regulated Industries

Honorable Chair Hutson,

I respectfully request Senate Bill Number 994 Pet Protection be placed on the next committee agenda.

This bill aims to create the "Florida Pet Protection Act"; requiring the licensure of retail pet stores; limiting the sources from which retail pet stores may acquire household pets for specified purposes; requiring the Department of Business and Professional Regulation to conduct periodic inspections of retail pet stores and to audit sales records; requiring the department to deny a retail pet store license under certain circumstances; prohibiting county and municipal ordinances and regulations from prohibiting or regulating the breeding, purchase, or sale of certain working dogs, etc.

Sincerely appreciate your support,

A handwritten signature in blue ink, appearing to read "M. Diaz".

Senator Manny Diaz, Jr.
Florida Senate, District 36

CC: Booter Imhof, Staff Director
Susan Datre, Committee Administrative Assistant
Hunter Clary, Legislative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

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Page 2



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 994</u>
BILL TITLE:	<u>Pet Protection</u>
BILL SPONSOR:	<u>Sen. Diaz</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Community Affairs
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	HB 849
SPONSOR:	Rep. Fernandez-Barquin

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	November 18, 2021
LEAD AGENCY ANALYST:	Jeffrey Kelly, Director, Division of Professions
ADDITIONAL ANALYST(S):	Tracy Dixon, Service Operations Robin Jordan, Technology Jerry Wilson, Regulation Darrell Garvey, OGC Rules

LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates licensing and inspection requirements under the Department of Business and Professional Regulation (department) for retail pet stores that sell household pets (dogs and cats).

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 828.29, F.S., establishes health requirements and documentation guidelines for dogs and cats offered for sale in the State of Florida. This section states that all dogs and cats offered for sale and their related health certificates are subject to inspection by the Florida Department of Agriculture and Consumer Services. These certificates are signed by Florida-licensed veterinarians for animals originating in the state, and such licensees can be disciplined under current statutory authority provided in ch. 474, F.S., for doing so improperly. Additionally, s. 828.29(5), F.S., establishes guidelines for consumers who purchase animals found to be unfit to retain, return or exchange the animal and receive reimbursement for related veterinary costs. There are no current state license requirements for retail pet stores.

2. EFFECT OF THE BILL:

Sections 1 - 2

The bill creates Part XVII under ch. 468, F.S., titled "Retail Pet Stores", and s. 468.901, which titles Part XVII the "Florida Pet Protection Act."

Section 3

The bill creates s. 468.903, F.S., to provide definition of certain terms, including "retail pet store" which is defined as a retail store that sells or offers for sale household pets to the public. The term does not include an animal rescue; an animal shelter; or a breeder who sells or transfers, directly to the public, household pets bred and raised on the breeder's premises. The bill defines the term "household pets" to mean a domestic dog or domestic cat (s. 468.903 (4), F.S.).

Section 4

The bill creates s. 468.905, F.S., which establishes licensure requirements for retail pet stores and requires the department to adopt standards and procedures for such licensure, including a prescribed application form. The bill also provides that the department may establish annual license periods that are valid for one year and that may be renewed.

The bill prohibits a person from operating a retail pet store without a license, and further specifies that a retail pet store may not display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell, any household pet from the store without a valid license from the department.

Section 5

The bill creates s. 468.907, F.S., to define "qualified breeder", and specifies that retail pet stores may not display, offer for sale, deliver, barter, auction, broker, give away, transfer, or sell any household pet from the store unless such pet was acquired by certain sources, including qualified breeders, animal rescues, animal shelters, pet brokers, or persons who, pursuant to 9 C.F.R. s. 2.1(a)(3)(ii)-(vii), are exempt from licensure by the United States Department of Agriculture.

The bill further prohibits retail pet stores from selling, delivering, bartering, auctioning, brokering, giving away, or transferring household pets that are younger than 8 weeks of age, have not been implanted with International

Organization for Standardization (ISO) identification microchips, and that do not have valid veterinary certification. Additionally, such household pets may not be sold to persons younger than 18 years of age,

The bill further provides that if the retail pet store acquired a household pet from a qualified breeder or pet broker, the retail pet store must provide certain information to buyers of the household pets, and keep copies of such documentation for at least three years after the date the buyer acquires the household pet. Such information includes:

- certain information about the breeder;
- copy of breeder's most recent U.S. Department of Agriculture inspection report (if applicable)
- household pet's date of birth, if known;
- date the retail pet store took possession of the pet;
- a document signed by a Florida-licensed veterinarian, in a format prescribed by the department, describing known diseases, illnesses, etc., of the household pet at the time of examination.
- Document signed by the owner or manager or employee of the retail pet store certifying that all information required to be provided to the buyer is accurate

The bill further requires retail pet stores to provide buyers of household pets with the following information, and keep copies of such documentation for at least three years after the date the buyer acquires the household pet:

- Pet's microchip identification number
- Name, address, and telephone number of all breeders, brokers, or other person who kept, housed, or maintained the pet, or proof that the pet was acquired from an animal rescue or animal shelter
- Photograph or digital image, name, and registration number of both of the pet's parents, sire and dam.

The bill requires that retail pet stores:

- Comply with flooring and cleaning requirements specified in the bill
- Provide isolated enclosures with separate ventilation which allows household pets to be kept separately while under veterinarian-directed isolation
- Provide climate control to maintain a certain range of temperature, keep daily logs of the temperature, and a corrective action record detailing steps taken to adjust the temperature.
- Hire a Florida-licensed veterinarian to visit the retail pet store twice a week to observe the condition of the pet's health and overall well-being.
- Maintain an enrichment program for puppies consisting of exercise and socialization for at least two 30-minute periods, and keep a log of each puppy's daily activities.
- Maintain a photograph/digital image and video footage of each breeding facility from which the retail pet store obtains household pets.

Section 6

The bill creates s. 468.909, F.S., to require the department to inspect, at least annually, each retail pet store subject to licensure, and audit the records that the licensee maintains. Additionally, the department must conduct an inspection upon receipt of a complaint or other information alleging a violation. The department must establish procedures for conducting inspections and making records of inspections. Further, the department must maintain a record of each inspection in accordance with such procedures. The bill permits the department to enter into a contract or agreement with one or more veterinarians to conduct inspections.

Section 7

The bill creates s. 468.911(1), F.S., which provides that the department must deny an application for issuance or renewal of a retail pet store license, if the licensee or applicant materially threatens the health or welfare of a household pet, or the licensee or applicant has been convicted of or pled nolo contendere to certain misdemeanors or felonies in the past 20 years.

The bill does not provide the department authority to issue citations for violations found during inspections as the department is authorized by ch. 455, F.S. to issue for professions regulated by the department. Citation authority is an efficient regulatory tool used by the department and would be useful in the regulation of retail pet stores.

The bill provides that the department may enter an order, which may consist of administrative fines, if the department finds that a pet store, or a person employed or contracted by a pet store is in violation of this part.

Sections 8-10

The bill creates s. 468.913, F.S., to provide that the department may bring a civil action in a court of competent jurisdiction to recover any penalties or damages.

The bill creates s. 468.915, F.S., to specify certain violations of this part as second-degree misdemeanors, punishable as provided in ss. 775.082 or s. 775.083, F.S.

The bill creates s. 468.917, F.S., to provide that all moneys collected by the department under this part from civil penalties must be deposited into the department's Professional Regulation Trust Fund for use by the department for administration of this part.

Section 11

The bill creates s. 468.919, F.S., to specify that this part does not prohibit the breeding, purchase, or sale of hunting dogs, field trial dogs, sporting dogs, or cattle dogs.

Section 12

The bill creates s. 468.921, F.S., to allow regulation of retail pet stores by a county or municipality provided the regulation is consistent, and not in conflict with, rules imposed under section 468.907, F.S.

Section 13

The bill amends s. 823.15, F.S., to include animal rescue, require certain public or private animal agencies to report certain animal records to the Department of Agriculture and Consumer Services ("Agriculture") on a monthly basis, and require Agriculture to make the data reported by animal agencies available on its website in a specified manner.

Section 14

The bill amends s. 474.203, F.S., to include animal rescue organizations as entities who are exempt from the licensure requirements of Chapter 474 provided that the work of their employees, agents, or contractors is confined to implantation of radio frequency identification device microchips for dogs and cats in accordance with s. 823.15, F.S.

Section 15

The bill has an effective date of July 1, 2022.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	<p>The bill creates s. 468.911(4), F.S., which states the department may adopt rules to administer this part related to administrative action and penalties.</p> <p>The bill also creates s. 468.905(2), F.S., which requires the department to prescribe a form for application, and adopt standards and procedures for the licensure of retail pet stores consistent with this part.</p> <p>The bill creates s. 468.909(2), F.S., which directs the Department to establish procedures for conducting inspections.</p>
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
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Opponents and summary of position:	Unknown
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5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	Indeterminate
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

Revenues:	<u>Professions</u> Although SB 994 does not authorize the department to establish fees for licensure, renewal or inspection of facilities regulated under this part, SB 996 does amend the proposed s. 468.905, F.S., to provide that an initial or renewal application for a retail pet store license must be accompanied by a
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	<p>nonrefundable license fee not to exceed \$25.00 per licensed location. Based upon a projected licensee base of 500, the program will generate \$12,500 per fiscal year over the next three fiscal years (see Additional Comments).</p> <p>Some revenue will also be generated from administrative fines and civil penalties imposed for violations of the bill. The amount of this revenue is indeterminate.</p>
Expenditures:	Based upon a projected licensee base of 500 the program will increase expenditures by approximately \$86,721 (\$59,862 recurring).
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

Revenues:	None
Expenditures:	Indeterminate costs associated with compliance.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y N

If yes, explain impact.	<p>This bill creates s. 468.911, F.S., which establishes administrative fines for violations of the provisions of ch. 468 Part XVII, F.S.</p> <p>Although SB 994 does not authorize the department to establish fees for licensure, renewal or inspection of facilities regulated under this part, SB 996 does amend the proposed s. 468.905, F.S., to provide that an initial or renewal application for a retail pet store license must be accompanied by a nonrefundable license fee not to exceed \$25.00 per licensed location.</p>
Bill Section Number:	<p>Section 7 of SB 994</p> <p>Section 1 of SB 996</p>

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY’S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y N

<p>If yes, describe the anticipated impact to the agency including any fiscal impact.</p>	<p>This bill will require modifications to Versa: Regulation, Versa: Online, OnBase document management system, and the Interactive Voice Response (IVR) system to add a new license category and transactions for licensure of pet stores. It will also require modification to the iPad inspection application.</p> <p>Changes to Versa: Regulation – 44 hours Changes to Versa: Online – 40 hours Changes to OnBase – 29 hours Changes to iPad – 40 hours Changes to IVR – 4 hours These modifications can be made with existing resources.</p> <p><u>Infrastructure and Licensing Costs</u></p> <p>Additional staffing required to implement the provisions of this bill (see Additional Comments below) would result in technology infrastructure and licensing costs. Assuming there is not adequate office space in existing DBPR offices, additional undetermined infrastructure costs will be incurred based on the number, location and suitability of adequate space to support the full workforce.</p> <p>For 1 Environmental Health Specialist position:</p> <ul style="list-style-type: none"> • Non-recurring cost of iPad - \$900.00 • Non-recurring costs for software licenses – \$1,212.40 • Recurring software license maintenance and data service - \$789.26
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FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y N

<p>If yes, describe the anticipated impact including any fiscal impact.</p>	<p>N/A</p>
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ADDITIONAL COMMENTS

Professions:

Although this bill does not authorize the department to establish fees for licensure, renewal or inspection of facilities regulated under this part, SB 996 does amend the proposed s. 468.905, F.S., to provide that an initial or renewal application for a retail pet store license must be accompanied by a nonrefundable license fee not to exceed \$25.00 per licensed location.

Pursuant to the Whitepages.com, Florida has 3,055 retail pet stores, of which the vast majority most likely sells only supplies and not dogs and cats as referenced in the bill. A projection of 500 licensed pet stores is used for the fiscal projections in this analysis, utilizing the veterinarian licensing program to extrapolate projected expenses.

The bill does not clarify that a retail pet store does not include household pets bred and raised on the breeder's premises when the breeder's premises are a retail pet store, if that is the intent of the bill.

The bill does not address corporate ownership of retail pet stores with regard to s. 468.911(1)(b), F.S., for the purpose of determining how the provision prohibiting licensure of applicants with certain criminal history would be applied to a corporate entity.

The bill does not define hunting dogs, field trial dogs, sporting dogs, or cattle dogs. Additionally the bill does not address what occurs when a retail pet store is selling, delivering, bartering, auctioning, brokering, giving away, or transferring household pets (dogs) that the retail pet store asserts are hunting dogs, field trial dogs, sporting dogs, or cattle dogs and therefore the retail pet store is not subject to regulation by this bill. The undefined terms may create confusion and inconsistent application of the law in counties and municipalities as well. (s. 468.919, F.S.)

The bill requires including in certain records the "household pet's date of birth, if known" but prohibits the retail pet store from selling, delivering, bartering, auctioning, brokering, giving away, or transferring household pets that are younger than 8 weeks of age thus creating a potential conflict in requirements or an excuse for failing to comply with statutory requirements.

The bill allows the owner, manager or an employee of the retail pet store to certify information required by the bill is accurate and the bill provides that the owner, manager and employees of the retail pet store may not fraudulently alter or provide false information on a certification provided in accordance with the bill. The bill does not provide requirements for or criteria for the owner, manager or employee.

The bill requires ambient air temperature of the retail pet store's premises be between 67 and 78 degrees at all times but does not specify Fahrenheit or Celsius.

The bill requires a Florida-licensed veterinarian who "visits" the retail pet store at least twice each week observe the conditions of the pets' health and overall well-being. The term "inspect" maybe more appropriate than the term "visits" the retail pet store.

The bill does not consistently use the terms professional breeder, breeder and qualifier breeder and does not define all the terms. In Section 5, the terms are used inconsistently. A retail pet store may not sell, deliver, barter, auction, broker, give away, or transfer any household pet ...acquired from a qualified breeder unless...but on line 234, the retail pet store must provide the complete name, address, and telephone number of all professional breeders, pet brokers, or other person.....

Section 455.219, F.S. provides that it is the intent of the legislature that no regulated profession operates with a negative cash balance. Based on the anticipated expenditures to implement the bill, there are not sufficient revenues to cover the expenditures of the regulated profession.

The bill provides an effective date of July 1, 2022: however implementing the legislation by this date may not allow sufficient time for notification to affected parties of the regulation; technology development and rulemaking that would include holding workshops to obtain stakeholders input.

Regulation:

This bill will cause each licensed pet store to be inspected at least once a year to ensure compliance with this part and any rules adopted to regulate pet stores. An inspection will also be conducted when a complaint about the establishments is filed. The Division of Regulation currently conducts inspections of Cosmetology, Barber and Veterinary establishments and in Fiscal Year 2018-19; the division conducted 25,097 inspections of these establishments with 16 FTE Inspectors (Environmental Health Specialists). The Division has been able to conduct all of the statutorily mandated inspections each year, but they are

generally not completed until the end of the fiscal year. Therefore, the division requests 1 Inspector (Environmental Health Specialist) to conduct the additional 500 pet store inspections.

DSO: There will be a minimal impact to the division which can be accommodated with existing resources.

OGC Rules: The bill does not establish any criteria or standards for agency decisions. The bill defines the term “qualified breeder” under s. 468.907(1), F.S.; however, it is unclear how agency determination is to be made in terms of being in compliance to the specified requirements set forth therein, including the manner or method of providing notice to the department of any “noncompliance violations by U.S. Department of Agriculture.” Furthermore, it is unclear what constitutes “adversely affects the health of the household pet” as provided in lines 217-218, and the bill does not provide any established criteria or standards for an agency decision. Moreover, the bill does not provide any guidance in lines 236-237 on what constitutes sufficient “proof” to demonstrate compliance. Lastly, it is unclear from the language provided in lines 305-306 what is considered a “violation [that] materially threatens the health or welfare of a household pet” or provide any criteria or standards on what constitutes “materially threatening the health or welfare of a household pet.” Throughout the bill the phrase “rules adopted under this part” is used, implying that rules will be adopted, but with the exception of Section 468.911(4), this bill grants no rulemaking authority.

Fiscal Comment: One Environmental Health Specialist FTE will be necessary for inspections. The cost for this FTE is anticipated to be \$86,721 (\$59,862 recurring).

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

<p>Issues/concerns/comments:</p>	<p>OGC: The bill creates a brand new regulatory program within the department. With an estimated license population of 500 businesses, the department will incur associated costs to implement this program. The bill requires each business to be inspected at least one time each year. These inspections may lead to legal cases and enforcement. There will also be more calls to the call center, more applications to process, etc. It appears \$25 per licensee SB 996 is inadequate to cover the costs associated with the new workload.</p> <p>Programs within the department must fund themselves through adequate associated license fees – other programs may not be asked to offset the costs of another programs. It appears the license fees set for this new program may lead to the program running a recurring annual deficit.</p>
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660938

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with directory and title amendments)

Delete lines 17 - 18

and insert:

Section 2. Section 468.917, Florida Statutes, as created by SB 994, 2022 Regular Session, is amended to read:

468.917 Deposit of funds.—All moneys collected by the department under this part from licensure fees or civil penalties must be deposited into the department's Professional Regulation Trust Fund for use by the department for



660938

11 administration of this part.

12 Section 3. This act shall take effect on the same date that
13 SB 994 or similar legislation takes effect, if such legislation

14
15 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

16 And the directory clause is amended as follows:

17 Delete line 11

18 and insert:

19 Florida Statutes, as created by SB 994, 2022 Regular Session, to

20
21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Between lines 5 and 6

24 insert:

25 amending s. 468.917, F.S.; requiring the moneys
26 collected from such license fees to be deposited into
27 the Department of Business and Professional
28 Regulation's Professional Regulation Trust Fund;

By Senator Diaz

36-01006-22

2022996__

1 A bill to be entitled
2 An act relating to fees; amending s. 468.905, F.S.;
3 requiring an initial or renewal pet store license
4 application to be accompanied by a specified
5 nonrefundable license fee per licensed location;
6 providing a contingent effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9

10 Section 1. Subsection (5) is added to section 468.905,
11 Florida Statutes, as created by SB ____, 2022 Regular Session, to
12 read:

13 468.905 Licensure of retail pet stores.-

14 (5) An initial or renewal application for a retail pet
15 store license must be accompanied by a nonrefundable license fee
16 not to exceed \$25 per licensed location.

17 Section 2. This act shall take effect on the same date that
18 SB ____ or similar legislation takes effect, if such legislation
19 is adopted in the same legislative session or an extension
20 thereof and becomes a law.



SENATOR MANNY DIAZ, JR.
36th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

December 14, 2021

Honorable Senator Travis Hutson
Chair
Committee on Regulated Industries

Honorable Chair Hutson,

I respectfully request Senate Bill Number 996 Fees/Pet Store License be placed on the next committee agenda.

This bill aims to require an initial or renewal pet store license application to be accompanied by a specified nonrefundable license fee per licensed location, etc.

Sincerely appreciate your support,

A handwritten signature in blue ink, appearing to read "M. Diaz, Jr.", written in a cursive style.

Senator Manny Diaz, Jr.
Florida Senate, District 36

CC: Booter Imhof, Staff Director
Susan Datre, Committee Administrative Assistant
Hunter Clary, Legislative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

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Page 2



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 996</u>
BILL TITLE:	<u>Fees/Pet Store License</u>
BILL SPONSOR:	<u>Sen. Diaz</u>
EFFECTIVE DATE:	<u>On the same date that SB 994 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Community Affairs
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	SB 994 (linked), HB 849 (compare)
SPONSOR:	Sen. Diaz, Rep. Fernandez-Barquin

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	December 15, 2021
LEAD AGENCY ANALYST:	Renee Alsobrook, Deputy Director, Division of Professions
ADDITIONAL ANALYST(S):	Darrell Garvey, OGC Rules Tracy Dixon, Service Operations Robin Jordan, Technology

LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill provides for a nonrefundable \$25 license fees for the initial or renewal pet store license.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently there is no license for pet stores and no license or renewal license fee.

2. EFFECT OF THE BILL:

Section 1

The bill will create a nonrefundable initial fee or renewal licensee fee for a pet store license if legislation creates the pet store license.

Section 2

The bill takes effect on the same date that legislation creating the pet store license becomes law.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	Click or tap here to enter text.
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Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y N

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y N

Revenues:	The bill provides for a \$25 license fee for pet store initial and renewal license.
Expenditures:	The department will have expenditures processing applications for pet store licenses.
Does the legislation contain a State Government appropriation?	There is no appropriation in the bill.
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y N

Revenues:	Click or tap here to enter text.
Expenditures:	Pet stores will have to pay \$25 for an initial pet store license and \$25 for the renewal of the pet store license.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

If yes, explain impact.	The bill requires a \$25 license fee for initial or renewal pet store license.
Bill Section Number:	Section 1

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	Versa and Onbase will have to be updated for the new license type and payment. ** Division of Technology Comments** Modification will be required to Versa: Regulation, Versa: Online, OnBase document management system, and the Interactive Voice Response (IVR) system to add a new license category and transactions for licensure of pet stores. It will also require modification to the iPad inspection application and an Environmental Health Specialist FTE which is discussed in the analysis of linked bill SB 994.
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
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ADDITIONAL COMMENTS

The fee as set forth in the bill may not be adequate to cover the cost of the pet store licensing program. Pursuant to the Whitepages.com, Florida has 3,055 retail pet stores, of which the vast majority most likely sells only supplies and not dogs and cats as referenced in the linked bill. A projection of 500 licensed pet stores is used for the fiscal projections in this analysis, utilizing the veterinarian licensing program to extrapolate projected expenses. Revenue would be 500 times \$25 or \$12,500. The department in the linked bill is required to inspect the pet stores and one Environmental Health Specialist FTE will be necessary for inspections. The cost for this FTE is anticipated to be \$86,721 (\$59,862 recurring).

Rulemaking authority for the fee would be required as the linked bill provides for rulemaking for “standards and procedures for the licensure of retail pet stores consistent with this act but not a fee. An applicant for a retail pet store license must apply to the department on a form prescribed by the department for each premises.” SB 994, Section 4

OGC Rules: No Additional Comments.

DSO: There will be a minimal impact to the division which can be accommodated with existing resources.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.
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611262

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Before line 18

insert:

Section 1. Subsection (2) of section 163.04, Florida Statutes, is amended to read:

163.04 Energy devices based on renewable resources.—

(2) A deed restriction, covenant, declaration, or similar binding agreement may not prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy



611262

11 devices based on renewable resources from being installed on
12 buildings erected on the lots or parcels covered by the deed
13 restriction, covenant, declaration, or binding agreement. A
14 property owner may not be denied permission to install solar
15 collectors or other energy devices by any entity granted the
16 power or right in any deed restriction, covenant, declaration,
17 or similar binding agreement to approve, forbid, control, or
18 direct alteration of property with respect to residential
19 dwellings and within the boundaries of a condominium unit. Such
20 entity may:

21 (a) Determine the specific location where solar collectors
22 may be installed on the roof within an orientation to the south
23 or within 45 degrees ~~45°~~ east or west of due south if such
24 determination does not impair the effective operation of the
25 solar collectors; and

26 (b) Prohibit the installation of solar collectors in
27 locations beyond the parameters specified in paragraph (a).

28
29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete line 2

32 and insert:

33 An act relating to renewable energy generation;
34 amending s. 163.04, F.S.; authorizing certain entities
35 to prohibit the installation of solar collectors under
36 certain circumstances; amending s. 366.91,

By Senator Bradley

5-00845-22

20221024__

A bill to be entitled

An act relating to net metering; amending s. 366.91, F.S.; revising and providing legislative findings relating to the redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers; requiring the Public Service Commission to propose new net metering rules that comply with specified criteria by a certain date; authorizing certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time; providing applicability; requiring certain public utilities to provide a specified report to the commission; providing an effective date.

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

Section 1. Present subsections (6) through (9) of section 366.91, Florida Statutes, are redesignated as subsections (7) through (10), respectively, a new subsection (6) is added to that section, and subsection (1) and present subsection (7) of that section are amended, to read:

366.91 Renewable energy.—

(1) The Legislature finds that:

(a) It is in the public interest to ~~continue promote~~ the development of renewable energy resources in this state in a manner that is fair and equitable to all public utility customers. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on

Page 1 of 4

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

5-00845-22

20221024__

natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies. The development and maturation of the solar energy industry, the substantial decline in the cost of solar panels, and the increase in customer-owned and -leased renewable generation support the redesign of net metering by the commission.

(b) Customer-owned and -leased renewable generation are not available to many public utility customers who lack the financial resources to purchase or lease rooftop solar panels or who reside in multitenant buildings. The substantial growth of customer-owned and -leased renewable generation has resulted in increased cross-subsidization of the full cost of electric service onto the public utility's general body of ratepayers. Therefore, the redesigned net metering rate structures required in paragraph (6) (a) must ensure that public utility customers who own or lease renewable generation pay the full cost of electric service and are not cross-subsidized by the public utility's general body of ratepayers.

(6) (a) On or before January 1, 2023, the commission shall propose a revised net metering rule that complies with the following criteria:

1. The net metering rate structures and billing must ensure that public utility customers owning or leasing renewable generation pay the full cost of electric service and are not subsidized by the public utility's general body of ratepayers.

2. The net metering must ensure that all energy delivered by the public utility is purchased at the public utility's

Page 2 of 4

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

5-00845-22 20221024__

59 applicable retail rate and that all energy delivered by the
 60 customer-owned or -leased renewable generation to the public
 61 utility is credited to the customer at the public utility's full
 62 avoided costs.

63 3. The net metering may include fixed charges, including
 64 base facilities charges, electric grid access fees, or monthly
 65 minimum bills, to help ensure that the public utility recovers
 66 the fixed costs of serving customers who engage in net metering
 67 and that the general body of public utility ratepayers does not
 68 subsidize customer-owned or -leased renewable generation.

69 (b) Any public utility customer who owns or leases
 70 renewable generation that is in service before January 1, 2023,
 71 pursuant to a standard interconnection agreement offered by a
 72 public utility, shall be granted 10 years to continue to use the
 73 net metering rate design and rates that applied before the
 74 revised net metering rule was adopted under paragraph (a). This
 75 paragraph applies to customers who purchase or lease real
 76 property upon which customer-owned or -leased renewable
 77 generation is installed for all or part of that 10-year period.

78 (c) The commission shall require a public utility
 79 requesting a change in base rates under s. 366.06 to report to
 80 the commission the impact of net metering on the public
 81 utility's revenues and cost of service.

82 (8)(7) Under the provisions of subsections (5) and (7) (6),
 83 when a utility purchases power generated from biogas produced by
 84 the anaerobic digestion of agricultural waste, including food
 85 waste or other agricultural byproducts, net metering shall be
 86 available at a single metering point or as a part of conjunctive
 87 billing of multiple points for a customer at a single location,

Page 3 of 4

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

5-00845-22 20221024__

88 so long as the provision of such service and its associated
 89 charges, terms, and other conditions are not reasonably
 90 projected to result in higher cost electric service to the
 91 utility's general body of ratepayers or adversely affect the
 92 adequacy or reliability of electric service to all customers, as
 93 determined by the commission for public utilities, or as
 94 determined by the governing authority of the municipal electric
 95 utility or rural electric cooperative that serves at retail.

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

Page 4 of 4

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JENNIFER BRADLEY
5th District

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional
Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

December 14, 2021

Senator Travis Hutson, Chairman
Senate Committee on Regulated Industries
416 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Hutson:

I respectfully request that Senate Bill 1024 be placed on the committee's agenda at your earliest convenience. This bill relates to net metering.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Booster Imhof, Staff Director
Susan Datres, Administrative Assistant

REPLY TO:

- 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

Date: December 20, 2021

Agency Affected:	Public Service Commission	Telephone: (850) 413-6524
Program Manager:	Kaley Slattery	Telephone: (850) 413-6125
Agency Contact:	Kaley Slattery	Telephone: (850) 413-6125
Respondent:	Katherine Pennington	Telephone: (850) 413-6596

RE: SB 1024 / HB 741

I. SUMMARY:

SB 1024/HB 741 amends Section 366.91, Florida Statutes (F.S.), requiring the Public Service Commission (Commission) to propose revisions to its rules on net metering of customer-owned renewable generation. Those customers who own or lease renewable generation that is in service prior to January 1, 2023, may continue to use the current net metering rate design for ten years. The Commission shall require a public utility requesting a change in base rates to report the impact of net metering on their revenues and cost of service. The bill takes effect July 1, 2022.

II. PRESENT SITUATION:

A utility customer primarily benefits from a renewable generation system, such as rooftop solar, by using the energy generated by the system for their own purposes and reducing electricity purchases from the utility. A renewable generation system is comparable to an energy conservation measure the customer may install such as a more energy efficient heating and air conditioning system, refrigeration, water heating or lighting equipment that may reduce a customer's energy purchases from the utility.

Any excess energy the renewable system produces, but is not consumed at the customers premises, flows to the utility's system. Net metering refers to the billing function of crediting the customer for the excess energy. The Commission's rules on the net metering credit have changed over time.

In 2002, the Commission promulgated Rule 25-6.065, Florida Administrative Code (F.A.C) (Small PV Rule), for the purposes of standardizing and expediting the interconnection of small solar photovoltaic (PV) systems of 10 kilowatts (kW) or less for customers of investor-owned electric utilities (IOUs). The net metering credit was dependent upon the installation of an additional meter by the utility capable of measuring any excess energy produced by a PV system. If an additional meter was installed by the utility, then the value of such excess energy was based on the utility's avoided cost of generating electricity, primarily fuel, and variable operating and maintenance expense. If the utility did not install an additional meter, then any excess energy would reverse the direction of the meter and offset electricity purchased from the utility. Thus, the customer's utility bill would be for less kilowatt-hours of electricity. The value of the excess energy under this provision was equivalent to the utility's retail rate that includes the cost of generation, transmission, distribution, fuel, operating and maintenance expenses, and other costs.

In its 2005 session, the Florida Legislature enacted Section 366.91, F.S., requiring utilities to offer contracts for the purchase of renewable energy. Section 366.91(1), F.S., states:

The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

Additionally, Section 366.92, F.S., was created in 2006 to establish renewable energy policy for Florida. Section 366.92(1), F.S., states:

It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.

In 2008, the Legislature created Section 366.91(5) and (6), F.S., requiring all electric utilities to develop standardized interconnection agreements and a net metering program for customer-owned renewable generation systems. Section 366.91, F.S., defines "net metering" as a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.

In 2008, the Commission amended Rule 25-6.065, F.A.C., to expand applicability of the rule to all renewable energy types up to 2 megawatts (MW) in capacity. The Rule establishes a net metering billing mechanism that allows customers to offset their usage through the self-generation of energy, with any excess energy delivered to the utility being applied as a kilowatt-hour (kWh) credit to the customer's monthly energy usage. Thus, the customer's utility bill would be for less kilowatt-hours of electricity. The value of the excess energy under this provision is equivalent to the utility's retail rate that includes the cost of generation, transmission, distribution, fuel, operating and maintenance expenses and other costs. At the end of the calendar year, the IOU pays for any remaining unused excess energy credits at a rate based on the utility's avoided cost of generating electricity, primarily fuel, and variable operating and maintenance expense.

The Rule also requires IOUs to charge customers with renewable generation the applicable rates and charges for the electricity provided by the utility. The customer's applicable rates and charges are dependent upon the rate class under which the customer takes electric service. Rates and charges can include a fixed monthly customer charge or base facility charge, volumetric rates (cents/kWh) based upon consumption, or demand rates (\$/kilowatt) based upon the maximum electric demand in a monthly billing cycle.

Section 366.051, F.S., requires electric utilities to purchase all electricity offered for sale by cogenerators or small power producers at a rate equal to the purchasing utility's "full avoided costs." Full avoided costs are defined as the "incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source." The utility's full avoided costs and the utility's as-available tariff rate are not the same. Full avoided costs can include capacity and energy avoided costs, while the as-available rate only includes avoided energy costs, which is largely fuel.

Electric utilities are by statute obligated to provide adequate service to customers.¹ To fulfill that obligation, electric utilities plan for future customer energy needs by monitoring customers' changing energy usage patterns through billing data. To ensure reliable service, utilities make investments in electric infrastructure based upon forecasts of the future energy needs of customers. The Commission is required by law to allow a utility to recover the prudently incurred costs of investments in infrastructure and operating expenses used to provide electric service. These costs are recovered through rates established by the Commission. Utilities may seek to adjust rates through the Commission's rate setting processes to ensure utilities recover prudently incurred costs.

When the Commission adopted the net metering rule in 2008, there were 577 interconnections of customer-owned renewable generation. As of December 31, 2020, Florida electric utilities reported a total

¹ Section 366.041(2), Florida Statutes

of 90,552 interconnections of customer-owned systems. For comparison purposes, as of January 1, 2021, there were a total of 10,504,960 electric utility customers in Florida.² Less than one percent of Florida electric customers had installed renewable generation equipment as of year-end 2020.

III. EFFECT OF PROPOSED CHANGES:

SB 1024/HB 741 requires the Commission, on or before January 1, 2023, to propose a revised net metering rule that ensures that customers who own or lease renewable generation pay the full cost of electric service and are not subsidized by the general body of ratepayers.

The net metering rate design must be changed from the current kWh for kWh credit for excess energy delivered to the grid, to a credit based upon the public utility’s (IOU’s) full avoided costs. In addition, the new net metering rate design may include fixed charges, including base facility charges, electric grid access fees, or monthly minimum bills, to help ensure that the utility recovers the fixed costs of serving net metering customers from those customers. The current net metering rule requires any remaining kWh credits at the end of the year to be paid at the utility’s as-available energy rate. However, since kWh credits will no longer roll-over into subsequent months under the new design, presumably the requirement to pay for accumulated credits at the end of the calendar year will be obsolete.

The bill states that customers who own or lease renewable generation in service before January 1, 2023, pursuant to a standard interconnection agreement offered by a public utility, shall be granted 10 years to continue to use the net metering rate design and rates that applied before these revisions to the net metering rule. Presumably any customers who enter into an interconnection agreement after January 1, 2023, would take service under the revised net metering rate design.

Lastly, SB 1024/HB 741 requires an IOU requesting a change in base rates under Section 366.06 F.S., to report to the Commission the impact of net metering on the utility’s revenues and cost of service.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

(in this section please provide information concerning FTEs. How many positions, if any will be necessary to enact this bill. Also, what specific positions will be needed.)

The cost to the Commission for the rulemaking proceeding required by the bill could be absorbed with existing resources. The impact on other state agencies is not known at this time.

	(FY 19-20)	(FY 20-21)	(FY 21-22)
	Amount / FTE	Amount / FTE	Amount / FTE
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None known at this time.

² Review of 2021 Ten-year Site Plans of Florida’s Electric Utilities, p.13

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

There may be impact on the solar installation industry if fewer customers purchase rooftop solar as a result of the redesigned net metering rate structure.

VII. LEGAL ISSUES:

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

None known at this time.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?

None known at this time.

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

Parties likely to participate in the rulemaking proceeding held by the Commission to implement the requirements of the bill include IOUs, solar energy, and environmental advocates.

D. Other:

VIII. COMMENTS:

The purpose of customer-owned or leased generation is to offset part or all of a customer's energy usage through self-generation, effectively lowering the demand for electricity that the utility must meet for these customers. As such, these systems serve as a conservation measure. Similar to energy efficiency programs, these systems may result in lower energy consumption from the utility. The questions regarding cross-subsidization that have been presented to the Commission are based in part upon customers with renewable generation purchasing less energy from the utility. There is a question whether a customer that decreases their energy usage, through whatever means, should be considered to be cross-subsidized by the general body of ratepayers. As stated earlier, the Commission must allow a utility to recover its prudently incurred cost of providing electric service regardless of the energy usage patterns of customers.

Questions have also been raised before the Commission as to whether the current net metering credit results in the general body of ratepayers subsidizing customers with renewable generation. There is debate on the components of the utility's cost of service that are offset by the excess energy. For example, questions have been raised as to whether the excess energy offsets the utility's cost of power plants, given that power plants must be available to meet a renewable energy customer's electric needs when their systems are not operating or when their demand exceeds the capability of their renewable energy system.

Most customers who install renewable generation equipment evaluate that investment based

upon the payback period resulting from lower utility bills. Decreasing the credit available for excess energy delivered to the grid may impact that calculation and make the investment in customer-owned generation less attractive, because a credit based upon full avoided cost could be substantially less than the retail rate. In addition, customers who have installed renewable generation taking into consideration the current net metering rate design over the full life of the equipment (approximately 20 years), may now find that their investment is not as cost-effective as they had planned.

Prepared by: Matthew A. Vogel, Jacob Imig

By Senator Hooper

16-00561-22

2022352__

A bill to be entitled

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

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

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

713.135 Notice of commencement and applicability of lien.—

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

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

Page 1 of 2

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

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

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 4, 2021

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

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

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

Senator Ed Hooper
Florida Senate, District 16