

THE FLORIDA SENATE
2022 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/HJR 1 — Additional Homestead Property Tax Exemption for Specified Critical Public Service Workforce

by State Affairs Committee; Ways and Means Committee; Rep. Tomkow and others (CS/SJR 1746 by Finance and Tax Committee and Senator Brodeur)

The resolution proposes an amendment to the Florida Constitution to authorize the Legislature to provide, through general law, for all levies other than school district levies, an additional homestead exemption on the value greater than \$100,000 and up to \$150,000 for a classroom teacher, law enforcement officer, correctional officer, firefighter, emergency medical technician, paramedic, child welfare services professional, active duty member of the United States Armed Forces, or a member of the Florida National Guard. Property maintained as a homestead by the owner for a person legally or naturally dependent upon the owner is eligible for the exemption.

The proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

Vote: Senate 37-1; House 115-0

THE FLORIDA SENATE
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Committee on Community Affairs

HB 31 — Firefighter Inquiries and Investigations

by Reps. Busatta Cabrera, Casello, and others (SB 264 by Senator Hooper)

The Firefighters’ Bill of Rights provides specific rights when a firefighter is under investigation and subject to interrogation for a reason which could lead to disciplinary action, including reprimand, suspension, or dismissal. There is a similar law for law enforcement and correctional officers known as the Law Enforcement Officers’ Bill of Rights.

The bill amends the Firefighters’ Bill of Rights to expand the rights given to a firefighter during questioning conducted under an informal inquiry. Currently, questioning pursuant to an informal inquiry is not subject to the Firefighters’ Bill of Rights.

The bill requires that an informal inquiry be conducted at a reasonable time and for a reasonable duration, allowing reasonable periods of rest for the firefighter. Additionally, during an informal inquiry or interrogation a firefighter may not be threatened with transfer, suspension, dismissal, or disciplinary action as inducement to answer any questions.

The bill revises the definition of the term “informal inquiry” to exclude certain routine work related discussions such as safety sessions or normal operational fire debriefings.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 39-0; House 118-0

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Committee on Community Affairs

CS/HB 105 — Regulation of Smoking by Counties and Municipalities

by Health and Human Services Committee and Reps. Fine, Altman, and others (CS/CS/SB 224 by Rules Committee; Environment and Natural Resources Committee; Senators Gruters, Bradley, Farmer, Berman, Stewart, Rouson, Boyd, and Hooper)

The Florida Clean Indoor Air Act regulates vaping and tobacco smoking in public places in Florida. The legislative purpose of the act is to protect the public from the health hazards of secondhand tobacco smoke and to implement the Florida health initiative in Art. X, s. 20, State Constitution. Current law preempts the regulation of smoking to the state and does not allow counties or municipalities to regulate smoking. However, the law provides exceptions to allow school districts to regulate smoking on school property and local governments to impose more restrictive regulations on the use of vapor-generating electronic devices.

“Smoking” is defined in ch. 386, F.S., as “inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.”

The bill renames the Florida Clean Indoor Air Act the “Florida Clean Air Act” and expressly authorizes counties and municipalities to restrict smoking within the boundaries of any of the public beaches and public parks they own, except with regard to the smoking of unfiltered cigars.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 30-7; House 105-10

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Committee on Community Affairs

CS/SB 196 — Florida Housing Finance Corporation

by Appropriations Committee and Senator Rodriguez

The bill designates the Florida Housing Finance Corporation (Florida Housing) as the state fiscal agency authorized to make constitutional determinations of fiscal sufficiency in connection with their issuance of bonds to finance the development of affordable housing. Currently, such determinations must be made by the State Board of Administration.

The bill codifies certain definitions and regulations related to the qualified contract process by which Florida Housing seeks a purchaser for an affordable housing development in order to maintain its affordable housing status. Additionally, the bill proscribes what happens to the affordable housing development's extended use period if a qualified contract does not close. If the reason is generally due to actions by the owner, then the extended use period continues. If contract does not close for other reasons, and Florida Housing is unable to find another purchaser within a 1-year period, then the extended use period ends.

The bill also repeals provisions that limit Elderly Housing Community Loan program loans to \$750,000 per housing community and contain certain requirements for such loans.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 37-0; House 113-0

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SB 352 — Construction Liens

by Senator Hooper

A construction project generally begins with the posting of a “notice of commencement” on the job site and the recording of the notice in the county clerk’s office. The recording of a notice of commencement is meant to give constructive notice to an owner of real property that claims of lien may be recorded against that property, and which liens may take priority.

A notice of commencement is required for any direct contract greater than \$2,500 between an owner and a contractor, related to improvements to real property consisting of single or multiple family dwellings up to and including four units. However, a notice of commencement is not required in direct contracts to repair or replace an existing heating or air-conditioning system in an amount less than \$7,500.

SB 352 revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. The bill raises the cost threshold where a notice of commencement is not required for such contracts from \$7,500 to \$15,000.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 37-0; House 113-0

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SB 406 — Secured Transactions

by Senator Berman

When a consumer enters a security agreement – a contract in which a debtor offers assets as collateral (“security”) to guarantee repayment – the contract describes what assets are offered as security. Historically, a contract’s blanket offering of “all assets” as security has not been interpreted to include certain assets. The bill remedies issues arising from a recent federal court case which held that mere reference to “all assets” included certain property previously understood to be excluded from such an agreement.

The bill protects consumers from unknowingly pledging otherwise exempt assets by providing that certain accounts and entitlements are not adequately described in a security agreement by general reference to “all assets,” or similar, for the purpose of waiving constitutional and statutory protections from creditors.

The assets further protected by the bill include life insurance policies, cash surrender value of life insurance policies and annuity contracts; wages or reemployment assistance or unemployment compensation payments due deceased employees; disability income benefits; certain payments protected by the federal Bankruptcy Reform Act of 1978; pension money and tax exempt retirement accounts; and assets in qualified tuition programs, medical savings accounts, Coverdell education savings accounts, and hurricane savings accounts.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 113-0

Committee on Community Affairs

CS/CS/HB 423 — Building Regulation

by Commerce Committee; Regulatory Reform Subcommittee; and Rep. LaMarca and others (CS/CS/CS/SB 644 by Rules Committee; Regulated Industries Committee; Community Affairs Committee; and Senator Brodeur)

Private Providers

The bill makes several changes to current law pertaining to licensed individuals providing private building inspection services, known as “private providers.” Current law allows contractors and property owners to hire licensed building code administrators, engineers, and architects to review building plans, perform building inspections, and prepare certificates of completion. The bill makes the following changes:

- Specifies that if a person uses a private provider, the local government must provide equal access to all permitting and inspection documents and reports to the private provider, the owner, and the contractor;
- Specifies that the “reasonable administrative fee” a local government may charge for using a private provider must be based on the actual cost incurred by the local government for the clerical and supervisory assistance required;
- Allows a person with a provisional license (qualified to sit for the building official, plans examiner, or building inspector exam) to be a “duly authorized representative” for a private provider if under the direct supervision of a person licensed as a building code administrator. A duly authorized representative is an agent of a private provider authorized to review plans and perform inspections.
- Modifies the timeframe in which a building official must issue a certificate of occupancy or completion for certain types of permits, and provides that if a local building official does not provide a notice of deficiencies within the timeframes provided in the bill, the certificate of occupancy is automatically deemed issued the next day.

Building Inspector and Plans Examiner Licensure

The bill makes the following changes pertaining to building inspector and plans examiner licensure:

- Provides that a person may sit for the building inspector or plans examiner licensure test by completing a four-year internship with a private provider or private provider’s firm while under the direct supervision of a certified building official.
- Requires the Florida Building Code Administrators and Inspectors Board (FBCAIB) to adopt a rule establishing that partial completion of an internship program may be transferred among local jurisdictions, private providers, and private provider firms.
- Prohibits the FBCAIB from issuing a provisional license with a special condition or requirement that such licensee be employed by a municipality, county, or other local government agency.

Building Permits

The bill provides that a local government may only make three requests for additional information from an applicant applying for certain types of building permits and requires the local government to review any requested additional information within a certain time-period. This change is consistent with the limitations provided in current law pertaining to applications for development permits and orders. An applicant may agree in writing to waive this limitation.

The bill also states that a local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish any single-family residential structure located in certain flood hazard areas. Additionally, local governments may not impose additional regulatory requirements on the replacement of the demolished structure not otherwise applicable to similarly situated parcels. The bill provides exceptions to this provision for certain historic buildings.

Building Code Enforcement Funds

The bill provides a cause of action for certain owners or builders or an association in Florida that has members with valid building permits to enforce the statutory provisions limiting the uses of a local government's excess Building Code enforcement funds. Current law limits the amount of Building Code enforcement funds a local government may carry forward each year and stipulates how such excess funds may be spent.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 113-0

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CS/SB 518 — Private Property Rights to Prune, Trim, and Remove Trees by Community Affairs Committee and Senator Brodeur

The governing body of a county or municipality has broad legislative powers to enact ordinances to perform governmental functions and exercise power to promote the health, welfare, safety, and quality of life of a local government’s residents. To that end, many counties and municipalities enact tree management ordinances to regulate tree removal and maintenance on private property, often requiring property owners to obtain a permit or pay a fee before pruning, trimming, or removing a tree on their property.

Legislation enacted during the 2019 Regular Session prohibits local governments from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from a certified arborist or a licensed landscape architect, that the tree presents a danger to persons or property. Additionally, a local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this law.

CS/SB 518 revises the 2019 provision to provide clarity and precision to the operation of the law. The bill provides that a local government may not burden a property owner’s rights to prune, trim, or remove trees on his or her own property if the tree “poses an unacceptable risk” to persons or property. Under the bill, a tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate as outlined in Best Management Practices – Tree Risk Assessment, Second Edition (2017).

The bill also describes the documentation that must be produced by an arborist or landscape architect in determining that a tree poses an unacceptable risk. It also clarifies the applicability of the law by defining "residential property" to mean a single-family detached building located on an existing lot actively used for single-family residential purposes.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 116-1

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CS/CS/CS/SB 706 — School Concurrency

by Rules Committee; Education Committee; Community Affairs Committee; and Senator Perry

School concurrency is the process by which local governments ensure school capacity is not outpaced by population increase created by development. Concurrency requirements are local laws stating that certain infrastructure must be in place and available to serve new development before the local government may allow new citizens to live in the new development.

The bill provides that school concurrency is deemed satisfied when the developer tenders a written legally binding commitment, rather than actually executes such commitment, to provide mitigation proportionate to the demand created by the development. A district school board must notify the local government that capacity is available for the development within 30 days after receipt of the developer's commitment.

The bill also provides that such mitigation paid by a developer, rather than being immediately directed toward a school capacity improvement, may be set aside and not spent until an appropriate improvement is identified.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 113-0

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CS/CS/HB 777 — Local Tax Referenda Requirements

by State Affairs Committee; Public Integrity and Elections Committee; and Rep. Robinson, W. and others (CS/CS/SB 1194 by Appropriations Committee; Community Affairs Committee; and Senators Boyd and Rodrigues)

Local governments have the authority to levy a variety of optional taxes conditioned upon approval of a majority of electors voting in a referendum. Presently, the applicable local government determines when a referendum will take place to approve one of the local taxes contemplated by the bill. A local government may decide to hold such referendum during a special election or in conjunction with another local election, primary election, or general election.

CS/CS/HB 777 requires a local government seeking voter approval to levy certain taxes must hold such referendum at a general election. The bill applies to the following local option taxes:

- Tourist development taxes
- Tourist impact taxes
- Ad valorem taxes levied by a children's services independent special district
- County, municipal, and school district voted millage increases
- Local option fuel taxes

If approved by the Governor, these provisions take effect October 1, 2022.

Vote: Senate 39-0; House 111-2

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CS/SB 898 — Lodging Standards

by Community Affairs Committee and Senators Stewart, Perry, Taddeo, Book, Berman, Bracy, Polsky, Cruz, Jones, Garcia, Powell, and Torres

The bill, designated as “Miya’s Law,” is an effort to strengthen residential tenant safety, and is named after Miya Marcano, a young woman who was tragically killed in her apartment in 2021. The bill makes changes to Florida’s Residential Landlord and Tenant Act as well as public lodging establishment laws in an effort to provide safety and security to apartment tenants.

The bill directs landlords or licensees of transient and nontransient apartments to require that all employees undergo a background screening performed by a consumer reporting agency done in accordance with the federal Fair Credit Reporting Act as a condition of employment. A person may be disqualified from employment based on the background screening if the person has been found guilty or plead no contest to certain offenses including those involving violence and disregard for safety.

Effective January 1, 2023, apartments must maintain a log accounting for the issuance and return of all keys for each dwelling unit, and establish policies for the issuance and return of unit keys, as well as storage and access to unissued keys. An apartment’s key logs and employee background screening files are subject to the Department of Business and Professional Regulation’s annual inspection of apartments.

The bill changes from 12 hours to 24 hours the “reasonable notice” that a landlord must give a tenant for entry of a unit for the purpose of repair for all tenancies.

Additionally, the bill provides that an operator of a public lodging establishment may not offer an hourly rate for an accommodation. However, an operator may charge an hourly rate for late checkout fees.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 34-0; House 120-0

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CS/CS/SB 962 — Residential Development Projects for Affordable Housing by Rules Committee; Transportation Committee; Senators Bradley and Taddeo

Current law authorizes a county or municipality to approve the development of affordable housing on any parcel zoned for residential, commercial, or industrial use regardless of zoning ordinances or the locality's comprehensive plan, but does not specifically address mixed-use residential projects or the portion of units that must be reserved for affordable housing.

The bill expounds on this provision to clarify that a county or municipality may, notwithstanding any other provision of law (such as a comprehensive plan or zoning ordinance), approve the development of any residential development project, including a mixed-use residential development project, on any parcel zoned for commercial or industrial use if at least 10 percent of the project's units are reserved for housing that is affordable. The sponsor of such a project must additionally agree not to apply for or receive funding from the state's multi-family affordable housing program, known as the State Apartment Incentive Loan program.

The bill also clarifies that new and existing provisions allowing for approval of affordable housing projects notwithstanding other laws are self-executing and do not require further action by local governments before using this approval process.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 112-0

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CS/SB 1190 — Two-way Radio Communication Enhancement Systems
by Rules Committee and Senator Boyd

Local fire authorities set minimum standards for radio signal strength throughout buildings within their jurisdictions in order to ensure consistent fire and rescue communication capabilities. Two-way radio communication enhancement systems are composed of strategically placed indoor amplifiers and antennae installed after a building is constructed to boost signal strength. These systems are sometimes required in order to meet signal strength requirements.

The bill provides that two-way radio communication enhancement systems may be used to comply with a local authority's minimum radio signal strength requirements, but may not be required by local fire authorities in apartment buildings that (1) are 75 feet in height or less; (2) are constructed using wood framing; (3) have less than 150 dwelling units; and (4) all dwelling units discharge to the exterior or to a corridor leading directly to an exit. Evidence of wood frame construction is to be shown by the property owner using building permit documentation showing wood frame construction.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 39-0; House 87-24

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CS/SB 1236 — County and Municipal Detention Facilities

by Rules Committee and Senator Jones

The bill establishes the Florida Model Jail Standards (FMJS) Working Group to develop and maintain model standards for county and municipal detention facilities. The FMJS Working Group is comprised of seven members appointed by the Florida Sheriff's Association and the Florida Association of Counties. The bill requires every sheriff, county, city, or other entity that operates a county or municipal detention facility to adopt, at a minimum, the approved FMJS, which address the construction, equipping, maintenance, and operation of these facilities.

Under the bill's provisions, each county or municipal detention facility must be inspected at least twice annually by a FMJS-certified inspector. One inspection is announced and the other inspection is unannounced. The announced inspection evaluates a facility's compliance with all the FMJS and the unannounced inspection is limited to a review for serious violations. The bill prohibits a county or municipal detention facility from refusing to be inspected or refusing access to its facility. If the officer in charge of the facility refuses, that person is subject to monetary penalties.

The bill provides if, upon inspection, a facility is noncompliant with the FMJS, it has 30 days to cure the noncompliance, if it is not a serious violation. If it is a serious violation, the facility has 24 days to cure the noncompliance. For notable, or non-serious violations, the facility will be re-inspected within 10 days after the 30-day correction period.

The bill assigns monetary penalties for noncompliance with the FMJS if an annual inspection reveals that a detention facility is noncompliant with a notable violation and the noncompliance is not corrected within the initial 30-day correction period.

Also, if a second re-inspection for a notable violation or serious violation reveals that the detention facility continues to be noncompliant, the facility must cease operation of the detention facility within 14 days and must contract with one or more other detention facilities to house its prisoners until the facility is determined to be in compliance with the FMJS.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 39-0; House 109-0

THE FLORIDA SENATE
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Committee on Community Affairs

CS/CS/SB 1382 — Tax Administration

by Appropriation Committee; Finance and Tax Committee; and Senator Gruters

The bill makes various changes to statutes relating to the Department of Revenue (Department). The bill largely amends details related to the Department's rights and obligations before, during, and after an audit.

Regarding audits, the bill:

- Clarifies activities the Department may engage in during the 60-day waiting period between notifying the taxpayer of its intent to audit and beginning the audit;
- Excludes from evidence during litigation documents withheld during an audit;
- Provides that, in certain situations, the failure of a taxpayer to provide documents creates a presumption that the resulting proposed final agency action by the Department is correct;
- Expands the Department's authority to serve subpoenas in certain situations;
- Revises several situations when the time limit to complete an audit is tolled;
- Allows the Department to immediately suspend a dealer's resale certificate during audits relating to the sale of alcoholic beverages;
- Allows the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to suspend or revoke a dealer's license if the dealer's resale certificate has been suspended;
- Allows the Department to reopen a final assessment for the purpose of adjusting liability under certain circumstances;
- Allows the Department to include all taxes, penalties, interest, costs, and fees authorized by law in a garnishment or levy; and
- Provides rulemaking and emergency rulemaking authority.

The bill also makes changes including clarifications, corrections, deletions of obsolete language, and cross-reference corrections.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 33-3; House 105-10

Committee on Community Affairs

CS/CS/HB 1563 — Homestead Property Tax Exemptions for Classroom Teachers, Law Enforcement Officers, Firefighters, Emergency Medical Technicians, Paramedics, Child Welfare Professionals, and Servicemembers

by State Affairs Committee; Ways and Means Committee; Rep. Tomkow and others (CS/SB 1748 by Finance and Tax Committee and Senator Brodeur)

The bill is linked to CS/CS/HJR 1, which proposes an amendment to the Florida Constitution to authorize the Legislature to provide a new homestead tax exemption for classroom teachers, law enforcement officers, firefighters, emergency medical technicians, paramedics, child welfare professionals, and active duty members of the United States Armed Forces, or members of the Florida National Guard.

The bill provides that any of the defined people who hold legal or beneficial title in equity to real property in this state and makes such property their or their dependent's permanent residence is entitled to an exemption of up to \$50,000 on the property's value between \$100,000 and \$150,000, for all levies other than school district levies.

The bill directs the Legislature to appropriate money to fiscally constrained counties to offset reductions in ad valorem tax revenue resulting from the homestead exemption. Distributions to fiscally constrained counties will be made beginning in Fiscal Year 2023-2024.

If approved by the electors in the next general election in November 2022, the proposed amendment (CS/CS/HJR 1) and CS/CS/HB 1563 will take effect on January 1, 2023.

Vote: Senate 37-1; House 115-0