

Tab 1	SB 940 by Baxley; (Identical to H 00375) Professional Structural Engineers						
Tab 2	SB 942 by Baxley; (Identical to H 00565) Fees/Professional Structural Engineer Licensing						
644882	A	S	RCS	RI, Baxley	Delete L.52:	01/25 03:10 PM	
Tab 3	SB 562 by Cruz; (Similar to CS/CS/H 00559) Military Occupational Licensure						
Tab 4	SB 1094 by Rodriguez (CO-INTRODUCERS) Jones; (Identical to H 01015) Architect Education Minority Assistance Program						
Tab 5	SB 1332 by Wright; (Similar to CS/H 00481) Temporary Underground Residential Electric Service						
563034	D	S	RCS	RI, Wright	Delete everything after	01/25 03:10 PM	
Tab 6	SB 714 by Hooper; (Similar to H 00667) Department of Business and Professional Regulation						
323002	A	S	RCS	RI, Hooper	btw L.80 - 81:	01/25 03:10 PM	
Tab 7	SB 1764 by Albritton; (Identical to H 01419) Municipal Solid Waste-to-Energy Program						
Tab 8	SB 1216 by Hutson; (Similar to H 00575) Vacation and Timeshare Plans						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Book, Vice Chair

MEETING DATE: Tuesday, January 25, 2022

TIME: 1:00—3:00 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	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 940 Baxley (Identical H 375, Compare H 565, Linked S 942)	Professional Structural Engineers; Prohibiting a person who is not licensed as an engineer from using a specified name or title; authorizing the Board of Professional Engineers to refuse to certify an applicant for a professional structural engineer license for certain reasons; providing licensure and application requirements for a professional structural engineer license; specifying acts that constitute grounds for disciplinary action, including civil penalties, against a professional structural engineer, etc. RI 01/25/2022 Favorable CM RC	Favorable Yeas 9 Nays 0
2	SB 942 Baxley (Identical H 565, Compare H 375, Linked S 940)	Fees/Professional Structural Engineer Licensing; Authorizing the Board of Professional Engineers to establish fees relating to professional structural engineer licensing; requiring applicants to pay a specified fee to be eligible to receive a professional structural engineer license, etc. RI 01/25/2022 Fav/CS CM AP	Fav/CS Yeas 9 Nays 0
3	SB 562 Cruz (Similar CS/H 559)	Military Occupational Licensure; Requiring the Department of Business and Professional Regulation or the applicable board or program to expedite professional license applications submitted by spouses of active duty members of the Armed Forces of the United States; requiring the department to issue temporary professional licenses under certain circumstances; requiring the Department of Health or the applicable board to issue a professional license to spouses of active duty members of the Armed Forces of the United States if certain requirements are met, etc. MS 01/11/2022 Favorable RI 01/25/2022 Favorable AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, January 25, 2022, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1094 Rodriguez (Identical H 1015)	Architect Education Minority Assistance Program; Creating the program within the Department of Business and Professional Regulation; requiring the Architect Education Minority Assistance Advisory Council to assist the Board of Architecture and Interior Design with administering the program; providing funding requirements for scholarships provided under the program; capping the amount of funds that the department may spend annually on the program; prohibiting a person or his or her agent from knowingly filing documents with the board which contain false information or material misstatements of fact, etc. RI 01/25/2022 Favorable AEG AP	Favorable Yeas 9 Nays 0
5	SB 1332 Wright (Similar CS/H 481)	Temporary Underground Residential Electric Service; Prohibiting local governmental entities from prohibiting electric utilities from using temporary underground residential services under certain conditions; authorizing electric utilities to install permanent electric service to the meter socket until a certificate of occupancy is obtained; defining the term "temporary underground residential service", etc. RI 01/25/2022 Fav/CS CA RC	Fav/CS Yeas 9 Nays 0
6	SB 714 Hooper (Similar H 667)	Department of Business and Professional Regulation; Requiring the department to certify for licensure qualified individuals who practice mold assessment or mold remediation and hold certain licenses issued by other states or territories; requiring the department to certify asbestos consultants and asbestos contractors for licensure who meet certain exam and other state licensure requirements; removing a time limitation for applying for certain contracting licenses under certain provisions; deleting a requirement limiting the types of boxing exhibitions which require a specified maximum difference in participant weights, etc. RI 01/25/2022 Fav/CS AEG AP	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Tuesday, January 25, 2022, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1764 Albritton (Identical H 1419)	Municipal Solid Waste-to-Energy Program; Creating the Municipal Solid Waste-to-Energy Program within the Department of Agriculture and Consumer Services for a specified purpose; requiring the department, subject to appropriation, to provide financial assistance grants to municipal solid waste-to-energy facilities that meet certain requirements; requiring the department to establish a process to verify the amount of certain electric power purchases; directing the Public Service Commission to provide assistance in verifying grant eligibility, etc. RI 01/25/2022 Favorable AEG AP	Favorable Yeas 9 Nays 0
8	SB 1216 Hutson (Similar H 575)	Vacation and Timeshare Plans; Exempting certain timeshare plans from specified requirements relating to the creation of a timeshare estate in a nonresidential condominium unit under certain circumstances; specifying that the payment for certain incidental benefits is voluntary; providing that the board of administration of the owners' association serves as the termination trustee for purposes of implementing the termination of a timeshare plan; authorizing a managing entity to exercise specified powers before, during, or after an actual or anticipated emergency in certain circumstances and for certain purposes, etc. RI 01/25/2022 Favorable CA RC	Favorable Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 940

INTRODUCER: Senator Baxley

SUBJECT: Professional Structural Engineers

DATE: January 24, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 940 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of structural engineering, which includes the structural analysis and design of components for threshold buildings (those higher than 50 feet/three stories or with an occupancy of greater than 500 persons), including engineering that requires significant structural engineering education, training, experience, and examination, as determined by the board.

The bill prohibits, effective March 1, 2024, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

Under the bill, the following titles may not be used by persons who are not licensed or exempt from licensing under current law relating to engineering: “licensed structural engineer,” “professional structural engineer,” or “registered structural engineer,” or any designation that indicates a person holds an active license.

The bill authorizes the board to certify persons as qualified to be licensed to practice professional structural engineering if they are licensed or qualify for licensure as an engineer, have at least four years of active structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements. The bill also requires the board to certify qualified foreign or out-of-state applicants for licensure by endorsement in certain circumstances.

SB 942, relating to Fees/Professional Structural Engineer Licensing, is linked to this bill, and provides for the establishment of licensing fees by the board to be paid by persons seeking licensure as a professional structural engineer.

See Section V, Fiscal Impact Statement.

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

II. Present Situation:

Regulation of Professional Engineers

The practice of engineering is regulated by the board. Section 471.005(7), F.S., defines the term “engineering” to include:

the term “professional engineering” and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is licensed under this chapter; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter [ch. 471, Engineering].

Unlike most Department of Business and Professional Regulation (DBPR) professions, the administrative, investigative, and prosecutorial services for the board are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a nonprofit corporation, to provide such services.¹ The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers.²

¹ See s. 471.038, F.S., the Florida Engineers Management Corporation Act, for the duties and authority of the FEMC.

² See the Annual Report of the FEMC for FY 2020-2021, available at <https://fbpe.org/wp-content/uploads/2021/10/2020-21-FEMC-Annual-Report.pdf> (last visited Jan. 19, 2022), and the contract between the DBPR and the FEMC for the period

Section 471.008, F.S., authorizes the board to adopt rules to implement the provisions of ch. 471, F.S., and for ch. 455, F.S., which provides the general licensing procedures for professional licensing by the DBPR and its professional licensing boards. The board has adopted responsibility rules for the profession of engineering addressing a variety of issues, including the design of structures and fire protection systems.³

There were 62,909 licensed professional engineers in Fiscal Year 2020-2021.⁴ The FEMC processed 231 complaints regarding engineering practice during that period, with 137 of those complaints found to be legally sufficient to proceed, and filed 68 administrative complaints in cases where probable cause was found relating to a violation of the practice act.⁵

Professional Engineer License Qualifications and Exemptions

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have graduated from:

- An approved engineering science curriculum of four years or more in a board-approved school, college, or university; or
- An approved engineering technology curriculum of four years or more in a board-approved school, college, or university.⁶

The FEMC must issue a license to any applicant who the board certifies is qualified to practice engineering and who has passed the fundamentals and the principles and practice examination.⁷

Under s. 471.015(2), F.S., the board must certify for licensure any applicant who has submitted proof of being at least 18 years old and has the required engineering experience. For graduates of an approved engineering science curriculum, the applicant must have a record of at least four years of active engineering experience sufficient to indicate competence to be in responsible charge of engineering. Graduates of an approved engineering technology curriculum must have a record of at least six years of such qualified experience.⁸

between July 1, 2021 and June 30, 2025 at <https://fbpe.org/wp-content/uploads/2021/10/2021-25-DBPR-FEMC-Contract.pdf> (last visited Jan. 19, 2022).

³ The responsibility rules are in Fla. Admin. Code Chapters 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2021).

⁴ There were 530 inactive professional engineering licenses in that fiscal year. See Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at p. 20, at

http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 19, 2022).

⁵ See the Annual Report of the FEMC for FY 2020-2021, available at <https://fbpe.org/wp-content/uploads/2021/10/2020-21-FEMC-Annual-Report.pdf>, at p. 2 (last visited Jan. 19, 2022). The FEMC also filed 89 Final Orders with the DBPR; entered into three negotiations, and tried one administrative hearing; dismissed two cases after re-consideration; issued 16 reprimands, three suspensions, four probations, three project reviews, and three license restrictions; and imposed \$44,765.23 in administrative costs and \$58,500 in fines. The board also issued 88 Final Orders against licensees.

⁶ Section 471.013(1), F.S.

⁷ Section 471.015(1), F.S.

⁸ See ss. 471.015(2)(a)1. and 2., F.S.

Section 471.003(2), F.S., identifies those persons who are exempted from the licensing requirements of ch. 471, F.S.

Special Inspectors of Threshold Buildings

Section 471.015(7), F.S., authorizes the board to establish by rule the qualifications for certification of licensees as inspectors of threshold buildings. A “threshold building” is “any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.”⁹

The board is also authorized to establish minimum qualifications for the qualified representative of the special inspector who is authorized to perform inspections of threshold buildings on behalf of the special inspector.¹⁰

The agency charged with enforcing the building code (enforcing agency)¹¹ must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.¹²

Use of Engineer Seals

Section 471.025(1), F.S., authorizes the board to prescribe, by rule, one or more forms of seal to be used by licensed engineers. Each licensee must obtain at least one seal.¹³ All final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and filed for public record and all final documents provided to the owner or the owner’s representative must be signed by the licensee, dated, and sealed with the seal.¹⁴ The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.¹⁵

A licensee may not affix or permit to be affixed his or her seal, name, or digital signature to any plan, specification, drawing, final bid document, or other document that depicts work which he or she is not licensed to perform or which is beyond his or her profession or specialty.¹⁶

A successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer, and assumes full

⁹ See s. 553.71(12), F.S.

¹⁰ See s. 471.015(7), F.S.

¹¹ See s. 553.71(5), F.S., which defines the term “local enforcement agency” to mean “an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.”

¹² Section 553.79(5)(a), F.S.

¹³ Section 471.025(1), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 471.025(3), F.S.

professional and legal responsibility by signing and affixing his or her seal to the assumed documents.¹⁷

Use of Descriptive Titles

Section 471.031, F.S., sets forth the permissible and prohibited titles for persons licensed under ch. 471, F.S., and for persons who are otherwise exempted from such licensure. With certain exceptions for persons exempted from licensure, the use of the name “professional engineer” or any other title, designation, abbreviation, or indication that a person holds an active license as an engineer when the person is not licensed under ch. 471, F.S., is prohibited, along with use of the following titles:

- Agricultural engineer;
- Air-conditioning engineer;
- Architectural engineer;
- Building engineer;
- Chemical engineer;
- Civil engineer;
- Control systems engineer;
- Electrical engineer;
- Environmental engineer;
- Fire protection engineer;
- Industrial engineer;
- Manufacturing engineer;
- Mechanical engineer;
- Metallurgical engineer;
- Mining engineer;
- Minerals engineer;
- Marine engineer;
- Nuclear engineer;
- Petroleum engineer;
- Plumbing engineer;
- Structural engineer;
- Transportation engineer;
- Software engineer;
- Computer hardware engineer; and
- Systems engineer.¹⁸

This section also provides for other prohibited acts. Any person who violates the provisions of the section commits a misdemeanor of the first degree punishable as provided in ss. 775.082 or 775.083, F.S.¹⁹

¹⁷ Section 471.025(4), F.S. The original engineer is released from any professional responsibility or civil liability for work that is assumed.

¹⁸ See s. 471.031(1)(b), F.S.

¹⁹ See s. 471.031(2), F.S.

Imposition of Discipline by the Board

The conduct that constitutes grounds for the imposition of discipline by the board are set forth in s. 471.033, F.S. Such discipline includes denial of an application for licensure, suspension or revocation of a license, imposition of fines, reprimands, probation, or restitution, and restriction of the authorized scope of practice of a licensee.

Voluntary Structural Engineer Associations

The Florida Structural Engineers Association (FSEA) provides input on building codes and enforcement and sponsors technical seminars to address common concerns of the profession.²⁰ Members of FSEA become members of the National Council of Structural Engineers Associations (NCSEA).²¹ The NCSEA was formed to improve the standard level of practice of the structural engineering profession and provide an identifiable resource for seeking communication with the profession.²² It advocates for the practice of structural engineering on behalf of its 44 member organizations.²³ According to the NCSEA, two states restrict who may use the title “structural engineer,”²⁴ eight states have a partial practice act for structural engineers,²⁵ and two states have a full practice act for structural engineers.²⁶

The National Council of Examiners for Engineering and Surveying is a nonprofit organization composed of 69 engineering and surveying licensing boards from all 50 states, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.²⁷ It provides services including engineering examinations, surveying examinations, exam preparation materials, records programs, and credentials evaluations among other services to licensing jurisdictions.²⁸

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 471.003, F.S., to prohibit, effective March 1, 2024, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

The bill prohibits the use of the name or title of “licensed structural engineer,” “professional structural engineer,” or “registered structural engineer” or any other title that indicates an unlicensed person is a licensed professional structural engineer in this state. The bill amends s. 471.003(2), F.S., to clarify that certain persons are not required to be licensed as a licensed professional structural engineer, and this exemption includes contractors performing work designed by a professional structural engineer.

²⁰ See <http://www.flsea.com/> and https://flsea.com/Messages_from_the_President (last visited Jan. 19, 2022).

²¹ *Id.*

²² See <http://www.ncsea.com/about/> (last visited Jan. 19, 2022).

²³ *Id.*

²⁴ Idaho and Nebraska. See <http://www.ncsea.com/resources/licensure/> (last visited Jan. 19, 2022).

²⁵ Alaska, California, Georgia, Nevada, Oklahoma, Oregon, Utah, and Washington. *Id.*

²⁶ Illinois and Hawaii. *Id.*

²⁷ See [The National Council of Examiners for Engineering and Surveying \(ncees.org\)](http://www.ncees.org) (last visited Jan. 19, 2022).

²⁸ *Id.*

Section 2 of the bill amends s. 471.005, F.S., to define the term “professional structural engineer” to mean a person who is licensed to engage in the practice of professional structural engineering in Florida under ch. 471, F.S.

The bill defines the term “professional structural engineering” to mean a service or creative work that includes the structural analysis and design of structural components or systems for threshold buildings.²⁹ The term includes engineering that requires significant structural engineering education, training, experience, and examination, as determined by the board.

The bill allows a retired professional structural engineer to be granted use of the title “professional engineer, retired” or “professional structural engineer, retired” by the board, if the retiree has:

- Been licensed as a professional engineer by the board;
- Relinquished or not renewed a license; and
- Applied to and been approved by the board to use such title.

Section 3 of the bill amends s. 471.013(2)(a), F.S., relating to licensure, to include a reference to licensed professional structural engineers.

Section 4 of the bill amends s. 471.015, F.S., to authorize the FEMC to license a person it certifies is qualified to practice professional structural engineering if they are licensed or qualify for licensure as an engineer, have at least four years of active professional structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements.

Under the bill, an applicant for licensure as a professional structural engineer must:

- Be licensed as an engineer, or qualify for licensure, under ch. 471, F.S.;
- Submit an application in the format prescribed by the board;
- Provide satisfactory evidence of good moral character, as defined by the board;
- Provide a record of four years of active professional structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer; and
- Have successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination.

Before March 1, 2024, a qualified applicant, may satisfy the 16-hour examination requirement by:

- Submitting a signed affidavit in the format prescribed by the board that the applicant is currently a licensed engineer in Florida and has been engaged in the practice of structural engineering with a record of at least four years of active structural engineering design experience;
- Possessing a current professional engineering license and filing the necessary documentation as required by the board, or possessing a current threshold inspector license; and

²⁹ Section 553.71(12), F.S., provides a “threshold building” is “any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.”

- Agreeing to meet with the board or its representative, at the board’s request, for the purpose of evaluating the applicant’s qualifications for licensure.

An applicant who qualifies for licensure as an engineer may simultaneously apply for licensure as a professional structural engineer, if all the above requirements and all education, examination, experience, and good moral character requirements set forth in s. 471.013, F.S., are met.

The bill sets forth the following requirements for board certification of an applicant as qualified for licensure as a professional structural engineer by endorsement:

- An applicant who holds a license to practice either engineering or professional structural engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in Florida at the time the license was issued; or
- An applicant who holds a valid license to practice professional structural engineering issued by another state or territory of the United States and who has successfully passed one of the following 16-hour examination combinations:
 - The 8-hour National Council of Examiners for Engineering and Surveying³⁰ Structural Engineering I examination and the 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination.
 - The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and either the 8-hour National Council of Examiners for Engineering and Surveying Civil: Structural examination or the 8-hour National Council of Examiners for Engineering and Surveying Architectural Engineering examination.
 - The 16-hour Western States Structural Engineering examination.
 - The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination, and either the 8-hour California Structural Engineering Seismic III examination, or the 8-hour Washington Structural Engineering III examination.

Section 5 of the bill amends s. 471.019, F.S., relating to reinstatement of void licenses, to include a reference to licensed professional structural engineers.

Section 6 of the bill amends s. 471.025(2), F.S., regarding the use of seals on documents, to include a reference to the use of seals when a professional structural engineer’s license is revoked or suspended.

Section 7 of the bill amends s. 471.031, F.S., to provide that beginning March 1, 2024, no person may practice professional structural engineering unless the person is licensed as a professional structural engineer or exempt from licensure under ch. 471, F.S. The bill also provides that the

³⁰ The National Council of Examiners for Engineering and Surveying (NCEES) is a nonprofit organization dedicated to advancing professional licensure for engineers and surveyors. In the United States, engineers and surveyors are licensed at the state and territory level. NCEES was created in 1920 and provides services for licensure and facilitation of mobility among licensing jurisdictions, including the development and scoring of examinations for licensure. See National Council of Examiners for Engineering and Surveying, *Advancing Licensure for Engineers and Surveyors*, available at <https://ncees.org/about/> (last visited Jan. 19, 2022).

following titles may not be used by persons who are not licensed, or otherwise exempt from licensing, under ch. 471, F.S., relating to engineering: “licensed structural engineer”, “professional structural engineer,” “registered structural engineer,” or “structural engineer.”

Section 8 of the bill amends s. 471.033, F.S., related to disciplinary proceedings, to revise the acts that constitute grounds for discipline, to include acts related to the practice of professional structural engineering.

Section 9 of the bill amends s. 471.037(1), F.S., related to the construction of provisions in ch. 471, F.S., to provide that local building codes, zoning laws, or ordinances may be more restrictive concerning the services of licensed professional structural engineers.

Section 10 of the bill amends s. 471.0385, F.S., related to certain authorizations granted to the Governor. The bill grants authority to the Governor to reestablish positions, budget authority, and salary rate necessary to carry out the DBPR’s responsibilities relating to “professional structural engineers,” in the event the Florida Engineers Management Corporation Act³¹ is held to be unconstitutional or to violate state or federal antitrust laws.

Section 11 of the bill provides an effective date of July 1, 2022.

The bill also includes technical drafting changes and conforming changes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

³¹ See s. 471.038, F.S.

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

None.

B. Private Sector Impact:

Beginning March 1, 2024, persons who are licensed engineers in Florida and those who perform work that comes within the definition in the bill for “professional structural engineering” will be required to obtain additional licensing to perform such work.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for professional structural engineers may result in a fiscal impact to the DBPR or the FEMC. To date, no analysis by the DBPR or the FEMC of the impact of the bill on their respective operations, revenue, and expenditures has been provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 942, relating to Fees/Professional Structural Engineer Licensing, is linked to this bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 471.003, 471.005, 471.013, 471.015, 471.019, 471.025, 471.031, 471.033, 471.037, and 471.0385.

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

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

None.

B. Amendments:

None.

By Senator Baxley

12-00812A-22

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1 A bill to be entitled
 2 An act relating to professional structural engineers;
 3 amending s. 471.003, F.S.; prohibiting a person who is
 4 not licensed as an engineer from using a specified
 5 name or title; prohibiting, after a date certain,
 6 specified persons from using specified names and
 7 titles or practicing professional structural
 8 engineering; exempting certain persons from licensing
 9 requirements; amending s. 471.005, F.S.; providing and
 10 revising definitions; amending s. 471.013, F.S.;
 11 authorizing the Board of Professional Engineers to
 12 refuse to certify an applicant for a professional
 13 structural engineer license for certain reasons;
 14 amending s. 471.015, F.S.; providing licensure and
 15 application requirements for a professional structural
 16 engineer license; exempting certain applicants who
 17 apply for licensure before a date certain from having
 18 to pass a certain national examination, under certain
 19 conditions; requiring the board to certify certain
 20 applicants for licensure by endorsement; amending ss.
 21 471.019 and 471.025, F.S.; conforming provisions to
 22 changes made by the act; amending s. 471.031, F.S.;
 23 prohibiting certain persons from practicing
 24 professional structural engineering after a date
 25 certain; prohibiting specified persons from using
 26 specified names and titles; amending s. 471.033, F.S.;
 27 specifying acts that constitute grounds for
 28 disciplinary action, including civil penalties,
 29 against a professional structural engineer; amending

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

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30 ss. 471.037 and 471.0385, F.S.; conforming provisions
 31 to changes made by the act; providing an effective
 32 date.
 33
 34 Be It Enacted by the Legislature of the State of Florida:
 35
 36 Section 1. Subsections (1) and (2) of section 471.003,
 37 Florida Statutes, are amended to read:
 38 471.003 Qualifications for practice; exemptions.—
 39 (1) (a) No person other than a duly licensed engineer shall
 40 practice engineering or use the name or title of "licensed
 41 engineer," "professional engineer," or "registered engineer" or
 42 any other title, designation, words, letters, abbreviations, or
 43 device tending to indicate that such person holds an active
 44 license as an engineer in this state.
 45 (b) Effective March 1, 2024, only a person who is a duly
 46 licensed professional structural engineer shall engage in the
 47 practice of professional structural engineering or use the name
 48 or title of "licensed structural engineer," "professional
 49 structural engineer," or "registered structural engineer" or any
 50 other title, designation, words, letters, abbreviations, or
 51 device tending to indicate that such person holds an active
 52 license as a professional structural engineer in this state.
 53 (2) The following persons are not required to be licensed
 54 under ~~the provisions of~~ this chapter as a licensed engineer or a
 55 licensed professional structural engineer:
 56 (a) Any person practicing engineering for the improvement
 57 of, or otherwise affecting, property legally owned by her or
 58 him, unless such practice involves a public utility or the

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59 public health, safety, or welfare or the safety or health of
60 employees. This paragraph ~~may shall~~ not be construed as
61 authorizing the practice of engineering through an agent or
62 employee who is not duly licensed under ~~the provisions of~~ this
63 chapter.

64 (b)1. A person acting as a public officer employed by any
65 state, county, municipal, or other governmental unit of this
66 state when working on any project the total estimated cost of
67 which is \$10,000 or less.

68 2. Persons who are employees of any state, county,
69 municipal, or other governmental unit of this state and who are
70 the subordinates of a person in responsible charge licensed
71 under this chapter, to the extent that the supervision meets
72 standards adopted by rule of the board.

73 (c) Regular full-time employees of a corporation not
74 engaged in the practice of engineering as such, whose practice
75 of engineering for such corporation is limited to the design or
76 fabrication of manufactured products and servicing of such
77 products.

78 (d) Regular full-time employees of a public utility or
79 other entity subject to regulation by the Florida Public Service
80 Commission, Federal Energy Regulatory Commission, or Federal
81 Communications Commission.

82 (e) Employees of a firm, corporation, or partnership who
83 are the subordinates of a person in responsible charge, licensed
84 under this chapter.

85 (f) Any person as contractor in the execution of work
86 designed by a professional engineer or a professional structural
87 engineer or in the supervision of the construction of work as a

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88 foreman or superintendent.

89 (g) A licensed surveyor and mapper who takes, or contracts
90 for, professional engineering services incidental to her or his
91 practice of surveying and mapping and who delegates such
92 engineering services to a licensed professional engineer
93 qualified within her or his firm or contracts for such
94 professional engineering services to be performed by others who
95 are licensed professional engineers under ~~the provisions of~~ this
96 chapter.

97 (h) Any electrical, plumbing, air-conditioning, or
98 mechanical contractor whose practice includes the design and
99 fabrication of electrical, plumbing, air-conditioning, or
100 mechanical systems, respectively, which she or he installs by
101 virtue of a license issued under chapter 489, under former part
102 I of chapter 553, Florida Statutes 2001, or under any special
103 act or ordinance when working on any construction project which:

104 1. Requires an electrical or plumbing or air-conditioning
105 and refrigeration system with a value of \$125,000 or less; and

106 2.a. Requires an aggregate service capacity of 600 amperes
107 (240 volts) or less on a residential electrical system or 800
108 amperes (240 volts) or less on a commercial or industrial
109 electrical system;

110 b. Requires a plumbing system with fewer than 250 fixture
111 units; or

112 c. Requires a heating, ventilation, and air-conditioning
113 system not to exceed a 15-ton-per-system capacity, or if the
114 project is designed to accommodate 100 or fewer persons.

115 (i) Any general contractor, certified or registered
116 pursuant to ~~the provisions of~~ chapter 489, when negotiating or

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 117 performing services under a design-build contract as long as the
 118 engineering services offered or rendered in connection with the
 119 contract are offered and rendered by an engineer or a
 120 professional structural engineer licensed under ~~in accordance~~
 121 ~~with~~ this chapter.

(j) Any defense, space, or aerospace company, whether a
 sole proprietorship, firm, limited liability company,
 partnership, joint venture, joint stock association,
 corporation, or other business entity, subsidiary, or affiliate,
 or any employee, contract worker, subcontractor, or independent
 contractor of the defense, space, or aerospace company who
 provides engineering for aircraft, space launch vehicles, launch
 services, satellites, satellite services, or other defense,
 space, or aerospace-related product or services, or components
 thereof.

Section 2. Subsections (10) through (12) of section
 471.005, Florida Statutes, are renumbered as subsections (12)
 through (14), respectively, present subsection (10) is amended,
 and new subsections (10) and (11) are added to that section, to
 read:

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

(10) "Professional structural engineer" means a person who
is licensed to engage in the practice of professional structural
engineering under this chapter.

(11) "Professional structural engineering" means a service
or creative work that includes the structural analysis and
design of structural components or systems for threshold
buildings as defined in s. 553.71. The term includes engineering
which requires significant structural engineering education,

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 146 training, experience, and examination, as determined by the
 147 board.

~~(12)-(10)~~ "Retired professional engineer," ~~or~~ "professional
 engineer, retired," "retired professional structural engineer,"
 or "professional structural engineer, retired" means a person
 who has been duly licensed as a professional engineer by the
 board and who chooses to relinquish or not to renew his or her
 license and applies to and is approved by the board to be
 granted the title "Professional Engineer, Retired" or
"Professional Structural Engineer, Retired."

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

471.013 Examinations; prerequisites.—

(2) (a) The board may refuse to certify an applicant for
 failure to satisfy the requirement of good moral character only
 if:

1. There is a substantial connection between the lack of
 good moral character of the applicant and the professional
 responsibilities of a licensed engineer or licensed professional
structural engineer; and

2. The finding by the board of lack of good moral character
 is supported by clear and convincing evidence.

Section 4. Subsections (3) through (7) of section 471.015,
 Florida Statutes, are renumbered as subsections (4) through (8),
 respectively, present subsection (3) is amended, and a new
 subsection (3) is added to that section, to read:

471.015 Licensure.—

(3) (a) The management corporation shall issue a
professional structural engineer license to any applicant whom

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175 the board certifies as qualified to practice professional
 176 structural engineering and who meets all of the following
 177 requirements:

- 178 1. Is licensed under this chapter as an engineer or is
 179 qualified for licensure as an engineer.
 180 2. Submits an application in the format prescribed by the
 181 board.
 182 3. Provides satisfactory evidence of good moral character,
 183 as defined by the board.
 184 4. Provides a record of 4 years of active structural
 185 engineering experience, as defined by the board, under the
 186 supervision of a licensed professional engineer.
 187 5. Has successfully passed the 16-hour National Council of
 188 Examiners for Engineering and Surveying Structural Engineering
 189 examination.

190 (b) Before March 1, 2024, an applicant who satisfies the
 191 requirements of subparagraphs (a)1.-4. may satisfy subparagraph
 192 (a)5. by:

- 193 1. Submitting a signed affidavit in the format prescribed
 194 by the board which states that the applicant is currently a
 195 licensed engineer in this state and has been engaged in the
 196 practice of structural engineering with a record of at least 4
 197 years of active structural engineering design experience;
 198 2. Possessing a current professional engineering license
 199 and filing the necessary documentation as required by the board,
 200 or possessing a current threshold inspector license; and
 201 3. Agreeing to meet with the board or a representative of
 202 the board, upon the board's request, for the purpose of
 203 evaluating the applicant's qualifications for licensure.

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204 (c) An applicant who qualifies for licensure as an engineer
 205 under s. 471.013 may simultaneously apply for licensure as a
 206 professional structural engineer if all requirements of s.
 207 471.013 and this subsection are met.

208 ~~(4)(3)~~ The board shall certify as qualified for a license
 209 ~~by endorsement an applicant who:~~

210 (a) In engineering, by endorsement, an applicant who
 211 qualifies to take the fundamentals examination and the
 212 principles and practice examination as set forth in s. 471.013,
 213 has passed a United States national, regional, state, or
 214 territorial licensing examination that is substantially
 215 equivalent to the fundamentals examination and principles and
 216 practice examination required by s. 471.013, and has satisfied
 217 the experience requirements set forth in paragraph (2)(a) and s.
 218 471.013; ~~or~~

219 (b) In engineering or professional structural engineering,
 220 by endorsement, an applicant who holds a valid license to
 221 practice engineering or, for professional structural
 222 engineering, an applicant who holds a valid license to practice
 223 professional structural engineering, issued by another state or
 224 territory of the United States, if the criteria for issuance of
 225 the license were substantially the same as the licensure
 226 criteria that existed in this state at the time the license was
 227 issued; or

228 (c) In professional structural engineering, by endorsement,
 229 an applicant who holds a valid license to practice professional
 230 structural engineering issued by another state or territory of
 231 the United States and who has successfully passed one of the
 232 following 16-hour examination combinations:

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233 1. The 8-hour National Council of Examiners for Engineering
 234 and Surveying Structural Engineering I examination and the 8-
 235 hour National Council of Examiners for Engineering and Surveying
 236 Structural Engineering II examination.

237 2. The 8-hour National Council of Examiners for Engineering
 238 and Surveying Structural Engineering II examination and either
 239 the 8-hour National Council of Examiners for Engineering and
 240 Surveying Civil: Structural examination or the 8-hour National
 241 Council of Examiners for Engineering and Surveying Architectural
 242 Engineering examination.

243 3. The 16-hour Western States Structural Engineering
 244 examination.

245 4. The 8-hour National Council of Examiners for Engineering
 246 and Surveying Structural Engineering II examination and either
 247 the 8-hour California Structural Engineering Seismic III
 248 examination or the 8-hour Washington Structural Engineering III
 249 examination.

250 Section 5. Section 471.019, Florida Statutes, is amended to
 251 read:

252 471.019 Reactivation.—The board shall establish by rule a
 253 reinstatement process for void licenses. The rule shall
 254 prescribe appropriate continuing education requirements for
 255 reactivating a license. The continuing education requirements
 256 for reactivating a license for a licensed engineer or a licensed
 257 professional structural engineer may not exceed the continuing
 258 education requirements prescribed pursuant to s. 471.017 for
 259 each year the license was inactive.

260 Section 6. Subsection (2) of section 471.025, Florida
 261 Statutes, is amended to read:

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262 471.025 Seals.—

263 (2) It is unlawful for any person to seal or digitally sign
 264 any document with a seal or digital signature after his or her
 265 license has expired or been revoked or suspended, unless such
 266 license ~~is~~ ~~has been~~ reinstated or reissued. When an engineer's
 267 or a professional structural engineer's license ~~is~~ ~~has been~~
 268 revoked or suspended by the board, the licensee shall, within a
 269 period of 30 days after the revocation or suspension has become
 270 effective, surrender his or her seal to the executive director
 271 of the board and confirm to the executive director the
 272 cancellation of the licensee's digital signature in accordance
 273 with ss. 668.001-668.006. In the event the engineer's license
 274 has been suspended for a period of time, his or her seal shall
 275 be returned to him or her upon expiration of the suspension
 276 period.

277 Section 7. Paragraphs (b) through (g) of subsection (1) of
 278 section 471.031, Florida Statutes, are redesignated as
 279 paragraphs (c) through (h), respectively, present paragraph (b)
 280 of that subsection is amended, and a new paragraph (b) is added
 281 to that subsection, to read:

282 471.031 Prohibitions; penalties.—

283 (1) A person may not:

284 (b) Beginning March 1, 2024, practice professional
 285 structural engineering unless the person is licensed as a
 286 professional structural engineer or is exempt from licensure
 287 under this chapter.

288 (c) (b)1. Except as provided in subparagraph 2. or
 289 subparagraph 3., use the name or title "professional engineer"
 290 or any other title, designation, words, letters, abbreviations,

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291 or device tending to indicate that such person holds an active
 292 license as an engineer when the person is not licensed under
 293 this chapter, including, but not limited to, the following
 294 titles: "agricultural engineer," "air-conditioning engineer,"
 295 "architectural engineer," "building engineer," "chemical
 296 engineer," "civil engineer," "control systems engineer,"
 297 "electrical engineer," "environmental engineer," "fire
 298 protection engineer," "industrial engineer," "manufacturing
 299 engineer," "mechanical engineer," "metallurgical engineer,"
 300 "mining engineer," "minerals engineer," "marine engineer,"
 301 "nuclear engineer," "petroleum engineer," "plumbing engineer,"
 302 "structural engineer," "transportation engineer," "software
 303 engineer," "computer hardware engineer," or "systems engineer."

304 2. Any person who is exempt from licensure under s.
 305 471.003(2)(j) may use the title or personnel classification of
 306 "engineer" in the scope of his or her work under that exemption
 307 if the title does not include or connote the term "professional
 308 engineer," "registered engineer," "licensed engineer,"
 309 "registered professional engineer," ~~or~~ "licensed professional
 310 engineer," "licensed structural engineer," "professional
 311 structural engineer," or "registered structural engineer."

312 3. Any person who is exempt from licensure under s.
 313 471.003(2)(c) or (e) may use the title or personnel
 314 classification of "engineer" in the scope of his or her work
 315 under that exemption if the title does not include or connote
 316 the term "professional engineer," "registered engineer,"
 317 "licensed engineer," "registered professional engineer," ~~or~~
 318 "licensed professional engineer," "licensed structural
 319 engineer," "professional structural engineer," "registered

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320 structural engineer," or "structural engineer," and if that
 321 person is a graduate from an approved engineering curriculum of
 322 4 years or more in a school, college, or university which has
 323 been approved by the board.

324 Section 8. Paragraphs (b) through (e) and (g) of subsection
 325 (1) and subsection (4) of section 471.033, Florida Statutes, are
 326 amended to read:

327 471.033 Disciplinary proceedings.—

328 (1) The following acts constitute grounds for which the
 329 disciplinary actions in subsection (3) may be taken:

330 (b) Attempting to procure a license to practice engineering
 331 or professional structural engineering by bribery or fraudulent
 332 misrepresentations.

333 (c) Having a license to practice engineering or
 334 professional structural engineering revoked, suspended, or
 335 otherwise acted against, including the denial of licensure, by
 336 the licensing authority of another state, territory, or country,
 337 for any act that would constitute a violation of this chapter or
 338 chapter 455.

339 (d) Being convicted or found guilty of, or entering a plea
 340 of nolo contendere to, regardless of adjudication, a crime in
 341 any jurisdiction which directly relates to the practice of
 342 engineering, professional structural engineering, or the ability
 343 to practice engineering or professional structural engineering.

344 (e) Making or filing a report or record that the licensee
 345 knows to be false, willfully failing to file a report or record
 346 required by state or federal law, willfully impeding or
 347 obstructing such filing, or inducing another person to impede or
 348 obstruct such filing. Such reports or records include only those

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349 that are signed in the capacity of a licensed engineer or
 350 licensed professional structural engineer.

351 (g) Engaging in fraud or deceit, negligence, incompetence,
 352 or misconduct, in the practice of engineering or professional
 353 structural engineering.

354 (4) The management corporation shall reissue the license of
 355 a disciplined engineer, professional structural engineer, or
 356 business upon certification by the board that the disciplined
 357 person has complied with all of the terms and conditions set
 358 forth in the final order.

359 Section 9. Subsection (1) of section 471.037, Florida
 360 Statutes, is amended to read:

361 471.037 Effect of chapter locally.-

362 (1) Nothing contained in this chapter shall be construed to
 363 repeal, amend, limit, or otherwise affect any local building
 364 code or zoning law or ordinance, now or hereafter enacted, which
 365 is more restrictive with respect to the services of licensed
 366 engineers or licensed professional structural engineers than the
 367 provisions of this chapter.

368 Section 10. Subsection (3) of section 471.0385, Florida
 369 Statutes, is amended to read:

370 471.0385 Court action; effect.-If any provision of s.
 371 471.038 is held to be unconstitutional or is held to violate the
 372 state or federal antitrust laws, the following shall occur:

373 (3) The Executive Office of the Governor, notwithstanding
 374 chapter 216, is authorized to reestablish positions, budget
 375 authority, and salary rate necessary to carry out the
 376 department's responsibilities related to the regulation of
 377 professional engineers and professional structural engineers.

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378 Section 11. This act shall take effect July 1, 2022.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

SENATOR DENNIS BAXLEY

12th District

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Alternating Chair*

November 30, 2021

The Honorable Chair Travis Hutson
416 Senate Office Building
400 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Hutson,

I would like to request that SB 940 Professional Structural Engineers/SB 942 Fees for Structural Engineers Licensing be heard in the next Regulated Industries Committee meeting.

SB 940 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of structural engineering, which includes the structural analysis and design of components for threshold buildings (those higher than 50 feet/three stories or with an occupancy of greater than 500 persons) as well as the practice of engineering under current law.

The bill prohibits, effective March 1, 2024, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

The bill authorizes the board to certify persons as qualified to practice structural engineering if they are licensed or qualify for licensure as an engineer, have at least 4 years of active structural engineering experience under the supervision of a licensed engineer, have passed certain professional examinations, and meet other administrative requirements.

SB 942, relating to Fees/Professional Structural Engineer Licensing, is linked to this bill, and provides for the establishment of licensing fees by the Board of Professional Engineering to be paid by persons seeking licensure as a professional structural engineer.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

cc: Booter Imhof, Staff Director

REPLY TO:

- 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

1-25-22

Meeting Date

The Florida Senate APPEARANCE RECORD

940

Bill Number or Topic

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

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name **Allen Douglas**

Phone **850-224-7121**

Address **125 S. Gadsden St.**

Street

Email **allen@fleng.org**

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Engineering Society

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

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 942

INTRODUCER: Regulated Industries Committee and Senator Baxley

SUBJECT: Fees/Professional Structural Engineer Licensing

DATE: January 26, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 942 provides that the Board of Professional Engineers (board) may establish fees for licensing of professional structural engineers.

SB 940, relating to Professional Structural Engineers, is a linked bill that requires the board to determine whether applicants seeking to practice professional structural engineering are licensed or qualify for licensure as an engineer, have at least four years of active professional structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements. The linked bill also addresses other issues related to professional structural engineers.

See Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 940 or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

II. Present Situation:

Linked Bill SB 940

This bill is linked to SB 940, relating to Professional Structural Engineers, which amends s. 471.015(3), F.S. Under the linked bill, the board is authorized to certify persons as qualified to

practice professional structural engineering if they are licensed or qualify for licensure as an engineer, have at least four years of active professional structural engineering experience under the supervision of a licensed professional engineer, have passed certain professional examinations, and meet other administrative requirements.

In addition, the linked bill provides an applicant for licensure as a professional structural engineer must:

- Be licensed as an engineer, or qualify for licensure, under ch. 471, F.S.;
- Submit an application in the format prescribed by the board;
- Provide satisfactory evidence of good moral character, as defined by the board;
- Provide a record of four years of active professional structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer; and
- Have successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination. Section 471.011, F.S., authorizes the board by rule to establish fees to be paid for applications, examination, reexamination, licensing, renewal, reactivation, inactive status applications, and recordmaking and recordkeeping. It also provides that qualification of a business organization must not require payment of a fee.

Fees

Section 471.011, F.S., authorizes the board to establish fees, by rule, to be paid for applications, examination, reexamination, licensing, renewal, reactivation, inactive status applications, and recordmaking and recordkeeping. It also provides that qualification of a business organization must not require payment of a fee.

Current law provides fees for licensure may not exceed these amounts:

- Initial license - \$125;
- Biennial renewal - \$125;
- Temporary registration or certificate - \$25 for an individual or \$50 for a business firm;
- Licensure by endorsement - \$150; or
- Application for inactive status or for reactivation of an inactive license - \$150.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 471.011, F.S., relating to fees for license applications, temporary licenses, license renewals, inactive licenses, examinations, and records, to provide that such fees are also applicable to the regulation of professional structural engineers.

Section 2 of the bill amends subsection s. 471.015(3), F.S., as amended in linked bill SB 940, relating to Professional Structural Engineers, to require payment by applicants seeking licensure to practice professional structural engineering, of a fee to be established by the board.

Section 3 provides the bill takes effect on the same date that SB 940 or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19, Art. VII of the State Constitution limits the authority of the legislature to enact legislation that imposes or raises a state tax or fee by requiring such legislation to be approved by a 2/3 vote of each chamber of the legislature. Such state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject.

For purposes of this limitation the term “fee” is defined, in pertinent part, to mean any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.

This bill authorizes the Board of Professional Engineers (board) to adopt, by rule, fees for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, and recordmaking and recordkeeping, as well as a delinquency, and for a temporary registration or certificate to practice professional structural engineering. Because the board does not have such authority for such fees for professional structural engineers or professional structural engineering under current law, the provisions of Section 19, Art. VII of the State Constitution appear to apply, requiring this legislation to be approved by a 2/3 vote of each house of the legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires the board to establish a fee for licensure as a professional structural engineer, as authorized in s. 471.011, F.S.

B. Private Sector Impact:

Beginning March 1, 2024, persons who are licensed engineers in Florida and those who perform work that comes within the definition in SB 940 for “professional structural engineering” (i.e., work that includes structural analysis and design of structural components or systems for threshold buildings defined in s. 553.71, F.S.) will be required to obtain additional licensing as a professional structural engineer to perform such work and pay the fee for such licensing established by the board.

C. Government Sector Impact:

Unlike most Department of Business and Professional Regulation (DBPR) professions, the administrative, investigative, and prosecutorial services for the board are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a nonprofit corporation, to provide such services.¹

The creation of an additional licensing and regulatory structure for professional structural engineers may result in a fiscal impact to the DBPR or the FEMC. To date, no analysis by the DBPR or the FEMC of the impact of the bill on their respective operations, revenue, and expenditures has been provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Staff has prepared the required technical amendment to insert the linked bill number into the bill. *See* lines 30 and 52 of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 471.011 and 471.015.

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

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

CS by Regulated Industries Committee on January 25, 2022:

The CS inserts the bill number for the linked bill, SB 940, Professional Structural Engineers, into the bill.

¹ The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers *See* s. 471.038, F.S., the Florida Engineers Management Corporation Act, for the duties and authority of the FEMC.

B. Amendments:

None.

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



644882

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with directory amendment)

Delete line 52

and insert:

SB 940 or similar legislation takes effect, if such legislation

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

And the directory clause is amended as follows:

Delete line 30

and insert:



644882

11 | 471.015, Florida Statutes, as amended by SB 940 or similar

By Senator Baxley

12-00987-22

2022942__

A bill to be entitled

An act relating to fees; amending s. 471.011, F.S.; authorizing the Board of Professional Engineers to establish fees relating to professional structural engineer licensing; amending s. 471.015, F.S.; requiring applicants to pay a specified fee to be eligible to receive a professional structural engineer license; providing a contingent effective date.

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

Section 1. Subsections (1) and (6) of section 471.011, Florida Statutes, are amended to read:

471.011 Fees.—

(1) The board by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, and recordmaking and recordkeeping. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this chapter and the provisions of law with respect to the regulation of engineers and professional structural engineers.

(6) The fee for a temporary registration or certificate to practice engineering or professional structural engineering shall not exceed \$25 for an individual or \$50 for a business firm.

Section 2. Paragraph (a) of subsection (3) of section

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12-00987-22

2022942__

471.015, Florida Statutes, as amended by SB ___ or similar legislation, is amended to read:

471.015 Licensure.—

(3) (a) The management corporation shall issue a professional structural engineer license to any applicant whom the board certifies as qualified to practice professional structural engineering and who meets all of the following requirements:

1. Is licensed under this chapter as an engineer or is qualified for licensure as an engineer.

2. Submits an application in the format prescribed by the board.

3. Provides satisfactory evidence of good moral character, as defined by the board.

4. Provides a record of 4 years of active structural engineering experience, as defined by the board, under the supervision of a licensed professional engineer.

5. Has successfully passed the 16-hour National Council of Examiners for Engineering and Surveying Structural Engineering examination.

6. Pays a fee established by the board under s. 471.011.

Section 3. This act shall take effect on the same date that SB ___ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Page 2 of 2

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

SENATOR DENNIS BAXLEY

12th District

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Alternating Chair*

November 30, 2021

The Honorable Chair Travis Hutson
416 Senate Office Building
400 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Hutson,

I would like to request that SB 940 Professional Structural Engineers/SB 942 Fees for Structural Engineers Licensing be heard in the next Regulated Industries Committee meeting.

SB 940 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of structural engineering, which includes the structural analysis and design of components for threshold buildings (those higher than 50 feet/three stories or with an occupancy of greater than 500 persons) as well as the practice of engineering under current law.

The bill prohibits, effective March 1, 2024, the practice of professional structural engineering by any person who is not a licensed professional structural engineer or otherwise exempted from licensure under ch. 471, F.S., related to engineering.

The bill authorizes the board to certify persons as qualified to practice structural engineering if they are licensed or qualify for licensure as an engineer, have at least 4 years of active structural engineering experience under the supervision of a licensed engineer, have passed certain professional examinations, and meet other administrative requirements.

SB 942, relating to Fees/Professional Structural Engineer Licensing, is linked to this bill, and provides for the establishment of licensing fees by the Board of Professional Engineering to be paid by persons seeking licensure as a professional structural engineer.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

cc: Booter Imhof, Staff Director

REPLY TO:

- 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 562

INTRODUCER: Senator Cruz

SUBJECT: Military Occupational Licensure

DATE: January 24, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 562 requires the Departments of Business and Professional Regulation (DBPR) and Health (DOH) to expedite the processing of professional and occupational licenses for the spouse of an active duty member of the Armed Forces and to waive application and renewal fees for those same licenses under certain circumstances. The DBPR and the DOH must also issue a temporary professional license which is valid while the applications are under review once specified application information has been verified.

SB 562 will have an indeterminate negative fiscal impact on the DBPR and the DOH as fewer licensure application fees will be collected. Additionally, while modifications will be required to the licensing systems that currently process applications, according to the DBPR and the DOH, systems modifications may be absorbed through existing technology resources.¹

The effective date of the bill is July 1, 2022.

II. Present Situation:

More than 1.5 million veterans reside in Florida, the third highest veteran population in the nation behind California and Texas.² To encourage more members of the military to make Florida their place of permanent residency, Florida offers employment and career opportunities through expedited professional licensing processes and initial and renewal fee waivers for active duty, veterans, and spouses.

¹ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 5 (Oct. 19, 2021) (on file with the Senate Committee on Regulated Industries) and Department of Health, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 5 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

² Florida Department of Veterans Affairs, *Florida Veteran Population 2020* (citing *United States Department of Veterans Affairs, September 30, 2020*) at <https://floridavets.org/wp-content/uploads/2021/07/Florida-Veteran-Population.pdf> (last visited Jan. 19, 2022).

The Department of Business and Professional Regulation

The Department of Business and Professional Regulation (DBPR) through several divisions, regulates and licenses various businesses and professions in Florida.³ The Division of Professions is responsible for the licensing of over 490,000 professionals⁴ and has authority over the following boards and programs:

- Board of Architecture and Design;
- Board of Auctioneers;
- Barbers' Board;
- Building Code Administrators and Inspectors Board;
- Board of Cosmetology;
- Electrical Contractors' Licensing Board;
- Board of Employees Leasing Companies;
- Board of Landscape Architecture;
- Board of Pilot Commissioners;
- Board of Professional Geologists;
- Board of Veterinary Medicine;
- Home Inspection Services Licensing programs;
- Mold related services licensing programs;
- Florida Board of Professional Engineers;
- Board of Accountancy;
- Florida Real Estate Commission; and
- Florida Real Estate Appraisal Board.⁵

The DBPR regulates each of these professions in accordance with their respective practice acts, and each of the professionals must generally hold an appropriate license to act as or hold themselves out as a professional in the respective field. Applicants for licensure for each profession must meet specified statutory requirements, including minimum education or experience requirements, and must pay all applicable licensing fees. Licensees who wish to renew their licenses must pay a license renewal fee⁶ and may also be subject to continuing education requirements⁷ and other conditions of the various practice acts.

Any member of the United States Armed Forces who is in good standing with any of the professional boards listed in s. 20.165, F.S., and was entitled to practice his or her profession in the state, remains in good standing while on active duty without registering, paying dues or fees, or performing any other action while on active duty and for two years after discharge from active duty.⁸ However, if that active member is engaged in his or her profession while on active duty in the private sector for profit and for up to two years following discharge from active duty, the

³ Section 20.165, F.S.

⁴ Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/DBPR/division-of-professions/#1500650855771-cf8874e2-e2d1> (last visited Jan. 19, 2022).

⁵ Section 20.165, F.S.

⁶ Section 455.203, F.S.

⁷ Section 455.2123, F.S.

⁸ Section 455.02(1), F.S.

member is required to complete all of the license renewal requirements except for the payment of the license renewal fee which is waived.⁹

Current law also provides for a two-year waiver of the licensure renewal fee and maintenance of a licensee's good standing with his or her professional board by the DBPR when the spouse is married to a member on active duty and because of that status, the spouse has been away from the state. This two-year waiver licensure renewal fee option and the ability to continue the license in good standing is also available to the surviving spouse of a member who, at the time of the service member's death, was on active duty.¹⁰ To trigger the surviving spouse provision, the spouse's death must have occurred within the past two years.¹¹

Current law requires the DBPR to issue a professional license to an applicant who meets and provides proof of the following requirements:

- Is an active member of the Armed Forces of the United States currently or is or was married to someone while he or she was an active member and that member was honorably discharged;
- Holds a valid professional license issued from another state, a United States territory or possession, the District of Columbia, or a foreign jurisdiction;
- Is in compliance with insurance and bonding requirements for the license; and;
- Has submitted a complete set of fingerprints for a statewide criminal background check to the Florida Department of Law Enforcement and to the Federal Bureau of Investigation for a national criminal background check for a Level 2 background check.¹²

The applicant is responsible for the costs associated with the fingerprint screening.¹³

Florida Veterans Application for Licensure Online Response System (VALOR)

Veterans or the spouse of an active duty military veteran who seek to work as a health care professional may currently be eligible for expedited licensure processing through the Division of Medical Quality Assurance (DMQA) which has general regulatory authority over health care practitioners in Florida.¹⁴ The average time to issue a license to a health care professional in Florida in 2020 was 50 days.¹⁵

⁹ Section 455.02(1), F.S.

¹⁰ Section 455.02(2), F.S.

¹¹ Section 455.02(2), F.S.

¹² Section 455.02(3)(a)-(c), F.S.

¹³ Section 455.02(3)(a)4.b., F.S.

¹⁴ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, midwives, orthotics, prosthetics, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

¹⁵ Florida Department of Health, *Division of Medical Quality Assurance Strategic Plan (2016-2021 Extension)* <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/DMQA-2016-2021-Strategic-Plan.pdf>, p. 4, (last visited Jan. 19, 2022).

The DMQA within Florida's DOH works with 22 regulatory boards and four councils to license and regulate 10 types of health care facilities and more than 400 licenses in over 40 health care professions.¹⁶ Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the DMQA.

Honorably discharged veterans and their spouses seeking licensure through one of these health care professions are offered the opportunity to apply through an expedited online process and currently receive a waiver of most licensing fees. Known as the Florida Veterans Application for Licensure Online Response (VALOR) process, a veteran or his or her spouse must apply for one of the healthcare practitioner licenses within six months before or after his or her or his or her spouse's honorable discharge from the United States Armed Forces to qualify for this expedited process.¹⁷

During Fiscal Year 2020-2021, 352 new military veterans and spouses were licensed through VALOR, a 7.65 percent increase over the prior fiscal year.¹⁸ These additional licensees joined a total of 2,392 licensed military health care practitioners in the state for 2020-2021 with the majority of those licensees issued in nursing (607 licensees), followed by massage therapists (168 licensees), and emergency medical technicians and licensed practical nurses (160 licensees each).¹⁹

Temporary Certificate for Active Duty Military Health Care Practitioners

For active duty military who are also health care practitioners, Florida offers a temporary certificate for those who practice pursuant to a military platform²⁰ and who hold an active, unencumbered, medical license in a United States jurisdiction or serve as a military health care practitioner in a profession for which licensure is not required to practice in the United States Armed Forces.²¹ To qualify for a temporary certificate, an active duty member must:

- Hold a valid license as a health care professional in another state, the District of Columbia, or any possession or territory of the United States; and
- Hold a license that is valid for six months, but is renewable with proof of continuing military orders for active duty assignment and evidence of continuation as a military platform participant.²²

¹⁶ Florida Department of Health, *Annual Report and Long Range Plan*, p. 6, <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/index.html> (last visited Jan. 19, 2022).

¹⁷ Florida Department of Health, *Licensing for Military Members and Spouses*, at <https://flhealthsource.gov/valor/#Home> (last visited Jan. 19, 2022).

¹⁸ Florida Department of Health, *Florida Veteran Health Heroes (November 2021)*, p. 11, see <https://flhealthsource.gov/valor/#Home> (last visited Jan. 19, 2022).

¹⁹ Florida Department of Health, *Annual Report and Long Range Plan*, Table 1-Summary of Licensed Practitioners, pp. 16-22, <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/index.html> (last visited Jan 19, 2022).

²⁰ A military platform, defined in s. 456.0141(1)(b), F.S., is a military training agreement with a non-military health care provider that allows active-duty health care practitioners the opportunity to treat patients admitted to non-military facilities while also allowing them to develop and maintain the technical skills necessary to meet present and future health care needs of the United States Armed Forces.

²¹ Florida Department of Health, *Licensing for Military Members and Spouses* at <https://flhealthsource.gov/valor/#ActiveDuty> (last visited Jan. 20, 2022).

²² See <https://flhealthsource.gov/wp-content/uploads/2021/12/FDOH-temp-cert-active-duty-mil.pdf> (last visited Jan. 20, 2022).

Military Veteran and Spouse Fee Waivers

Applying through the VALOR licensing system can also provide veterans and their spouses a 60 month window of opportunity to apply for the additional waiver of renewal licensing application fees, unlicensed activity fees, and renewal fees after an honorable discharge from active duty.²³ Any examination fees related to the license or practice act and background screening fees through the Florida Department of Law Enforcement (FDLE) are not waived.²⁴

As the spouse of an active duty military member²⁵ or a military veteran, the spouse could be eligible for a waiver of the initial application fees and licensure fees.²⁶ To qualify currently for the fee waivers, the veteran or the veteran's spouse's application must be submitted within a 60 month submission window meaning the application must be submitted within 60 months after his or her spouse's honorable discharge from any branch of the United States Armed Forces. The current fee waiver provision includes waiver of the initial application fee, the initial licensure fee, and the initial unlicensed activity fee.

The spouse must pay the examination fee and any background screening fees that may be required. Examination fees vary by practice type²⁷ and the current fee from FDLE varies from \$24 (state fee only) to \$37.25 (state and federal).²⁸

Other Opportunities for Military Spouses

Temporary Licensure for Military Spouses

The active duty member's spouse may be eligible to receive a temporary license. A temporary license allows the spouse to work as a health care professional while the spouse is assigned to a duty station in Florida.²⁹ A temporary license is valid only for one year³⁰ and is subject to both a state and national background check at the applicant's expense.³¹

A temporary license may be awarded if the spouse submits:

- A completed application;
- The required application fee;
- Proof of marriage to a member of the United States Armed Forces who is on active duty;

²³ See s. 456.024(3)(b), F.S. and Florida Department of Health, *Licensing for Military Members and Spouses*, at <https://flhealthsource.gov/valor/#MilitarySpouses> (last visited Jan. 20, 2022).

²⁴ *Id.*

²⁵ Active duty, full time member of the United States military is defined at 10 U.S.C. § 101 (d)(1), and includes the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

²⁶ Section 456.024(4), F.S.

²⁷ For example, the initial application fee for licensure as a medical doctor by examination is \$200.00 for residents and \$350.00 for non-residents; however, the application includes fees for unlicensed activities (\$5.00), NICA Participating Fees (\$5,000) or non-Participating NICA fees (\$250.00) and an optional dispensing fee (\$100.00), for a potential total maximum application fee of \$5,075 for a physician. See Florida Board of Medicine, *Medical Doctor Application for Licensure*, <https://flboardofmedicine.gov/apps/medical-doctor-app.pdf> (last visited Jan. 20, 2022).

²⁸ Florida Department of Law Enforcement, http://www.fdle.state.fl.us/Criminal-History-Records/Documents/Criminal-History-Fee-Chart_January2019.aspx (last visited Jan. 20, 2022).

²⁹ Section 456.024(4)(a), F.S.

³⁰ Section 456.024(4)(f), F.S.

³¹ Section 456.024(4)(b) and (d), F.S.

- Proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by ch. 456, F.S.;
- Proof that the applicant's spouse is assigned to a duty station in this state pursuant to a member's official active duty military orders; and
- Proof that the applicant would be otherwise entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida.³²

Current law allows for an applicant to be found ineligible for a temporary license if the applicant has:

- Been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Had a health care license revoked or suspended from another state or jurisdiction of the United States, the District of Columbia, or a United States territory;
- Been reported to the National Practitioner Data Bank, unless the applicant has successfully appealed to have name removed; and
- Previously failed the Florida examination required to receive a license to practice the profession for which the applicant seeks a license.³³

III. Effect of Proposed Changes:

Section 1 amends s. 455.02, F.S.; relating to licensure of certain Armed Forces members and their spouses or surviving spouses, to require the DBPR, the applicable board, or program to expedite applications submitted by a spouse of an active duty member of the Armed Forces of the United States.

While the application processes, the DBPR would be required to issue a temporary professional license to the applicant after validation of the application information. The temporary license would be valid for the duration of the application review process.

The information to be validated includes:

- Confirmation that the applicant is married to or was married to a member of the Armed Forces of the United States during any period of active duty;
- That the applicant holds a valid license from any other state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction; and,
- That the applicant, when required by the practice act, has complied with any insurance or bonding requirements.

Section 2 amends s. 456.024, F.S., relating to Armed Forces members in good standing with the DOH or administrative boards, to require the DOH or the administrative boards of the DOH to issue a professional license to the spouse of an active duty member of the Armed Forces rather

³² Section 456.024(4)(a), F.S.

³³ Section 456.024(4)(h), F.S.

than a temporary license when the applicant has submitted all of the required components for a completed application. The bill also deletes the application licensure fee.

An applicant who receives a license under this subsection is permitted to renew the license, without limitation, under the applicant's applicable licensure practice act which includes the continuing education requirements.

The bill requires the administrative boards of the DOH or the DOH if there is not a board, to expedite the processing of applications from spouses of active duty members of the Armed Forces. While processing, the bill directs the administrative board of the DOH or the DOH to issue a temporary license to an applicant once specified information on the application has been verified as accurate.³⁴ The 12-month time limit on temporary licenses is eliminated.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

³⁴ The information to be verified for issuance of a temporary license is: 1) A completed application on a form prepared and furnished by the DOH in accordance with board rules; 2) Proof that the applicant is married to a member of the Armed forces of the United States who is on Active Duty; 3) Proof that the applicant holds a valid license for that profession from another state, the District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary hearing in any jurisdiction where the applicant seeks to practice a profession regulated by chapter 456; and is not the subject of any disciplinary hearing where the applicant holds a license to practice a health care profession; 4) Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active duty military orders; 5) Proof that the applicant would otherwise be entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida. *See* s. 456.024(4)(a), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Waiver of fees for certain populations reduces the total amount of funds that may ultimately be received by the trust funds administered by the professional boards. These administered funds are used to review applicants, and then manage and regulate the licensees of the respective professions under each of the professional and health care licensing boards. By statute, the DBPR is authorized to establish fees which do not exceed the fee caps for individual professions on an annualized basis as authorized by law.³⁵ By rule, the DBPR must have a positive cash balance in each of its trust funds at the end of each fiscal year based on the DBPR's projections of revenue and expenditures of that profession's board for the next 24-month period.³⁶ Fees for the professions regulated within the DOH are established by the individual boards and must be sufficient to ensure that all costs to regulate the profession are covered by the licensees and licensure applicants, are sufficient to maintain a cash balance, and are also reasonable.³⁷

The bill waives application fees for certain types of professional licenses and fees currently collected by the DBPR and for health care professional fee licenses by the DOH and the administrative boards under the DMQA. The fee waiver result will have an unknown fiscal impact on the total fees that may be collected in the future by the DBPR and the DOH.³⁸ In Fiscal Year 2020-2021, 352 military veterans and spouses used the currently available exemptions across a range of health care professional licensure fees.³⁹ Neither the DBPR nor the DOH has stated that additional fee waivers would endanger existing trust fund balances in the upcoming or near future fiscal years.

The DBPR also states that modifications, which can be accomplished through use of existing resources, will need to be made to its licensing operations systems to identify a military spouse on an application so that an application can be expedited for review and a temporary license issued.⁴⁰

B. Private Sector Impact:

Military veterans and their spouses will have additional opportunities to access professional licenses and health care professional licenses in Florida through expedited means and may be able to assist with filling critical employment needs, especially in high need employment areas or occupational fields. Waiver of licensure fees can serve as an incentive to attract those veterans who have been honorably discharged in Florida to

³⁵ See Section 455.203, F.S.

³⁶ See Fla. Admin. Code R. 61-5.002 (1995).

³⁷ See s. 456.025(1), F.S.

³⁸ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 3 (Oct. 19, 2021) (on file with the Committee on Military and Veterans Affairs, Space, and Domestic Security) and Department of Health, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 4 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

³⁹ *Id.*

⁴⁰ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 5 (Oct. 19, 2021) (on file with the Senate Committee on Regulated Industries).

remain in Florida or to choose Florida as their permanent residence. Private sector employers may benefit from a deeper pool of employees as a result of these changes and by the fact that these employees may have access to temporary licensure while awaiting the completion of the licensure process.

C. Government Sector Impact:

Government employers may see a similar impact as private sector employers as applications can be expedited for additional groups of professionals in the DBPR and DOH licensing systems. Waiver of these fees may bring more qualified veterans and their spouses to Florida for employment and help fill gaps in high need areas and occupations in the government sector. Filling employment gaps in the government sector can address efficiency and productivity in government while also ensuring that military personnel who have been honorably discharged and their spouses find gainful employment upon separation from the military.

VI. Technical Deficiencies:

The bill requires that applications for military spouses be expedited; however, the term “expedited” is not defined or explained.

VII. Related Issues:

To the extent that any profession would require an individual to also obtain a national certification or examination, this bill does not waive any fees or renewal costs related to national certifications or licensures.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 455.02 and 456.024.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Cruz

18-00416-22

2022562__

1 A bill to be entitled
 2 An act relating to military occupational licensure;
 3 amending s. 455.02, F.S.; requiring the Department of
 4 Business and Professional Regulation or the applicable
 5 board or program to expedite professional license
 6 applications submitted by spouses of active duty
 7 members of the Armed Forces of the United States;
 8 requiring the department to issue temporary
 9 professional licenses under certain circumstances;
 10 amending s. 456.024, F.S.; requiring the Department of
 11 Health or the applicable board to issue a professional
 12 license to spouses of active duty members of the Armed
 13 Forces of the United States if certain requirements
 14 are met; requiring the department to waive the
 15 application fee for such license applications;
 16 authorizing applicants issued such licenses to renew
 17 their licenses if certain requirements are met;
 18 providing construction; requiring the department or
 19 applicable board to expedite applications for such
 20 licenses; requiring the department or applicable board
 21 to issue a temporary professional license under
 22 certain circumstances; conforming provisions to
 23 changes made by the act; providing an effective date.

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

26
 27 Section 1. Paragraph (d) is added to subsection (3) of
 28 section 455.02, Florida Statutes, and paragraph (a) of that
 29 subsection is republished, to read:

Page 1 of 6

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

18-00416-22

2022562__

30 455.02 Licensure of members of the Armed Forces in good
 31 standing and their spouses or surviving spouses with
 32 administrative boards or programs.—
 33 (3) (a) The department shall issue a professional license to
 34 an applicant who is or was an active duty member of the Armed
 35 Forces of the United States, or who is a spouse or surviving
 36 spouse of such member, upon application to the department in a
 37 format prescribed by the department. An application must include
 38 proof that:
 39 1. The applicant is or was an active duty member of the
 40 Armed Forces of the United States or is married to a member of
 41 the Armed Forces of the United States and was married to the
 42 member during any period of active duty or was married to such a
 43 member who at the time of the member's death was serving on
 44 active duty. An applicant who was an active duty member of the
 45 Armed Forces of the United States must have received an
 46 honorable discharge upon separation or discharge from the Armed
 47 Forces of the United States.
 48 2. The applicant holds a valid license for the profession
 49 issued by another state, the District of Columbia, any
 50 possession or territory of the United States, or any foreign
 51 jurisdiction.
 52 3. The applicant, where required by the specific practice
 53 act, has complied with insurance or bonding requirements.
 54 4.a. A complete set of the applicant's fingerprints is
 55 submitted to the Department of Law Enforcement for a statewide
 56 criminal history check.
 57 b. The Department of Law Enforcement shall forward the
 58 fingerprints submitted pursuant to sub-subparagraph a. to the

Page 2 of 6

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

18-00416-22 2022562__
 59 Federal Bureau of Investigation for a national criminal history
 60 check. The department shall, and the board may, review the
 61 results of the criminal history checks according to the level 2
 62 screening standards in s. 435.04 and determine whether the
 63 applicant meets the licensure requirements. The costs of
 64 fingerprint processing shall be borne by the applicant. If the
 65 applicant's fingerprints are submitted through an authorized
 66 agency or vendor, the agency or vendor shall collect the
 67 required processing fees and remit the fees to the Department of
 68 Law Enforcement.

(d) The department or the applicable board or program shall:

1. Expedite all applications submitted by a spouse of an active duty member of the Armed Forces of the United States pursuant to this subsection; and

2. Issue a temporary professional license valid for the duration of the application review process to such spouse once the department, board, or program verifies the information provided by the spouse pursuant to subparagraphs (a)1., 2., and 3. is accurate.

Section 2. Paragraphs (a), (c), (e), (f), (g), (h), and (i) of subsection (4) of section 456.024, Florida Statutes, are amended, and paragraph (j) is added to that subsection, to read:

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.-

(4) (a) The board, or the department if there is no board, shall ~~may~~ issue a ~~temporary~~ professional license to the spouse of an active duty member of the Armed Forces of the United States who submits to the department:

18-00416-22 2022562__
 88 1. A completed application upon a form prepared and
 89 furnished by the department in accordance with the board's
 90 rules;
 91 2. ~~The required application fee;~~
 92 ~~3.~~ Proof that the applicant is married to a member of the
 93 Armed Forces of the United States who is on active duty;
 94 ~~3.4.~~ Proof that the applicant holds a valid license for the
 95 profession issued by another state, the District of Columbia, or
 96 a possession or territory of the United States, and is not the
 97 subject of any disciplinary proceeding in any jurisdiction in
 98 which the applicant holds a license to practice a profession
 99 regulated by this chapter;
 100 ~~4.5.~~ Proof that the applicant's spouse is assigned to a
 101 duty station in this state pursuant to the member's official
 102 active duty military orders; and
 103 ~~5.6.~~ Proof that the applicant would otherwise be entitled
 104 to full licensure under the appropriate practice act, and is
 105 eligible to take the respective licensure examination as
 106 required in Florida.
 107 (c) Each board, or the department if there is no board,
 108 shall review the results of the state and federal criminal
 109 history checks according to the level 2 screening standards in
 110 s. 435.04 when granting an exemption and when granting or
 111 denying the ~~temporary~~ license.
 112 (e) The department shall waive the applicant's licensure
 113 ~~set an application fee, which may not exceed the cost of issuing~~
 114 ~~the license.~~
 115 (f) An applicant issued a license under this subsection may
 116 renew such license upon completion of the conditions for renewal

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117 required of licenseholders under the applicable practice act,
 118 including, without limitation, continuing education
 119 requirements. This paragraph does not limit waiver of initial
 120 licensure requirements under this subsection ~~A temporary license~~
 121 ~~expires 12 months after the date of issuance and is not~~
 122 ~~renewable.~~

123 (g) An applicant for a ~~temporary~~ license under this
 124 subsection is subject to the requirements under s. 456.013(3) (a)
 125 and (c).

126 (h) An applicant shall be deemed ineligible for a ~~temporary~~
 127 license pursuant to this section if the applicant:

128 1. Has been convicted of or pled nolo contendere to,
 129 regardless of adjudication, any felony or misdemeanor related to
 130 the practice of a health care profession;

131 2. Has had a health care provider license revoked or
 132 suspended from another of the United States, the District of
 133 Columbia, or a United States territory;

134 3. Has been reported to the National Practitioner Data
 135 Bank, unless the applicant has successfully appealed to have his
 136 or her name removed from the data bank; or

137 4. Has previously failed the Florida examination required
 138 to receive a license to practice the profession for which the
 139 applicant is seeking a license.

140 (i) The board, or the department if there is no board, may
 141 revoke a ~~temporary~~ license upon finding that the individual
 142 violated the profession's governing practice act.

143 (j) The board, or the department if there is no board,
 144 shall:

145 1. Expedite all applications submitted by a spouse of an

18-00416-22 2022562__

146 active duty member of the Armed Forces of the United States

147 pursuant to this section; and

148 2. Issue a temporary professional license valid for the
 149 duration of the application review process to such spouse once
 150 the board or department verifies the information provided by the
 151 spouse pursuant to paragraph (a) is accurate.

152 Section 3. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill # 562**, relating to Military Occupational Licensure, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Janet Cruz", written over a horizontal line.

Senator Janet Cruz
Florida Senate, District 18



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	SB 562
BILL TITLE:	Military Occupational Licensure
BILL SPONSOR:	Sen. Cruz
EFFECTIVE DATE:	07/01/2022

COMMITTEES OF REFERENCE

1) Military and Veterans Affairs, Space, and Domestic Security
2) Regulated Industries
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Military and Veterans Affairs, Space, and Domestic Security

SIMILAR BILLS

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

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:	HB 559
SPONSOR:	Rep. Hunschofsky

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 19, 2021
LEAD AGENCY ANALYST:	Renee Alsobrook, Deputy Director, Division of Professions
ADDITIONAL ANALYST(S):	Jake Whealdon, Acting OGC Rules Robin Jordan, Technology Tracy Dixon, Service Operations

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

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill provides for an expedited licensing procedure for spouses of active duty members of the Armed Forces of the United States and allows for a temporary license to be issued pending receipt of criminal background information when the application is otherwise complete.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently there is no provision for expediting the processing of an application or issuing a temporary license when the application is not complete.

2. EFFECT OF THE BILL:

Division of Professions

Section 1

Adds paragraph (d) to subsection (3) of section 455.02, Florida Statutes and paragraph (a) of that subsection is republished. The added paragraph (d) of subsection (3) provides the department or the applicable board or program shall expedite applications submitted by a spouse of an active duty member of the Armed Forces of the United States and issue a temporary license valid for the duration of the application review process to the spouse once the department, board or program verifies the information provided by the spouse pursuant to subparagraphs (a) 1., 2., and 3. is accurate. The information in subparagraph (a) 1.-3., requires verification that the applicant is married to or was married to a member of the Armed Forces of the United States during any period of active duty; the applicant holds a valid license for the profession from another state, the District of Columbia, or any foreign jurisdiction; and the applicant, where required by the practice act, has complied with insurance or bonding requirements.

Section 2

Applies to the Department of Health

The section provides that the board, or the department if there is no board, shall issue a license to the spouse of an active duty member of the Armed forces of the United States who submits to the department a completed application. The bill eliminates the required application fee. The board, or the department if there is not board, shall expedite the application submitted by a spouse of an active duty member of the Armed Forces of the United States. The bill provides for a temporary license valid during the application review process once certain information on the application is verified.

Section 3

The bill provides the act is effective 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:	
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.
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 requires the waiver of the application fee for professions licensed under Chapter 456, Florida Statute but the impact is unknown.
Expenditures:	Click or tap here to enter text.

Does the legislation contain a State Government appropriation?	No appropriation is contained in the legislation.
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:	Spouses of active duty members of the Armed Forces of the United States will not have to pay the application fees for a professional license issued under Chapter 456, Florida Statutes.
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 decreases fees. The application fee for a professional license will not have to be paid by the spouse of active duty members of the Armed Forces of the United States when applying for a license issued under Chapter 456, Florida Statutes.
Bill Section Number:	2

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>The bill will require the Division of Service Operations to identify the application of military spouses so that the application may be expedited for review. Once the application of the military spouse is reviewed and determined to meet the minimum requirements as set forth in the bill, a temporary license will be issued and identified by a modifier that will be created in Versa. The license modifier indicating that the license is temporary will be removed from the license once the permanent license is issued once the application is complete and determined to meet all license requirements.</p> <p style="text-align: center;">** Division of Technology Comments Below**</p> <p>This bill will require modification to the department's licensing system and online portal to create a modifier for a temporary license.</p> <ul style="list-style-type: none">• Versa: Regulation – 80 hours• Versa Online – 40 hours <p>These modifications can be made by existing resources.</p>
---	--

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>Click or tap here to enter text.</p>
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ADDITIONAL COMMENTS

OGC Rules: No additional comments.

DSO: The impact to the division is minimal and 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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2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION

BILL NUMBER:	562
BILL TITLE:	Occupational Licensure of Military Spouses
BILL SPONSOR:	Cruz
EFFECTIVE DATE:	July 1, 2022

COMMITTEES OF REFERENCE

- 1) Military & Veterans Affairs, Space & Dom. Security
- 2) Regulated Industries
- 3) Appropriations Committee
- 4) Click or tap here to enter text.
- 5) Click or tap here to enter text.

CURRENT COMMITTEE

Click or tap here to enter text.

SIMILAR BILLS

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

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:	559
SPONSOR:	Hunschofsky

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	12/14/2021
LEAD AGENCY ANALYST:	Janet Hartman
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Jonathan Sackett

POLICY ANALYSIS

1. **EXECUTIVE SUMMARY**

The bill amends section 456.024, Florida Statutes, requiring the Florida Department of Health, or the applicable board, to expedite, issue, and renew licenses to spouses of active duty members of the Armed Forces of the United States if certain conditions are met and waives application fees.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Florida Department of Health (Department) offers the Florida Veterans Application for Licensure Online Response System (VALOR), which provides expedited licensing for honorably discharged veterans and their spouses seeking licensure in all health care professions. Veterans and spouses who apply through the VALOR process receive a waiver of most licensing fees.

Since its inception in 2016, there have been approximately 1,669 health care licensure applications submitted by and approved for active duty service members, military veterans, and their spouses through the VALOR expedited licensing process. There were 352 applications approved for health care licensure of military spouses and honorably discharged veterans from July 1, 2020 through June 30, 2021, approximately 1.38% of all licenses issued by the Department during the last fiscal year.

Options for initial and temporary spousal licensure in Florida are detailed below, including fees, documentation, and other specific requirements.

Expedited Initial Licensure for Military Spouses

It is the practice of the Florida Department of Health to provide expedited licensure processing for the spouse of an active member of the United States Armed Forces, the United States Reserve Force, or the National Guard seeking licensure in health care professions. In accordance with section 456.024, Florida Statutes, an individual must apply for the license while their spouse is serving on active duty and must hold an active, unencumbered license in a U.S. jurisdiction or serve as a health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice. There is no application fee, licensure fee, or unlicensed activity fee for military spouses who qualify.

Initial Licensure Fee Waiver and Requirements

In accordance with section 456.013, Florida Statutes, the spouse of a military veteran may be eligible for a waiver of the initial license fee, initial application fee, and initial unlicensed activity fee for all health care professions under the Florida Department of Health's purview. Fees are waived for an applicant who was married to the military veteran at the time of the veteran's discharge, provided the spouse applies for licensure within 60 months after the veteran is discharged from any branch of the United States Armed Forces. This waiver does not include examination fees that are paid directly to national examination vendors. To be eligible for the fee waiver, the applicant's spouse must have served in a branch of the United States Armed Forces and have been honorably discharged in the past 60 months prior to the date of application. The applicant must provide proof of their spouse's honorable discharge (DD-214 or NGB-22 form) and submit the Military Veteran Fee Waiver Request, alongside their profession specific application for licensure. The application may be submitted online or by mail.

Temporary License for Military Spouses

In accordance with section 456.024(3), Florida Statutes, a spouse of an active duty member of the Armed Forces of the United States may be issued a temporary license to practice a health care profession in Florida. The non-refundable application fee is \$65.00. The applicant must be otherwise entitled to full licensure under the appropriate profession-specific practice act and eligible to take any applicable licensure examinations as required in Florida. The applicant is required to provide documentation which details marriage to an active duty member of the Armed Forces, the spouse's active duty assignment in Florida, and a current and valid licensure to practice the desired profession in another state. The temporary license is valid for one year and is non-renewable. If the spouse desires to practice beyond the expiration of the "temporary license," the applicant is required to apply for full licensure.

[1]<http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/2020-2021-annual-report.pdf>

2. EFFECT OF THE BILL:

The bill amends section 456.024, Florida Statutes, modifying specifications for temporary licensure of military spouses, creates a pathway for full licensure for an active duty military spouse that is licensed in another state, and eliminates all Department licensure fees for military spouses. The bill specifies all licensure renewal requirements are subject to each profession’s specific requirements, as detailed in the applicable practice acts. The bill also directs the Department to expedite all applications submitted by an active-duty military spouse and authorizes issuance of temporary licenses during the application review process.

To implement, the Department would be required to update the Military Spouse Temporary License application and associated rule to make nomenclature updates and remove the \$65 temporary licensure fee. The application would be transitioned from a temporary license application to a full licensure application requiring minor system updates. It is the practice of the Department to expedite licensure for military spouses, as such, this component of the bill would not impact current operations. If an application is complete, including supplemental documentation, it is typically fully processed on the same business day it is received by the Department. The Department may be required to make minor system updates for the provision of issuing a temporary certificate while the application for full licensure is reviewed.

Current bill language requires that the Department issue a temporary license during the review of a submitted application and once all information has been verified; however, a full license would be issued at that time. The bill is unclear regarding if the temporary license must be issued if the submitted application is incomplete or if supplemental documentation (e.g. transcripts, criminal history, prior license verification) is not yet received by the Department. It is the Department's practice to prioritize the processing of veterans and their spouses, and if the completed application and all supplemental information is received by the department, applications are processed in one day or less. As a result, the issuance of a temporary license would only occur if the applicant's application is deemed incomplete which seems contrary to the bill language.

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:	Yes, it directs the Department to remove licensure fees for active duty military spouses.
Is the change consistent with the agency’s core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	64B-9.003, Military Spouse Temporary License

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:	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:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
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:	DOH/MQA will experience a recurring loss of revenue due to the provisions of this bill. From July 1, 2020 through June 30, 2021, 352 applications were approved for health care licensure of military spouses, this includes approximately 1.38% of all licenses issued by the Department during the last fiscal year. It is anticipated that the bill will have an insignificant impact on the Division of Medical Quality Assurance trust fund related to the reduction in licensing fees.
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Expenditures:	DOH/MQA will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Cognitive Virtual Agent, and armed services website to reflect changes to the licensing fees and requirements for a spouse of an active duty member of the Armed Forces of the United States. Current resources and budget authority are adequate to absorb.
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:	N/A
Expenditures:	N/A
Other:	N/A

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

If yes, explain impact.	The bill decreases licensure fees for an applicant that is married to a member of the Armed Forces of the United States who is on active duty, removing the current \$65 fee.
Bill Section Number:	Section 2.

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.	Addressed in fiscal section.
--	------------------------------

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.	N/A
--	-----

ADDITIONAL COMMENTS

None.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No legal issues, concerns or comments identified at this time.
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APPEARANCE RECORD

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

SB 562

Bill Number or Topic

1/25/2022

Meeting Date

REGULATED INDUSTRIES

Committee

Amendment Barcode (if applicable)

Name **CHRISTIAN CAMARA**

Phone _____

Address **PO Box 122**

Email **CHRISTIAN@CHAMBERCONSULTANTSFL.COM**

Street

TALLAHASSEE, FL 32302

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

INSTITUTE FOR JUSTICE

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

The Florida Senate

APPEARANCE RECORD

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

25 Jan. 2022

Meeting Date

562

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Matthew Holliday

Phone 239-826-7864

Address 350 7th Street North

Email matthew.holliday@nch.md.org

Naples

City

FL

State

32104

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

NCH Healthcare System, Inc.

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1094

INTRODUCER: Senator Rodriguez

SUBJECT: Architect Education Minority Assistance Program

DATE: January 26, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			AEG	
3.			AP	

I. Summary:

The bill creates the Architect Education Minority Assistance Program (minority assistance program) within the Department of Business and Professional Regulation (DBPR) for the purpose of providing scholarships to minority persons as defined in s. 288.703, F.S. Under the bill, the minority assistance program is administered by the Board of Architecture and Interior Design (board) within the DBPR. The bill creates the five-member Architect Education Minority Assistance Advisory Council (advisory council) to assist the board in administering the program.

To be eligible for financial assistance, a minority person must be a resident of Florida and enrolled in their fifth year of an architectural education program accredited by the National Architectural Accreditation Board (NAAB) at an institution in this state.

The minority assistance program is funded from a portion of existing architectural license fees, not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account. The minority assistance program must disburse funds for scholarships twice each year as recommended by the advisory council and approved by the board.

The bill requires the board to adopt rules to administer the program, including rules relating to eligibility criteria, which must, at a minimum, include financial need, status as a minority person as defined in s. 288.703, F.S., and scholastic ability and performance.

The bill creates a criminal prohibition against a person, or his or her agent, knowingly filing with the board any notice, statement, or other document that is false or that contains any material

misstatement of fact. A person who violates this prohibition commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.¹

The membership of the advisory council must be diverse and representative of minority persons. The advisory council must consist of five Florida-licensed architects, who are appointed by the board. The advisory council must include one board member, who shall serve as chair of the council, two representatives of the American Institute of Architects, Florida Section, one representative of the National Organization of Minority Architects, and one member who is appointed as a member-at-large. At least one member of the advisory council must be a woman.

Under the bill, council members must serve without compensation, except that the advisory council member who is also a member of the board may be compensated for necessary and actual expenses while engaged in the business of the council. Expenses incurred by other advisory council members while engaged in the business of the council must be borne by such member or by the organization or agency the member represents.

The bill will have a negative fiscal impact on the board's operating account within the Professional Regulation Trust Fund. See Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, and the registration of interior designers, and related business organizations. The board, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.²

The terms "architect" or "registered architect" mean a natural person who is licensed under part I of ch. 481, F.S., to engage in the practice of architecture.³ The term "architecture" means:⁴

...the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.

¹ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

² See s. 481.205, F.S., relating to the authority of the Board of Architecture and Interior Design. The board consists of 11 members. Five members must be registered architects; three members must be registered interior designers; and three members must be laypersons who are not, and have never been, architects, interior designers, or members of any closely related profession or occupation. At least one member of the board must be 60 years of age or older.

³ Section 481.203(1), F.S.

⁴ Section 481.203(2), F.S.

An applicant for an initial license as an architect must:

- Pass the licensure examination prescribed by rule of the board;⁵
- Be a graduate of a school or college of architecture accredited by the NAAB;⁶ and
- Complete an internship of diversified architectural experience that meets requirements set forth by rule of the board.⁷

The internship experience requirement is based on the Architectural Experience Program (AXP or experience program) administered through the National Council of Architectural Registration Boards (NCARB).⁸ The AXP requires 3,740 hours of supervised experience in certain experience areas.⁹

The fees for an initial architect license are:

- \$35 for an initial examination fee; and
- \$5 fee for combating unlicensed activity.

Persons who are licensed in another state or jurisdiction may also apply for a license by endorsement.¹⁰

There are also a number of fees payable to the NCARB by persons on the path to obtaining an architect license, including fees for a record of participation in the experience program and the \$1,410 examination fee.¹¹

There are six NAAB-accredited architecture programs in Florida at the following universities:

- Florida A&M University;
- Florida Atlantic University
- Florida International University;
- University of Florida;
- University of Miami; and
- University of South Florida.

The education standard for an architecture degree adopted by NCARB consists of a minimum of 150 semester credit hours (225 quarter credit hours) in a variety of specified subject areas.¹²

According to the American Institute of Architects (AIA), the average cost of a five-year Bachelor of Architecture ranges from \$150,000 to \$180,000.

⁵ Section 481.209(1), F.S.; and Fla. Admin. Code R. 61G1-14.001

⁶ Section 481.209(1), F.S.

⁷ Section 481.211, F.S.; and Fla. Admin. Code R. 61G1-13.001.

⁸ Fla. Admin. Code R. 61G1-13.001; See NCARB, Gain AXP Experience, available at: <https://www.ncarb.org/gain-axp-experience> (last visited Jan. 19, 2022).

⁹ See NCARB, *Experience Requirements*, available at: <https://www.ncarb.org/gain-axp-experience/experience-requirements> (last visited Jan. 19, 2022).

¹⁰ See s. 481.213(3), F.S.

¹¹ See NCARB, Fees, available at: <https://www.ncarb.org/fees#Exam%20fees> (last visited Jan. 19, 2019).

¹² See NCARB, *Education Guidelines*, p. 24 available at: <https://www.ncarb.org/sites/default/files/Main%20Website/Data%20%20Resources/Guidelines/EducationGuidelines.pdf> (last visited Jan. 19, 2022).

According to the Florida Chapter of the AIA, it takes an average of 12.3 years to become a licensed architect, with African American license candidates taking an average of 15.2 years.¹³ Approximately 44 percent of candidates who take the licensure exam identify as a person of color; only 29 percent of the candidates who identify as a person of color complete the examination. As of 2020, the racial diversity of the persons participating in the path to licensure has increased, with the proportion of new persons who identify as people of color now equal to the proportion of white candidates. However, increases in racial and ethnic diversity have been limited to the Asian and the Hispanic or Latino population. The proportion of African American candidates in the profession has seen little change over the past decade and continues to be underrepresented when compared to U.S. Census data.¹⁴

Women are ready to take the licensure examination one year sooner than men. Two out of every five new architects is a woman. There is near equal representation of men and women early on the path to licensure, with women accounting for 47 percent of individuals reporting experience hours and 46 percent of individuals testing. Additionally, 2020 also saw a three percentage point increase in the proportion of new women architects to 41 percent.¹⁵

There are approximately 10,800 Florida-licensed architects.¹⁶

Section 288.703(4), F.S., defines the term “minority person” to mean a lawful, permanent resident of Florida who is:

- An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin;
- A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race;
- An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778;
- A Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; or
- An American woman.

Clay Ford Scholarship Program

Section 473.3065, F.S., establishes the Clay Ford Scholarship Program administered by the Board of Accountancy within the DBPR. The Board of Accountancy is assisted by the Certified Public Accountant Education Minority Assistance Advisory Council to provide scholarships for minority persons, as defined in s. 288.703(4), F.S., during the fifth year study required to obtain a Certified Public Accountant (CPA) license. Under Clay Ford Scholarship Program, \$200,000

¹³ See also NCARB, *Demographics: Career and Licensure*, available at: <https://www.ncarb.org/nbtn2021/demographics-licensure> (last visited Jan. 19, 2022).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ DBPR, *Architecture and Interior Design – Board Information*, available at: <http://www.myfloridalicense.com/DBPR/architecture-and-interior-design/board-information/> (last visited Jan. 19, 2022).

per year is set aside for scholarships. Funding for the program is based on a portion of the licensee fee for a CPA license, not to exceed \$10.

III. Effect of Proposed Changes:

The bill creates the Architect Education Minority Assistance Program within the DBPR for the purpose of providing scholarships to minority persons as defined in s. 288.703, F.S. The bill also creates the Architect Education Minority Assistance Advisory Council, an advisory council as defined in s. 20.03(7), F.S.,¹⁷ within the DBPR to assist the board in administering the program.

To be eligible for financial assistance, a minority person must be:

- A resident of Florida; and
- Enrolled in their fifth year of an architectural education program accredited by the NAAB at an institution in this state.

The minority assistance program is funded from a portion of existing architectural license fees established under s. 481.207, F.S., not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account.

The minority assistance program must disburse funds for scholarships twice each year as recommended by the advisory council and approved by the board.

The bill requires the board to adopt rules to administer the program, including rules relating to:

- Eligibility criteria for receipt of a scholarship, which, at a minimum, must include the following factors:
 - Financial need;
 - Status as a minority person as defined in s. 288.703; and
 - Scholastic ability and performance.
- Scholarship application procedures;
- Scholarship amounts, the timeframe for payments or partial payments, and criteria governing how scholarship funds may be spent by the recipient;
- The total amount of scholarship funds which can be awarded each year; and
- The minimum balance that must be maintained in the program account.

The bill authorizes the Chief Financial Officer to invest funds in the program account, subject to the same limitations that apply to the investment of other state funds, and all interest earned on investments must be credited to the program account.

Under the bill, scholarship determinations by the board are exempt from ch. 120, F.S., the Florida Administrative Procedure Act, which provides notice, hearing, and appeal rights for final agency actions.

¹⁷ Section s. 20.03(7), F.S., defines the terms “council” or “advisory council” to mean “an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.”

The bill creates a criminal prohibition against a person, or his or her agent, for knowingly filing with the board any notice, statement, or other document that is false or that contains any material misstatement of fact. A person who violates this prohibition commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.¹⁸

Except as provided in the bill, the advisory council must operate in a manner consistent with s. 20.052, F.S.¹⁹ The advisory council membership must be diverse and representative of minority persons as defined in s. 288.703, F.S.

The advisory council must consist of five architects licensed under ch. 481, F.S., who are appointed by the board. The advisory council must include:

- One board member, who shall serve as chair of the council;
- Two representatives of the American Institute of Architects, Florida Section;
- One representative of the National Organization of Minority Architects; and
- One member who is appointed as a member-at-large.

At least one member of the advisory council must be a woman.

The initial and subsequent appointments by the board to the advisory council must be for staggered terms. The board must fill a vacancy on the advisory council in the same manner as the initial appointment. Any member appointed to fill a vacancy of an unexpired term must be appointed for the remainder of that term.

The council membership of any member who has three consecutive absences or absences constituting 50 percent or more of the council's meetings within any 12-month period is void and the member's position is deemed vacant.

Under the bill, council members must serve without compensation. However, a board member who serves as a member of the council must be compensated in accordance with ss. 112.061 and 455.207(4), F.S.,²⁰ for any necessary and actual expenses incurred by a member while engaged in the business of the council. Expenses incurred by other advisory council members while engaged in the business of the council must be borne by such member or by the organization or agency the member represents.

The minority assistance program provided by the bill is similar to that provided in s. 473.3065, F.S., for student's on the path to CPA licensure.

¹⁸ See *Supra* n. 1 for applicable criminal penalties.

¹⁹ Section 20.052, F.S., provides for the administration of advisory boards, including requiring that the private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer; all members serve staggered four-year terms unless otherwise provided by law; members serve without compensation or honorarium other than per diem and reimbursement for travel expenses, and all meetings are public under s. 286.011, F.S.

²⁰ Section s. 112.061, F.S., authorizes reimbursement for travel expenses incurred by state employees. Section 455.207(4), F.S, authorizes compensation for members of a DBPR board in the amount of \$50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board, respectively.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Qualifying minority architectural degree students may receive financial assistance during their fifth year of study.

C. Government Sector Impact:

The minority assistance program is funded from a portion of existing architectural license fees established under s. 481.207, F.S., not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account.

According to the DBPR, the board's operating account within the Professional Regulation Trust Fund is projected to have a negative balance in Fiscal Year 2021-2022 and each subsequent year. However, the DBPR states that the Professional Regulation Trust Fund, as a whole, remains healthy with sufficient cash. Transferring of funds from the operating account of the board will increase the operating account's projected

negative balance each fiscal year in the amount of up to \$200,000 per year that could be transferred from the board's operating account to a newly created Architect Education Minority Assistance Program account beginning in Fiscal Year 2022-2023.

As a result of the transfer of the maximum amount allowed by the bill, the DBPR projects that the board's operating account will have a negative balance of \$937,326 by the end of Fiscal Year 2023-2024, a negative balance of \$889,013 by the end of Fiscal Year 2024-2025 and negative balance of \$1,948,932 by the end of Fiscal Year 2025-2026. The DBPR states that the anticipated deficit of the board's operating account within the Professional Regulation Trust Fund can be addressed through a review and modification of licensing fees and/or a one-time assessment of licensees every four years.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides for funding for the scholarship program to be “derived from a portion of existing license fees established under s. 481.207, F.S., not to exceed \$10 per license, and to be deposited...” (Emphasis added.) As noted by the DBPR, funding for the scholarship program may be based on current license fees. If the funding is based on the current, i.e., existing, license fees, the DBPR questions whether the program ceases to exist should the board increase license fees.²² Consideration should be given to deleting the term “existing.”

VIII. Statutes Affected:

This bill creates section 481.2095 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

²¹ DBPR, *2022 Agency Legislative Bill Analysis for SB 1094*, at p. 5 (Dec. 15, 2021) (On file with the Committee on Regulated Industries).

²² *Id.* at p. 5.

By Senator Rodriguez

39-00765A-22

20221094__

1 A bill to be entitled
 2 An act relating to the Architect Education Minority
 3 Assistance Program; creating s. 481.2095, F.S.;
 4 creating the program within the Department of Business
 5 and Professional Regulation; providing a purpose for
 6 the program; requiring the Architect Education
 7 Minority Assistance Advisory Council to assist the
 8 Board of Architecture and Interior Design with
 9 administering the program; providing funding
 10 requirements for scholarships provided under the
 11 program; requiring that funds be deposited into a
 12 specified account in the Professional Regulation Trust
 13 Fund; capping the amount of funds that the department
 14 may spend annually on the program; requiring that
 15 funds for scholarships be disbursed twice each year;
 16 authorizing the Chief Financial Officer to invest
 17 funds in the program account in a specified manner;
 18 requiring that all earned interest from such
 19 investments be credited to the program account;
 20 requiring the board to adopt rules; specifying that
 21 certain determinations made by the board are not
 22 agency actions for the purposes of the Administrative
 23 Procedure Act; prohibiting a person or his or her
 24 agent from knowingly filing documents with the board
 25 which contain false information or material
 26 misstatements of fact; providing criminal penalties;
 27 creating the council within the department; providing
 28 requirements for council membership; specifying that
 29 the council membership of a member with certain

Page 1 of 5

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

39-00765A-22

20221094__

30 absences is void; requiring council members to serve
 31 without compensation; providing an exception;
 32 providing an effective date.
 33

34 Be It Enacted by the Legislature of the State of Florida:
 35

36 Section 1. Section 481.2095, Florida Statutes, is created
 37 to read:

38 481.2095 The Architect Education Minority Assistance
 39 Program; Architect Education Minority Assistance Advisory
 40 Council.—

41 (1) The Architect Education Minority Assistance Program is
 42 created within the department for the purpose of providing
 43 scholarships to minority persons as defined in s. 288.703 who
 44 are residents of this state and who are students enrolled in
 45 their fifth year of an architectural education program
 46 accredited by the National Architecture Accrediting Board at an
 47 institution in this state. The Architect Education Minority
 48 Assistance Advisory Council created in subsection (6) shall
 49 assist the board in administering the program.

50 (2) All funds used to provide scholarships under the
 51 program must be derived from a portion of existing license fees
 52 established under s. 481.207, not to exceed \$10 per license, and
 53 must be deposited into the Professional Regulation Trust Fund in
 54 a separate account maintained for that purpose. The department
 55 may spend up to \$200,000 per year from such account for the
 56 program but may not allocate overhead charges to the account.
 57 Funds for scholarships must be disbursed twice each year as
 58 recommended by the advisory council and approved by the board,

Page 2 of 5

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

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59 based on eligibility criteria adopted by board rule and a
 60 comparative evaluation of all applicants. The Chief Financial
 61 Officer may invest funds in the program account, subject to the
 62 same limitations that apply to the investment of other state
 63 funds, and all interest earned thereon must be credited to the
 64 program account.

65 (3) The board shall adopt rules to administer the program,
 66 including rules relating to the following:

67 (a) Eligibility criteria for receipt of a scholarship,
 68 which, at a minimum, must include the following factors:

69 1. Financial need;
 70 2. Status as a minority person as defined in s. 288.703;
 71 and

72 3. Scholastic ability and performance.

73 (b) Scholarship application procedures.

74 (c) Scholarship amounts, the timeframe for payments or
 75 partial payments, and criteria governing how scholarship funds
 76 may be spent by the recipient.

77 (d) The total amount of scholarship funds which can be
 78 awarded each year.

79 (e) The minimum balance that must be maintained in the
 80 program account.

81 (4) Determinations made by the board regarding recipients
 82 of scholarship funds are not agency actions for purposes of
 83 chapter 120.

84 (5) A person or his or her agent may not knowingly file
 85 with the board any notice, statement, or other document that is
 86 false or that contains any material misstatement of fact. A
 87 person who violates this subsection commits a misdemeanor of the

39-00765A-22 20221094__

88 second degree, punishable as provided in s. 775.082 or s.
 89 775.083.

90 (6) The Architect Education Minority Assistance Advisory
 91 Council, an advisory council as defined in s. 20.03(7), is
 92 created within the department to assist the board in
 93 administering the program. Except as otherwise provided in this
 94 section, the advisory council shall operate in a manner
 95 consistent with s. 20.052. The council membership must be
 96 diverse and representative of minority persons as defined in s.
 97 288.703.

98 (a) The council shall consist of five architects licensed
 99 under this chapter appointed by the board. Of the five council
 100 members, one must be a board member, who shall serve as chair of
 101 the council; two must be representatives of the American
 102 Institute of Architects, Florida Section; one must be a
 103 representative of the National Organization of Minority
 104 Architects; and one must be appointed as a member-at-large. At
 105 least one member of the council must be a woman.

106 (b) The board shall determine the terms for initial
 107 appointments, which must be staggered, and appointments
 108 thereafter.

109 (c) Any vacancy on the council must be filled in the same
 110 manner as the initial appointment. Any member appointed to fill
 111 a vacancy of an unexpired term shall be appointed for the
 112 remainder of that term.

113 (d) The council membership of any member who has three
 114 consecutive absences or absences constituting 50 percent or more
 115 of the council's meetings within any 12-month period is void and
 116 the member's position is deemed vacant.

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20221094

117 (e) Council members shall serve without compensation, and
118 any necessary and actual expenses incurred by a member while
119 engaged in the business of the council must be borne by such
120 member or by the organization or agency such member represents.
121 However, a board member who serves as a member of the council
122 must be compensated in accordance with ss. 112.061 and
123 455.207(4).

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



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: December 13, 2021

I respectfully request that **Senate Bill #1094**, relating to Architect Education Minority Assistance Program, be placed on the:

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

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

Senator Ana Maria Rodriguez
Florida Senate, District 39

1-25-22

Meeting Date

Regulated Industries

Committee

The Florida Senate
APPEARANCE RECORD

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

1094

Bill Number or Topic

Amendment Barcode (if applicable)

Name Lourdes Solera

Phone 305-775-6139

Address 2780 SW Douglas Road Suite 302

Email Isolera@mcharry.com

Street

Miami

City

FL

State

33133

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

1-25-22

Meeting Date

Regulated Industries

Committee

The Florida Senate

APPEARANCE RECORD

1094

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Ignacio Reyes

Phone 5618105690

Address 1400 Centrepark Blvd Ste 500

Email ijreyes@leodaly.com

Street

West Palm Beac FL

33401

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

S-001 (08/10/2021)

APPEARANCE RECORD

1094

1-25-22

Meeting Date

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name **Beverly Frank**

Phone **8137699378**

Address **4836 West Gandy Boulevard**

Email **beverly@bfrankstudio.com**

Street

Tampa

FL

33611

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

APPEARANCE RECORD

1094

1-25-22

Meeting Date

Bill Number or Topic

Regulated Industries

Committee

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

Amendment Barcode (if applicable)

Name Joshua Shatkin

Phone 3522223443

Address 2266 Sw 43Rd PI

Email joshua@shatkin.net

Street

Gainesville

FL

32608

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

The Florida Senate

APPEARANCE RECORD

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

SB 1094

Bill Number or Topic

1/25/22

Meeting Date

REG. INDUSTRIES

Committee

Amendment Barcode (if applicable)

Name GEORGE LEVESQUE

Phone 850-577-9090

Address 301 S. BRANOUGH ST. 600

Email george.levesque@gray-robinson.com

Street

TALLAHASSEE

FL

32312

City

State

Zip

Speaking:

For

Against

Information

(if necessary)

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AIA Florida

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1332

INTRODUCER: Regulated Industries Committee and Senator Wright

SUBJECT: Temporary Underground Residential Electric Service

DATE: January 26, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon _____	Imhof _____	RI _____	Fav/CS _____
2.	_____	_____	CA _____	_____
3.	_____	_____	RC _____	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1332 prohibits counties and municipalities from enacting ordinances, regulations, or policies preventing an electric utility from installing a temporary underground (TUG) power panel during construction. Under the bill, the term electric utility has the same meaning as in s. 366.02(2), F.S., which includes any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state. The TUG power panel must meet the requirements of Article 590 of the 2020 National Electrical Code.

After an initial inspection of a TUG power panel, a county or municipality is prohibited from requiring a subsequent inspection as a condition for issuance of a certificate of occupancy.

The bill defines the term “temporary underground power panel” as a permanent meter base including a meter socket, meter, and downpipe, to which power is provided through an underground service line by an electric utility pursuant to the utility’s tariffs or service standards. The TUG power panel must be permanently attached to a block residential structure, provide temporary power for construction of the residential structure, and be intended for use in providing permanent service to the residential structure upon issuance of the certificate of occupancy.

The bill is effective July 1, 2022.

II. Present Situation:

Temporary Underground Power

When residential homes are under construction on undeveloped property, the homebuilder may arrange for temporary electric service to the property during construction to provide sufficient power for equipment on the job site.¹ Builders may also opt to use generators or install temporary power poles, which allow them to get enough energy for the necessary equipment on the job site.²

If the residence is ultimately going to receive power through an underground service line when the resident takes occupancy, a TUG service may be a more logical and cost-effective option.³ TUG service is available for residential services where the permanent approved meter socket, meter, and downpipe are configured so they can be used for temporary service.⁴

TUG allows the contractor to install the permanent meter base as soon as the lintel or tie beam is installed on the concrete block of a residential-detached home structure.⁵ This eliminates the need for temporary poles and allows the structure to receive permanent power prior to securing final inspection and a certificate of occupancy.⁶

After construction reaches a certain point and a temporary inspection takes place, the electric utility installs the permanent service to the meter socket.⁷ The permanent service is then used for construction until a certificate of occupancy is obtained.⁸ After the homeowner takes occupancy, the permanent connection installed for TUG service during construction is used to provide electric service to the residence.⁹

Before installing TUG service on a construction site, a builder must get approval from the county or municipality, usually through the building department.¹⁰ Generally, the contractor must indicate a desire to participate in a TUG program at the time of permitting and sign a written TUG agreement.¹¹ The Contractor must make prior arrangements with the applicable electric

¹ Power Plus, *Step-by-Step Guide: Temporary Construction Site Power*, <https://www.powerplus.com/industrial-power-blog/construction-site-temporary-power/> (last visited Jan. 24, 2022).

² *Id.*

³ *Id.*

⁴ See Florida Power and Light, *Electric Service Standards* (April 2021), at page 36 of the pdf, <file:///C:/Users/sharon.shirley/Downloads/electric-service-standards.pdf> (last visited Jan. 24, 2022).

⁵ See Orlando Utilities Commission, *How to Obtain Temporary Underground Service*, https://www.ouc.com/docs/customer-brochures/broc_tug.pdf?sfvrsn=9769e278_6 (last visited Jan. 24, 2022); City of Melbourne, *Temporary Underground Program Requirements*, <https://www.melbourneflorida.org/departments/code-compliance-division/building-section/building-section-forms/temporary-underground-tug-program-requirements> (last visited Jan. 24, 2022); Osceola County Building Office, *TUG: Temporary Under Ground Program Requirements* (January 2013) https://www.osceola.org/core/fileparse.php/2731/urlt/040521_TUG-Form-ADA.pdf (last visited Jan. 24, 2022).

⁶ Orlando Utilities Commission, *supra* note 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ See Orlando Utilities Commission, *supra* note 5; City of Melbourne, *supra* note 5; Osceola County Building Office, *supra* note 5.

¹¹ *Id.*

utility, providing a copy of the TUG agreement, and follow any guidelines prescribed by the utility.¹²

Many counties and municipalities offer TUG service, including:

- Orange County;¹³
- Osceola County;¹⁴
- Palm Beach County;¹⁵
- Pasco County;¹⁶
- Pinellas County;¹⁷
- Volusia County;¹⁸
- Orlando;¹⁹ and
- Melbourne.²⁰

National Electrical Code

The National Electrical Code (NEC) is published by the National Fire Protection Association (NFPA).²¹ The NEC is updated periodically, with NFPA members meeting every three years to review, modify, and add new NEC or NFPA requirements to enhance electrical safety.²² All 50 states have adopted the NEC, which serves to safeguard persons and property from hazards arising from electric use.²³ The most recent version of the NEC was published in 2020.²⁴ Article 590 of the NEC covers temporary electrical power and lighting installations.²⁵

¹² See City of Melbourne, *supra* note 5; Osceola County Building Office, *supra* note 5.

¹³ Orange County, *TUG Service*, <https://www.orangecountyfl.net/Portals/0/Library/Permitting-Licensing/docs/TUG%20Brochure%20CERT.pdf> (last visited Jan. 24, 2022).

¹⁴ Osceola County Building Office, *supra* note 5.

¹⁵ Palm Beach County, *Temporary Underground Service Policy and Procedure Memorandum*, May 9, 2019, [https://discover.pbcgov.org/pzb/building/BuildingCodes/PB-O-130%20-%20Temporary%20Underground%20\(TUG\)%20Service.pdf](https://discover.pbcgov.org/pzb/building/BuildingCodes/PB-O-130%20-%20Temporary%20Underground%20(TUG)%20Service.pdf) (last visited Jan 24, 2022).

¹⁶ Pasco County, *TUG Service Requirements*, <https://www.pascocountyfl.net/3638/TUG-Service-Requirement> (last visited Jan. 24, 2022).

¹⁷ Pinellas County, *TUG or Pre-Power Application and Agreement*, https://www.pinellascounty.org/build/PDF/Pre-Power_Tug_Inspections.pdf (last visited Jan. 24, 2022).

¹⁸ Volusia County, *Temporary Underground Service Request Form*, <https://www.volusia.org/core/fileparse.php/6038/urlt/tug.pdf> (last visited Jan. 24, 2022).

¹⁹ Orlando Utilities Commission, *supra* note 5.

²⁰ City of Melbourne, *supra* note 5.

²¹ National Fire Protection Association, *National Electrical Code*, <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=70> (last visited Jan. 26, 2022).

²² Eaton, *For Safety's Sake: The NEC 2020 Code Review*, <https://www.eaton.com/us/en-us/company/news-insights/for-safetys-sake-blog/the-NEC-2020-code-review.html#:~:text=Every%20three%20years%2C%20members%20of,the%20workplace%20and%20the%20home.> (last visited Jan. 26, 2022).

²³ NFPA, *supra* note 21.

²⁴ *Id.*

²⁵ Electrical Construction & Maintenance, Mike Holt, *The Basics of Temporary Installations*, <https://www.ecmweb.com/national-electrical-code/code-basics/article/20887856/the-basics-of-temporary-installations> (last visited Jan. 26, 2022).

III. Effect of Proposed Changes:

The bill creates s. 125.488, F.S., to prohibit counties from enacting any ordinance, regulation, or policy that prevents, or has the effect of preventing, an electric utility from installing a TUG power panel during construction. Under the bill, the term electric utility has the same meaning as in s. 366.02(2), F.S., which includes any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state. The TUG power panel must meet the requirements of Article 590 of the 2020 National Electrical Code.

After an initial inspection of a TUG power panel, a county or municipality is prohibited from requiring a subsequent inspection as a condition for issuance of a certificate of occupancy.

The bill defines the term “temporary underground power panel” as a permanent meter base including a meter socket, meter, and downpipe, to which power is provided through an underground service line by an electric utility pursuant to the utility’s tariffs or service standards. The TUG power panel must be permanently attached to a block residential structure, provide temporary power for construction of the residential structure, and be intended for use in providing permanent service to the residential structure upon issuance of the certificate of occupancy.

The bill also creates s. 166.0484, F.S., relating to ordinances, regulations, and policies concerning TUG power panels. The provisions of this section are identical to those in s. 125.488, F.S., but they apply to municipalities rather than counties.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 125.488 and 166.0484 of the Florida Statutes.

IX. Additional Information:A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Regulated Industries Committee on January 25, 2022:**

The committee substitute conforms the Senate bill to the House bill by:

- Prohibiting both counties and municipalities from enacting any ordinance, regulation, or policy preventing an electric utility from installing a TUG power panel, during construction and installation of the temporary underground power panel.
- Requiring TUG power panels to meet the requirements of Article 590 of the 2020 National Electrical Code.
- Defining an electric utility in accordance with s. 366.02(2), F.S., as any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state.
- Prohibiting counties and municipalities from requiring a subsequent inspection of the TUG power panel as a condition for issuance of a certificate of occupancy, after an initial inspection.
- Defining a “temporary underground power panel” as a permanent meter base that includes a meter socket, meter, and downpipe, to which power is provided through an underground service line by an electric utility pursuant to its tariffs or service standards, that is permanently attached to a block residential structure, provides

temporary power for construction of the residential structure, and is intended for use in providing permanent service to the residential structure upon issuance of the certificate of occupancy.

- Providing for a title change from temporary underground residential electric service to temporary underground power panels.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 125.488, Florida Statutes, is created to
read:

125.488 Ordinances, regulations, and policies concerning
temporary underground power panels.—

(1) A county may not enact any ordinance, regulation, or
policy that prevents or has the effect of preventing an electric



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11 utility, as defined in s. 366.02(2), from installing a temporary
12 underground power panel if the temporary underground power panel
13 meets the requirements of Article 590 of the National Electrical
14 Code, 2020 edition, during the construction and installation of
15 the temporary underground power panel. After the county has
16 conducted an inspection of the temporary underground power
17 panel, the county may not require a subsequent inspection of the
18 temporary underground power panel as a condition of issuance of
19 the certificate of occupancy.

20 (2) As used in this section, the term "temporary
21 underground power panel" means a permanent meter base that
22 includes a meter socket, meter, and downpipe, to which power is
23 provided through an underground service line by an electric
24 utility pursuant to its tariffs or service standards, that is
25 permanently attached to a block residential structure, provides
26 temporary power for construction of the residential structure,
27 and is intended for use in providing permanent service to the
28 residential structure upon issuance of the certificate of
29 occupancy.

30 Section 2. Section 166.0484, Florida Statutes, is created
31 to read:

32 166.0484 Ordinances, regulations, and policies concerning
33 temporary underground power panels.-

34 (1) A municipality may not enact any ordinance, regulation,
35 or policy that prevents or has the effect of preventing an
36 electric utility, as defined in s. 366.02(2), from installing a
37 temporary underground power panel if the temporary underground
38 power panel meets the requirements of Article 590 of the
39 National Electrical Code, 2020 edition, during the construction



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40 and installation of the temporary underground power panel. After
41 the municipality has conducted an inspection of the temporary
42 underground power panel, the municipality may not require a
43 subsequent inspection of the temporary underground power panel
44 as a condition of issuance of the certificate of occupancy.

45 (2) As used in this section, the term "temporary
46 underground power panel" means a permanent meter base that
47 includes a meter socket, meter, and downpipe, to which power is
48 provided through an underground service line by an electric
49 utility pursuant to its tariffs or service standards, that is
50 permanently attached to a block residential structure, provides
51 temporary power for construction of the residential structure,
52 and is intended for use in providing permanent service to the
53 residential structure upon issuance of the certificate of
54 occupancy.

55 Section 3. This act shall take effect July 1, 2022.

56

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

58 And the title is amended as follows:

59 Delete everything before the enacting clause
60 and insert:

61 A bill to be entitled
62 An act relating to temporary underground power panels;
63 creating ss. 125.488 and 166.0484, F.S.; prohibiting
64 counties and municipalities, respectively, from
65 enacting ordinances, regulations, or policies that
66 prevent certain electric utilities from installing
67 temporary underground power panels and from requiring
68 subsequent inspections of such panels as a condition



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of a certificate of occupancy under specified
conditions; defining the term "temporary underground
power panel"; providing an effective date.

By Senator Wright

14-00745-22

20221332__

1 A bill to be entitled

2 An act relating to temporary underground residential
3 electric service; creating s. 366.98, F.S.;
4 prohibiting local governmental entities from
5 prohibiting electric utilities from using temporary
6 underground residential services under certain
7 conditions; authorizing electric utilities to install
8 permanent electric service to the meter socket until a
9 certificate of occupancy is obtained; defining the
10 term "temporary underground residential service";
11 providing an effective date.

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

14
15 Section 1. Section 366.98, Florida Statutes, is created to
16 read:

17 366.98 Temporary underground residential electric service.-
18 A local governmental entity may not prohibit an electric utility
19 from using temporary underground residential services if the
20 electric utility has a tariff approved by and on file with the
21 Public Service Commission. Upon receipt of a temporary
22 inspection, the electric utility may install permanent electric
23 service to the meter socket, and the service may be used for
24 construction purposes until a certificate of occupancy is
25 obtained. As used in this section, the term "temporary
26 underground residential service" includes the installation of a
27 meter socket, meter, and downpipe configured for temporary
28 electric service.

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



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill 1332**, relating to Temporary Underground Residential Electric Service, be placed on the:

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

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

Senator Tom A. Wright
Florida Senate, District 14

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 714

INTRODUCER: Regulated Industries Committee and Senator Hooper

SUBJECT: Department of Business and Professional Regulation

DATE: January 26, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 714 revises licensing and regulatory requirements for businesses and professions administered by the Department of Business and Professional Regulation (DBPR), including mold-related professionals, asbestos abatement professionals, electrical and alarm system contractors, certain public lodging establishments, and certain public food service establishments.

Related to mold-related professional licensing regulations, the bill authorizes a method for persons who have held a license in another state or territory for at least 10 years to obtain a Florida license.

Related to asbestos professional licensing regulations, the bill:

- Authorizes a method for persons who have held a license in another state for at least 10 years and meet examination and education requirements to obtain a Florida license; and
- Removes limits of bondability and credit as required criteria for determining the financial stability of an applicant for licensure.

Related to electrical and alarm system contractors licensing, the bill removes an existing deadline for registered electrical and alarm systems contractors to seek authorization to engage in their trades throughout the state at any time.

Relating to the licensing, inspection, and regulation of public lodging establishments and public

food service establishments by the Division of Hotels and Restaurants (DHR) in the DBPR which are not otherwise exempt, the bill:

- Requires licensees to submit forms, documents, and fees to the DHR electronically;
- Requires licensees to provide an email address to the DHR as a primary contact method;
- Allows the DHR's inspection reports and other notices to be served to operators of such establishments by email, in-person delivery, or mail;
- Allows the guest register at a transient public lodging establishment to be kept in an electronic format and removes the requirement for guests to sign the register;
- Authorizes a licensee to obtain a renewal license for two years rather than one year upon payment of the associated fee; and
- Removes the requirement for licensees to pay either a prorated or full fee for an initial license depending on when the application is made.

Related to boxing matches held solely for training purposes, the bill removes a restriction on the maximum difference in weight of participants, eliminating the 12 pounds weight differential for such matches in current law.

According to the DBPR, the bill has a significant fiscal impact to state government and an indeterminate fiscal impact to local government.¹ See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

For ease of reference, the Present Situation for each section of CS/SB 714 is addressed below in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (DBPR) is provided below.

Organization of the DBPR

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 12 divisions:

- Administration.
- Alcoholic Beverages and Tobacco.
- Certified Public Accounting.
- Drugs, Devices, and Cosmetics.
- Florida Condominiums, Timeshares, and Mobile Homes.
- Hotels and Restaurants.
- Pari-mutuel Wagering.
- Professions.
- Real Estate.
- Regulation.
- Service Operations.
- Technology.

¹ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 714* at 6 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

The Florida Athletic Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.² The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.³

Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”⁴ The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.⁵

The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁶ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁷

However, “neither the [DBPR] nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those desiring to engage in a profession or occupation from finding employment.⁸

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.⁹

III. Effect of Proposed Changes:

Mold-Related Professionals

Present Situation

The Department of Business and Professional Regulation (DBPR) licenses and regulates mold-related professionals.¹⁰ In Fiscal Year 2020-2021, there were 5,070 active licensees, and 384

² Section 548.003(1), F.S.

³ See parts I and III of ch. 450, F.S.

⁴ Section 455.01(6), F.S.

⁵ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

⁶ Section 455.201(2), F.S.

⁷ *Id.*

⁸ Section 455.201(4)(b), F.S.

⁹ DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Jan. 14, 2022).

¹⁰ See part XIV of ch. 468, F.S., Mold-Related Services, and *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at 20, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 19, 2022).

inactive licensees.¹¹ Of 120 complaints against licensees, 44 met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in five cases.¹²

Effect of Proposed Changes

Section 1 of the bill amends s. 468.8414, F.S., to allow licensure by endorsement to practice mold assessment or mold remediation for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory.

Applicants pursuing this avenue for licensure must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

The bill includes technical drafting changes and conforming changes.

Asbestos Abatement

Present Situation

The DBPR also licenses and regulates asbestos consultants and asbestos contractors.¹³ An asbestos consultant's license may only be issued to an applicant who:

- Holds a current, valid, active license as an architect issued under ch. 481, F.S.;
- Holds a current, valid, active license as a professional engineer issued under ch. 471, F.S.;
- Holds a current, valid, active license as a professional geologist issued under ch. 492, F.S.;
- Is a diplomat of the American Board of Industrial Hygiene; or
- Has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.¹⁴

In Fiscal Year 2020-2021, there were 449 active licensees, and nine inactive licensees.¹⁵ Of eight complaints against licensees, two met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in one case.¹⁶

If an individual proposes to engage in asbestos consulting or contracting as any legal entity or in a name other than the individual's legal name:

- The legal entity must apply for licensure through a qualifying agent; or
- The applicant must apply for licensure under the fictitious name.¹⁷

A qualifying agent must be licensed under ch. 469, F.S., in order for a business organization to be licensed in the same category for which the qualifying agent is licensed.¹⁸

¹¹ See 2020-2021 Annual Report at 20.

¹² *Id.* at 89.

¹³ See ch. 469, F.S., Asbestos Abatement, and *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at 20, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 19, 2022).

¹⁴ See s. 469.004(1), F.S.

¹⁵ See 2020-2021 Annual Report at 20.

¹⁶ *Id.* at 89.

¹⁷ See s. 469.006(2)(a), F.S.

¹⁸ See s. 469.005(3), F.S.

Effect of Proposed Changes

Sections 2 and 3 of the bill amend ss. 469.004 and 469.006, F.S., related to licensure of asbestos consultants/asbestos contractors and consulting/contracting business organizations.

Section 2 of the bill amends s. 469.004, F.S., to allow licensure by endorsement to practice asbestos consulting or asbestos contracting for an applicant who has:

- Passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan;
- Held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the application date and is applying for the same or similar license in Florida, subject to the requirements in s. 469.005(5), F.S., (evidence of financial stability) and s. 469.006, F.S., (licensure of business organizations and qualifying agents); and
- Successfully completed all required DBPR-approved courses, including a respiratory protection course.¹⁹

Applicants for licensure by endorsement must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

Section 3 of the bill amends s. 469.006(2)(c)2., F.S., to remove limits of bondability and credit as required criteria for determining financial responsibility of an applicant for licensure.

Grandfathering Provision for Registered Electrical and Alarm System Contractors

Present Situation

Section 489.514, F.S., authorizes the Electrical Contractors' Licensing Board (ECLB) to grandfather certain applicants for registered contractor status, but only if application was made before November 1, 2021; under this provision, which now appears obsolete, the ECLB is required to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state, upon:

- Receipt of a completed application;
- Payment of the appropriate fee;²⁰ and
- Evidence that he or she qualifies for the certification in a trade category based on:
 - Having a valid registered local license;
 - Passing an approved written examination;
 - Having a minimum of five years' contracting experience in the applicable trade category (with an active license and excluding probationary periods);
 - Never having had a contractor's license revoked, and during the last five years, not having had a suspended license or been assessed a fine in excess of \$500; and
 - Meeting all required insurance and financial responsibility requirements.²¹

¹⁹ Section 469.005(2), F.S., also requires asbestos consultants complete courses in building asbestos surveys and mechanical systems, asbestos management planning, and project design. Section 469.005(3), F.S., also requires asbestos contractors complete an asbestos contractor/supervisor course.

²⁰ The ECLB has established a \$196 fee for applications for registered contractor certification. See s. 489.109, F.S., and Fla. Admin. Code R. ch. 61G6-8.

²¹ See s. 489.515(1)(b), F.S., which provides that an applicant must submit satisfactory evidence of workers' compensation insurance or an acceptable exemption issued by the DBPR, public liability and property damage insurance in amounts

Effect of Proposed Changes

Section 4 of the bill amends s. 489.514(3), F. S., to remove the deadline for applicants with registered contractor status seeking certified licenses to apply by November 1, 2021, allowing the ECLB to consider an application to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state at any time.

The bill includes technical drafting changes and conforming changes.

Public Lodging Establishments/Public Food Service Establishments

Present Situation

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida.²² A public lodging establishment includes establishments that are transient or nontransient.²³ A “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.²⁴

A “nontransient 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 for periods of at least 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 for periods of at least 30 days or 1 calendar month.²⁵

A “public food service establishment” means:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares,

determined by the ECLB, and evidence of financial responsibility, credit, and business reputation of either the contractor or the business sought to be qualified for certification.

²² The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices. *See* DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Jan. 17, 2022).

²³ *See* s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements,” as defined in s. 718.103, F.S.

²⁴ *Id.* Section s. 509.013(11), F.S., further provides the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section s. 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

²⁵ *Id.*

serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.²⁶

Numerous food service places are exempted from the definition of public food service establishment, such as certain schools and universities operated for students and faculty, and places maintained by certain religious, fraternal, and civic organizations.²⁷

Establishments regulated under ch. 509, F.S., must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.²⁸

Notices from the DHR pursuant to ch. 509, F.S., must be written and delivered personally by an agent of the DHR or by registered letter to the operator of the establishment, except lodging inspection reports and food service inspection reports, which may be delivered by electronic means.²⁹

Operators of public lodging establishment or public food service establishment may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.³⁰ Operators of public food service establishments must also maintain a copy of the latest food service inspection report and make it available to the DHR at the time of any inspection and to the public upon request.³¹

In addition, operators of transient establishments³² must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.³³ Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.³⁴

Section 509.241(1), F.S., requires each public lodging establishment and public food service establishment to obtain a license from the DHR and to renew it annually in order to operate. Further, the DHR has adopted an administrative rule establishing a staggered schedule for license issuance and renewal, in which renewal dates are determined by the county in which the establishment is located.³⁵

Licenses must be conspicuously displayed in the establishment's office or lobby, and public food service establishments offering catering services must also display their license number on all advertising for such services.³⁶

²⁶ See s. 509.013(5), F.S.

²⁷ *Id.*

²⁸ See ss. 509.032 and 509.035, F.S.

²⁹ See s. 509.091, F.S.

³⁰ See s. 509.101, F.S.

³¹ *Id.*

³² See *supra* n. 23.

³³ See s. 509.101, F.S.

³⁴ *Id.*

³⁵ *Id.* See Fla. Admin. Code R. 61C-1.002(6).

³⁶ See s. 509.241(3), F.S.

Section 509.251, F.S., provides the method of determining the license fees payable by establishments. For a public lodging establishment, the aggregate fee may not exceed \$1,000, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.³⁷

For a public food service establishment, there is a basic fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment may not exceed \$400, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.³⁸

For both public lodging establishments and public food service establishments, the full license fee must be paid if the application for initial licensure is made during the annual renewal period or more than six months before the next such renewal period, but only one-half of the fee must be paid if the application is made 6 months or less before such period.³⁹

Separate licensure is required for a public food service establishment operating in conjunction with a public lodging establishment.⁴⁰

Effect of Proposed Changes

Sections 5, 6, 7, 8, and 9 of the bill address requirements imposed upon public lodging establishments and public food service establishments.

Section 5 of the bill amends s. 509.032, F.S., to grant rulemaking authority to the DHR to adopt rules requiring electronic submission of any form, document, or fee required under ch. 509, F.S., relating to public lodging and public food service establishments, including procedures to obtain an exemption due to a technological or financial hardship.

Section 6 of the bill amends s. 509.091, F.S., to require licensees and licensed agents to provide an email address to the DHR to serve as the primary method of contact for all communications. The bill authorizes service of the DHR's notices and inspection reports by email or regular mail, in addition to personal delivery, and removes a requirement for the use of registered mail. The bill also authorizes the DHR to post an inspection report in a conspicuous place at the establishment, when the operator refuses to accept or evades service, or the agent is unable to serve the report after due diligence.

Section 7 of the bill amends s. 509.101, F.S., to clarify the duty for operators of transient establishments to maintain a guest register in chronological order of guests that occupy rental units in the establishment. Operators must make the register available for inspection by the DHR

³⁷ See s. 509.251(1), F.S. Vacation rental units or timeshare projects within separate buildings or at separate locations that are managed by one licensed agent may be combined in a single license application, and the DHR must charge a license fee as if all units in the application are in a single licensed establishment. *Id.*

³⁸ See s. 509.251(2), F.S.

³⁹ See ss. 509.251(1) and (2), F.S.

⁴⁰ See s. 509.251(3), F.S.

at any time, and the requirement for guests to sign the register is removed. The bill authorizes operators to keep the register in an electronic format.

Section 8 of the bill amends s. 509.241, F.S., related to licenses held by public lodging and public food service establishments. The bill provides that licenses expire if not renewed before the expiration date, and the license renewal period may be for two years rather than one year, at the option of the licensee. Licensees seeking initial licenses or renewal licenses must use forms provided by the DHR. Under the bill, the division is granted rulemaking authority to establish procedures for license issuance and renewals. Current law limits the DHR's rulemaking authority to establishing a staggered schedule for license renewals.

Section 9 of the bill amends s. 509.251, F.S., relating to license fees. As to public lodging establishments, the bill provides that license renewal fees be based on the number of rental units in the establishment and whether the renewal period is for one or two years; such fee may not exceed \$1,000 for a one-year renewal license or \$2,000 for a two-year renewal license.

As to public food service establishments, the bill provides that fees for initial licenses and renewal licenses be based on the classification of the license, and for renewal licenses, fees must also be based on whether the renewal period is for one or two years. Aggregate fees (a base fee and additional fees based on seating capacity and services offered) per establishment may not exceed \$400 for a one-year license or \$800 for a two-year license.

The bill removes the requirement for a public lodging or food service establishment to pay either a prorated or full fee for an initial license depending on when the application is made.

The bill includes technical drafting changes and conforming changes.

Florida Athletic Commission (formerly State Boxing Commission)

Present Situation

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,⁴¹ and mixed martial arts⁴² by the Florida Athletic Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.⁴³

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida,⁴⁴ which involves a professional.⁴⁵ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.⁴⁶ Chapter 548, F.S., does not apply to certain professional or amateur "martial arts," such as karate, aikido, judo, and kung fu; the term "martial arts" is distinct from and does not include "mixed martial arts."⁴⁷

⁴¹ The term "kickboxing" means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.

⁴² The term "mixed martial arts" means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.

⁴³ Section 548.003(1), F.S.

⁴⁴ Section 548.006(1), F.S.

⁴⁵ The term "professional" means a person who has received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.

⁴⁶ Section 548.006(4), F.S.

⁴⁷ Section 548.007(6), F.S., and *supra* n. 41 for the definition of "mixed martial arts."

However, as to amateur matches, the commission's jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.⁴⁸ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁴⁹ During Fiscal Year 2019-2020, there were 49 sanctioned professional events and 101 amateur events.⁵⁰

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Section 548.017, F.S., requires licensing for a participant,⁵¹ manager, trainer, second, referee, judge, physician, matchmaker or promoter.⁵²

The commission must establish, by rule, the appropriate weight of gloves used in each boxing match. All participants in boxing matches must wear gloves weighing not less than eight ounces each, and participants in mixed martial arts matches must wear gloves weighing between four to eight ounces each. Participants must also wear any protective devices the commission deems necessary.⁵³

Effect of Proposed Changes

Section 10 of the bill amends s. 548.043, F.S., to remove a restriction requiring that the weight differential between participants in a boxing match held solely for training purposes not exceed 12 pounds. According to the DBPR, this change will provide greater flexibility to promoters and participants who wish to promote and participate in exhibition matches.⁵⁴

The bill includes technical drafting changes and conforming changes.

Re-enactment related to License Fees and License Renewal

Present Situation

Under s. 509.102, F.S., the regulation of mobile food dispensing vehicles⁵⁵ involving licensing, registration, permitting, and fees, is preempted to the state, although local governments may regulate operation of such vehicles in other respects.

⁴⁸ Section 548.006(3), F.S.

⁴⁹ Section 548.002(2), F.S.

⁵⁰ See DBPR, *Florida State Boxing Commission Annual Report, Fiscal Year 2019-2020*, at 2, at <http://www.myfloridalicense.com/dbpr/os/documents/Boxing19-20.pdf> (last visited Jan. 19, 2022).

⁵¹ Section 548.002(17), F.S., defines "participant" as a professional competing in a boxing, kickboxing, or mixed martial arts match.

⁵² See s. 548.002, F.S., for the definitions of "manager," "second," "judge," "physician," "matchmaker," and "promoter." The terms "trainer" and "referee," are not defined in ch. 548, F.S.

⁵³ Section 548.043(3), F.S.

⁵⁴ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 714* at 5 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

⁵⁵ Section 509.102(1), F.S., provides the term "mobile food dispensing vehicle" means "any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal."

Effect of Proposed Changes

Section 11 of the bill re-enacts s. 509.102, F.S., relating to mobile food dispensing vehicles, for the purpose of incorporating the amendment to s. 509.251, F.S., relating to license fees for public lodging establishments and food service establishments.

Effective Date

The bill is effective July 1, 2022.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not increase fees for public lodging establishments or public food service establishments. It allows the licensees to pay for either one or two years at the same annual rate.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The Division of Hotels and Restaurants (DHR) in the Department of Business and Professional Regulation (DBPR) indicates the bill will reduce license fees, as follows:⁵⁶

The bill will generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure.

⁵⁶ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 714* at 7 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

The division estimates licensees will save about \$1.65 million in FY 2022-23. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure.

Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen.

The division is unable to predict how many licensees would opt for a 2 year license renewal.

According to the Division of Professions in the DBPR, eliminating limits of bondability and credit as criteria for determining financial responsibility of asbestos professionals will reduce the cost to applicants by approximately \$100 each.⁵⁷

C. Government Sector Impact:

As to the impact on revenue to the state from license applications and license renewals, according to the DBPR, based on internal projections for FY 2022-2023, the bill would reduce license revenue of the Division of Hotels and Restaurants (DHR) by \$1,652,302 (approximately six percent), assuming a 2.81 percent annual growth rate.⁵⁸ However, the DHR indicates it cannot predict the number of licensees who will seek license renewals for two years.⁵⁹

The DHR indicates:

Under the current license fee structure, about 58% of new applicants pay an initial license fee for some fraction of time and then pay the Division again to renew their license within the same fiscal year.

Under the initiative, the division will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license. The initiative would eliminate half year prorating of license fees, replacing it with a full year which slightly increases division revenue but results in a true “annual license” from the start with no same fiscal year renewals.⁶⁰

⁵⁷ *Id.* at 9. During FY 2018-19, FY 2019-20, and FY 2020-21, an average of 33 applications were received for new asbestos professional licensure for each of the last three fiscal years. *Id.*

⁵⁸ *Id.* at 6.

⁵⁹ *Id.*

⁶⁰ *Id.*

The DHR notes the following about the revisions to the license issuance, renewal, and fee provisions:

The benefits of this are two-fold: first, it simplifies the division’s licensing structure, thereby reducing escalations, refunds, deficiencies, customer contact, and labor hours. Second, simplifying the fee structure benefits the division’s licensees by reducing the costs of the license over twelve months and decreasing the number of application delays, thereby helping to ensure Florida businesses open on schedule with lower fees paid during the critical first year of operation.

The division’s intent is that the revised renewal and license fee schedule would only apply to new license applications processed after implementation of this initiative. The bill is not retroactive, thus, existing licenses will retain their current renewal dates. The division also anticipates a reduction in fee related issues which are a common cause of delayed or deficient applications, which would result in faster processing times.

The DHR estimates the following impacts:⁶¹

	FY22-23	FY23-24	FY24-25
Estimated Division License Revenue	\$25,634,761	\$26,355,779	\$27,097,076
Estimated Revenue Reduction	\$(1,652,302)	\$(1,698,775)	\$(1,746,556)
% Change	- 6%	- 6%	- 6%

The DHR also estimates an anticipated reduction in the eight percent service charge to General Revenue due to reduced license fees and a possible reduction in postage expenditures.⁶²

As to electrical and alarm system license revenue, the Division of Professions of the DHR indicates revenue from license fees for licensees using the grandfathering provision to seek statewide licensing is indeterminate as it is unknown how many eligible licensees will apply, but estimates a range of \$150,136 to \$399,056 in potential grandfathering fee revenue over the next three fiscal years.⁶³

⁶¹ *Id.*

⁶² *Id.* at 7.

⁶³ *Id.* at 6 and 9.

The Division of Professions notes there are 2,036 registered licensees with current or inactive licenses who may seek statewide licensing using the grandfathering provision; only 766 applications were during the last period of grandfathering, which was from July 1, 2019 to November 1, 2021.⁶⁴ Local governments could experience a decrease in fees from registered electrical and alarm system contractors who seek statewide licensing using the grandfathering provision, but the impact is indeterminate.⁶⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.8414, 469.004, 469.006, 489.514, 509.032, 509.091, 509.101, 509.241, 509.251, and 548.043.

This bill re-enacts section 509.102 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Regulated Industries Committee on January 25, 2022:

The CS amends s. 469.004(1), F.S., to include an applicant who qualifies for licensure as an asbestos consultant by endorsement as a person to whom an asbestos consultant's license may be issued by the DBPR.

B. Amendments:

None.

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

⁶⁴ *Id.* at 9.

⁶⁵ *Id.* at 6.



323002

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Between lines 80 and 81

insert:

(1) All asbestos consultants must be licensed by the department. Except for an asbestos consultant's license issued by endorsement as provided under subsection (3) or otherwise expressly provided by law, an asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect issued under chapter 481; holds a



323002

11 current, valid, active license as a professional engineer issued
12 under chapter 471; holds a current, valid, active license as a
13 professional geologist issued under chapter 492; is a diplomat
14 of the American Board of Industrial Hygiene; or has been awarded
15 designation as a Certified Safety Professional by the Board of
16 Certified Safety Professionals.

17
18 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

19 And the directory clause is amended as follows:

20 Delete lines 78 - 79

21 and insert:

22 Florida Statutes, is redesignated as subsection (4), a new
23 subsection (3) is added to that section, and subsection (1) of
24 that section is amended, to read:

25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete line 9

29 and insert:

30 licensure; amending s. 469.004, F.S.; providing an
31 exception for the issuance of an asbestos consultant's
32 license; requiring the

By Senator Hooper

16-00808-22

2022714__

1 A bill to be entitled
 2 An act relating to the Department of Business and
 3 Professional Regulation; amending s. 468.8414, F.S.;
 4 requiring the department to certify for licensure
 5 qualified individuals who practice mold assessment or
 6 mold remediation and hold certain licenses issued by
 7 other states or territories; requiring applications to
 8 be filed within a specified timeframe after such
 9 licensure; amending s. 469.004, F.S.; requiring the
 10 department to certify asbestos consultants and
 11 asbestos contractors for licensure who meet certain
 12 exam and other state licensure requirements; requiring
 13 applications to be filed within a specified timeframe
 14 after such licensure; requiring asbestos consultants
 15 and asbestos contractors to complete certain courses;
 16 amending s. 469.006, F.S.; revising the financial
 17 responsibility criteria the department must use when
 18 issuing consulting or contracting licenses; amending
 19 s. 489.514, F.S.; removing a time limitation for
 20 applying for certain contracting licenses under
 21 certain provisions; amending s. 509.032, F.S.;
 22 authorizing the Division of Hotels and Restaurants of
 23 the department to adopt rules for certain electronic
 24 submissions and exemptions; amending s. 509.091, F.S.;
 25 requiring licensees and licensed agents to provide the
 26 division with e-mail addresses for contact with the
 27 division; authorizing the division to deliver notices
 28 and inspection reports by e-mail; amending s. 509.101,
 29 F.S.; revising the maintenance requirements an

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30 operator must meet for a transient establishment's
 31 guest register; amending s. 509.241, F.S.; providing
 32 for the expiration of public lodging establishment and
 33 public food service establishment licenses;
 34 authorizing the licenses to be renewed for specified
 35 timeframes; requiring the division to provide forms
 36 for license renewals and license applications;
 37 amending s. 509.251, F.S.; revising the public lodging
 38 establishment and public food service establishment
 39 license fees to include an option for 2-year renewals;
 40 limiting the fees the division may charge for a 2-year
 41 license renewal; requiring license fees to be paid in
 42 full at the time of application; amending s. 548.043,
 43 F.S.; deleting a requirement limiting the types of
 44 boxing exhibitions which require a specified maximum
 45 difference in participant weights; reenacting s.
 46 509.102(2), F.S., relating to mobile food dispensing
 47 vehicles, to incorporate the amendment made to s.
 48 509.251, F.S., in a reference thereto; providing an
 49 effective date.

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

52
 53 Section 1. Subsection (3) of section 468.8414, Florida
 54 Statutes, is amended to read:
 55 468.8414 Licensure.—

56 (3) The department shall certify as qualified for a license
 57 by endorsement an applicant who is of good moral character, who
 58 has the insurance coverage required under s. 468.8421, and who:

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59 (a) Is qualified to take the examination as set forth in s.
60 468.8413 and has passed a certification examination offered by a
61 nationally recognized organization that certifies persons in the
62 specialty of mold assessment or mold remediation, and the
63 department that has been approved the certification examination
64 by the department as being substantially equivalent to the
65 requirements of this part and s. 455.217; ~~or~~

66 (b) Holds a valid license to practice mold assessment or
67 mold remediation issued by another state or territory of the
68 United States if the criteria for issuance of the license were
69 substantially the same as the licensure criteria ~~that is~~
70 established by this part as determined by the department; or

71 (c) Has held a valid license to practice mold assessment or
72 mold remediation issued by another state or territory of the
73 United States for at least 10 years before the date of
74 application. The application for licensure must be made either
75 when the license in the other state or territory is active or
76 within 2 years after such license was last active.

77 Section 2. Present subsection (3) of section 469.004,
78 Florida Statutes, is redesignated as subsection (4), and a new
79 subsection (3) is added to that section, to read:

80 469.004 License; asbestos consultant; asbestos contractor.-

81 (3) The department shall certify as qualified for licensure
82 by endorsement any individual applying for licensure who has
83 passed a written examination that meets the requirements of the
84 United States Environmental Protection Agency Asbestos Model
85 Accreditation Plan, has held a valid license to practice as an
86 asbestos consultant or asbestos contractor issued by another
87 state or territory of the United States for at least 10 years

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88 before the date of application, and is applying for the same or
89 similar license in this state, subject to ss. 469.005(5) and
90 469.006. The application for licensure must be made either when
91 the license in the other state or territory is active or within
92 2 years after such license was last active. Asbestos consultants
93 and asbestos contractors must complete courses as required by s.
94 469.005(2) or (3), respectively, to qualify for licensure by
95 endorsement.

96 Section 3. Paragraph (c) of subsection (2) of section
97 469.006, Florida Statutes, is amended to read:

98 469.006 Licensure of business organizations; qualifying
99 agents.-

100 (2)

101 (c) As a prerequisite to the issuance of a license under
102 this section, the applicant shall submit the following:

103 1. An affidavit on a form provided by the department
104 attesting that the applicant has obtained workers' compensation
105 insurance as required by chapter 440, public liability
106 insurance, and property damage insurance, in amounts determined
107 by department rule. The department shall establish by rule a
108 procedure to verify the accuracy of such affidavits based upon a
109 random sample method.

110 2. Evidence of financial responsibility. The department
111 shall adopt rules to determine financial responsibility which
112 ~~shall~~ specify grounds on which the department may deny
113 licensure. Such criteria must ~~shall~~ include, but not be limited
114 to, credit history ~~and limits of bondability and credit.~~

115 Section 4. Subsection (3) of section 489.514, Florida
116 Statutes, is amended to read:

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117 489.514 Certification for registered contractors;
118 grandfathering provisions.—

119 ~~(3) An applicant must make application by November 1, 2021,~~
120 ~~to be licensed pursuant to this section.~~

121 Section 5. Subsection (6) of section 509.032, Florida
122 Statutes, is amended to read:

123 509.032 Duties.—

124 (6) RULEMAKING AUTHORITY.—The division shall adopt such
125 rules as are necessary to carry out ~~the provisions of~~ this
126 chapter. The division may adopt rules requiring electronic
127 submission of any form, document, or fee as required by this
128 chapter. The division may prescribe by rule requirements and
129 procedures for an individual to obtain an exemption due to a
130 technological or financial hardship.

131 Section 6. Section 509.091, Florida Statutes, is amended to
132 read:

133 509.091 Notices; form and service.—

134 (1) All licensees and licensed agents must provide an e-
135 mail address to the division to function as the primary method
136 of contact for all communication with the division.

137 (2) Each notice or inspection report served by the division
138 pursuant to this chapter must be in writing and must be
139 delivered personally by an agent of the division, be sent by e-
140 mail, or mailed by registered letter to the operator of the
141 public lodging establishment or public food service
142 establishment. If the operator refuses to accept service or
143 evades service or the agent is otherwise unable to effect
144 service after due diligence, the division may post such notice
145 or inspection report in a conspicuous place at the

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146 establishment.

147 ~~(2) Notwithstanding subsection (1), the division may~~
148 ~~deliver lodging inspection reports and food service inspection~~
149 ~~reports to the operator of the public lodging establishment or~~
150 ~~public food service establishment by electronic means.~~

151 Section 7. Subsection (2) of section 509.101, Florida
152 Statutes, is amended to read:

153 509.101 Establishment rules; posting of notice; food
154 service inspection report; maintenance of guest register; mobile
155 food dispensing vehicle registry.—

156 (2) It is the duty of each operator of a transient
157 establishment to maintain at all times a register of, ~~signed by~~
158 ~~or for~~ guests who occupy rental units within the establishment,
159 showing the dates upon which the rental units were occupied by
160 such guests and the rates charged for their occupancy. Each
161 operator shall maintain this register shall be maintained in
162 chronological order, shall make the register and available for
163 inspection by the division at any time, and may keep the
164 register in an electronic format. Operators need not make
165 available registers that which are more than 2 years old.

166 Section 8. Section 509.241, Florida Statutes, is amended to
167 read:

168 509.241 Licenses required; exceptions.—

169 (1) LICENSES; ~~ANNUAL~~ RENEWALS.—Each public lodging
170 establishment and public food service establishment shall obtain
171 a license from the division. Such license may not be transferred
172 from one place or individual to another. It ~~is shall be~~ a
173 misdemeanor of the second degree, punishable as provided in s.
174 775.082 or s. 775.083, for such an establishment to operate

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175 without a license. Local law enforcement shall provide immediate
 176 assistance in pursuing an illegally operating establishment. The
 177 division may refuse a license, or a renewal thereof, to any
 178 establishment ~~that is~~ not constructed and maintained in
 179 accordance with law and with the rules of the division. The
 180 division may refuse to issue a license, or a renewal thereof, to
 181 any establishment an operator of which, within the preceding 5
 182 years, has been adjudicated guilty of, or has forfeited a bond
 183 when charged with, any crime reflecting on professional
 184 character, including soliciting for prostitution, pandering,
 185 letting premises for prostitution, keeping a disorderly place,
 186 or illegally dealing in controlled substances as defined in
 187 chapter 893, whether in this state or in any other jurisdiction
 188 within the United States, or has had a license denied, revoked,
 189 or suspended pursuant to s. 429.14. Licenses expire if not
 190 renewed before the expiration date and may be renewed for 1 or 2
 191 years. Licenses must ~~shall~~ be renewed using forms provided by
 192 annually, and the division. The division shall adopt a rule
 193 establishing procedures a staggered schedule for license
 194 issuance and renewals. If any license expires while
 195 administrative charges are pending against the license, the
 196 proceedings against the license must ~~shall~~ continue to
 197 conclusion as if the license were still in effect.

198 (2) APPLICATION FOR LICENSE.—Each person who plans to open
 199 a public lodging establishment or a public food service
 200 establishment must ~~shall~~ apply for and receive a license from
 201 the division using forms provided by the division before
 202 commencing prior to the commencement of operation. A condominium
 203 association, as defined in s. 718.103, which does not own any

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204 units classified as vacation rentals or timeshare projects under
 205 s. 509.242(1)(c) or (g) is not required to apply for or receive
 206 a public lodging establishment license.

207 (3) DISPLAY OF LICENSE.—Any license issued by the division
 208 shall be conspicuously displayed in the office or lobby of the
 209 licensed establishment. Public food service establishments that
 210 which offer catering services shall display their license number
 211 on all advertising for catering services.

212 Section 9. Subsections (1) and (2) of section 509.251,
 213 Florida Statutes, are amended to read:

214 509.251 License fees.—

215 (1) The division shall adopt, by rule, a schedule of fees
 216 to be paid by each public lodging establishment as a
 217 prerequisite to issuance or renewal of a license. Initial
 218 license ~~Such~~ fees must ~~shall~~ be based on the number of rental
 219 units in the establishment. License renewal fees must be based
 220 on the number of rental units in the establishment and whether
 221 the renewal is for 1 or 2 years. The aggregate fee per
 222 establishment charged any public lodging establishment may not
 223 exceed \$1,000 for a 1-year license or \$2,000 for a 2-year
 224 license; however, the fees described in paragraphs (a) and (b)
 225 may not be included as part of the aggregate fee subject to this
 226 cap. Vacation rental units or timeshare projects within separate
 227 buildings or at separate locations but managed by one licensed
 228 agent may be combined in a single license application, and the
 229 division must ~~shall~~ charge a license fee as if all units in the
 230 application are in a single licensed establishment. ~~The fee~~
 231 schedule shall require an establishment which applies for an
 232 initial license to pay the full license fee if application is

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233 ~~made during the annual renewal period or more than 6 months~~
 234 ~~before the next such renewal period and one-half of the fee if~~
 235 ~~application is made 6 months or less before such period.~~ The fee
 236 schedule ~~must shall~~ include fees collected for the purpose of
 237 funding the Hospitality Education Program, pursuant to s.
 238 509.302. ~~All fees, which~~ are payable in full for each
 239 application at the time ~~regardless of when~~ the application is
 240 submitted.

241 (a) Upon making initial application or an application for
 242 change of ownership, the applicant shall pay to the division a
 243 fee as prescribed by rule, not to exceed \$50, in addition to any
 244 other fees required by law, which shall cover all costs
 245 associated with initiating regulation of the establishment.

246 (b) A license renewal filed with the division after the
 247 expiration date shall be accompanied by a delinquent fee as
 248 prescribed by rule, not to exceed \$50, in addition to the
 249 renewal fee and any other fees required by law.

250 (2) The division shall adopt, by rule, a schedule of fees
 251 to be paid by each public food service establishment as a
 252 prerequisite to issuance or renewal of a license. Initial
 253 license fees must be based on the classification of the license.
 254 License renewal fees must be based on the classification of the
 255 license and whether a renewal is for 1 or 2 years. The fee
 256 schedule ~~must shall~~ prescribe a ~~base basic~~ fee and additional
 257 fees based on seating capacity and services offered. The
 258 aggregate fee per establishment charged any public food service
 259 establishment may not exceed \$400 for a 1-year license or \$800
 260 for a 2-year license; however, the fees described in paragraphs
 261 (a) and (b) may not be included as part of the aggregate fee

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262 subject to this cap. ~~The fee schedule shall require an~~
 263 ~~establishment which applies for an initial license to pay the~~
 264 ~~full license fee if application is made during the annual~~
 265 ~~renewal period or more than 6 months before the next such~~
 266 ~~renewal period and one-half of the fee if application is made 6~~
 267 ~~months or less before such period.~~ The fee schedule ~~must shall~~
 268 include fees collected for the purpose of funding the
 269 Hospitality Education Program, pursuant to s. 509.302. ~~All fees,~~
 270 ~~which~~ are payable in full for each application at the time
 271 ~~regardless of when~~ the application is submitted.

272 (a) Upon making initial application or an application for
 273 change of ownership, the applicant shall pay to the division a
 274 fee as prescribed by rule, not to exceed \$50, in addition to any
 275 other fees required by law, which shall cover all costs
 276 associated with initiating regulation of the establishment.

277 (b) A license renewal filed with the division after the
 278 expiration date shall be accompanied by a delinquent fee as
 279 prescribed by rule, not to exceed \$50, in addition to the
 280 renewal fee and any other fees required by law.

281 Section 10. Subsection (2) of section 548.043, Florida
 282 Statutes, is amended to read:

283 548.043 Weights and classes, limitations; gloves.—

284 (2) The commission shall establish by rule the acceptable
 285 difference in weight between participants; however, the maximum
 286 difference in weight in boxing matches ~~may shall~~ not exceed 12
 287 pounds, except matches in the cruiserweight and heavyweight
 288 classes and exhibitions ~~held solely for training purposes.~~

289 Section 11. For the purpose of incorporating the amendment
 290 made by this act to section 509.251, Florida Statutes, in a

16-00808-22

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291 reference thereto, subsection (2) of section 509.102, Florida
292 Statutes, is reenacted to read:

293 509.102 Mobile food dispensing vehicles; preemption.—

294 (2) Regulation of mobile food dispensing vehicles involving
295 licenses, registrations, permits, and fees is preempted to the
296 state. A municipality, county, or other local governmental
297 entity may not require a separate license, registration, or
298 permit other than the license required under s. 509.241, or
299 require the payment of any license, registration, or permit fee
300 other than the fee required under s. 509.251, as a condition for
301 the operation of a mobile food dispensing vehicle within the
302 entity's jurisdiction. A municipality, county, or other local
303 governmental entity may not prohibit mobile food dispensing
304 vehicles from operating within the entirety of the entity's
305 jurisdiction.

306 Section 12. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Honorable Travis Huston, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 16, 2021

I respectfully request that **Senate Bill # 714**, relating to Department of Business and Professional Regulation, 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



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 714</u>
BILL TITLE:	<u>Department of Business and Professional Regulation</u>
BILL SPONSOR:	<u>Sen. Hooper</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Appropriations Subcommittee on Agriculture, Environment, and General Government
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

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.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	HB 667
SPONSOR:	Rep. McClain

IDENTICAL BILLS

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

Is this bill part of an agency package?

Yes

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	December 14, 2021
LEAD AGENCY ANALYST:	Cody McCloud, Legislative Affairs Director
ADDITIONAL ANALYST(S):	Jeffrey Kelly, Director, Division of Professions Patrick Cunningham, Director; Florida Athletic Commission Michelle Keith, Division of Hotels and Restaurants Marx Drexler, Division Counsel for Hotels and Restaurants Jerry Wilson, Division of Regulation

	Jake Whealdon, Acting OGC Rules Tracy Dixon, Service Operations Robin Jordan, Technology
LEGAL ANALYST:	Ross Marshman and Brande Miller, OGC
FISCAL ANALYST:	Raleigh Close, Budget Office

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Division of Hotels and Restaurants:

The bill authorizes the division to adopt rules requiring certain electronic data submissions; requires licensees and licensed agents to provide the division with e-mail addresses and allows the division to deliver specific notices and inspection reports by e-mail; revises transient public lodging guest register requirements; adjusts the expiration and renewal timeframes for public food service and public lodging licenses; allows the option for 2 year license renewals and requires license fees to be paid in full at the time of application.

Division of Professions:

The bill reopens the provision allowing registered electrical and alarm contractors to become certified contractors after five years of experience and removes certain licensure requirements pertaining to statements of bondability and credit; adds endorsement provisions for licenses in mold assessment/remediation and asbestos contractors and consultants when an applicant meets certain requirements; removes certain licensure requirements pertaining to statements of bondability and credit for asbestos contractors and consultants.

Florida Athletic Commission:

The bill removes the requirement that an exhibition match with a significant weight class differential between the participants be held strictly for training purposes.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Division of Hotels and Restaurants:

The division accepts fees, applications and renewals by postal mail or through the Department's online services portal. Application forms have fields for e-mail addresses but are not required.

Official division notices and inspection reports are either personally delivered or sent by certified mail.

Section 509.241(1), F.S., requires each public lodging and public food service establishment under the division's authority to obtain a license and requires the division to adopt rules establishing a staggered schedule for license renewals.

Transient public lodging establishments must maintain a physical guest register signed by guests who occupy rental units within the establishment, with the rental dates and rates charged. The guest register must be kept in chronological order, available for division review and maintained through the previous 2 years.

Under s. 509.251, F.S., the division adopted a fee schedule for licensees. This divides the state into seven geographic districts which are constructed of groups of counties. The fee required for a new license depends on the date applied and the time until next renewal. The division's fee schedule is complex as it relates to license fee calculations and duration of license time received for the payment. New public lodging and food service establishments are required to pay either a full year fee, half year fee, or in some cases, both a full and half year fee depending on their county/district location in the state. These complexities cause issues for both the operator and division resulting in errors, processing delays and applicants paying for more license time than they actually receive.

The division's licensees must renew their license annually according to the renewal date for the district in which the business is located. Districts have five different renewal dates (two of the smaller districts share renewal dates with larger districts). Among other factors which are also embedded in the fee schedule such as the type of license or

number of seats/units, the amount an applicant pays for a new license depends on the renewal date for their district and the time of year they plan to open. Businesses opening on the same day in different parts of the state will pay different fees and their licenses will expire at different times. As a result, license fees are complex and new licensees are frequently charged for more license time than they receive.

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 regulation, licensing, registration and permitting of mobile food dispensing vehicles is preempted to the State.

Division of Professions:

Section 468.8414, F.S., provides a method for licensure by endorsement for mold assessment and mold remediation licensure with other states, provided they:

- Have good moral character;
- Have insurance coverage as required by s. 468.8421, F.S.; and
- Is qualified to take the examination and has passed a certification examination in mold assessment or mold remediation offered by a nationally recognized organization that has been approved by the department as substantially equivalent to the requirements of this part; OR holds a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States with substantially similar to the requirements of this part;

Section 469.004(1), F.S. requires that an asbestos consultant's license may only be issued to an applicant who:

- holds a current, valid, active license as an architect issued under Chapter 481;
- holds a current, valid, active license as a professional engineer issued under Chapter 471,
- holds a current, valid, active license as a professional geologist under Chapter 492;
- is a diplomat of the American Board of Industrial Hygiene; or
- has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

Section 469.005, F.S., requires that all applicants for licensure as either asbestos consultants or asbestos contractors also pay an initial licensing fee, complete certain courses with specified minimum requirements, provide evidence of satisfactory work on 10 asbestos projects within the last 5 years, provide evidence of financial stability, and pass a department-approved examination.

Section 469.006(2)(c)2., F.S., requires the department to adopt rules to determine financial stability, and such criteria shall include, but not be limited to, both credit history and limits of bondability and credit.

Section 489.514, F.S., previously permitted Florida registered electrical and alarm contractors to grandfather their registered license to a state wide certification without taking the state licensure examination if they met certain criteria and made application to the Department before November 1, 2021. Registered contractors are permitted to work only within local jurisdictions which provide them a local competency card and are not permitted to operate on a state wide basis unless they obtain a state certified license. Since closing of the grandfathering provision on November 1, 2021, registered contractors are required to sit for the state certified license examination prior to receiving a state certified license as an electrical or alarm contractor.

Florida Athletic Commission:

Section 548.043, F.S., provides the maximum difference in weight in boxing matches shall not exceed 12 pounds, except matches in the cruiserweight and heavyweight classes and exhibitions held solely for training purposes.

2. EFFECT OF THE BILL:

Division of Hotels and Restaurants:

Section 5 of the bill authorizes the division to adopt rules for the electronic submission of any form, document, or fee and allows the division to provide exemptions due to a technological or financial hardship.

Section 6 of the bill requires all licensees and licensed agents to provide an e-mail address to the division as a primary method of contact and provides that the division may deliver notices or inspection reports personally, by email, or standard postal mail. It also allows the division to post an inspection report in a conspicuous location at the

establishment if the operator evades or refuses to accept service or if the division is unable to obtain service after due diligence.

Section 7 of the bill permits an operator of a transient public lodging establishment to maintain a guest register in an electronic format and removes the guest signature requirement.

Section 8 of the bill states that licenses must be renewed before the expiration date, provides the option to renew licenses for one or two years at a time, removes the requirement of a staggered license renewal schedule and allows the division to adopt procedures for license issuance and renewals. Section 8 also requires applicants to use forms provided by the division and receive a license prior to commencing operations.

Section 9 of the bill mandates the division establish by rule a schedule of license fees and set aggregate fee maximums based on the renewal term. Section 9 mandates that initial license fees for a public lodging establishment must be based on the number of rental units, renewal fees for a public lodging establishment must be based on the number of rental units and whether the renewal is for one or two years, initial license fees for a public food service establishment must be based on the license classification of the establishment, and renewal fees for a public food service establishment must be based on the license classification and whether the renewal is for one or two years. Section 9 requires all fees to be paid in full at the time an application is submitted.

Section 11 of the bill reenacts subsection (2) of s. 509.102, Florida Statutes, for the purpose of incorporating the amendment made by this bill to s. 509.251, Florida Statutes, in a reference thereto. Subsection (2) provides that the regulation, licensing, registration and permitting of mobile food dispensing vehicles is preempted to the State; that a municipality, county or other local government may not require fees, permits, registration or any other license as a condition for operation of a mobile food dispensing vehicle within the entity's jurisdiction and that a municipality, county or other local government may not prohibit the operation of mobile food dispensing vehicles within their jurisdiction.

Division of Professions:

Section 1 of the bill amends s. 468.8414, F.S., to add a category of licensure to practice mold assessment or mold remediation by endorsement for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory. However, such applicants must apply while they hold an active license in another state or territory, or within 2 years after such license was last active.

Section 2 of the bill amends s. 469.004, F.S., to add a category of licensure to practice asbestos consulting or Asbestos contracting by endorsement. The bill requires such applicants to have passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan, have held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years, demonstrate financial stability, and complete courses as specified by s. 469.005, F.S. Such applicants must apply while they hold an active license in another state or territory, or within 2 years after such license was last active.

Section 3 of the bill amends s. 469.006, F.S., by removing the limits of bondability and credit as mandatory criteria for determining financial responsibility.

Section 4 of the bill amends s. 489.118, F. S., to permanently re-open the period for grandfathering of registered contractors' licenses to state wide certified contractors' licenses indefinitely by removing the requirement that applicants apply by November 1, 2021.

Florida Athletic Commission:

Section 10 of the bill amends s. 548.043, F.S. to remove the language requiring an exhibition to be for training purposes if the weight differentials are in excess of 12 pounds. This will give greater flexibility to promoters and participants who wish to promote and participate in exhibition matches.

Section 12 states the act will take effect on 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:	Division of Professions – Application forms and corresponding rules will need to be amended/created to allow for application by endorsement for Asbestos and Mold-Related Services, and for removal of the limits of
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	<p>bondability and credit requirement for Asbestos applicants.</p> <p>Division of Hotels and Restaurants – Section 5 of the bill authorizes the division to adopt rules for electronic submission of any form, document or fee and Section 8 of the bill allows the division to adopt rules establishing procedures for license issuance and renewals. Section 9 allows the division to adopt license renewal fees taking into account whether the renewal is for 1 or 2 years.</p>
Is the change consistent with the agency’s core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	<p>Division of Professions Rule 61E1-4.001, F.A.C. Rule 61-31.101, F.A.C.</p> <p>Division of Hotels and Restaurants Rules 61C-1.002 and 61C-1.008, F.A.C.</p>

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.
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:	Division of Professions Section 4 of the bill pertaining to ECLB Grandfathering may result in a reduction in local registered licensees paying renewal and reciprocity fees, but the impact is indeterminate
Expenditures:	None anticipated.
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:	<p>Division of Hotels and Restaurants</p> <p>Based on internal projections for FY 2022-23, the bill would reduce the division's license revenue by approximately 6%.</p> <p>Under the current license fee structure, about 58% of new applicants pay an initial license fee for some fraction of time and then pay the Division again to renew their license within the same fiscal year.</p> <p>Under the initiative, the division will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license. The initiative would eliminate half year prorating of license fees, replacing it with a full year which slightly increases division revenue but results in a true "annual license" from the start with no same fiscal year renewals.</p> <p>Overall, based on internal projections for FY 2022-23, the initiative would reduce the Division's license revenue by \$1,652,302, or roughly 6%. The figures assume a 2.81% annual growth rate in Division license revenue.</p> <table border="1"> <thead> <tr> <th></th> <th>FY22-23</th> <th>FY23-24</th> <th>FY24-25</th> </tr> </thead> <tbody> <tr> <td>Estimated Division License Revenue</td> <td>\$25,634,761</td> <td>\$26,355,779</td> <td>\$27,097,076</td> </tr> <tr> <td>Estimated Revenue Reduction</td> <td>\$(1,652,302)</td> <td>\$(1,698,775)</td> <td>\$(1,746,556)</td> </tr> <tr> <td>% Change</td> <td>- 6%</td> <td>- 6%</td> <td>- 6%</td> </tr> </tbody> </table> <p>The division is unable to predict how many licensees will choose a 2-year license or renewal, so it is unknown how the 2-year option would affect the division's revenue.</p> <p>Division of Professions</p> <p>Indeterminate; \$399,056 maximum potential grandfathering fee revenue over the next three years (see Fiscal Comments).</p>		FY22-23	FY23-24	FY24-25	Estimated Division License Revenue	\$25,634,761	\$26,355,779	\$27,097,076	Estimated Revenue Reduction	\$(1,652,302)	\$(1,698,775)	\$(1,746,556)	% Change	- 6%	- 6%	- 6%
	FY22-23	FY23-24	FY24-25														
Estimated Division License Revenue	\$25,634,761	\$26,355,779	\$27,097,076														
Estimated Revenue Reduction	\$(1,652,302)	\$(1,698,775)	\$(1,746,556)														
% Change	- 6%	- 6%	- 6%														
Expenditures:	<p>Division of Professions: None</p> <p>Athletic Commission: None</p>																

	Division of Hotels & Restaurants: Anticipated reduction in the 8% service charge to General Revenue due to a reduction in license fees and possible reduction in postage expenditures. See Additional Comments.
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 anticipated.										
Expenditures:	<p>Division of Professions</p> <p><u>ECLB Grandfathering:</u> The grandfathering application fee will be an expenditure; however, there will be reduced costs to individual licensees that no longer have to maintain registrations in multiple jurisdictions.</p> <p><u>Asbestos Removal of Bond/Credit Requirement:</u> The removal of the bond/credit requirement will reduce costs to applicants.</p> <p>Athletic Commission</p> <p>None</p> <p>Division of Hotels and Restaurants:</p> <p>The bill will generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. The division estimates licensees will save about \$1.65 million in FY 22-23.</p> <p>The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure. Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative, this would not happen.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #003366; color: white;"> <th></th> <th>FY22-23</th> <th>FY23-24</th> <th>FY24-25</th> </tr> </thead> <tbody> <tr> <td>Estimated Expenditure Reduction</td> <td style="text-align: right;">\$(1,652,302)</td> <td style="text-align: right;">\$(1,698,775)</td> <td style="text-align: right;">\$(1,746,556)</td> </tr> </tbody> </table> <p>The figures assume a 2.81% annual growth rate in Division license revenue. The division is unable to predict how many licensees would choose a 2-year license or renewal, so it is unknown how the 2 year option would affect private sector expenditures.</p>				FY22-23	FY23-24	FY24-25	Estimated Expenditure Reduction	\$(1,652,302)	\$(1,698,775)	\$(1,746,556)
	FY22-23	FY23-24	FY24-25								
Estimated Expenditure Reduction	\$(1,652,302)	\$(1,698,775)	\$(1,746,556)								
Other:	N/A										

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

If yes, explain impact.	Division of Hotels and Restaurants The bill will generally reduce license fees paid by food and lodging licensees
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	<p>during their first 12 months of licensure. The division estimates licensees will save about \$1.65 million in FY 2022-23. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure.</p> <p>Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen.</p> <p>The division is unable to predict how many licensees would opt for a 2 year license renewal.</p>
<p>Bill Section Number:</p>	<p><u>Division of Hotels and Restaurants:</u> Sections 8 and 9.</p>

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.	<p>This bill will require modification to the department's licensing system and online portal to create a new transaction type to allow for application by endorsement for Asbestos and Mold-Related Services. It will also require configuration changes to the system and changes to RSDs to update wording.</p> <ul style="list-style-type: none"> • Versa: Regulation – 80 hours • Versa Online – 40 hours • OnBase – 16 hours <p>These modifications can be made by existing resources.</p>
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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

Division of Professions

Asbestos Licensure by Endorsement: A conforming change to Section 469.004(1) is needed via a technical amendment to section 2 of the bill to allow for an exception for applicants who apply via licensure by endorsement. The amendment is currently in bill drafting.

ECLB Grandfathering: Revenue from a grandfathering fee is indeterminate because it is unknown how many eligible registered Electrical Contractors' Licensing Board (ECLB) licensees will apply for grandfathering. The total fee (application fee, initial licensing fee, and unlicensed activity fee) during the end of the previous grandfathering period was \$196. There are 2,036 Registered Current Active/Inactive ECLB licensees who may be able to take advantage of the grandfathering provision. However, the department received only 766 applications during the last period of grandfathering, which was from July 1, 2019 to November 1, 2021.

Assuming total application/license fees of \$196, the grandfathering fees received by the department over the next three fiscal years could range from \$150,136.00 (if the department receives the same number of applications as the last grandfathering period) to a maximum of \$399,056.00 if all 2,036 Registered Current Active/Inactive licensees apply over the next three fiscal years.

Asbestos Removal of Bond/Credit Requirement: During FY 2018-19, FY 2019-20, and FY 2020-21, an average of 33 applications for new licensure were received per year. Assuming a cost of \$100.00 for Asbestos applicants to obtain a limit of bondability and credit, and assuming the department receives 33 applications per year for the next three fiscal years (FY 2021-22, FY 2022-23, and FY 2023-24) the potential savings to applicants by eliminating this requirement would be \$3,300 per year.

Athletic Commission: Exhibitions by definition are matches where the participants showcase their skill. Safeguards are in place to ensure the exhibition matches are as safe as they reasonably can be.

Division of Hotels and Restaurants

The bill authorizes the division to adopt rules to establish new procedures for license issuance and renewals and removes the staggered license fee schedule. The benefits of this are two-fold: first, it simplifies the division's licensing structure, thereby reducing escalations, refunds, deficiencies, customer contact, and labor hours. Second, simplifying the fee structure benefits the division's licensees by reducing the costs of the license over twelve months and decreasing the

number of application delays, thereby helping to ensure Florida businesses open on schedule with lower fees paid during the critical first year of operation.

The division's intent is that the revised renewal and license fee schedule would only apply to new license applications processed after implementation of this initiative. The bill is not retroactive, thus, existing licenses will retain their current renewal dates. The division also anticipates a reduction in fee related issues which are a common cause of delayed or deficient applications, which would result in faster processing times.

OGC Division Counsel: No additional comments.

Division of Regulation: No additional comments.

OGC Rules: No additional comments.

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

Fiscal Comment: Based on historical licensing data, the Division of Hotels and Restaurants estimates an average license revenue growth of approximately 2.81%. Under the current structure, new applicants often pay for a new, 6 month license that is later required to be renewed within the same fiscal year. Under the provisions of the bill this would no longer happen, resulting in a reduction in revenue. Also under the current licensing structure some applicants pay a half year prorated license fee. The bill removes the half year license leaving only the full year license resulting in a slight increase in licensing revenue.

Overall, based on internal projections for FY 2022-23 through FY 2024-25 the provisions of the bill would reduce the Division's licensing revenue by an estimated \$1,652,302 in FY 2022-23, \$1,698,775 in FY 2023-24 and \$1,746,556 in FY 2024-25.

Due to the reduction in revenue, there will also be a reduction in the amount of funds transferred to General Revenue. It is estimated that the 8% service charge to General Revenue will be reduced by approximately \$132,184 in FY 2022-23, \$135,902 in FY 2023-24 and \$139,724 in FY 2024-25.

There may be a slight impact to expenditures. Because of the reduction in renewals there may be a \$3,444 postage savings and a reduction of bank fees of as much as \$8,995 in FY 2022-23.

The chart below shows the projected change in revenue, the reduction in funds transferred to General Revenue and the estimated saving due to reduced postage and bank fees.

	FY 2022-23	FY 2023-24	FY 2024-25
Estimated Revenue under Current Licensing System	\$27,287,063	\$28,054,554	\$28,843,632
Estimated Revenue under Proposed Change	\$25,634,761	\$26,355,779	\$27,097,076
Change (Revenue Reduction)	-\$1,652,302	-\$1,698,775	-\$1,746,556
Reduction in 8% Service Charge to General Revenue	-\$132,184	-\$135,902	-\$139,724
Postage and Bank Fee Savings	\$12,439	\$12,789	\$13,148

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
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11/25/22

Meeting Date

The Florida Senate APPEARANCE RECORD

714

Bill Number or Topic

Reg. Industries
Committee

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

Amendment Barcode (if applicable)

Name Cody McCloud

Phone 850-487-1395

Address 2601 Blair Stone Road

Email _____

Street

Tallahassee

FL

32399

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
DBPR

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

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

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

1/25/22
Meeting Date

Regulated Industries
Committee

Name Roxanne Buckels

Address
Street
City State Zip

Phone

Email

The Florida Senate APPEARANCE RECORD

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

714
Bill Number or Topic

Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1764

INTRODUCER: Senator Albritton

SUBJECT: Municipal Solid Waste-to-Energy Program

DATE: January 24, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sharon _____	Imhof _____	RI _____	Favorable
2.	_____	_____	AEG _____	_____
3.	_____	_____	AP _____	_____

I. Summary:

SB 1764, creates s. 377.814, F.S., to establish the Municipal Solid Waste-to-Energy Program, within the Department of Agriculture and Consumer Services, (DACS) comprised of a financial assistance grant program and an incentive grant program.

The stated purpose of the program is to provide financial assistance grants and incentive grants to municipal solid waste-to-energy (MSWE) facilities in order to incentivize the production and sale of energy and reduce waste disposed of in landfills.

The bill defines “municipal solid waste-to-energy facility” as a publicly owned or government affiliate-owned facility using an enclosed device with controlled combustion to thermally break down solid waste to an ash residue containing little or no combustible material, producing electricity, steam, or other energy. It does not include facilities primarily burning fuels other than solid waste; nor facilities primarily burning vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

The Financial Assistance Grant will provide the MSWE facilities funding at a rate of 2 cents per kilowatt-hour of electricity purchased by an electric utility during the preceding state fiscal year, not to exceed the difference between the electric utility’s avoided cost and the commercial retail rate. If funds are insufficient to cover every qualifying kilowatt-hour from all qualifying applicants, the DACS must prorate the available funds on an equitable basis, taking into consideration the commercial retail rate within the applicable service territory.

To qualify, the facility must have previously entered into a power purchase agreement with an electric utility that included capacity payments which the facility will no longer receive under the agreement. The facility owner must submit an application to the DACS, including the MSWE

facility's name and the amount of energy purchased from the facility by an electric utility during the preceding state fiscal year.

The bill requires the DACS to establish a process in coordination with the PSC to verify eligibility and the amount of energy purchased from the facility.

The incentive grant will provide facilities with matching funds on a dollar-for-dollar basis to assist with planning and design for constructing, upgrading, or expanding the MSWE facilities, including necessary legal or administrative expenses.

To qualify, the facility owner must apply to the DACS and demonstrate that the project is cost-effective, permissible, and implementable and complies with s. 403.7061, F.S., which establishes the requirements for review of new waste-to-energy (WTE) facility capacity by the Department of Environmental Protection (DEP).

The bill requires the DEP to assist the DACS with determining eligibility and with establishing requirements to ensure long-term and efficient operation and maintenance of such facilities.

The Department of Agriculture and Consumer Services must perform adequate overview of applications and awards, including technical review, regular inspections, disbursement approvals, and auditing. If the DACS determines that program requirements are not being met, the bill requires termination or repayment of incentive grant funds.

The bill requires appropriated funds to be used first for financial assistance grants and then remaining funds may be used for incentive grants.

The bill requires the DACS to adopt rules to implement and administer the program. The rules must:

- Establish an application processes for both grant types;
- Include application deadlines; and
- Establish supporting documentation to be provided to the DACS.

Rules for the financial assistance grant program must be developed by the DACS in consultation with the Public Service Commission (PSC).

Rules for the incentive grant program must be developed by the DACS in consultation with the DEP.

The bill appropriates \$100 million in recurring funds from the General Revenue Fund to the DACS for the 2022-2023 fiscal year.

The bill is effective July 1, 2022.

II. Present Situation:

Municipal Solid Waste-to-Energy

Energy recovery from waste is the conversion of non-recyclable waste materials into usable heat, electricity, or fuel through processes, including combustion, gasification, pyrolysis, anaerobic digestion and landfill gas recovery.¹ This process is often called waste-to-energy.

Municipal solid waste (MSW), simply garbage or trash, can be used to produce energy at WTE plants and landfills.² WTE plants burn MSW to produce steam in a boiler and generate electricity.³ MSW can contain:

- Biomass, or biogenic (plant or animal products), materials such as paper, cardboard, food waste, grass clippings, leaves, wood, and leather products;
- Nonbiomass combustible materials such as plastics and other synthetic materials made from petroleum; and
- Noncombustible materials such as glass and metals.⁴

In 2018, about 12 percent of the 292 million tons of MSW produced in the United States was burned in WTE plants.⁵ The remaining MSW was managed as follows:

- 50 percent was landfilled;
- 23.6 percent was recycled;
- 8.5 percent was composted; and
- 6.1 percent is listed as “other.”⁶

MSW is usually burned at WTE plants, using heat to make steam for generating electricity.⁷ In 2020, 65 U.S. power plants generated around 13.5 billion kilowatt-hours of electricity from 25 million tons of MSW.⁸

In addition to producing electricity, WTE is a waste management option, reducing the amount of material otherwise buried in landfills by about 87 percent.⁹ A WTE plant can reduce 2,000 pounds of MSW down to around 300 to 600 pounds of ash.¹⁰

Energy recovery from waste is important in the development of sustainable energy policies and is encouraged by the U.S. Environmental Protection Agency.¹¹ Recognized as a renewable

¹ U.S. Environmental Protection Agency, *Energy Recovery from the Combustion of Municipal Solid Waste (MSW)*, <https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw> (last visited Jan 24, 2022).

² U.S. Energy Information Admin., *Biomass explained, Waste-to-energy (Municipal Solid Waste), Basics*, <https://www.eia.gov/energyexplained/biomass/waste-to-energy.php> (last visited Jan. 24, 2022).

³ U.S. Energy Information Admin., *Biomass explained, Waste-to-energy (Municipal Solid Waste), In Depth, How waste-to-energy plants work*, <https://www.eia.gov/energyexplained/biomass/waste-to-energy-in-depth.php> (last visited Jan. 24, 2022).

⁴ U.S. EIA, *supra* note 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ U.S. EPA, *supra* note 1.

energy source, WTE facilities produce relatively clean, renewable energy through the combustion of municipal solid waste in specially designed power plants equipped with pollution control equipment to clean emissions.

Municipal Solid Waste-to-Energy in Florida

For over thirty years, WTE has been an integral component of Florida's solid waste management program.¹² In the 1993 revisions to the 1988 Solid Waste Management Act, the Legislature recognized the need to use an integrated approach to municipal solid waste management by using waste reduction, recycling, WTE facilities, and landfills.¹³

Section 403.7061, F.S., relating to the requirements for review of new WTE facility capacity by the DEP, defines the term "waste-to-energy facility" as:

[A] facility that uses an enclosed device using controlled combustion to thermally break down solid, liquid, or gaseous combustible solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result. The term does not include facilities that primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement. The term also does not include facilities that burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

Florida has the largest MSW burn capacity in the country.¹⁴ The state went from having one small WTE plant in 1982 to operating twelve facilities.¹⁵ The following counties have at least one facility:

- Bay;
- Broward;
- Miami-Dade;
- Hillsborough;
- Lake;
- Palm Beach;
- Pasco; and
- Pinellas.¹⁶

These counties are among Florida's most populous, accounting for 48 percent of Florida's population.¹⁷

¹² See s. 403.7061(1), F.S.

¹³ *Id.*

¹⁴ Florida Department of Environmental Protection, *Waste-to-Energy*, <https://floridadep.gov/waste/permitting-compliance-assistance/content/waste-energy> (last visited Jan. 24, 2022).

¹⁵ *Id.*

¹⁶ Florida Department of Environmental Protection, *Florida Waste-to-Energy Facilities*, https://floridadep.gov/sites/default/files/WTE_Contacts-2016.pdf (last visited Jan. 24, 2022).

¹⁷ Florida Waste-to-Energy Coalition, *Fact Sheet*, (on file with the Senate Committee on Regulated Industries).

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.¹⁸ The role of the PSC is to ensure that Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, reasonable, and reliable manner.¹⁹ In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: (1) Rate or economic regulation; (2) Market competition oversight; and/or (3) Monitoring of safety, reliability, and service issues.²⁰

Public Utilities

A public utility includes any person or legal entity supplying electricity or gas, including natural, manufactured, or similar gaseous substance, to or for the public within the state.²¹ The term does not include municipal electric utilities and rural electric cooperatives.²² Therefore, the PSC does not regulate the rates of publicly owned municipal or cooperative electric utilities.²³

There are five investor-owned electric utility companies (IOU) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), Gulf Power Company (Gulf), and Florida Public Utilities Corporation.²⁴ IOU rates and revenues are regulated by the PSC.²⁵ These utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.²⁶

Public Utility Regulatory Policies Act (PURPA)

In 1978, the federal government enacted the Public Utility Regulatory Policies Act (PURPA),²⁷ which required promotion of energy efficiency and use of renewables. The act requires utilities to purchase power, at the utility’s full avoided cost, from “qualifying facilities,” (QF)²⁸ which fall into two categories: qualifying small power production facilities and qualifying cogeneration facilities.²⁹ The PURPA directed the Federal Energy Regulatory Commission to implement the provisions, which in turn directed the states to implement the provisions. In response, the Florida

¹⁸ Section 350.001, F.S.

¹⁹ See Florida Public Service Commission, *The PSC’s Role*, <http://www.psc.state.fl.us> (last visited Jan. 24, 2022).

²⁰ *Id.*

²¹ Section 366.02(1), F.S.

²² *Id.*

²³ See PSC, *Florida PSC 2020 Annual Report*, p. 13,

<http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Annualreports/2020.pdf> (last visited Jan.24, 2022).

²⁴ *Id.* FPL acquired Gulf in 2019 and merged as of January 3, 2022.

²⁵ Florida Department of Agriculture and Consumer Services, *Electric Utilities*, <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Electric-Utilities> (last visited Jan. 24, 2022).

²⁶ PSC, *supra* note 23, at p. 6.

²⁷ 16 U.S.C. s. 2601 et seq.

²⁸ Federal Energy Regulatory Commission, *PURPA Qualifying Facilities*, <https://www.ferc.gov/qf> (last visited Jan. 24, 2022).

²⁹ *Id.*

Legislature created s. 366.051, F.S.,³⁰ directing utilities to purchase power from cogenerators or small power producers.³¹

Full Avoided Costs

A utility's full avoided cost is the incremental costs of electric energy or capacity, which, but for the purchase from cogenerators or small power producers, the utility would have to generate itself or purchase from another source.³² Traditionally, the PSC has approved electric utility power purchase contracts that include provisions for payment, capacity, and energy based upon either the utility's cost to construct and operate its next planned generating unit or the cost of purchasing capacity and energy from generating units owned by other utilities in the interchange market.³³

Power Purchase Agreements

Standard Offer Contract

IOUs must annually establish and file with the PSC a standard offer contract³⁴ with terms, conditions, and payments based on projected costs for each fossil-fueled generating unit type identified in the IOU's ten-year site plan.³⁵ Payment terms and conditions for QFs are based on the projected cost to construct and operate the IOU's next planned generation unit.³⁶ Essentially, the next planned unit becomes an avoided unit and the basis for the avoided costs.

Negotiated Contracts

The standard offer contract provides a basis for developing negotiated contracts.³⁷ Rule 25-17.240 of the Florida Administrative Code encourages IOUs and generating facilities to negotiate contracts for firm capacity and energy to provide fuel diversity, fuel price stability, and energy security.

³⁰ Chapter 89-292, s. 4, Laws of Fla.

³¹ Rule 25-17.082 of the Florida Administrative Code, is the PSC's rule on the utility's obligation to purchase.

³² Section 366.051, F.S.

³³ Florida Public Service Commission, *States' Electric Restructuring Activities Update: Wholesale Sales* <http://www.psc.state.fl.us/Publications/ElectricRestructuringDetails#4> (last visited Jan. 24, 2022).

³⁴ The following are the most recent PSC orders approving the standard offer contracts for the following IOUs:

- FPL: <http://www.floridapsc.com/library/filings/2021/07682-2021/07682-2021.pdf>;
- Duke: <http://www.floridapsc.com/library/filings/2021/08111-2021/08111-2021.pdf>;
- TECO: <http://www.floridapsc.com/library/filings/2021/08419-2021/08419-2021.pdf>; and
- Gulf: <http://www.floridapsc.com/library/filings/2021/07681-2021/07681-2021.pdf>

(last visited Jan. 24, 2022).

³⁵ Fla. Admin. Code R. 25-17.250. Each electric utility must submit a ten-year site plan to the PSC, estimating the utility's power generating needs and general locations for proposed power plant sites over a ten-year planning horizon. Section 186.801, F.S.; Fla. Public Service Commission, *Review of The 2021 Ten-Year Site Plan of Florida's Electric Utilities*, p. 9, <http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2021/Review.pdf> (last visited Jan. 24, 2022).

³⁶ See Florida Public Service Commission, *2022 Legislative Bill Analysis for SB 1764*, p. 1 (Jan. 20, 2022) (on file with the Senate Committee on Regulated Industries).

³⁷ *Id.*

The PSC addresses petitions by IOUs for approval of cost recovery of negotiated contracts between the IOU and the QFs.³⁸ The PSC's review considers various matters including whether the contract is at or below the IOU's avoided cost and will be considered prudent if it can be reasonably expected to defer or avoid an additional generation unit.³⁹

As-available contract

"As-available" energy contracts are an option for QFs, including MSWE facilities.⁴⁰ These contracts are not subject to the PSC's approval but must be filed with the PSC within ten working days of being signed.⁴¹ As-available energy is energy produced and sold on an hour-by-hour basis for which contractual commitments regarding the quantity and time of delivery are not required.⁴² As-available energy is purchased at a rate equal to the utility's hourly incremental system fuel cost, which reflects the highest fuel cost of generation each hour.⁴³

According to the PSC, the following four facilities receive as-available energy cost payments from FPL:

- Broward County Resource Recovery – South AA QF;
- Brevard County;
- Miami Dade Resource Recovery; and
- Lee County Solid Waste.

Firm Capacity Payments

If a QF can meet certain contractual provisions as to the quantity, time, and electricity delivery reliability, it is eligible for both capacity payments and energy payments under a firm contract.⁴⁴ Capacity is the maximum electric output, in megawatts, that an electricity generator can produce under ideal conditions.⁴⁵

To promote alternative and renewable energy generation, the PSC requires IOUs to offer multiple capacity payment options, including early payments or levelized payments.⁴⁶ The different payment options allow QFs flexibility to best meet their financial needs.⁴⁷ If an early capacity payment option is selected, then the QF will begin receiving capacity payments earlier than the in-service date of the avoided unit and payments will generally be lower in the later years of the contract.⁴⁸

³⁸ *Id.*

³⁹ Fla. Admin. Code R. 25-17.240; PSC, *supra* note 36, at p. 2.

⁴⁰ PSC, *supra* note 36, at p. 1.

⁴¹ Fla. Admin. Code R. 25-17.0825(1)(b); PSC, *supra* note 36, at p. 2.

⁴² Fla. Admin. Code R. 25-17.0825.

⁴³ Fla. Admin. Code R. 25-17.0825(2)(a); PSC, *supra* note 36, at p. 2.

⁴⁴ Fla. Admin. Code R. 25-17.0832(1); PSC, *supra* note 36, at p. 1.

⁴⁵ See U.S. Energy Information Administration, *What is the difference between electricity generation capacity and electricity generation?*, <https://www.eia.gov/tools/faqs/faq.php?id=101&t=3> (last visited Jan. 24, 2022).

⁴⁶ PSC, *supra* note 36, at p. 1.

⁴⁷ *Id.*

⁴⁸ See Notice of Proposed Agency Action Order Approving Revised Standard Offer Contract, p. 2, <http://www.floridapsc.com/library/filings/2021/07682-2021/07682-2021.pdf> (last visited Jan. 24, 2022).

According to the PSC, the following six facilities are operating under active firm contracts with their host IOU:

- Pinellas County Resource Recovery, with Duke, ending December 2024;
- Pasco County Resource Recovery, with Duke, ending December 2024;
- Broward County Resource Recovery - South QF, with FPL, ending December 2026;
- Palm Beach County Solid Waste Authority 1, with FPL, ending March 2034;
- Palm Beach County Solid Waste Authority 2, with FPL, ending March 2034; and
- Bay County/Engen LLC, with FPL/Gulf, ending July 2023.⁴⁹

Commercial Retail Rate

Commercial retail rates vary across utilities. Each IOU has various rate levels pursuant to tariffs approved by the PSC. The retail rate depends on the kilowatt demand that a commercial customer places on an IOU’s system. Demand provides an indication of the customer’s load size. Demand is based on the highest usage over a specified time interval. Demand is intended to allow a utility to recover the fixed cost of maintaining its facilities, including generation, transmission, and distribution, which must be able to meet a customer’s highest electricity needs.⁵⁰

The following table, published in the PSC’s Comparative Rate Statistics,⁵¹ reflects the commercial retail rates among the IOUs, as of December 31, 2020, and how rates change for specific commercial customers based on demand, which is measured in kilowatts, and actual energy used, which is measured in kilowatt hours.⁵²

Investor-Owned Electric Utilities
Typical Electric Bill Comparisons * - Commercial / Industrial
 December 31, 2020

Utility	KW Demand						
		75	150	500	1,000	2,000	
	KWH						
	750	1,500	15,000	45,000	150,000	400,000	800,000
Florida Power & Light Company	\$76	\$142	\$1,553	\$3,766	\$13,025	\$30,077	\$59,498
Duke Energy Florida, LLC	\$106	\$199	\$1,847	\$4,692	\$15,606	\$37,938	\$75,862
Tampa Electric Company	\$83	\$148	\$1,588	\$3,816	\$12,650	\$29,740	\$59,450
Gulf Power Company	\$116	\$207	\$1,747	\$4,618	\$15,267	\$36,172	\$72,081
Florida Public Utilities Company							
Northwest	\$108	\$187	\$1,611	\$4,326	\$14,501	\$36,241	\$72,323
Northeast	\$108	\$187	\$1,611	\$4,326	\$14,501	\$36,241	\$72,323

* Excludes local taxes, franchise fees, and gross receipts taxes that are billed as a separate line item. Includes cost recovery clause factors effective December 2020.

⁴⁹ PSC, *supra* n. 36, p. 2.

⁵⁰ *Id.*

⁵¹ Florida Public Service Commission, *Comparative Rate Statistics*, Dec. 31, 2020, A-4, <http://www.floridapsc.com/Files/PDF/Publications/Reports/General/Comparative/December%2031,%202020.pdf> (last visited Jan 24, 2022).

⁵² See PSC, *supra* note 36, at p. 3. Although Gulf merged with FPL, the retail rates for the Florida panhandle service area were not consolidated with FPL’s peninsula service area until 2022.

III. Effect of Proposed Changes:

The bill provides a preamble stating:

- It is in the public interest to promote the development of renewable energy resources in Florida, under s. 366.91, F.S.;
- MSWE facilities using biomass as fuel or an energy source are deemed to be producing renewable energy, under 366.91, F.S.;
- MSWE facilities provide a practical and sustainable solution to reducing landfill waste, reducing volume by about 87 percent;
- The Legislature recognizes the benefits that MSWE facilities contribute to Florida and its local communities; and
- The Legislature intends to incentivize the production and sale of energy from MSWE facilities through grant programs.

Section 1 creates s. 377.814, F.S., establishing the MSWE Program, within the Department of Agriculture and Consumer Services (DACS), comprised of a financial assistance grant program and an incentive grant program.

The stated purpose of the program is to provide financial assistance grants and incentive grants to MSWE facilities in order to incentivize the production and sale of energy and reduce waste disposed of in landfills.

The bill defines the following:

- “Department” means the Department of Agriculture and Consumer Services.
- “Municipal solid waste-to-energy facility” means publicly owned or government affiliate-owned facilities using an enclosed device with controlled combustion to thermally break down solid waste to an ash residue containing little or no combustible material, producing electricity, steam, or other energy. It does not include facilities primarily burning fuels other than solid waste; nor facilities primarily burning vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

The Financial Assistance Grant will provide municipal solid waste-to-energy (MSWE) facilities funding at a rate of 2 cents per kilowatt-hour of electricity purchased by an electric utility during the preceding state fiscal year, not to exceed the difference between the electric utility’s avoided cost and the commercial retail rate. If funds are insufficient to cover every qualifying kilowatt-hour from all qualifying applicants, the DACS must prorate the available funds on an equitable basis, taking into consideration the commercial retail rate within the applicable service territory.

To qualify, the facility must have previously entered into a power purchase agreement with an electric utility that included capacity payments which the facility will no longer receive under the agreement. The facility owner must submit an application to the DACS, including the MSWE facility’s name and the amount of energy purchased from the facility by an electric utility during the preceding state fiscal year.

The bill requires the DACS to establish a process in coordination with the PSC to verify eligibility and the amount of energy purchased from the facility.

The incentive grant will provide facilities with matching funds on a dollar-for-dollar basis to assist with planning and design for constructing, upgrading, or expanding MSWE facilities, including necessary legal or administrative expenses.

To qualify, the facility owner must apply to the DACS and demonstrate that the project is cost-effective, permissible, and implementable and complies with s. 403.7061, F.S., which establishes the requirements for review of new WTE facility capacity by the DEP.

The bill requires the DEP to assist the DACS with determining eligibility and with establishing requirements to ensure long-term and efficient operation and maintenance of such facilities.

The DACS must perform adequate overview of applications and awards, including technical review, regular inspections, disbursement approvals, and auditing. If the DACS determines that program requirements are not being met, the bill requires termination or repayment of incentive grant funds.

The bill requires appropriated funds to be used first for financial assistance grants and then remaining funds may be used for incentive grants.

The bill requires the DACS to adopt rules to implement and administer the program. The rules must:

- Establish an application processes for both grant types;
- Include application deadlines; and
- Establish supporting documentation to be provided to the DACS.

Rules for the financial assistance grant program, must be developed by the DACS in consultation with the PSC.

Rules for the incentive grant program, must be developed by the DACS in consultation with the DEP.

Section 2 appropriates \$100 million in recurring funds from the General Revenue Fund to the DACS for the 2022-2023 fiscal year.

Section 3 provides that the bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in a positive impact to private companies that own a government affiliated WTE facility and qualify for a grant.

C. Government Sector Impact:

The bill may result in a positive impact to county's which own a MSWE facility that qualify for funds under the grant program.

The bill will likely result in an increased workload for staff of the DACS, the PSC, and the DEP in administering the grant program. The PSC anticipates that its added workload can be handled by existing staff.⁵³

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the PSC, the bill is unclear regarding the determination of a utility's avoided cost. While the IOU's payments to municipal solid waste facilities are reported to the PSC, the IOU's avoided costs are not revisited during the term of a contract after it has been approved. The bill is unclear regarding the applicable commercial retail rate. There is more than one commercial retail rate approved for each IOU.⁵⁴

⁵³ PSC, *supra* note 36, at p. 4.

⁵⁴ *Id.* at p. 5.

VIII. Statutes Affected:

This bill creates section 377.814 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Albritton

26-01462A-22

20221764__

1 A bill to be entitled
 2 An act relating to the Municipal Solid Waste-to-Energy
 3 Program; creating s. 377.814, F.S.; creating the
 4 Municipal Solid Waste-to-Energy Program within the
 5 Department of Agriculture and Consumer Services for a
 6 specified purpose; defining terms; requiring the
 7 department, subject to appropriation, to provide
 8 financial assistance grants to municipal solid waste-
 9 to-energy facilities that meet certain requirements;
 10 requiring the department to distribute funds to
 11 qualifying applicants based on certain criteria;
 12 requiring the department to establish a process to
 13 verify the amount of certain electric power purchases;
 14 directing the Public Service Commission to provide
 15 assistance in verifying grant eligibility; requiring
 16 the department, subject to appropriation, to provide
 17 incentive grants to municipal solid waste-to-energy
 18 facilities to assist with certain costs; specifying
 19 requirements for applying for the funding; requiring
 20 the Department of Environmental Protection to provide
 21 assistance in determining grant eligibility and
 22 establishing requirements; requiring the department to
 23 perform grant overview; establishing priority for
 24 funding for the grants; requiring the Department of
 25 Agriculture and Consumer Services to adopt rules;
 26 providing an appropriation; providing an effective
 27 date.
 28
 29 WHEREAS, as provided in s. 366.91(1), Florida Statutes, the

Page 1 of 6

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

26-01462A-22

20221764__

30 Legislature has determined that it is in the public interest to
 31 promote the development of renewable energy resources in this
 32 state, and
 33 WHEREAS, under s. 366.91, Florida Statutes, municipal solid
 34 waste-to-energy facilities that use biomass as a fuel or energy
 35 source are deemed to be producing renewable energy, and
 36 WHEREAS, municipal solid waste-to-energy facilities provide
 37 a practical and sustainable solution to reducing landfill waste,
 38 reducing volume by about 87 percent, and
 39 WHEREAS, the Legislature recognizes the benefits that
 40 municipal solid waste-to-energy facilities contribute to the
 41 state and its local communities, and
 42 WHEREAS, the Legislature intends to incentivize the
 43 production and sale of energy from municipal solid waste-to-
 44 energy facilities through grant programs, NOW, THEREFORE,
 45
 46 Be It Enacted by the Legislature of the State of Florida:
 47
 48 Section 1. Section 377.814, Florida Statutes, is created to
 49 read:
 50 377.814 Municipal Solid Waste-to-Energy Program.—
 51 (1) CREATION AND PURPOSE OF THE PROGRAM.—The Municipal
 52 Solid Waste-to-Energy Program is created within the department.
 53 The purpose of the program is to provide financial assistance
 54 grants and incentive grants to municipal solid waste-to-energy
 55 facilities to incentivize the production and sale of energy from
 56 municipal solid waste-to-energy facilities while also reducing
 57 the amount of waste that would otherwise be disposed of in a
 58 landfill.

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

26-01462A-22

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(2) DEFINITIONS.—For purposes of this section, the term:

(a) “Department” means the Department of Agriculture and Consumer Services.

(b) “Municipal solid waste-to-energy facility” means a publicly owned or government affiliate-owned facility that uses an enclosed device using controlled combustion to thermally break down solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result. The term does not include facilities that primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement. The term does not include facilities that primarily burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

(3) FINANCIAL ASSISTANCE GRANT PROGRAM.—The department, subject to appropriation, shall provide financial assistance grants to municipal solid waste-to-energy facilities that have entered into a power purchase agreement with an electric utility which includes capacity payments and the municipal solid waste-to-energy facility will no longer receive capacity payments under the agreement.

(a) To receive a financial assistance grant, the owner of a municipal solid waste-to-energy facility must submit an application to the department. The application must include the name of the applicant’s municipal solid waste-to-energy facility and how much energy has been purchased from the facility by an electric utility during the preceding state fiscal year.

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(b) The department shall distribute funds, subject to appropriation, to each qualifying applicant at a rate of 2 cents per kilowatt-hour of electric power purchased by an electric utility during the preceding state fiscal year, not to exceed the difference between the electric utility’s avoided cost and the commercial retail rate. To the extent that funds are not available to provide financial assistance to each qualifying applicant for every qualifying kilowatt-hour purchased, the department shall prorate the funds on an equitable basis, taking into consideration the commercial retail rate within the applicable service territory.

(c) The department shall establish a process to verify the amount of electric power purchased from a municipal solid waste-to-energy facility by an electric utility during each preceding state fiscal year. The Public Service Commission shall provide assistance to the department to help verify grant eligibility and award amounts and to ensure that the sum, per kilowatt-hour, of the award plus the electric utility’s purchase at the avoided cost, do not exceed the applicable commercial retail rate within the service territory.

(4) INCENTIVE GRANT PROGRAM.—The department, subject to appropriation, shall provide incentive grants to municipal solid waste-to-energy facilities to assist with the planning and designing for constructing, upgrading, or expanding a municipal solid waste-to-energy facility, including necessary legal or administrative expenses.

(a) To qualify for an incentive grant, the owner of a municipal solid waste-to-energy facility must apply to the department for funding; provide matching funds on a dollar-for-

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117 dollar basis; and demonstrate that the project is cost-
 118 effective, permittable, and implementable and complies with s.
 119 403.7061.

120 (b) The Department of Environmental Protection shall
 121 provide assistance to the department in determining the
 122 eligibility of grant applications and establishing requirements
 123 to ensure the long-term and efficient operation and maintenance
 124 of facilities constructed or expanded under an incentive grant.

125 (c) The department shall perform adequate overview of each
 126 grant application and grant award, including technical review,
 127 regular inspections, disbursement approvals, and auditing, to
 128 implement this section.

129 (d) The department shall require the termination or
 130 repayment of incentive grant funds if the department determines
 131 that program requirements are not being met.

132 (5) FUNDING.—Funds appropriated for the Municipal Solid
 133 Waste-to-Energy Program must first be used for financial
 134 assistance grants. Any funds remaining in a state fiscal year
 135 after disbursement to all qualifying applicants may be used to
 136 fund the incentive grant program.

137 (6) RULES.—The department shall adopt rules to implement
 138 and administer this section, including establishing grant
 139 application processes for financial assistance grants and
 140 incentive grants. The rules shall include application deadlines
 141 and establish the supporting documentation necessary to be
 142 provided to the department. In adopting rules relating to the
 143 financial assistance grant program, the department shall consult
 144 the Public Service Commission. In adopting rules for the
 145 incentive grant program, the department shall consult the

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146 Department of Environmental Protection.

147 Section 2. For the 2022-2023 fiscal year, the sum of \$100
 148 million in recurring funds is appropriated from the General
 149 Revenue Fund to the Department of Agriculture and Consumer
 150 Services for the Municipal Solid Waste-to-Energy Program, as
 151 provided in s. 377.814, Florida Statutes.

152 Section 3. This act shall take effect July 1, 2022.

Fact Sheet

Florida

- Per Florida Statute Ch. 403.706, counties in Florida are charged with “the operation of solid waste facilities that meet the needs of all incorporated and unincorporated areas of the county.”
- Florida has 10 WTE facilities, more than any other state.
- The counties in which WTE provides the primary method of solid waste disposal are Florida’s most populous and economically vibrant communities. These counties account for **48 percent of the Florida’s population** and **more than half of Florida’s economy**.

Environmental

- Florida’s 10 WTE facilities annually:
 - Avoid the landfilling of 6.5 million tons of solid waste. (Imagine a building with a foundation the size of a football field. It would take a 1,300-story building – more than 12 Empire State buildings – to accommodate 6.5 million tons of waste.
 - Reduce greenhouse gas emissions by 6.5 million tons of CO₂.
 - Recycle 212,000 tons of metal, enough to build 156,000 cars.
- Although landfills are the primary alternative to Waste-to-Energy, methane emitted by landfills is the second largest contributor to global climate change. New data show methane is even more damaging than previously thought. (Source: *Scientific Truth about Waste-to-Energy*, Castaldi, City College of New York, May 2021)
- Every ton of waste processed in a WTE facility avoids a ton of CO₂ equivalent emissions, when the Greenhouse Gas savings from recycling recovered metals are included. Nationally, 700,000 tons of metal are recovered and recycled annually in WTE facilities. (Source: Castaldi)

Economic

- Financially, Florida’s WTE facilities are supported by three streams of revenue: Tipping fees, electricity sales and the sale of recyclable metals.
- Federal law (PURPA) requires utilities to purchase power from “qualified independent power producers, (i.e., WTE facilities), but allows states to determine the pricing formula, also known as the “standard offer.”
- Over the past 20 years, changes in how the Florida calculates the basis of the standard offer have dramatically reduced what utilities are willing to pay for WTE-generated electricity.
- The future ability of Florida most populous counties to serve solid-waste ratepayers with WTE depends on the incentives utilities can count on to purchase WTE-generated power.

Date: January 19, 2022

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 1764

I. SUMMARY

SB 1764, filed by Senator Albritton, creates the Municipal Solid Waste-to-Energy Program within the Department of Agriculture and Consumer Services (DACS). The program requires DACS, subject to appropriation, to provide financial assistance grants to Municipal Solid Waste-to-Energy facilities that meet certain requirements. The program also requires DACS to establish a process to verify the amount of certain electric power purchases. The Florida Public Service Commission (PSC or Commission) is to provide assistance to DACS to help verify grant eligibility and award amounts. The bill would take effect July 1, 2022.

II. PRESENT SITUATION

In 1978, the U.S. Congress enacted the Public Utility Regulatory Policies Act (PURPA). PURPA requires utilities to purchase electricity from cogeneration facilities and renewable energy power plants with a capacity no greater than 80 MW (collectively referred to as Qualifying Facilities or QFs). PURPA required the electric investor-owned utilities (IOUs) to buy electricity from QFs at the IOU's full avoided cost. These costs are defined in Section 366.051, Florida Statutes (F.S.), which provides in part that:

A utility's "full avoided costs" are 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.

If a QF can meet certain contractual provisions as to the quantity, time, and reliability of the delivery of electricity, it is eligible for capacity and energy payments under a firm contract. Rule 25-17.250, Florida Administrative Code (F.A.C.), requires each IOU to establish a standard offer contract with terms, conditions, and payments based on the projected cost of each fossil-fueled generating unit type identified in the utility's annual Ten-Year Site Plan¹ that is filed with the Commission. The projected costs to construct and operate the next planned unit becomes the basis for payment terms and conditions for new or renegotiated QF contracts. In this way, the next planned unit becomes the IOU's avoided unit and basis of avoided cost. The annual Ten-Year Site Plan process allows for recognition of technology, environmental, cost, and other changes over time that affect the timing of new generating capacity to maintain reliable service.

In order to promote alternative and renewable energy generation, the Commission requires the IOUs to offer multiple options for capacity payments, including the options to receive early (prior to the in-service date of the avoided-unit) or levelized payments. The different payment options allow QFs, such as municipal solid waste facilities, the ability to select the payment option that best fits its financing requirements. The standard offer contract provides a basis from which negotiated contracts can be developed, should they elect to enter into such a contract. The Commission addresses IOU petitions for

¹ <http://www.floridapsc.com/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2021/Review.pdf>

approval for cost recovery of negotiated contract agreements between the IOU and QFs. Commission review considers various matters including whether the contract is at or below the IOU's avoided cost.

A QF may sell energy to an IOU when the QF chooses to operate under an "as-available" energy contract. As-available energy is energy produced and sold on an hour-by-hour basis for which contractual commitments regarding the quantity and time of delivery are not required. As-available energy is purchased at a rate equal to the utility's hourly incremental system fuel cost, which reflects the highest fuel cost of generation each hour. As-available energy sales is an option that QFs, including municipal solid waste facilities may elect to pursue and these contracts are not brought to the Commission for approval.

Currently, six municipal solid waste facilities have payments based on firm contract terms and four receive payments based on the host IOU's as-available energy cost. The following table provides a listing of the municipal solid waste facilities providing renewable energy, contract expiration dates for those with firm contracts, and links to key Commission documents. Each IOU's payments for capacity and energy are reported to the Commission as part of the Commission's annual Fuel and purchased power cost recovery clause. An IOU may request that a given amount may be treated as confidential under Section 366.093(3), F.S.

IOU	Purchased From	Gross Capacity (MW)	MWH Purchased (2020)	End Date	Commission Document Nos.	
					Order	Contract
DEF	Pinellas County Resource Recovery	45	441,211	12/2024	05904-2010.pdf	11048-2009.pdf
					03829-2005.PDF	13227-2004.PDF
DEF	Pasco County Resource Recovery	26	192,363	12/2024	09080-1989.pdf	04233-1989.pdf
FPL	Broward County Resource Recovery - South QF	68	54,129	12/2026	02426-1992.pdf	12087-1991.pdf
FPL	Palm Beach County Solid Waste Authority 1	55	350,303	3/2034	04629-2011.pdf	00185-2011.pdf
FPL	Palm Beach County Solid Waste Authority 2	90	546,546	3/2034	04629-2011.pdf	00185-2011.pdf
FPL (Gulf)	Bay County/Engen, LLC	13	51,683	7/2023	09948-2017.pdf	06468-2017.pdf
FPL	Broward County Resource Recovery - South AA QF*	68	50,358	N/A	N/A	N/A
FPL	Brevard County*	6	45,763	N/A	N/A	N/A
FPL	Miami Dade Resource Recovery*	77	55,917	N/A	N/A	N/A
FPL	Lee County Solid Waste*	59	40,119	N/A	N/A	N/A

Notes: FPL: Florida Power & Light Company
 DEF: Duke Energy Florida, LLC
 Gulf: Gulf Power Company has been merged with FPL.
 N/A: These four facilities receive only as-available energy payments.
 MW: 1 Megawatt = 1,000 kilowatts (KW)
 MWH: Megawatt hour
 *: As-available energy contract

Each of the IOUs have various levels of retail rates offered to commercial customers pursuant to Commission approved tariffs. The amount of demand (kilowatt or KW) a commercial customer places on an IOU's system is an indicator of the size of the customer load and energy usage. This data is also an indicator of the level of costs that an IOU must recover from a commercial customer to address the IOU's expenses for the maintenance of a reasonable level of generation resources, transmission and distribution facilities, as well as ensuring an adequate supply of energy to address a commercial customer's needs. The following table² is indicative of the IOU's commercial retail rates and shows how the rates change for specific commercial customer demand and energy usage levels. Even though Gulf Power Company has been merged with Florida Power & Light Company (FPL) the retail rates for the Florida panhandle service area were not consolidated with the retail rates of FPL's peninsula service area until 2022.³

Investor-Owned Electric Utilities
Typical Electric Bill Comparisons * - Commercial / Industrial
 December 31, 2020

Utility	KW Demand						
		75	150	500	1,000	2,000	
	KWH						
	750	1,500	15,000	45,000	150,000	400,000	800,000
Florida Power & Light Company	\$76	\$142	\$1,553	\$3,766	\$13,025	\$30,077	\$59,498
Duke Energy Florida, LLC	\$106	\$199	\$1,847	\$4,692	\$15,606	\$37,938	\$75,862
Tampa Electric Company	\$83	\$148	\$1,588	\$3,816	\$12,650	\$29,740	\$59,450
Gulf Power Company	\$116	\$207	\$1,747	\$4,618	\$15,267	\$36,172	\$72,081
<u>Florida Public Utilities Company</u>							
Northwest	\$108	\$187	\$1,611	\$4,326	\$14,501	\$36,241	\$72,323
Northeast	\$108	\$187	\$1,611	\$4,326	\$14,501	\$36,241	\$72,323

* Excludes local taxes, franchise fees, and gross receipts taxes that are billed as a separate line item. Includes cost recovery clause factors effective December 2020.

² <http://www.floridapsc.com/Files/PDF/Publications/Reports/General/Comparative/December%2031,%202020.pdf>

³ Order Nos. PSC-2021-0466-S-EI and PSC-2021-0466A-S-EI, Docket No. 20210015-EI, In re: Petition for rate increase by Florida Power & Light Company

III. EFFECT OF PROPOSED CHANGES

The bill would establish the Financial Assistance Grant Program within DACS to provide funding to municipal solid waste facilities. The bill requires the Commission to provide assistance to DACS to help verify grant eligibility for municipal solid waste-to-energy facility applications. The bill also requires the Commission to provide assistance to DACS by annually verifying award amounts and ensuring that the sum per kilowatt-hour of the award plus the electric utility's purchase at the avoided cost do not exceed the applicable commercial retail rate within the service territory.

The bill also requires DACS to use an IOU's commercial rate. As previously discussed, each IOU offers various commercial rates as represented by their tariffs. The use of different commercial rates would result in differences in grant funding. Additionally, the IOU's rates may collect applicable local taxes, franchise fees, and gross receipt taxes. The bill does not specify whether these additional charges are to be included in determining and verifying DACS's award amounts.

The bill takes effect July 1, 2022.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

The only increased workload from this bill is its requirement that the Commission provide assistance to DACS to help verify grant eligibility and award amounts. The increased workload is expected to be handled by existing staff.

	(FY 22-23) Amount / FTE	(FY 23-24) Amount / FTE	(FY 24-25) 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:

The annual DACS grants to a municipal solid waste facility owner/operator could make operation of the municipal solid waste facility owner/operator more profitable if the facility is owned and/or operated by a governmental entity.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

The annual DACS grants to a municipal solid waste facility owner/operator could make operation of the municipal solid waste facility owner/operator more profitable if the facility is owned and/or operated by a private entity.

VII. LEGAL ISSUES

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No.

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, and impairment of contracts)?

No.

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

No.

D. Other

None.

VIII. COMMENTS

Section (3) of bill is unclear as to the status of capacity payments pursuant to a purchased power agreement. If a municipal solid waste facility enters into a firm contract for capacity and energy, then the facility will receive capacity payments pursuant to the terms of the contract and for the duration of the contract. If the contract expires, the facility may choose to enter into an as-available contract with an IOU that does not include a capacity payment.

Section (3)(b) of the bill is unclear regarding the determination of a utility's avoided cost. While the IOU's payments to municipal solid waste facilities are reported to the Commission, the IOU's avoided costs are not revisited during the term of a contract after it has been approved.

Sections (3)(b) and (c) of the bill are unclear regarding the applicable commercial retail rate. There is more than one commercial retail rate approved for each IOU.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: January 13, 2022

I respectfully request that **Senate Bill #1764**, relating to Municipal Solid Waste-to-Energy Program, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

January 24, 2022

Agency Affected: Dept. of Agriculture and Consumer Services

Telephone: 850-617-7000

Agency Contact: Carlos Nathan, Legislative Affairs Director

Telephone: 850-617-7700

Senate Bill Number: 1764

Senate Bill Sponsor: Sen. Albritton

Bill Title: Municipal Solid Waste-to-Energy Program

Effective Date: July 1, 2022

Similar Bill(s): Yes No

Similar Bill(s):

Identical Bill: Yes No

Identical Bill: 1419 by Mariano

1. SUMMARY

The bill establishes the Municipal Solid Waste-to-Energy Program within the Florida Department of Agriculture and Consumer Services (FDACS), composed of two grants to be made available to qualifying municipal solid waste-to-energy (WTE) facilities. The bill provides for funding of \$100 Million, recurring, from General Revenue.

2. PRESENT SITUATION

Part III of Chapter 377, F.S., relates to renewable energy and green government programs, and includes the following statement of purpose:

“This Act is intended to provide incentives for Florida’s citizens, businesses, school districts, and local governments to take action to diversify the state’s energy supplies, reduce dependence on foreign oil, and mitigate the effects of climate change by providing funding for activities designed to achieve these goals. The grant programs in this act are intended to stimulate capital investment in and enhance the market for renewable energy technologies and technologies intended to diversify Florida’s energy supplies, reduce dependence on foreign oil, and combat or limit climate change impacts.”

Subsection 366.91(2), F.S., provides that “renewable energy” means electrical energy produced from specified sources, including biomass from municipal solid waste (MSW).

Subsection 403.703(36), F.S., defines “Solid waste disposal facility” as a “facility that is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste.”

Waste to Energy

WTE technology can be traced back to late 19th century furnace incinerators, called “destructors,” developed primarily for public sanitation purposes by municipal engineers in the United Kingdom.¹ Waste incineration’s continued industrial usage has helped achieve reduction of mass and volume of waste, the destruction of dangerous organic compounds and pathogens, and increasingly, as a method for generating utility-scale power production. Technological advancements to WTE facilities have been made over the past few decades, related to the equipment used for waste combustion on a moving grate, and improved methods of flue gas cleaning. It remains necessary, in the regular operation of a WTE facility, to add other fuels, such as natural gas, coal and wooden biomass to the waste in order to increase the heating value to the point of combustion.²

There are 77 WTE facilities in the United States, with eleven located in Florida. WTE presents the opportunity to turn MSW disposal problems into potentially valuable resources. However, assessing the economic viability of a project can be complicated by feedstock fluctuations and challenges related to:³

- diverse elemental composition requiring intermediate clean-up and separation steps;
- relatively low energy content;
- high moisture content; and
- distributed availability.

Palm Beach County Incinerator

In 2015, Palm Beach County built the nation’s first MSW incinerator in 20 years, using advanced combustion and pollution control measures. With a total construction cost of \$672,000,000, this WTE facility represents a very expensive investment relative to other power generation facility types, when positive externalities related to waste disposal are not factored.⁴

¹Herbert, Lewis, “Centenary History of Waste and Waste Managers in London and South East England.” Chartered Institution of Wastes Management (2007).

² Schneider, D.R., et. al., Cost Analysis of Waste-to-Energy Plant, Croatian Journal of Mechanical Engineering, Strojarsstvo, 52 (3) 369-378 (2010).

³ US Dep’t of Energy, Waste-to-Energy from Municipal Solid Wastes (Aug. 2019), *available at* <https://www.energy.gov/sites/prod/files/2019/08/f66/BETO--Waste-to-Energy-Report-August--2019.pdf>

⁴ *Id.* To generate nominal capacity of 100 megawatts (MW), this incinerator had capital costs of \$6,720 per kilowatt (kW). Generation of 100 MW nominal capacity from a natural gas combustion turbine, is reported to have a capital cost of \$1,101 per kW.

3. EFFECT OF PROPOSED CHANGES

Section 1 of the bill creates s. 377.814, F.S., establishing the Municipal Solid Waste-to-Energy Program within FDACS composed of two grants to be made available to qualifying municipal solid waste-to-energy facilities.

The bill creates subsection 377.814(1), F.S., to establish the program, and its purpose of creating an incentive for “the production and sale of energy from municipal solid waste-to-energy facilities while also reducing the amount of waste that would otherwise be disposed of in a landfill.”

The bill creates subsection 377.814(2), F.S., to provide definitions of “Department” and “Municipal solid waste-to-energy facility.”

Line 63 of the bill provides that the definition of “municipal solid waste-to energy facility” would include a “government affiliate-owned facility” in addition to publicly owned facilities. The term “government affiliate-owned facility” is not defined in the bill or existing law.

Lines 67- 69 of the bill excludes from the definition of “municipal solid waste-to energy facility,” facilities that “primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement.” Lines 70- 74 of the bill excludes from the definition of “municipal solid waste-to energy facility,” facilities that “primarily burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.” The terms “primarily” and “some” in this section relate to a threshold for exclusion from program qualification. This threshold would allow for facilities that may use fuel sources other than MSW, so long as these fuel sources are used in some portion less than “primarily.”

The bill creates subsection 377.814(3), F.S., which establishes the financial assistance grant program, specifies application criteria, sets a rate by which funds can be distributed to qualifying applicants, provides for prorating of funds if funds are not fully available, and establishes a verification process in which Florida Public Service Commission would provide assistance to FDACS.

Lines 77-81 of the bill provide qualifying language related to the contractual relationship between municipal solid WTE facilities and electric utilities, such that they must “have entered into a power purchase agreement [PPA] with an electric utility which includes capacity payments and the municipal solid waste-to-energy facility will no longer receive capacity payments under the agreement.”

Lines 88-93 of the bill provide a formula for the distribution of funds. Subject to appropriation, each qualifying applicant could receive funding up to an amount equivalent to “2 cents per kilowatt-hour of electric power purchased by an electric utility during the

preceding state fiscal year, not to exceed the difference between the electric utility’s avoided cost and the commercial retail rate.”

Lines 93-98 of the bill provide that, if funds are unavailable for every qualifying kilowatt-hour, funds shall be prorated “on an equitable basis, taking into consideration the commercial retail rate within the applicable service territory.”

The bill creates subsection 377.814(4), F.S., which establishes the incentive grant program, establishes program requirements, establishes Florida Department of Environmental Protection’s (FDEP) role in assisting in the determination of eligibility and certain program requirements, establishes FDACS’ responsibility to perform adequate overview of each grant application and grant award, and provides for termination or repayment of incentive grant funds if FDACS determines program requirements are not being met.

Lines 110-113 of the bill provide for the use of incentive grants in order “to assist with the planning and designing for constructing, upgrading, or expanding a municipal solid waste-to-energy facility, including necessary legal or administrative expenses.”

Lines 114-119 of the bill, relating to the program requirements, providing for a dollar-for-dollar match of funds, and demonstration that “the project is cost-effective, permissible, and implementable” and complies with FDEP’s existing review process for WTE facilities.

The bill creates subsection 377.814(5), F.S., describing the priority of funding between the two grant programs.

The bill creates subsection 377.814(6), F.S., granting departmental rulemaking authority.

Section 2 provides for a \$100 million appropriation of recurring funds from the General Revenue Fund to FDACS, for the 2022-2023 fiscal year.

Section 3 provides an effective date of July 1, 2022.

4. FISCAL IMPACT ON FDACS

	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE	(FY24-25) Amount/ FTE
A. Revenues			
Recurring			
Non-Recurring			

TOTAL REVENUES			
B. Expenditures			
Recurring	\$100,149,832	\$100,149,832	\$100,149,832
Non-Recurring	\$9,984	\$0	\$0
TOTAL EXPENDITURES	\$100,159,816	\$100,149,832	\$100,149,832
C. NET TOTAL	\$100,159,816	\$100,149,832	\$100,149,832
COMMENTS: Recurring cost include the appropriated funds mentioned in the bill, 2 FTE & expense packages (Government Analyst I), plus travel to perform site visits to ensure adequate overview. Non-Recurring costs are related to rulemaking and the nonrecurring portion of the expense packages.			

5. IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(S)?

WTE-generated electricity already helps offset municipal costs of waste disposal, and this legislation could provide further positive fiscal impacts for local governments. Additionally, supply diversification from WTE may offer improved grid resiliency against supply disruptions and price volatility.

6. IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?

To the extent the legislation leads to additional WTE generation, economic benefits are expected to include an increase in jobs, and profits for construction, manufacturing, and services companies that support or use renewable energy.

7. ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL? (If yes, please explain the impact in A and/or B below)

A. Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain.

No.

B. Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain.

No.

C. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

a. Yes: No:

b. If yes please explain:

Subsection 6 of the bill requires FDACS to adopt rules to implement and administer the grant programs, specifically including the application process, application

deadlines, and necessary support documentation. The bill requires FDACS to consult with the FPSC and FDEP on the rulemaking adoption process.

8. DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?

- a. Yes: No:
b. If yes please explain:

9. ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?

- a. Yes: No:
b. If yes please explain:

LEGAL ISSUES

10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations?

No.

11. Does the proposed bill 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) that impacts the department?

No.

12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties?

Unknown.

COMMENTS:

The Florida Senate

APPEARANCE RECORD

1764

Bill Number or Topic

1-25-22

Meeting Date

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

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name

Ace Kibsherman

Phone

407-719-6686

Address

Florida Waste & Energy Coalition
37 N. Orange Ave, Suite 500

Email

Street

Orlando

FL

32801

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1216

INTRODUCER: Senator Hutson

SUBJECT: Vacation and Timeshare Plans

DATE: January 20, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1216 amends ch. 721, F.S., to revise requirements for vacation and timeshare plans. The bill:

- Exempts timeshare plans from provisions in the Condominium Act in ch. 718, F.S., relating to the creation of timeshare estates in a nonresidential condominium unit.
- Permits the timeshare developer to electronically deliver the public offering statement and required documents for timeshare plans and multisite timeshare plan, with certain conditions.
- Revises the definition for the term “incidental benefits” and eliminates certain requirements for the offering of incidental benefits in the sale of a timeshare plan, including certain disclosures and the limitation on the aggregate represented value of all incidental benefits offered in the sale of a timeshare plan.
- Permits a purchaser of a timeshare plan to assign or transfer an incidental benefit without the approval of the provider of the incidental benefit.
- Revises the requirements for the cancellation of a timeshare plan by clarifying that the term “execution date” refers to the execution date of the contract.
- Extends the period for voiding a contract for which the closing occurred before the expiration of the required cancellation period from one year to five years. Under the bill, the period for voiding a contract for which a prohibited attempt has been made to obtain the waiver of the cancellation right remains one year.
- Expands the definition for the term “advertising material” to include any message, text, picture, video, or other content made available, delivered, or shared electronically through the Internet or any other Internet-based access.
- Exempts electronic advertising materials from required disclosures if such disclosures are given before a purchaser takes any affirmative action pursuant to a promotion.
- Revises the provisions for the termination of timeshare plans to permit the termination of a timeshare plan for an approval percentage level that is lower than 60 percent of all the voting interests if the timeshare instrument provides for a lower percentage.

- Revises the provisions for the resolution of owner disputes related to the allocation of the share of the net proceeds from the disposition of the timeshare property in a termination.
- Permits the board of administration or the members of an owners' association to conduct board meetings or owners' meetings electronically.
- Authorizes the managing entity of a timeshare plan and the board of an owners' association to exercise specified emergency powers in response to an actual or anticipated emergency, as defined in s. 252.34(4), F.S., including, but not limited to, a state of emergency declared by the Governor for the location of the timeshare accommodations or facilities of the timeshare plan. The authorized emergency powers include the conduct of meetings, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication, giving meeting notices electronically, and levying a special assessment without a vote of the owners even if such authority does not specifically appear in the timeshare instrument.
- Permits timeshare estates and timeshare licenses to be offered in a nonspecific multisite timeshare plan.
- Provides for the electronic delivery of required notices in the foreclosure of a mortgage interest or assessment lien.
- Requires the obligor to object to the lienholder's use of the foreclosure procedure for a specific default within 20 days after receipt of the notice of default and intent to foreclose.
- Provides that mediation, a settlement conference, or any other effort to resolve a foreclosure is not required once a default in a judicial foreclosure of an assessment lien or mortgage lien has been issued.

The bill takes effect upon becoming law.

II. Present Situation:

A timeshare interest is a form of ownership of real and personal property.¹ In a timeshare, multiple parties hold the right to use a condominium unit or a cooperative unit. Each owner of a timeshare interest is allotted a period of time (typically one week) during which the owner has the exclusive right to use the property.

The Florida Vacation Plan and Timesharing Act, chapter 721, F.S., establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers and prospective purchasers.² Chapter 721, F.S., applies to all timeshare plans consisting of more than seven timeshare periods over a period of at least three years when the accommodations and facilities are located or offered within this state.³ Part I of chapter 721, F.S., relates to vacation plans and timesharing, and part II of ch. 721, F.S., relates to multisite vacation and timeshare plans that are also known as vacation clubs.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) of the Department of Business and Professional Regulation (DBPR) administers ch. 721, F.S.

¹ See s. 721.05(36), F.S.

² Section 721.02(2) and (3), F.S.

³ Section 721.03, F.S.

Definitions

The term “timeshare plan” means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, where a purchaser, for consideration, receives ownership rights in or a right to use accommodations and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years.⁴ The term includes both personal property timeshare and real property timeshare plans.⁵

Each timeshare plan must have a managing entity that must be the developer, a separate manager or management firm, or an owners’ association. The managing entity operates or maintains the timeshare plan.⁶

A timeshare unit is an accommodation of a timeshare plan which is divided into timeshare periods or a condominium unit in which timeshare estates have been created.⁷

A “timeshare estate” is a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof.⁸ The term also includes an interest in a condominium unit, a cooperative unit, or a trust. Whether the term includes both direct and indirect interests in trusts is not specified. An example of an indirect interest in a trust is the interest of a trust beneficiary’s spouse or other dependent.

A “timeshare license” is the right to occupy a timeshare unit, which right is not a personal property timeshare interest or a timeshare estate.⁹ A “timeshare interest” is a timeshare estate, a personal property timeshare interest, or a timeshare license.¹⁰

III. Effect of Proposed Changes:

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

Scope of Chapter 721, F.S. – Exemption

Present Situation

A timeshare plan is subject to chs. 718 and 719, F.S., relating to condominium and cooperative associations, respectively. However, if the plan is compliant with ch. 721, F.S., it is exempt from

⁴ Section 721.05(39), F.S.

⁵ A “personal property timeshare plan,” is a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property. s. 721.05(39)(a) F.S. A “real property timeshare plan,” is a timeshare plan in which the accommodations of the timeshare plan are comprised of or permanently affixed to real property.

Section 721.05(39)(b), F.S.

⁶ Section 721.13(1)(a), F.S. The duties of a managing entity are detailed in s. 721.13(3), F.S.

⁷ See ss. 721.05(41) and 718.103(26), F.S.

⁸ Section 721.05(34), F.S.

⁹ Section 721.05(37), F.S.

¹⁰ Section 721.05(36), F.S.

certain provisions of chs. 718 or 719, F.S., including provisions relating to sales or reservation deposits prior to closing, disclosures prior to sale, and conversions to condominiums or cooperatives.¹¹

Section 718.104(4)(o), F.S., requires the declaration of condominium, which is the instrument that creates a condominium,¹² to provide, if timeshare estates will or may be created with respect to any unit in the condominium, a statement in conspicuous type declaring that timeshare estates will or may be created with respect to units in the condominium. The declaration of condominium must also define and describe in detail the degree, quantity, nature, and extent of the timeshare estates that will or may be created.

Section 718.1045, F.S., provides that no timeshare estates may be created with respect to any condominium unit except pursuant to provisions in the declaration expressly permitting the creation of such estates.

Section 718.110(8), F.S., relating to amending the declaration of condominium, to prohibit, unless otherwise provided in the declaration as originally recorded, an amendment to the declaration to create timeshare estates in any unit of the condominium, unless the record owner of each unit of the condominium and the record owners of liens on each unit of the condominium join in the execution of the amendment.

Effect of Proposed Changes

The bill amends s. 721.03(3), to exempt timeshare plans from ss. 718.104(4)(o), 718.1045, and 718.110(8), F.S., relating to the creation of timeshare estates in a nonresidential condominium unit.

Public Offering Statement

Present Situation

Section 721.07, F.S., requires a developer to submit to the division a public offering statement before any timeshare plan is offered for sale. The division must prescribe the form of the public offering statement and approve the public offering statement before it is delivered to prospective purchasers.¹³

The public offering statement must contain a statement in conspicuous type informing the purchaser of a timeshare plan of their statutory right to cancel their purchase contract before midnight of the 10th calendar day following the date the purchaser signed the purchase contract, the date on which the purchaser received the last of all documents required to be given pursuant to s. 721.07(2)(d)2., F.S., or 10 calendar days after the purchaser receives any required revisions, whichever is later.¹⁴ Section 721.07(6), F.S., also specifies the documents that must be furnished to each purchaser of a timeshare plan.

¹¹ See s. 721.03(3), F.S.

¹² Section 718.103(15), F.S.

¹³ Section 721.07(6), F.S.

¹⁴ See also s. 719.10, F.S., providing for a 10-day cancellation period.

Effect of Proposed Changes

The bill amends s. 721.07(6), F.S., to allow a developer to provide each purchaser of the timeshare plan with the approved public offering statement electronically instead of in a fully executed paper copy. Electronic delivery of the public offering statement may be done through a website or other Internet-based access, if the developer discloses to the purchaser the system requirements necessary to view the approved public offering statement and advises the purchaser to not select an alternative method of receiving the approved public offering statement unless he or she is able to review the approved public offering statement before the expiration of the 10-day cancellation period under s. 721.10, F.S.

Under the bill, s. 721.07(6), F.S., is amended to permit the documents that must be furnished to each purchaser of a timeshare plan to be furnished electronically through a website or other Internet-based access.

The bill amends s. 721.551, F.S., to correct cross-references to s. 721.07(6)(c)1., F.S., as amended by the bill.

Incidental Benefits

Present Situation

Section 721.075, F.S., permits the offering of specified incidental benefits to purchasers of timeshare interests under specified circumstances. The term “incidental benefit” means:¹⁵

...an accommodation, product, service, discount, or other benefit which is offered to a prospective purchaser of a timeshare plan or to a purchaser of a timeshare plan prior to the expiration of his or her initial 10-day voidability period pursuant to s. 721.10[, F.S.]; which is not an exchange program as defined in [s. 721.05(16), F.S.]; and which complies with the provisions of s. 721.075[, F.S.] The term shall not include an offer of the use of the accommodations and facilities of the timeshare plan on a free or discounted one-time basis.

Examples of incidental benefits would be exchange rights, travel insurance, bonus weeks, referral awards, and golf and tennis packages.¹⁶

Incidental benefits are subject to required disclosures and restriction, including a limit on the aggregate represented value of all incidental benefits offered by a developer to a purchaser of not more than 15 percent of the purchase price paid by the purchaser for his or her timeshare interest. The incidental benefits must be filed with the division for review in conjunction with the filing of a timeshare plan or in connection with a previously filed timeshare plan.¹⁷

¹⁵ Section 721.05(19), F.S.

¹⁶ See <https://www.lawinsider.com/dictionary/incidental-benefit#:~:text=Incidental%20benefit%20means%20an%20accommodation,voidability%20period%20pursuant%20to%20s.> (last visited Jan. 23, 2022).

¹⁷ Section 721.075(2), F.S.

In addition, each purchaser of a timeshare plan must execute a separate acknowledgment and disclosure statement with respect to all incidental benefits. The acknowledgment and disclosure statement must include certain information, including a statement that:¹⁸

- Explains the use of or participation in the incidental benefit by the prospective purchaser is completely voluntary, and that payment of any fee or other cost associated with the incidental benefit is required only upon such use or participation;
- Indicates the source of the services, points, or other products that constitute the incidental benefit; and
- Explains that the incidental benefit is not assignable or otherwise transferable by the prospective purchaser or purchaser.

The acknowledgement and disclosure statement must be filed with the division prior to use.¹⁹

The developer must promptly notify the division upon learning of the unavailability of any incidental benefit.²⁰

Effect of Proposed Changes

The bill amends s. 721.075, F.S., to eliminate certain requirements for the offering of incidental benefits in the sale of a timeshare plan.

Sections 721.075(1)(a) and (2)(b), F.S., are amended by the bill to delete the condition that payment of any fee or other cost associated with the incidental benefit is required only upon use or participation.

Section 721.075(1)(f), F.S., is amended to delete the limitation on the aggregate represented value of all incidental benefits.

Section 721.075(1)(g), F.S., is amended to delete the requirement that incidental benefits be filed with the division for review.

Section 721.075(2)(c), F.S., is amended to permit a purchaser to assign or transfer the incidental benefit without the approval of the provider of the incidental benefit.

Section 721.075(2)(e), F.S., is amended to delete the requirement for an acknowledgement and disclosure statement indicating the source of the services, points, or other products that constitute the incidental benefit. Section 721.075(2)(e), F.S., is also amended to remove the requirement that the acknowledgement and disclosure statement for any incidental benefit be filed with the division.

Section 721.075(3)(a), F.S., is amended to remove the requirements that the developer promptly notify the division upon learning of the unavailability of any incidental benefit.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 721.075(3)(a), F.S.

Cancellations

Present Situation

Section 721.10, F.S., provides for the cancellation of a timeshare plan contract by the purchaser before midnight of the 10th calendar day following the date of the execution, the date on which the purchaser received the last of all documents required to be given pursuant to s. 721.07(2)(d)2., F.S., or 10 calendar days after the purchaser received any required revisions, whichever is later.

It is unlawful to attempt to obtain a waiver of the cancellation right of the timeshare purchaser, or to hold the closing prior to the expiration of the cancellation period. Such closing is voidable at the option of the purchaser for a period of one year after the expiration of the cancellation period.

Effect of Proposed Changes

The bill amends s. 721.10(1)(a), F.S., to clarify the meaning of the term “execution date” to refer to the execution date of the contract.

The bill amends s. 721.10(2), F.S., to provide that the waiver of a cancellation right that is made knowingly or unknowingly is prohibited. The bill extends the period for voiding a contract for which the closing occurred before the expiration of the cancellation period from one year to five years. Under the bill, the period for voiding a contract for which an attempt has been made to obtain the waiver of the cancellation right remains one year.

Advertising Materials

Present Situation

Section 721.11, F.S., provides for the regulation of advertising materials used in connection with the sale of a timeshare plan. The term “advertising material” includes a variety of materials and advertising methods, including promotional brochures, pamphlets, and radio and television advertisements.²¹

Section 721.11(5)(a), F.S., requires all written advertising material, including any lodging certificate, gift award, premium, discount, or display booth, to provide a disclosure in conspicuous type in substantially the following form:

This advertising material is being used for the purpose of soliciting sales of timeshare interests; or This advertising material is being used for the purpose of soliciting sales of a vacation (or vacation membership or vacation ownership) plan.

The division may approve the use of an alternate disclosure. This conspicuous disclosure must be provided before the purchaser is required to take any affirmative action pursuant to the promotion.

²¹ See s. 721.11(2), F.S.

Effect of Proposed Changes

The bill amends s. 721.11(5)(a), F.S., to expand the definition for the term “advertising material” to include any message, text, picture, video, or other content made available, delivered, or shared electronically through the Internet or any other Internet-based access. The bill exempts such electronic advertising materials from the disclosure under s. 721.11(5), F.S., if such disclosures are given before a purchaser takes any affirmative action pursuant to a promotion.

Termination of Timeshare Plans***Present Situation***

Section 721.125, F.S., provides for termination of timeshare plans upon the vote or written consent of 60 percent of all the voting interests in the timeshare plan.

After termination of a timeshare plan, the board of administration of the owners’ association (board) serves as the termination trustee. In that fiduciary capacity, the board may bring a partition action on behalf of the tenants in common in each former timeshare property, or may sell the former timeshare property in any manner and to any person approved by a majority of all the tenants in common. The termination trustee also has all other powers reasonably necessary to accomplish the partition or sale, including the power to maintain the property while the partition action or sale is pending, and must adopt reasonable procedures to implement the partition or sale and comply with these requirements.²²

All reasonable expenses incurred by the termination trustee relating to the performance of the trustee’s duties, including reasonable fees of attorneys and other professionals, must be paid by the tenants in common, in proportion to their ownership interests.²³

The termination trustee may adopt reasonable procedures to implement the partition or sale of the former timeshare property and comply with the requirements of s. 721.125, F.S., for the termination of a timeshare plan.

The timeshare plan termination provisions in s. 721.125, F.S., apply to timeshare plans that have been in existence for at least 25 years as of the effective date of the termination vote or consent required by s. 721.125(1), F.S.

Effect of Proposed Changes

The bill amends s. 721.125, F.S., to revise the provisions for the termination of timeshare plans.

The bill provides a statement of legislative intent for the need to provide for the termination of timeshare plans. Under the bill, the termination of a timeshare plan may be approved with a percentage that is lower than 60 percent of all the voting interests if the timeshare instrument provides for a lower percentage.

²² Section 721.125(3)(a)1., F.S.

²³ Section 721.125(3)(a)2., F.S.

The bill permits a voting representative to approve a termination trustee's bringing of a partition action on behalf of the tenants in common in each former timeshare property or sale of the former timeshare property. Current law only provides for the approval by a majority of all the tenants in common. The bill and ch. 721, F.S., do not define the term "voting representative."

The bill requires any unpaid assessments, taxes, late fees, interest, fines, charges, or other amounts due and owing to the managing entity²⁴ by an owner of a timeshare interest to be set off against, and reduce the share of, the net proceeds from the disposition of the timeshare property that are allocated to such owner.

Section 721.125(4)(g), F.S., provides that, if an owner disputes the allocated share of the net proceeds from the disposition of the timeshare property, the trustee "may file an interpleader action in circuit court and deposit the disputed funds into the court registry, at which time the timeshare property and the proceeds distributed pursuant to a disposition of the timeshare property are free of all claims and liens of the parties to the interpleader action."²⁵

Section 718.117(17)(b), F.S., provides a comparable provision for the filing of an interpleader by the termination trustee for a condominium in the event there is a dispute about the distribution of funds or property.

Under the bill, the prevailing party in the interpleader action may recover reasonable attorney fees and costs from the nonprevailing party.

The bill amends s. 721.125, F.S., to apply the termination procedures to all a timeshare plans in the state in existence on or after July 1, 2022, provided that the timeshare plan has been in existence for at least 25 years as of the effective date of the termination of the timeshare plan. It deletes the provision from which the 25 years of existence is calculated based on the date of the vote or consent required by s. 721.125(1), F.S.

Management of a Timeshare Plan

Present Situation

Section 721.13, F.S., requires the developer to provide a managing entity for each timeshare plan. The managing entity may be the developer, a separate manager or management company, or an owners' association.

Effect of Proposed Changes

The bill creates s. 721.13(14)(a), F.S., to prohibit a managing entity from sending notices that are required to be sent to the owner of a timeshare interest pursuant to chs. 718, 719, or 721, F.S., to the address of the owner's timeshare unit or timeshare plan.

²⁴ Section 721.05(22), F.S., defines the term "managing entity" to mean the person who operates or maintains the timeshare plan pursuant to s. 721.13(1), F.S.

²⁵ The term "interpleader" means: "1. (Of a claimant) to assert one's own claim regarding property or an issue already before the court. 2. (Of a stakeholder) to institute an interpleader action, [usually] by depositing disputed property into the court's registry to abide the court's decision about who is entitled to the property." *Black's Law Dictionary*, 11th Ed. Thomson Reuters (2019).

The bill creates s. 721.13(14)(b), F.S., to permit the board of administration or the members of an owners' association to conduct board meetings or owners' meetings electronically.

Managing Entity Emergency Powers

Present Situation

Sections 718.1265, 719.128, and 720.316, F.S., provide for the exercise of emergency powers by the boards of condominium, cooperative, and homeowners' associations, respectively, in response to injury and to an anticipated declared state of emergency. The emergency powers for these association boards include provisions for the conduct meetings and elections, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication, and for the giving of meeting notices by electronic transmission.

Chapter 721, F.S., does not provide a comparable emergency authority for the managing entity of a timeshare plan.

Effect of Proposed Changes

The bill creates s. 721.131, F.S., to authorize the managing entity of a timeshare plan and the board of an owners' association to exercise emergency powers in response to an actual or anticipated emergency, as defined in s. 252.34(4), F.S., including, but not limited to a state of emergency declared by the Governor for the location of the timeshare accommodations or facilities of the timeshare plan. The authorized emergency powers include:

- The conduct of board of administration and owners' meetings, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication;
- Giving meeting notices electronically;
- Cancelling and rescheduling any board of administration and owners' meeting;
- Naming assistant officers who shall have the same powers as executive officers of the association with the same authority as the officers they are assisting;
- Relocating the managing entity's principal office or designate alternative principal offices;
- Entering into agreements with local government for assistance;
- Implementing an emergency plan;
- Determining that all or any portion of the timeshare property is unavailable for entry, use, or occupancy;
- Requiring the evacuation of the timeshare property, and providing immunity to the managing entity if any owner or other occupant fails or refuses to evacuate the property;
- Determining if all or a portion of the timeshare property, including recreational and other accommodations or facilities, may be safely used, inhabited, or occupied, and whether all or a portion of such property needs to be closed for a period of time;
- Mitigating further damage;
- Contracting for items or services for which owners are otherwise individually responsible when necessary, but the owner or owners on whose behalf the managing entity has contracted are responsible for reimbursing the managing entity;

- Levying a special assessment without a vote of the owners even if such authority does not specifically appear in the timeshare instrument;
- Borrowing money and pledging association assets without a vote of the unit owners;
- Issuing emergency rules regarding the operation of the reservations systems, and modifying or suspending rights to use the timeshare property and the one-to-one right to use requirement;
- Transferring funds in any deferred maintenance or capital expenditure reserve account to any operating account without the consent of a majority of the purchasers of the timeshare plan; and
- Taking any other actions reasonably necessary to protect the health, safety, and welfare of the managing entity and the owners and the owners' family members, tenants, guests, agents, invitees, exchangers, and other occupants or to protect the timeshare property.

The emergency powers are limited to that time and scope necessary to reasonably protect the health, safety, and welfare of the association, the owners, and other persons, to mitigate further damage, and to make emergency repairs.

Vacation Club Definitions

Present Situation

Section 721.52(5), F.S., defines the term “nonspecific multisite timeshare plan” to mean:

...a multisite timeshare plan with respect to which a purchaser receives a right to use all of the accommodations and facilities, if any, of the multisite timeshare plan through the reservation system, but no specific right to use any particular accommodations and facilities for the remaining term of the multisite timeshare plan in the event that the reservation system is terminated for any reason prior to the expiration of the term of the multisite timeshare plan.

Section 721.05(34), F.S., defines the term “timeshare estate” to mean a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof, or coupled with an ownership interest in a condominium unit, an ownership interest in a cooperative unit, or a direct or indirect beneficial interest in certain trusts, provided that the trust does not contain any personal property timeshare interests. A timeshare estate is a parcel of real property.

Section 721.05(37), F.S., defines the term “timeshare license” to mean a right to occupy a timeshare unit, which right is not a personal property timeshare interest²⁶ or a timeshare estate.

Section 721.57, F.S., which provides for the offering of timeshare estates in a “specific multisite plan.”²⁷ A specific multisite plan must meet all of the criteria of s. 721.57(2), F.S. Any offering

²⁶ Section 721.05(28), F.S.

²⁷ Section 721.52(7), F.S., defining the term “specific multisite plan.”

that does not comply with these requirements is deemed to be an offering of a timeshare license.²⁸

Section 721.05(34), F.S., defines the term “timeshare estate,” as a parcel of real property. Pursuant to s. 721.57(2)(b)2., F.S., the use rights to the real property, i.e., a timeshare estate, continue in the event the reservation system is terminated or otherwise becomes unavailable for any reason prior to the expiration of the term of the specific multisite timeshare plan.

Effect of Proposed Changes

The bill amends s. 721.52(5), F.S., to provide that timeshare estates or timeshare licenses may be offered in a nonspecific multisite timeshare plan.

Multisite Timeshare Plan Public Offering Statement

Present Situation

Section 721.55, F.S., requires a public offering statement for a multisite timeshare plan to contain certain information and disclosures. In relevant part, s. 721.55(4)(l), F.S., requires the public offering statement to contain a description of each component site, which description may be disclosed in a written, graphic, tabular, or other form approved by the division. In addition, the description of each component site must include certain information, including the each type of accommodation in terms of the number of bedrooms, bathrooms, sleeping capacity, and whether or not the accommodation contains a full kitchen. For purposes of this description, a full kitchen means a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.

Section 721.55(7), F.S., requires specified documents to be included as exhibits to the filed public offering statement, if applicable, including an estimated budget for the timeshare plan and purchaser’s expenses as required by the jurisdiction in which the component site is located.

Effect of Proposed Changes

The bill amends s. 721.55(4)(l), F.S., permit the disclosure of the information described in this provision to be provided to the purchaser electronically, including, but not limited to, through a website or other Internet-based access.

The bill amends s. 721.55(7), F.S., to provide that a developer is not required to file a separate public offering statement for any component site located within or outside the state in order to include the component site in the multistate timeshare plan.

Foreclosures

Present Situation

Part III of ch. 721, F.S., consisting of ss. 721.80 through 721.86, F.S., relate to the foreclosure of liens on timeshare interests.

²⁸ Section 721.57(1), F.S.

Section 721.82(11), F.S., defines the term “permitted delivery service” to mean “any nationally recognized common carrier delivery service, international airmail service that allows for return receipt service, or a service recognized by an international jurisdiction as the equivalent of certified, registered mail for that jurisdiction.”

Section 721.85, F.S., provides that the service of process for a foreclosure proceeding for assessment liens may be made on any person whether the person is located inside or outside this state, by certified mail, registered mail, permitted delivery service, return receipt requested, addressed to the person to be served at the notice address, or on the person’s registered agent duly appointed under s. 721.84, F.S., at the registered office.

In the foreclosure process for assessment liens, s. 721.855(3), F.S., permits the obligor to object to the lienholder's use of the trustee foreclosure procedure for a specific default any time before the sale of the timeshare interest.

The foreclosure trustee must send the obligor a written notice of default and intent to foreclose the assessment lien to the notice address of the obligor by certified mail, registered mail, or permitted delivery service, return receipt requested, and by first-class mail, postage prepaid.

Section 721.856, F.S., provides comparable provisions for the trustee foreclosure of mortgage liens.

Effect of Proposed Changes

The bill amends the definition for the term “permitted delivery service” in s. 721.82(1)(b), F.S., to mean delivery to an e-mail address, if provided by the obligor, with evidence that the lienholder received the e-mail. The revised definition also provides that permitted delivery service is only authorized for obligors who reside outside the United States. The bill deletes the current definition for the term. The bill amends s. 721.85, F.S., to clarify the use of permitted delivery service.

The bill also amends s. 721.855, F.S., relating to the foreclosure of assessment liens, and s. 721.856, F.S., relating to the foreclosure of mortgage liens, to provide identical service and notice requirements for the trustee’s foreclosure of a mortgage interest or assessment lien.

The bill amends ss. 721.855(1)(b) and 721.856(5)(a), F.S., to permit, if applicable, service of process by “preferred delivery service,” as redefined by the bill.

The bill amends s. 721.855(3) and 721.856, F.S., to require the obligor to object to the lienholder's use of the trustee foreclosure procedure for a specific default within 20 days after receipt of the notice of default and intent to foreclose required under s. 721.855(5), F.S., or s. 721.856(5), as applicable.

The bill amends the statutory notices in ss. 721.855(5)(a)3. and 721.856(5)(a)3., F.S., that must be included in the notice of default and intent to foreclose to reference the 20-day response period. Sections 721.855(5)(a) and 721.856(5)(a), F.S., are also amended to require the obligor to

object to the lienholder's use of the trustee foreclosure procedure for a specific default within 20 days of after receipt of the notice of default and intent to foreclose.

The bill amends ss. 721.855(5)(a) and 721.856(5)(a), F.S., to permit, if applicable, service of the foreclosure trustee's notice of default and intent to foreclose by "preferred delivery service," as redefined by the bill.

Sections 721.855(5)(a) and 721.856(5)(b), F.S., are amended by the bill to delete the provisions providing that service of the foreclosure trustee's notice of default and intent to foreclose is not perfected if the trustee cannot, in good faith, ascertain the person who signed the receipt because all or a portion of the obligor's or person's name is not on the signed receipt or because the trustee cannot otherwise determine that the obligor or junior interest holder signed the receipt.

The bill amends ss. 721.855(6) and 721.856(6), F.S., to permit, if applicable, service of the foreclosure trustee's copy of the notice of sale by "preferred delivery service," as redefined by the bill.

Sections 721.855(14) and 721.856(13), F.S., are amended by the bill to delete the provisions that exempt a trustee from violations of these sections if the trustee incorrectly ascertains that the obligor signed the return receipt for delivery of the notice of default and intent to foreclose if the trustee made a good faith effort to properly ascertain that the obligor signed the return receipt as required by these sections.

The bill creates s. 721.86(5), F.S., to provide that mediation, a settlement conference, or any other effort to resolve a foreclosure is not required once a default in a judicial foreclosure of an assessment lien or mortgage lien has been issued.

Effective Date

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends s. 721.52(5), F.S., to provide that timeshare estates or timeshare licenses may be offered in a nonspecific multisite timeshare plan. The division interprets current law to permit timeshare estates to be offered only in a specific multisite timeshare plan pursuant to s. 721.57, F.S., which permits the offering of timeshare estates in a “specific multisite plan.”²⁹ The division represents that the bill may conflict with provisions in ss. 721.05(34),³⁰ 721.52(4)(b)³¹ and 721.57, F.S.,³² that are not amended by the bill.³³

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 721.03, 721.07, 721.075, 721.10, 721.11, 721.125, 721.13, 721.52, 721.55, 721.551, 721.82, 721.85, 721.855, 721.856, 721.86, 721.09, and 721.111.

This bill creates section 721.131 of the Florida Statutes.

²⁹ Section 721.52(7), F.S., defining the term “specific multisite plan.”

³⁰ Section 721.05(34), F.S., defines the term “timeshare estate” as a timeshare estate is a parcel of real property.

³¹ Section 721.57(4)(b)2., F.S., the use rights to the real property, i.e., a timeshare estate, continue in the event the reservation system is terminated or otherwise becomes unavailable for any reason prior to the expiration of the term of the specific multisite timeshare plan.

³² Section 721.57, F.S., providing for the offering of timeshare estates in specific timeshare plans.

³³ See DBPR, *2022 Agency Legislative Bill Analysis for SB 575*, p. 4 (Dec. 7, 2021) on file with the Regulated Industries Committee.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to vacation and timeshare plans;
 3 amending s. 721.03, F.S.; exempting certain timeshare
 4 plans from specified requirements relating to the
 5 creation of a timeshare estate in a nonresidential
 6 condominium unit under certain circumstances; amending
 7 s. 721.07, F.S.; authorizing developers to provide
 8 purchasers with the option to receive the approved
 9 public offering statement and other information
 10 electronically under certain circumstances;
 11 authorizing the Division of Florida Condominiums,
 12 Timeshares, and Mobile Homes to prescribe by rule a
 13 specified form; providing requirements for such form;
 14 making technical changes; amending s. 721.075, F.S.;
 15 specifying that the payment for certain incidental
 16 benefits is voluntary; removing a limitation on the
 17 aggregate represented value of all incidental
 18 benefits; removing the requirement that incidental
 19 benefits be filed with the division for review;
 20 prohibiting the transfer or assignment of an
 21 incidental benefit without the approval of the
 22 benefit's provider; revising the acknowledgment a
 23 purchaser must sign relating to incidental benefits;
 24 removing the requirement that the acknowledgment and
 25 disclosure statement be filed with the division before
 26 use; removing the requirement that a developer notify
 27 the division upon learning that an incidental benefit
 28 is unavailable; requiring a substituted incidental
 29 benefit to be made available, rather than delivered,

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30 to a purchaser within a specified time; making
 31 technical changes; amending s. 721.10, F.S.;
 32 prohibiting any attempt to obtain a waiver of the
 33 purchaser's right of cancellation; providing that a
 34 closing is voidable under certain circumstances and
 35 within specified timeframes; making technical changes;
 36 amending s. 721.11, F.S.; revising the definition of
 37 the term "advertising material"; exempting advertising
 38 material from certain disclosures under certain
 39 circumstances; conforming cross-references and making
 40 technical changes; amending s. 721.125, F.S.;
 41 providing legislative findings; providing that the
 42 board of administration of the owners' association
 43 serves as the termination trustee for purposes of
 44 implementing the termination of a timeshare plan;
 45 providing an exception; requiring the termination
 46 trustee to act in a fiduciary capacity; requiring
 47 certain unpaid amounts to be set off against the net
 48 proceeds from the disposition of the timeshare
 49 property; authorizing the termination trustee to bring
 50 an interpleader action in certain circumstances and
 51 deposit any disputed funds into the court registry;
 52 authorizing attorney fees and costs; revising
 53 applicability; making technical changes; amending s.
 54 721.13, F.S.; prohibiting a managing entity from
 55 sending certain notices to the address of an owner's
 56 timeshare unit or timeshare plan; authorizing certain
 57 meetings to be conducted electronically; creating s.
 58 721.131, F.S.; authorizing a managing entity to

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59 exercise specified powers before, during, or after an
 60 actual or anticipated emergency in certain
 61 circumstances and for certain purposes; amending s.
 62 721.52, F.S.; revising the definition of the term
 63 "nonspecific multisite timeshare plan"; making
 64 technical changes; amending s. 721.55, F.S.;
 65 authorizing component site information to be provided
 66 to purchasers electronically; providing that a
 67 developer is not required to file a separate public
 68 offering statement for certain component sites; making
 69 technical changes; amending s. 721.551, F.S.;
 70 conforming a cross-reference and making technical
 71 changes; amending s. 721.82, F.S.; revising the
 72 definition of the term "permitted delivery service";
 73 amending s. 721.85, F.S.; conforming a provision to
 74 changes made by the act; amending ss. 721.855 and
 75 721.856, F.S.; revising an obligor's right to object
 76 to the trustee foreclosure procedure; revising
 77 available methods of delivery of certain notices and
 78 certificates of sale; revising when certain notices
 79 are considered perfected against a trustee; making
 80 technical changes; conforming provisions to changes
 81 made by the act; amending s. 721.86, F.S.; providing
 82 that certain efforts to resolve a foreclosure are not
 83 required under certain circumstances; reenacting ss.
 84 721.09(1)(d) and 721.111(6), F.S., relating to
 85 reservation agreements and escrows and prize and gift
 86 promotional offers, respectively, to incorporate the
 87 amendments made by this act to s. 721.11, F.S., in

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88 references thereto; providing an effective date.
 89
 90 Be It Enacted by the Legislature of the State of Florida:
 91
 92 Section 1. Paragraph (f) is added to subsection (3) of
 93 section 721.03, Florida Statutes, to read:
 94 721.03 Scope of chapter.—
 95 (3) A timeshare plan which is subject to the provisions of
 96 chapter 718 or chapter 719, if fully in compliance with the
 97 provisions of this chapter, is exempt from the following:
 98 (f) Sections 718.104(4)(o), 718.1045, and 718.110(8),
 99 relating to the creation of timeshare estates in a
 100 nonresidential condominium unit.
 101 Section 2. Subsection (6) of section 721.07, Florida
 102 Statutes, is amended to read:
 103 721.07 Public offering statement.—Prior to offering any
 104 timeshare plan, the developer must submit a filed public
 105 offering statement to the division for approval as prescribed by
 106 s. 721.03, s. 721.55, or this section. Until the division
 107 approves such filing, any contract regarding the sale of that
 108 timeshare plan is subject to cancellation by the purchaser
 109 pursuant to s. 721.10.
 110 (6) (a) A developer may provide each purchaser with the
 111 option to receive all or any portion of the approved public
 112 offering statement electronically, including, but not limited
 113 to, through a website or other Internet-based access, if the
 114 developer discloses to the purchaser the system requirements
 115 necessary to view the approved public offering statement.
 116 (b) The division is authorized to prescribe by rule the

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117 form of the approved purchaser public offering statement that
 118 must be furnished by the developer to each purchaser and the
 119 form on which a purchaser must select the manner in which he or
 120 she wants the approved purchaser public offering statement
 121 delivered. The form of the purchaser public offering statement
 122 must provide fair, meaningful, and effective disclosure of all
 123 aspects of the timeshare plan. The purchaser manner of delivery
 124 form must disclose the system requirements necessary to view the
 125 approved public offering statement electronically and advise the
 126 purchaser to not select an alternative method of receiving the
 127 approved public offering statement unless he or she is able to
 128 review the approved public offering statement before the
 129 expiration of the 10-day cancellation period under s. 721.10.

130 (c) For timeshare plans filed under pursuant to this part,
 131 the developer shall furnish each purchaser with the following,
 132 which may be provided electronically, including, but not limited
 133 to, through a website or other Internet-based access:

134 1. ~~(a)~~ A copy of the purchaser public offering statement and
 135 a copy of the purchaser manner of delivery form text in the form
 136 approved by the division for delivery to purchasers.

137 2. ~~(b)~~ Copies of the exhibits required to be filed with the
 138 division under pursuant to subparagraphs (5)(ff)1., 2., 4., 5.,
 139 8., and 20.

140 3. ~~(c)~~ A receipt for timeshare plan documents and a list
 141 describing any exhibit to the ~~filed~~ public offering statement
 142 filed with the division which is not delivered to the purchaser.
 143 The division is authorized to prescribe by rule the form of the
 144 receipt for timeshare plan documents and the description of
 145 exhibits list that must be furnished to the purchaser. The

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146 description of documents list utilized by a developer must ~~shall~~
 147 be filed with the division for review as part of the filed
 148 public offering statement under pursuant to this section. The
 149 developer ~~is shall be~~ required to provide the managing entity
 150 with a copy of the approved filed public offering statement and
 151 any approved amendments thereto to be maintained by the managing
 152 entity as part of the books and records of the timeshare plan
 153 under pursuant to s. 721.13(3)(d).

154 4. ~~(d)~~ Any other exhibit that which the developer includes
 155 as part of the purchaser public offering statement, provided
 156 that the developer first files the exhibit with the division.

157 5. ~~(e)~~ An executed copy of any document that which the
 158 purchaser signs.

159 6. ~~(f)~~ Each purchaser ~~shall receive~~ A fully executed ~~paper~~
 160 copy of the purchase contract.

161 Section 3. Section 721.075, Florida Statutes, is amended to
 162 read:

163 721.075 Incidental benefits.—Incidental benefits may ~~shall~~
 164 be offered only as provided in this section.

165 (1) Accommodations, facilities, products, services,
 166 discounts, or other benefits which satisfy the requirements of
 167 this subsection ~~are shall be~~ subject to ~~the provisions of~~ this
 168 section and exempt from the other provisions of this chapter
 169 which would otherwise apply to such accommodations or facilities
 170 if and only if:

171 (a) The use of, ~~or~~ participation in, and payment for the
 172 incidental benefit by the prospective purchaser is completely
 173 voluntary, ~~and payment of any fee or other cost associated with~~
 174 ~~the incidental benefit is required only upon such use or~~

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175 ~~participation.~~

176 (b) ~~The~~ No costs of acquisition, operation, maintenance, or
 177 repair of the incidental benefit may not be ~~are~~ passed on to
 178 purchasers of the timeshare plan as common expenses of the
 179 timeshare plan or as common expenses of a component site of a
 180 multisite timeshare plan.

181 (c) The continued availability of the incidental benefit is
 182 not necessary in order for any accommodation or facility of the
 183 timeshare plan to be available for use by purchasers of the
 184 timeshare plan in a manner consistent in all material respects
 185 with the manner portrayed by any promotional material,
 186 advertising, or purchaser public offering statement.

187 (d) The continued availability to purchasers of timeshare
 188 plan accommodations on no greater than a one-to-one use right to
 189 use night requirement ratio is not dependent upon continued
 190 availability of the incidental benefit.

191 (e) The incidental benefit will continue to be available in
 192 the manner represented to prospective purchasers for up to 3
 193 years ~~or less~~ after the first date that the timeshare plan is
 194 available for use by the purchaser. Nothing herein prevents
 195 ~~shall prevent~~ the renewal or extension of the availability of an
 196 incidental benefit.

197 ~~(f) The aggregate represented value of all incidental~~
 198 ~~benefits offered by a developer to a purchaser may not exceed 15~~
 199 ~~percent of the purchase price paid by the purchaser for his or~~
 200 ~~her timeshare interest.~~

201 ~~(g) The incidental benefit is filed with the division for~~
 202 ~~review in conjunction with the filing of a timeshare plan or in~~
 203 ~~connection with a previously filed timeshare plan.~~

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204 (2) Each purchaser shall execute a separate acknowledgment
 205 and disclosure statement with respect to all incidental
 206 benefits, which statement must ~~shall~~ include the following
 207 information:

208 (a) A fair description of the incidental benefit,
 209 including, but not limited to, any user fees or costs associated
 210 therewith and any restrictions upon use or availability.

211 (b) A statement that use of, ~~or~~ participation in, and
 212 payment for the incidental benefit by the prospective purchaser
 213 is completely voluntary, ~~and that payment of any fee or other~~
 214 ~~cost associated with the incidental benefit is required only~~
 215 ~~upon such use or participation.~~

216 (c) A statement that the incidental benefit is not
 217 assignable or otherwise transferable by the prospective
 218 purchaser or purchaser without the approval of the provider of
 219 the incidental benefit.

220 (d) The following disclosure in conspicuous type
 221 immediately above the space for the purchaser's signature:

222
 223 *The incidental benefit[s] described in this statement is*
 224 *[are] offered to prospective purchasers of the timeshare plan*
 225 *[or other permitted reference under pursuant to s.*
 226 *721.11(5)(a)]. This [These] benefit[s] is [are] available for*
 227 *your use for [some period up to 3 years or less] after the first*
 228 *date that the timeshare plan is available for your use. The*
 229 *availability of the incidental benefit[s] may or may not be*
 230 *renewed or extended. You should not purchase an interest in the*
 231 *timeshare plan in reliance upon the continued availability or*
 232 *renewal or extension of this [these] benefit[s].*

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233 ~~(e) A statement indicating the source of the services,~~
 234 ~~points, or other products that constitute the incidental~~
 235 ~~benefit.~~

236

237 ~~The acknowledgment and disclosure statement for any incidental~~
 238 ~~benefit shall be filed with the division prior to use. Each~~
 239 ~~purchaser must ~~shall~~ receive a copy of his or her executed~~
 240 ~~acknowledgment and disclosure statement as a document required~~
 241 ~~to be provided to him or her under pursuant to s. 721.10(1)(b).~~

242 (3)(a) In the event that an incidental benefit becomes
 243 unavailable to purchasers in the manner represented by the
 244 developer in the acknowledgment and disclosure statement, the
 245 developer shall pay the purchaser the greater of twice the
 246 verifiable retail value or twice the represented value of the
 247 unavailable incidental benefit in cash within 30 days after of
 248 the date that the unavailability of the incidental benefit was
 249 made known to the developer, unless the developer has reserved a
 250 substitution right under pursuant to paragraph (b) and timely
 251 makes the substitution as required by paragraph (b). ~~The~~
 252 ~~developer shall promptly notify the division upon learning of~~
 253 ~~the unavailability of any incidental benefit.~~

254 (b) If an incidental benefit becomes unavailable as a
 255 result of events beyond the control of the developer, the
 256 developer may reserve the right to substitute a replacement
 257 incidental benefit of a type, quality, value, and term
 258 reasonably similar to the unavailable incidental benefit. If the
 259 developer reserves the right to substitute, the acknowledgment
 260 and disclosure statement required under pursuant to paragraph
 261 (2)(a) must shall contain the following conspicuous disclosure:

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262

263 *In the event any incidental benefit described in this*
 264 *statement becomes unavailable as a result of events beyond the*
 265 *control of the developer, the developer reserves the right to*
 266 *substitute a replacement incidental benefit of a type, quality,*
 267 *value, and term reasonably similar to the unavailable incidental*
 268 *benefit.*

269

270 The substituted incidental benefit must shall be made available
 271 ~~delivered~~ to the purchaser within 30 days after the date that
 272 the unavailability of the incidental benefit was made known to
 273 the developer.

274 (4) All purchaser remedies under pursuant to s. 721.21 are
 275 ~~shall be~~ available for any violation of ~~the provisions of~~ this
 276 section.

277 Section 4. Present subsections (2) and (3) of section
 278 721.10, Florida Statutes, are redesignated as subsections (3)
 279 and (4), respectively, a new subsection (2) is added to that
 280 section, and subsection (1) of that section is amended, to read:

281 721.10 Cancellation.-

282 (1) A purchaser has the right to cancel the contract until
 283 midnight on of the 10th calendar day after the later of
 284 ~~following whichever of the following days occurs later:~~

285 (a) The execution date of the contract; or
 286 (b) The day on which the purchaser received the last of all
 287 documents required to be provided to him or her, including the
 288 notice required by s. 721.07(2)(d)2., if applicable.

289 (2) This right of cancellation may not be waived by any
 290 purchaser or by any other person on behalf of the purchaser, and

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291 any attempt to obtain a waiver of the cancellation right of the
 292 purchaser is unlawful. If a purchaser waives, knowingly or
 293 unknowingly, his or her right of cancellation and a closing
 294 occurs, such closing is voidable at the option of the purchaser
 295 for up to 1 year after the date that would have been the
 296 expiration of the cancellation period under subsection (1).
 297 Furthermore, ~~a~~ ~~no~~ closing may ~~not~~ occur until the cancellation
 298 period of the ~~timeshare~~ purchaser has expired, and if a closing
 299 occurs before the expiration of the cancellation period, ~~Any~~
 300 ~~attempt to obtain a waiver of the cancellation right of the~~
 301 ~~timeshare purchaser, or to hold a closing prior to the~~
 302 ~~expiration of the cancellation period, is unlawful and such~~
 303 closing is voidable at the option of the purchaser for up to 5
 304 years after such closing a period of 1 year after the expiration
 305 of the cancellation period. However, nothing in this section
 306 precludes the execution of documents in advance of closing for
 307 delivery after expiration of the cancellation period.

Section 5. Paragraphs (b) and (e) of subsection (6) of
 section 721.11, Florida Statutes, are amended, and paragraph (i)
 is added to subsection (2) of that section, to read:

721.11 Advertising materials; oral statements.—

(2) The term "advertising material" includes:

(i) Any message, text, picture, video, or other content
made available, delivered, or shared electronically through the
Internet or any other Internet-based access. However,
advertising material under this paragraph does not need to
contain the disclosures required under subsection (5) as long as
such disclosures are provided to the purchaser before the
purchaser takes any affirmative action pursuant to a promotion.

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320 (6) Failure to provide cancellation rights or disclosures
 321 as required by this subsection in connection with the sale of a
 322 regulated short-term product constitutes misrepresentation in
 323 accordance with paragraph (4) (a). Any agreement relating to the
 324 sale of a regulated short-term product must be regulated as
 325 advertising material and is subject to the following:
 326 (b) A purchaser of a regulated short-term product has the
 327 right to cancel the agreement until midnight of the 10th
 328 calendar day after following the execution date of the
 329 agreement. The right of cancellation may not be waived by the
 330 prospective purchaser or by any other person on behalf of the
 331 prospective purchaser. Notice of cancellation must be given in
 332 the same manner prescribed for giving notice of cancellation
 333 under s. 721.10(3) a. 721.10(2). If the prospective purchaser
 334 gives a valid notice of cancellation or is otherwise entitled to
 335 cancel the sale, the funds or other property received from or on
 336 behalf of the prospective purchaser, or the proceeds thereof,
 337 must be returned to the prospective purchaser. Such refund must
 338 be made in the same manner prescribed for refunds under s.
 339 721.10.

(e) If the seller provides the purchaser with the right to
 cancel the purchase of a regulated short-term product at any
 time up to 7 days ~~before~~ ~~prior to~~ the purchaser's reserved use
 of the accommodations, but in no event less than 10 days, and if
 the seller refunds the total amount of all payments made by the
 purchaser reduced by the proportion of any benefits the
 purchaser has actually received ~~before~~ ~~prior to~~ the effective
 date of the cancellation, the specific value of which has been
 agreed to between the purchaser and the seller, the short-term

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349 product offer is ~~shall be~~ exempt from the requirements of
 350 paragraphs (b), (c), and (d). An agreement relating to the sale
 351 of the regulated short-term product made pursuant to this
 352 paragraph must contain a statement setting forth the
 353 cancellation and refund rights of the prospective purchaser in a
 354 manner that is consistent with this section and s. 721.10,
 355 including a description of the length of the cancellation right,
 356 a statement that the purchaser's intent to cancel must be in
 357 writing and sent to the seller at a specified address, a
 358 statement that the notice of cancellation is effective upon the
 359 date sent, and a statement that any attempt to waive the
 360 cancellation right is unlawful. The right of cancellation
 361 provided to the purchaser under ~~pursuant to~~ this paragraph may
 362 not be waived by the prospective purchaser or by any other
 363 person on behalf of the prospective purchaser. Notice of
 364 cancellation must be given in the same manner prescribed for
 365 giving notice of cancellation under s. 721.10(3) ~~pursuant to s.~~
 366 ~~721.10(2)~~. If the prospective purchaser gives a valid notice of
 367 cancellation, or is otherwise entitled to cancel the sale, the
 368 funds or other property received from or on behalf of the
 369 prospective purchaser, or the proceeds thereof, shall be
 370 returned to the prospective purchaser. Such refund shall be made
 371 in the manner prescribed for refunds under s. 721.10.

372 Section 6. Section 721.125, Florida Statutes, is amended to
 373 read:

374 721.125 Termination of timeshare plans.—

375 (1) The Legislature finds that the continued enforcement of
 376 timeshare plan covenants that encumber the land and restrict the
 377 use of real property may create economic waste and areas of

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378 disrepair that threaten the safety and welfare of the owners or
 379 the public or cause obsolescence of the property for its
 380 intended use. It is the public policy of the state to provide a
 381 method to preserve the value of the property interests and the
 382 rights of alienation thereof that owners have in the timeshare
 383 property before and after termination of a timeshare plan.
 384 ~~Accordingly unless the timeshare instrument provides otherwise,~~
 385 the vote or written consent, or both, of 60 percent, unless the
 386 timeshare instrument provides for a lower percentage, of all
 387 voting interests in a timeshare plan may terminate the term of
 388 the timeshare plan at any time. If a timeshare plan is
 389 terminated under ~~pursuant to~~ this section, the termination has
 390 immediate effect pursuant to applicable law and the timeshare
 391 instrument as if the effective date of the termination were the
 392 original date of termination.

393 (2) The board of administration of the owners' association
 394 shall serve as termination trustee for the purpose of
 395 implementing the termination of the timeshare plan, unless
 396 another person is appointed as the termination trustee during
 397 the vote or in the written consent, or both, under subsection
 398 (1) or by the court. The termination trustee shall act in a
 399 fiduciary capacity to the owners of timeshare interests in a
 400 timeshare plan.

401 (3) If a termination vote or the written consent under
 402 ~~pursuant to~~ subsection (1) is proposed for a component site of a
 403 multisite timeshare plan located in the ~~this~~ state, the proposed
 404 termination is effective only if the person authorized to make
 405 additions or substitutions of accommodations and facilities
 406 pursuant to the timeshare instrument also approves the

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407 termination.

408 (4) (a) (2) (a) If the timeshare property is managed by an
 409 owners' association that is separate from any underlying
 410 condominium, cooperative, or homeowners' association, the
 411 termination of a timeshare plan does not change the corporate
 412 status of the owners' association. The owners' association may
 413 continue ~~continues~~ to exist only for the purposes of concluding
 414 its affairs, prosecuting and defending actions by or against it,
 415 collecting and discharging obligations, disposing of and
 416 conveying its property, collecting and dividing its assets, and
 417 otherwise complying with this subsection.

418 1. After termination of a timeshare plan, the board of
 419 administration of the owners' association shall serve as the
 420 termination trustee, and in such fiduciary capacity may bring an
 421 action in partition on behalf of the tenants in common in each
 422 former timeshare property or sell the former timeshare property
 423 in any manner and to any person who is approved by a majority of
 424 all such tenants in common. The termination trustee also has all
 425 other powers reasonably necessary to effect the partition or
 426 sale of the former timeshare property, including the power to
 427 maintain the property during the pendency of any partition
 428 action or sale.

429 2. All reasonable expenses incurred by the termination
 430 trustee relating to the performance of its duties pursuant to
 431 this subsection, including the reasonable fees of attorneys and
 432 other professionals, must be paid by the tenants in common of
 433 the former timeshare property subject to partition or sale,
 434 proportionate to their respective ownership interests.

435 3. The termination trustee shall adopt reasonable

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436 ~~procedures to implement the partition or sale of the former~~
 437 ~~timeshare property and comply with the requirements of this~~
 438 ~~subsection.~~

439 (b) If a timeshare plan is terminated in a timeshare
 440 condominium or timeshare cooperative and the underlying
 441 condominium or cooperative is not simultaneously terminated, a
 442 majority of the tenants in common in each former timeshare unit
 443 present and voting in person or by proxy at a meeting of such
 444 tenants in common conducted by the termination trustee, or
 445 conducted by the board of administration of the condominium or
 446 cooperative association, if such association managed the former
 447 timeshare property, shall designate a voting representative for
 448 the unit and file a voting certificate with the condominium or
 449 cooperative association. The voting representative may vote on
 450 all matters at meetings of the condominium or cooperative
 451 association, including termination of the condominium or
 452 cooperative.

453 (c) After termination of a timeshare plan, the termination
 454 trustee may bring an action in partition on behalf of the
 455 tenants in common in each former timeshare property or may sell
 456 the former timeshare property in any manner and to any person
 457 who is approved by a majority of all such tenants in common or
 458 by the voting representative, as applicable. The termination
 459 trustee shall have all other powers reasonably necessary to
 460 effect the partition or sale of the former timeshare property,
 461 including the power to maintain the property during the pendency
 462 of any partition action or sale.

463 (d) All reasonable expenses incurred by the termination
 464 trustee relating to the performance of his or her duties under

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465 this subsection, including reasonable attorney fees or fees for
 466 other professionals, must be paid by the tenants in common of
 467 the former timeshare property subject to partition or sale,
 468 proportionate to their respective ownership interests.

469 (e) The termination trustee shall adopt reasonable
 470 procedures to implement the partition or sale of the former
 471 timeshare property and to comply with the requirements of this
 472 subsection.

473 (f) Any unpaid assessments, taxes, late fees, interest,
 474 finances, charges, or other amounts due and owing to the managing
 475 entity by an owner of a timeshare interest must be set off
 476 against, and reduce the share of, the net proceeds from the
 477 disposition of the timeshare property that are allocated to such
 478 owner.

479 (g) If an owner of a timeshare interest or any other person
 480 claiming an interest in such owner's allocated share of the net
 481 proceeds from the disposition of the timeshare property disputes
 482 the distribution of such proceeds, the termination trustee may
 483 file an interpleader action in circuit court and deposit the
 484 disputed funds into the court registry, at which time the
 485 timeshare property and the proceeds distributed pursuant to a
 486 disposition of the timeshare property are free of all claims and
 487 liens of the parties to the interpleader action. If the
 488 termination trustee files an interpleader action, both the
 489 termination trustee and the prevailing party may recover
 490 reasonable attorney fees and costs from the nonprevailing party.

491 (5)(4) This section applies ~~only~~ to all ~~a~~ timeshare plans
 492 in the state that exist on or after July 1, 2022, provided that
 493 the timeshare plan has existed ~~that has been in existence~~ for at

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494 least 25 years as of the effective date of the termination of
 495 the timeshare plan ~~vote or consent required by subsection (1).~~

496 Section 7. Subsection (14) is added to section 721.13,
 497 Florida Statutes, to read:
 498 721.13 Management.—
 499 (14) Notwithstanding any provision of chapter 718 or
 500 chapter 719 to the contrary:

501 (a) A managing entity may not send notices that are
 502 required to be delivered to an owner of a timeshare interest
 503 pursuant to chapter 718, chapter 719, or this chapter to the
 504 address of the owner's timeshare unit or the address of the
 505 owner's timeshare plan.

506 (b) The board of administration or the members of an
 507 owners' association may conduct board meetings or owners'
 508 meetings electronically and without the need for the meeting to
 509 be held at a physical location.

510 Section 8. Section 721.131, Florida Statutes, is created to
 511 read:
 512 721.131 Managing entity emergency powers.—
 513 (1) Notwithstanding any provision to the contrary in
 514 chapter 718, chapter 719, or the timeshare instrument, to the
 515 extent allowed by law and consistent with s. 617.0830, a
 516 managing entity, including a board of administration of an
 517 owners' association, in response to an actual or anticipated
 518 emergency as defined in s. 252.34(4), including, but not limited
 519 to, a state of emergency declared by the Governor pursuant to s.
 520 252.36, in the locale in which the accommodations or facilities
 521 of a timeshare plan are located, may exercise the following
 522 powers:

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523 (a) Conduct board of administration meetings and owners'
 524 meetings, in whole or in part, by telephone, real-time
 525 videoconferencing, or similar real-time electronic or video
 526 communication with notice given as is practicable. Such notice
 527 may be given in any practicable manner, including publication,
 528 radio, United States mail, the Internet, electronic
 529 transmission, public service announcements, and conspicuous
 530 posting on the timeshare property or by any other means the
 531 managing entity deems reasonable under the circumstances. Notice
 532 of decisions of the managing entity may also be communicated as
 533 provided in this paragraph.

534 (b) Cancel and reschedule any board of administration
 535 meetings or owners' meetings.

536 (c) Name as assistant officers persons who are not
 537 directors of the owners' association. Assistant officers have
 538 the same authority as the executive officers they are assisting
 539 during the state of emergency to accommodate the incapacity or
 540 unavailability of any officer of the owners' association.

541 (d) Relocate the managing entity's principal office or
 542 designate alternative principal offices.

543 (e) Enter into agreements with counties and municipalities
 544 to assist with emergency matters.

545 (f) Implement an emergency plan that may include, but is
 546 not limited to, shutting down or off elevators; electricity;
 547 water, sewer, or security systems; or air conditioners.

548 (g) Determine that all or any portion of the timeshare
 549 property is unavailable for entry, use, or occupancy by the
 550 owners or the owners' family members, tenants, guests, agents,
 551 invitees, exchangers, or other occupants of the timeshare

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552 property to protect the health, safety, or welfare of such
 553 persons or to protect the accommodations or facilities of the
 554 timeshare plan.

555 (h) Require the evacuation of the timeshare property. If
 556 any owner or other occupant fails or refuses to evacuate the
 557 timeshare property after the managing entity has required
 558 evacuation, the managing entity is immune from liability or
 559 injury to persons or property arising from such failure or
 560 refusal.

561 (i) Determine whether all or a portion of the timeshare
 562 property, including recreational and other accommodations or
 563 facilities, may be safely used, inhabited, or occupied, and
 564 whether all or a portion of such property needs to be closed for
 565 a period of time. However, such determination is not conclusive
 566 as to any determination of habitability pursuant to the
 567 timeshare instrument.

568 (j) Mitigate further damage, including taking action to
 569 contract for the removal of debris and to prevent or mitigate
 570 the spread of fungus, including, but not limited to, mold or
 571 mildew, by removing and disposing of wet drywall, insulation,
 572 carpet, cabinetry, or other fixtures on or within the timeshare
 573 property.

574 (k) Contract, on behalf of any owner or owners, for items
 575 or services for which the owners are otherwise individually
 576 responsible, but which are necessary as a result of the
 577 emergency. In such event, the owner or owners on whose behalf
 578 the managing entity has contracted are responsible for
 579 reimbursing the managing entity for the actual costs of the
 580 items or services, and the managing entity may use its lien

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581 authority provided under s. 721.16 to enforce collection of the
 582 costs.

583 (l) Regardless of any provision to the contrary and even if
 584 such authority does not specifically appear in the timeshare
 585 instrument, levy special assessments without a vote of the
 586 owners.

587 (m) Without a vote of the owners, borrow money and pledge
 588 managing entity assets as collateral to fund emergency actions
 589 or repairs and carry out the duties of the managing entity when
 590 operating funds are insufficient. This paragraph does not limit
 591 the general authority of the managing entity to borrow money,
 592 subject to such restrictions as are contained in the timeshare
 593 instrument.

594 (n) Issue emergency rules and regulations, or temporarily
 595 modify existing rules and regulations, regarding the operation
 596 of the timeshare plan reservation system as required under s.
 597 721.13(3)(g) and (12)(a) or the multisite timeshare plan
 598 reservation system as required under s. 721.56(6). This
 599 authority includes issuing or modifying emergency rules and
 600 regulations to add, modify, or suspend use rights to address the
 601 loss of or restricted use of purchasers' timeshare interests as
 602 a result of the emergency or to comply with federal, state, or
 603 local orders. For this limited purpose, enforcement of the one-
 604 to-one use right to use night requirement ratio as defined in s.
 605 721.05(25) may be suspended, and any subsequent imbalance with
 606 respect to the one-to-one use right to use night requirement
 607 ratio that results because of the implementation of an emergency
 608 rule or regulation is not a violation of this chapter.

609 (o) Notwithstanding s. 721.13(3)(c)2., transfer funds in

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610 any deferred maintenance or capital expenditure reserve account
 611 to any operating account without the consent of a majority of
 612 the purchasers of the timeshare plan.

613 (p) Take any other actions reasonably necessary to protect
 614 the health, safety, and welfare of the managing entity and the
 615 owners and the owners' family members, tenants, guests, agents,
 616 invitees, exchangers, and other occupants or to protect the
 617 timeshare property.

618 (2) The special powers authorized under subsection (1) may
 619 be exercised before, during, or after the actual or anticipated
 620 emergency but are limited to the time and scope reasonably
 621 necessary to:

622 (a) Protect the health, safety, and welfare of the managing
 623 entity and the owners and the owners' family members, tenants,
 624 guests, agents, invitees, exchangers, and other occupants.

625 (b) Protect the timeshare property.

626 (c) Mitigate or avoid harm, injury, or damage to persons or
 627 property.

628 (d) Take emergency actions or make emergency repairs.

629 Section 9. Subsection (5) of section 721.52, Florida
 630 Statutes, is amended to read:

631 721.52 Definitions.—As used in this chapter, the term:

632 (5) "Nonspecific multisite timeshare plan" means a
 633 multisite timeshare plan with respect to which a purchaser
 634 receives a right to use all of the accommodations and
 635 facilities, if any, of the multisite timeshare plan through the
 636 reservation system, but no specific right to use any particular
 637 accommodations and facilities for the remaining term of the
 638 multisite timeshare plan in the event that the reservation

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639 system is terminated for any reason before ~~prior to~~ the
640 expiration of the term of the multisite timeshare plan.
641 Timeshare estates or timeshare licenses may be offered in a
642 nonspecific multisite timeshare plan.

643 Section 10. Paragraph (1) of subsection (4) and paragraph
644 (1) of subsection (7) of section 721.55, Florida Statutes, are
645 amended to read:

646 721.55 Multisite timeshare plan public offering statement.—
647 Each filed public offering statement for a multisite timeshare
648 plan shall contain the information required by this section and
649 shall comply with the provisions of s. 721.07, except as
650 otherwise provided therein. The division is authorized to
651 provide by rule the method by which a developer must provide
652 such information to the division. Each multisite timeshare plan
653 filed public offering statement shall contain the following
654 information and disclosures:

655 (4) A text, which shall include, where applicable, the
656 information and disclosures set forth in paragraphs (a)-(1).

657 (1) A description of each component site, which description
658 may be disclosed in a written, graphic, tabular, or other form
659 approved by the division or provided to the purchaser
660 electronically, including, but not limited to, through a website
661 or other Internet-based access. The description of each
662 component site ~~must shall~~ include all of the following
663 information:

- 664 1. The name and address of each component site.
- 665 2. The number of accommodations, timeshare interests, and
666 timeshare periods, expressed in periods of 7-day use
667 availability, committed to the multisite timeshare plan and

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668 available for use by purchasers.

669 3. Each type of accommodation in terms of the number of
670 bedrooms, bathrooms, sleeping capacity, and whether or not the
671 accommodation contains a full kitchen. As used in ~~For purposes~~
672 ~~of this subparagraph description, the term "full kitchen" means~~
673 ~~a full kitchen shall mean~~ a kitchen with at least ~~having a~~
674 ~~minimum of~~ a dishwasher, range, sink, oven, and refrigerator.

675 4. A description of facilities available for use by the
676 purchaser at each component site, including the following:

- 677 a. The intended use of the facility, if not apparent from
678 the description.
- 679 b. Any user fees associated with a purchaser's use of the
680 facility.

681 5. A cross-reference to the location in the public offering
682 statement of the description of any priority reservation
683 features which may affect a purchaser's ability to obtain a
684 reservation in the component site.

685 (7) The following documents shall be included as exhibits
686 to the filed public offering statement, if applicable:

687 (1)1. If the multisite timeshare plan contains any
688 component sites located in the ~~this~~ state, the information
689 required by s. 721.07(5) pertaining to each such component site,
690 unless exempt under ~~pursuant to~~ s. 721.03.

691 2. If the purchaser will receive an interest in a specific
692 multisite timeshare plan component site located outside of the
693 ~~this~~ state but which is offered in the ~~this~~ state, the
694 information required by s. 721.07(5) pertaining to that
695 component site, ~~provided,~~ for purposes of this
696 paragraph, that the provisions of s. 721.07(5) (t) ~~shall~~ only

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697 ~~requires~~ require disclosure of information related to the
698 estimated budget for the timeshare plan and purchaser's expenses
699 as required by the jurisdiction in which the component site is
700 located.

701
702 A developer is not required to file a separate public offering
703 statement for any component site located within or outside the
704 state in order to include the component site in the multistate
705 timeshare plan.

706 Section 11. Paragraph (c) of subsection (2) of section
707 721.551, Florida Statutes, is amended to read:

708 721.551 Delivery of multisite timeshare plan purchaser
709 public offering statement.—

710 (2) The developer shall furnish each purchaser with the
711 following:

712 (c) If the purchaser will receive an interest in a specific
713 multisite timeshare plan component site located in ~~the this~~
714 state, the developer must ~~shall~~ also furnish the purchaser with
715 the information required to be delivered under s. 721.07(6)(c)1.
716 and 2. pursuant to s. 721.07(6)(a) and (b) for that component
717 site.

718 Section 12. Subsection (11) of section 721.82, Florida
719 Statutes, is amended to read:

720 721.82 Definitions.—As used in this part, the term:

721 (11) "Permitted delivery service" means delivery to an e-
722 mail address, if provided by the obligor, with evidence that the
723 lienholder received the e-mail. Permitted delivery service is
724 only authorized for obligors who reside outside the United
725 States ~~any nationally recognized common carrier delivery~~

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726 ~~service, international airmail service that allows for return~~
727 ~~receipt service, or a service recognized by an international~~
728 ~~jurisdiction as the equivalent of certified, registered mail for~~
729 ~~that jurisdiction.~~

730 Section 13. Subsection (1) of section 721.85, Florida
731 Statutes, is amended to read:

732 721.85 Service to notice address or on registered agent.—

733 (1) Service of process for a foreclosure proceeding
734 involving a timeshare interest may be made by any means
735 recognized by law. In addition, substituted service on an
736 obligor who has appointed a registered agent under s. 721.84 may
737 be made on such registered agent at the registered office. Also,
738 when using s. 48.194 where in rem or quasi in rem relief only is
739 sought, such service of process provisions are modified in
740 connection with a foreclosure proceeding against a timeshare
741 interest to provide that:

742 (a) Such service of process may be made on any person
743 whether the person is located inside or outside this state, by
744 certified mail, registered mail, or, if applicable, permitted
745 delivery service, return receipt requested, addressed to the
746 person to be served at the notice address, or on the person's
747 registered agent duly appointed under s. 721.84, at the
748 registered office; and

749 (b) Service shall be considered obtained upon the signing
750 of the return receipt by any person at the notice address, or by
751 the registered agent.

752 Section 14. Paragraph (a) of subsection (3), paragraphs (a)
753 and (b) of subsection (5), paragraph (b) of subsection (6),
754 paragraph (f) of subsection (7), and paragraph (b) of subsection

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755 (14) of section 721.855, Florida Statutes, are amended to read:
 756 721.855 Procedure for the trustee foreclosure of assessment
 757 liens.—The provisions of this section establish a trustee
 758 foreclosure procedure for assessment liens.

759 (3) OBLIGOR'S RIGHTS.—

760 (a) The obligor may object to the lienholder's use of the
 761 trustee foreclosure procedure for a specific default within 20
 762 days after receipt of the notice required under subsection (5)
 763 ~~any time before the sale of the timeshare interest under~~
 764 ~~subsection (7)~~ by delivering a written objection to the trustee
 765 using the objection form provided for in subsection (5). If the
 766 trustee receives the written objection from the obligor, the
 767 trustee may not proceed with the trustee foreclosure procedure
 768 as to the default specified in the notice of default and intent
 769 to foreclose under subsection (5), and the lienholder may
 770 proceed thereafter only with a judicial foreclosure action as to
 771 that specified default.

772 (5) NOTICE OF DEFAULT AND INTENT TO FORECLOSE.—

773 (a) In any foreclosure proceeding under this section, the
 774 trustee is required to notify the obligor of the proceeding by
 775 sending the obligor a written notice of default and intent to
 776 foreclose to the notice address of the obligor by certified mail
 777 ~~or, registered mail, or permitted delivery service,~~ return
 778 receipt requested, ~~and by~~ first-class mail, postage prepaid;
 779 or, if applicable, permitted delivery service and first-class
 780 mail, postage prepaid, as follows:

781 1. The notice of default and intent to foreclose must ~~shall~~
 782 identify the obligor, the notice address of the obligor, the
 783 legal description of the timeshare interest, the nature of the

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784 default, the amounts secured by the lien, and a per diem amount
 785 to account for further accrual of the amounts secured by the
 786 lien and must ~~shall~~ state the method by which the obligor may
 787 cure the default, including the period of time after the date of
 788 the notice of default and intent to foreclose within which the
 789 obligor may cure the default.

790 2. The notice of default and intent to foreclose must ~~shall~~
 791 include an objection form with which the obligor can object to
 792 the use of the trustee foreclosure procedure by signing and
 793 returning the objection form to the trustee. The objection form
 794 must ~~shall~~ identify the obligor, the notice address of the
 795 obligor, the timeshare interest, and the return address of the
 796 trustee and must ~~shall~~ state: "The undersigned obligor exercises
 797 the obligor's right to object to the use of the trustee
 798 foreclosure procedure contained in section 721.855, Florida
 799 Statutes."

800 3. The notice of default and intent to foreclose must ~~shall~~
 801 also contain a statement in substantially the following form:

802
 803 *If you fail to cure the default as set forth in this notice or*
 804 *take other appropriate action with regard to this foreclosure*
 805 *matter, you risk losing ownership of your timeshare interest*
 806 *through the trustee foreclosure procedure established in section*
 807 *721.855, Florida Statutes. You may ~~choose to~~ sign and send to*
 808 *the trustee, within 20 days after receipt of this notice, the*
 809 *enclosed objection form, exercising your right to object to the*
 810 *use of the trustee foreclosure procedure. Upon the trustee's*
 811 *receipt of your signed objection form, the foreclosure of the*
 812 *lien with respect to the default specified in this notice is*

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813 ~~shall be subject to the judicial foreclosure procedure only.~~ You
 814 have the right to cure your default in the manner set forth in
 815 this notice at any time before the trustee's sale of your
 816 timeshare interest. If you do not object to the use of the
 817 trustee foreclosure procedure, you will not be subject to a
 818 deficiency judgment even if the proceeds from the sale of your
 819 timeshare interest are insufficient to offset the amounts
 820 secured by the lien.

822 4. The trustee ~~must~~ shall also mail a copy of the notice of
 823 default and intent to foreclose, without the objection form, to
 824 the notice address of any junior interestholder by certified
 825 mail ~~or~~ registered mail, ~~or permitted delivery service~~, return
 826 receipt requested; ~~and by~~ first-class mail, postage prepaid;
 827 or, if applicable, permitted delivery service and first-class
 828 mail, postage prepaid.

829 5. Notice under this paragraph is considered perfected upon
 830 the trustee receiving the return receipt ~~bearing the signature~~
 831 ~~of the obligor or junior interestholder, as applicable,~~ within
 832 30 calendar days after the trustee sent the notice under this
 833 paragraph. Notice under this paragraph is not perfected if:

- 834 a. The notice is returned as undeliverable within 30
 835 calendar days after the trustee sent the notice;
- 836 ~~b. The trustee cannot, in good faith, ascertain that the~~
 837 ~~obligor or junior interestholder, as applicable, is the person~~
 838 ~~who signed the receipt because all or a portion of the obligor's~~
 839 ~~or junior interestholder's name is not on the signed receipt or~~
 840 ~~because the trustee cannot otherwise determine that the obligor~~
 841 ~~or junior interestholder signed the receipt; or~~

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842 ~~b.e.~~ The receipt ~~from the obligor or junior interestholder,~~
 843 ~~as applicable,~~ is returned or refused within 30 calendar days
 844 after the trustee sent the notice.

845 (b) If the notice required by paragraph (a) is returned as
 846 undeliverable within 30 calendar days after the trustee sent the
 847 notice, the trustee ~~must~~ shall perform a diligent search and
 848 inquiry to obtain a different address for the obligor or junior
 849 interestholder. For purposes of this paragraph, any address
 850 known and used by the lienholder for sending regular mailings or
 851 other communications from the lienholder to the obligor or
 852 junior interestholder, as applicable, ~~must~~ shall be included
 853 with other addresses produced from the diligent search and
 854 inquiry, if any.

855 1. If the trustee's diligent search and inquiry produces an
 856 address different from the notice address, the trustee ~~must~~
 857 shall mail a copy of the notice by certified mail ~~or~~ registered
 858 mail, ~~or permitted delivery service~~, return receipt requested; ~~and by~~
 859 first-class mail, postage prepaid; or, if applicable,
 860 permitted delivery service and first-class mail, postage
 861 prepaid, to the new address. Notice under this subparagraph is
 862 considered perfected upon the trustee receiving the return
 863 receipt ~~bearing the signature of the obligor or junior~~
 864 ~~interestholder, as applicable,~~ within 30 calendar days after the
 865 trustee sent the notice under this subparagraph. Notice under
 866 this subparagraph is not perfected if the receipt ~~from the~~
 867 ~~obligor or junior interestholder, as applicable,~~ is refused ~~or~~
 868 returned, ~~or the trustee cannot, in good faith, ascertain that~~
 869 ~~the obligor or junior interestholder, as applicable, is the~~
 870 ~~person who signed the receipt because all or a portion of the~~

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871 ~~obligor's or junior interestholder's name is not on the signed~~
 872 ~~receipt or because the trustee cannot otherwise determine that~~
 873 ~~the obligor or junior interestholder signed the receipt.~~ If the
 874 trustee does not perfect notice under this subparagraph, the
 875 trustee ~~must shall~~ perfect service in the manner set forth in
 876 paragraph (c).

877 2. If the trustee's diligent search and inquiry does not
 878 locate a different address for the obligor or junior
 879 interestholder, as applicable, the trustee may perfect notice
 880 against that person under paragraph (c).

881 (6) NOTICE OF SALE.—

882 (b) The trustee ~~must shall~~ send a copy of the notice of
 883 sale within 3 business days after the date it is submitted for
 884 recording, by ~~first class mail or~~ permitted delivery service and
 885 first-class mail, postage prepaid, to the notice addresses of
 886 the obligor and any junior interestholder.

887 (7) MANNER OF SALE.—

888 (f) On the date of the sale and upon receipt of the cash or
 889 certified funds due from the highest bidder, the trustee shall
 890 issue to the highest bidder a certificate of sale stating that a
 891 foreclosure conforming to the requirements of this section has
 892 occurred, including the time, location, and date of the sale; ~~r~~
 893 that the timeshare interest was sold; ~~r~~ the amounts secured by
 894 the lien; ~~r~~ and the amount of the highest bid. A copy of the
 895 certificate of sale ~~must shall~~ be mailed by certified mail ~~or~~
 896 registered mail, ~~or permitted delivery service~~, return receipt
 897 requested, or, if applicable, by permitted delivery service and
 898 first-class mail, postage prepaid, to all persons entitled to
 899 receive a notice of sale under subsection (6).

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900 (14) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE
 901 PROCEDURE.—

902 (b) Any trustee who intentionally violates ~~the provisions~~
 903 ~~of~~ this section concerning the trustee foreclosure procedure
 904 commits a felony of the third degree, punishable as provided in
 905 s. 775.082, s. 775.083, or s. 775.084. ~~A trustee who incorrectly~~
 906 ~~ascertains that the obligor signed the return receipt as~~
 907 ~~required in subsection (5) does not violate this section if the~~
 908 ~~trustee made a good faith effort to properly ascertain that the~~
 909 ~~obligor signed the return receipt in accordance with subsection~~
 910 ~~(5).~~

911 Section 15. Paragraph (a) of subsection (3), paragraphs (a)
 912 and (b) of subsection (5), paragraph (b) of subsection (6),
 913 paragraph (f) of subsection (7), and paragraph (b) of subsection
 914 (13) of section 721.856, Florida Statutes, are amended to read:

915 721.856 Procedure for the trustee foreclosure of mortgage
 916 liens.—The provisions of this section establish a trustee
 917 foreclosure procedure for mortgage liens.

918 (3) OBLIGOR'S RIGHTS.—

919 (a) The obligor may object to the lienholder's use of the
 920 trustee foreclosure procedure for a specific default within 20
 921 days after receipt of the notice required under subsection (5)
 922 ~~any time before the sale of the timeshare interest under~~
 923 ~~subsection (7)~~ by delivering a written objection to the trustee
 924 using the objection form provided for in subsection (5). If the
 925 trustee receives the written objection from the obligor, the
 926 trustee may not proceed with the trustee foreclosure procedure
 927 as to the default specified in the notice of default and intent
 928 to foreclose under subsection (5), and the lienholder may

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929 proceed thereafter only with a judicial foreclosure action as to
930 that specified default.

931 (5) NOTICE OF DEFAULT AND INTENT TO FORECLOSE.—

932 (a) In any foreclosure proceeding under this section, the
933 trustee is required to notify the obligor of the proceeding by
934 sending the obligor a written notice of default and intent to
935 foreclose to the notice address of the obligor by certified mail
936 or, registered mail, ~~or permitted delivery service~~, return
937 receipt requested; ~~and by~~ first-class mail, postage prepaid;
938 or, if applicable, permitted delivery service and first-class
939 mail, postage prepaid, as follows:

940 1. The notice of default and intent to foreclose must ~~shall~~
941 identify the obligor, the notice address of the obligor, the
942 legal description of the timeshare interest, the nature of the
943 default, the amounts secured by the lien, and a per diem amount
944 to account for further accrual of the amounts secured by the
945 lien and must ~~shall~~ state the method by which the obligor may
946 cure the default, including the period of time after the date of
947 the notice of default and intent to foreclose within which the
948 obligor may cure the default.

949 2. The notice of default and intent to foreclose must ~~shall~~
950 include an objection form with which the obligor can object to
951 the use of the trustee foreclosure procedure by signing and
952 returning the objection form to the trustee. The objection form
953 must ~~shall~~ identify the obligor, the notice address of the
954 obligor, the timeshare interest, and the return address of the
955 trustee and must ~~shall~~ state: "*The undersigned obligor exercises*
956 *the obligor's right to object to the use of the trustee*
957 *foreclosure procedure contained in section 721.856, Florida*

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958 Statutes."

959 3. The notice of default and intent to foreclose must ~~shall~~
960 also contain a statement in substantially the following form:

961
962 *If you fail to cure the default as set forth in this notice or*
963 *take other appropriate action with regard to this foreclosure*
964 *matter, you risk losing ownership of your timeshare interest*
965 *through the trustee foreclosure procedure established in section*
966 *721.856, Florida Statutes. You may ~~choose to~~ sign and send to*
967 *the trustee, within 20 days after receipt of this notice, the*
968 *enclosed objection form, exercising your right to object to the*
969 *use of the trustee foreclosure procedure. Upon the trustee's*
970 *receipt of your signed objection form, the foreclosure of the*
971 *lien with respect to the default specified in this notice is*
972 *~~shall be~~ subject to the judicial foreclosure procedure only. You*
973 *have the right to cure your default in the manner set forth in*
974 *this notice at any time before the trustee's sale of your*
975 *timeshare interest. If you do not object to the use of the*
976 *trustee foreclosure procedure, you will not be subject to a*
977 *deficiency judgment even if the proceeds from the sale of your*
978 *timeshare interest are insufficient to offset the amounts*
979 *secured by the lien.*

980
981 4. The trustee must ~~shall~~ also mail a copy of the notice of
982 default and intent to foreclose, without the objection form, to
983 the notice address of any junior interestholder by certified
984 mail or, registered mail, ~~or permitted delivery service~~, return
985 receipt requested; ~~and by~~ first-class mail, postage prepaid;
986 or, if applicable, permitted delivery service and first-class

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987 mail, postage prepaid.

988 5. Notice under this paragraph is considered perfected upon
989 the trustee receiving the return receipt ~~bearing the signature~~
990 ~~of the obligor or junior interestholder, as applicable,~~ within
991 30 calendar days after the trustee sent the notice under this
992 paragraph. Notice under this paragraph is not perfected if:

993 a. The notice is returned as undeliverable within 30
994 calendar days after the trustee sent the notice;

995 ~~b. The trustee cannot, in good faith, ascertain from the~~
996 ~~receipt that the obligor or junior interestholder, as~~
997 ~~applicable, is the person who signed the receipt because all or~~
998 ~~a portion of the obligor's or junior interestholder's name is~~
999 ~~not on the signed receipt or the trustee cannot otherwise~~
1000 ~~determine that the obligor or junior interestholder signed the~~
1001 ~~receipt; or~~

1002 ~~b.e.~~ The receipt ~~from the obligor or junior interestholder,~~
1003 ~~as applicable,~~ is returned or refused within 30 calendar days
1004 after the trustee sent the notice.

1005 (b) If the notice required by paragraph (a) is returned as
1006 undeliverable within 30 calendar days after the trustee sent the
1007 notice, the trustee must ~~shall~~ perform a diligent search and
1008 inquiry to obtain a different address for the obligor or junior
1009 interestholder. For purposes of this paragraph, any address
1010 known and used by the lienholder for sending regular mailings or
1011 other communications from the lienholder to the obligor or
1012 junior interestholder, as applicable, must ~~shall~~ be included
1013 with other addresses produced from the diligent search and
1014 inquiry, if any.

1015 1. If the trustee's diligent search and inquiry produces an

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1016 address different from the notice address, the trustee must
1017 ~~shall~~ mail a copy of the notice by certified mail or, registered
1018 mail, ~~or permitted delivery service,~~ return receipt requested;r
1019 ~~and by first-class mail, postage prepaid; or, if applicable,~~
1020 permitted delivery service and first-class mail, postage
1021 prepaid, to the new address. Notice under this subparagraph is
1022 considered perfected upon the trustee receiving the return
1023 receipt ~~bearing the signature of the obligor or junior~~
1024 ~~interestholder, as applicable,~~ within 30 calendar days after the
1025 trustee sent the notice under this subparagraph. Notice under
1026 this subparagraph is not perfected if the receipt ~~from the~~
1027 ~~obligor or junior interestholder~~ is refused or, returned, ~~or the~~
1028 ~~trustee cannot, in good faith, ascertain that the obligor or~~
1029 ~~junior interestholder, as applicable, is the person who signed~~
1030 ~~the receipt because all or a portion of the obligor's or junior~~
1031 ~~interestholder's name is not on the signed receipt or because~~
1032 ~~the trustee cannot otherwise determine that the obligor or~~
1033 ~~junior interestholder signed the receipt.~~ If the trustee does
1034 not perfect notice under this subparagraph, the trustee must
1035 ~~shall~~ perfect service in the manner set forth in paragraph (c).

1036 2. If the trustee's diligent search and inquiry does not
1037 locate a different address for the obligor or junior
1038 interestholder, as applicable, the trustee may perfect notice
1039 against that person under paragraph (c).

1040 (6) NOTICE OF SALE.—

1041 (b) The trustee must ~~shall~~ send a copy of the notice of
1042 sale within 3 business days after the date it is submitted for
1043 recording, by ~~first class mail or permitted delivery service,~~ if
1044 applicable, and first-class mail, postage prepaid, to the notice

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1045 addresses of the obligor and any junior interestholder.

1046 (7) MANNER OF SALE.-

1047 (f) On the date of the sale and upon receipt of the cash or
1048 certified funds due from the highest bidder, the trustee shall
1049 issue to the highest bidder a certificate of sale stating that a
1050 foreclosure conforming to the requirements of this section has
1051 occurred, including the time, location, and date of the sale;~~;~~
1052 that the timeshare interest was sold;~~;~~ the amounts secured by
1053 the lien;~~;~~ and the amount of the highest bid. A copy of the
1054 certificate of sale must ~~shall~~ be mailed by certified mail or~~,~~
1055 registered mail, ~~or permitted delivery service,~~ return receipt
1056 requested, or, if applicable, by permitted delivery service and
1057 first-class mail, postage prepaid, to all persons entitled to
1058 receive a notice of sale under subsection (6).

1059 (13) ACTIONS FOR FAILURE TO FOLLOW THE TRUSTEE FORECLOSURE
1060 PROCEDURE.-

1061 (b) Any trustee who intentionally violates ~~the provisions~~
1062 ~~of~~ this section concerning the trustee foreclosure procedure
1063 commits a felony of the third degree, punishable as provided in
1064 s. 775.082, s. 775.083, or s. 775.084. ~~A trustee who incorrectly~~
1065 ~~ascertains that the obligor signed the return receipt as~~
1066 ~~required in subsection (5) does not violate this section if the~~
1067 ~~trustee made a good faith effort to properly ascertain that it~~
1068 ~~is the obligor who signed the return receipt in accordance with~~
1069 ~~subsection (5).~~

1070 Section 16. Subsection (5) is added to section 721.86,
1071 Florida Statutes, to read:

1072 721.86 Miscellaneous provisions.-

1073 (5) Mediation, a settlement conference, or any other effort

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1074 to resolve a foreclosure is not required once a default in a
1075 judicial foreclosure of an assessment lien or mortgage lien has
1076 been issued.

1077 Section 17. For the purpose of incorporating the amendment
1078 made by this act to section 721.11, Florida Statutes, in a
1079 reference thereto, paragraph (d) of subsection (1) of section
1080 721.09, Florida Statutes, is reenacted to read:

1081 721.09 Reservation agreements; escrows.-

1082 (1)

1083 (d) A seller who has filed a reservation agreement and an
1084 escrow agreement under this section may advertise the
1085 reservation agreement program if the advertising material meets
1086 the following requirements:

1087 1. The seller complies with the provisions of s. 721.11
1088 with respect to such advertising material.

1089 2. The advertising material is limited to a general
1090 description of the proposed timeshare plan, including, but not
1091 limited to, a general description of the type, number, and size
1092 of accommodations and facilities and the name of the proposed
1093 timeshare plan.

1094 3. The advertising material contains a statement that the
1095 advertising material is being distributed in connection with an
1096 approved reservation agreement filing only and that the seller
1097 cannot offer an interest in the timeshare plan for sale until a
1098 filed public offering statement has been filed with the division
1099 under this chapter.

1100 Section 18. For the purpose of incorporating the amendment
1101 made by this act to section 721.11, Florida Statutes, in a
1102 reference thereto, subsection (6) of section 721.111, Florida

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1103 Statutes, is reenacted to read:

1104 721.111 Prize and gift promotional offers.—

1105 (6) All advertising material to be distributed in
1106 connection with a prize and gift promotional offer shall
1107 contain, in addition to the information required pursuant to the
1108 provisions of s. 721.11, the following disclosures:

1109 (a) A description of the prize, gift, or other item that
1110 the prospective purchaser will actually receive, including, if
1111 the price is in excess of \$50, the manufacturer's suggested
1112 retail price or, if none is available, the verifiable retail
1113 value. If the value is \$50 or less, the description shall
1114 contain a statement of such.

1115 (b) All rules, terms, requirements, and preconditions which
1116 must be fulfilled or met before a prospective purchaser may
1117 claim any prize, gift, or other item involved in the prize and
1118 gift promotional plan, including whether the prospective
1119 purchaser is required to attend a sales presentation in order to
1120 receive the prize, gift, or other item.

1121 (c) The date upon which the offer expires.

1122 (d) If the number of prizes, gifts, or other items to be
1123 awarded is limited, a statement of the number of items that will
1124 be awarded.

1125 (e) The method by which prizes, gifts, or other items are
1126 to be awarded.

1127 Section 19. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

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

01/25/2022

Meeting Date

SB 1216

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Kurt Gruber

Phone 407-649-4000

Address 200 S. Orange

Street

Email Kgruber@bakerlaw.com

Orlando

City

FL

State

32801

Zip

Speaking:

For

For

Against

Against

Information

Information

OR

Waive Speaking:

In Support

In Support

Against

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

American Resort Development Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1216

1/25/22

Meeting Date

Bill Number or Topic

Reg. Industries

Committee

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

Amendment Barcode (if applicable)

Name Diana Kampert

Phone 850-487-1395

Address 2601 Blair Stone Rd.

Email

Street

Tallahassee

FL

32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Regulated Industries Committee

Judge:

Started: 1/25/2022 1:00:12 PM

Ends: 1/25/2022 1:31:48 PM

Length: 00:31:37

1:00:11 PM Opening remarks by Chair Hutson
1:00:34 PM Roll call
1:01:07 PM Pledge of Allegiance
1:01:24 PM Tab 6 - SB 714 by Senator Hooper
1:01:52 PM Senator Hooper explains the bill
1:02:26 PM Senator Hooper explains amendment 323002
1:03:29 PM Chair Hutson
1:04:24 PM Cody McCloud - waives in support
1:04:26 PM Senator Hooper waives close
1:04:34 PM Chair Hutson
1:04:36 PM Roll Call
1:04:59 PM CS/SB 714 reported favorably
1:05:09 PM Chair Hutson
1:05:12 PM Tab 4 SB 1094 by Senator Rodriguez
1:05:14 PM Senator Rodriguez explains the bill
1:06:09 PM Chair Hutson
1:06:26 PM Questions on bill
1:06:30 PM Senator Rouson with question
1:06:52 PM Senator Rodriguez to respond
1:07:25 PM Chair Hutson
1:07:35 PM George Levesque, A1A Florida waives in support
1:08:07 PM Joshua Shatkin
1:08:14 PM Beverly Frank
1:08:28 PM Ignacio Reyes
1:08:33 PM Lourdes Solera
1:08:44 PM Senator Rodriguez closes on the bill
1:08:48 PM Chair Hutson
1:08:51 PM Roll call
1:09:01 PM SB 1094 reported favorably
1:09:14 PM Chair Hutson
1:09:17 PM Tab 7 SB 1764 by Senator Albritton
1:09:19 PM Senator Albritton explains the bill
1:09:35 PM Chair Hutson
1:10:04 PM Questions?
1:10:08 PM Joe Kilshemar, Florida Waste to Energy Coalition speaks for the bill
1:11:57 PM Chair Hutson
1:12:04 PM Debate?
1:12:07 PM Senator Albritton waives close
1:12:15 PM Roll Call
1:12:29 PM Chair Hutson SB 1764 reported favorably
1:12:49 PM Vice Chair Book
1:12:57 PM Chair Hutson explains SB 1216
1:13:45 PM Vice Chair Book
1:14:03 PM Senator Rouson with question
1:15:05 PM Senator Rouson with questions
1:15:20 PM Chair Hutson
1:15:25 PM Senator Rouson with followup
1:15:36 PM Chair to followup
1:16:31 PM Vice Chair Book
1:16:36 PM Curt Gruber, American Resort Development Association speaks for the bill
1:17:57 PM Diane Camper available for questions
1:18:04 PM Vice Chair Book

1:18:07 PM Senator Hutson waives close
1:18:10 PM Roll call
1:18:14 PM SB 1216 reported favorably
1:18:37 PM Chair Hutson
1:18:43 PM Tab 5 SB 1332 by Senator Wright
1:19:01 PM Senator Wright explains the bill
1:19:20 PM Wright explains delete-all 563034
1:19:25 PM Chair Hutson
1:19:30 PM Debate?
1:19:37 PM Amendment approved
1:19:41 PM on bill as amended
1:19:49 PM Chair Hutson
1:19:50 PM questions on the bill?
1:19:53 PM Senator Wright waives close
1:19:56 PM roll call
1:22:18 PM Recording Paused
1:24:29 PM Recording Resumed
1:24:35 PM Chair Hutson
1:24:42 PM Tab 1 SB 940 by Senator Baxley
1:24:49 PM Senator Baxley explains the bill
1:25:27 PM Chair Hutson
1:26:06 PM Questions?
1:26:14 PM Allen Douglas waives in support
1:26:21 PM Debate?
1:26:23 PM Senator Baxley waives close
1:26:30 PM Roll Call
1:26:47 PM Chair Hutson
1:26:50 PM Bill reported favorably
1:27:17 PM Tab 2 SB 942 by Senator Baxley
1:27:23 PM Baxley explains the bill
1:27:30 PM Senator Baxley explains amendment 644882
1:27:34 PM Chair Hutson
1:27:38 PM Amedment adopted
1:27:41 PM Chair Hutson
1:27:44 PM questions?
1:27:46 PM debate?
1:27:53 PM Baxley closes on bill
1:28:06 PM Roll call
1:28:27 PM CS SB 492 reported favorably
1:28:46 PM Tab 3 SB 562 by Senator Cruz
1:29:47 PM Chair Hutson
1:29:54 PM Questions?
1:30:01 PM Christian Camara, Institute for Justice waives in support
1:30:08 PM Matthew Holliday, NCH Healthcare System, Inc.
1:30:11 PM Chair Hutson
1:30:16 PM Senator Cruz waives close
1:30:25 PM Roll call
1:30:45 PM SB 562 reported favorably
1:30:52 PM Chair Hutson
1:31:07 PM Senator Gruters - VA yes SBs 714, 1094, 1216, 1332, and 1764
1:31:11 PM Chair Hutson
1:31:13 PM Closing remarks
1:31:36 PM Meeting Adjourned