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1 A bill to be entitled
2 An act relating to an assessment on the sale of
3 masonry units; creating the "Concrete Masonry Products
4 Research, Education, and Promotion Act"; providing
5 definitions; creating the Florida Concrete Masonry
6 Council, Inc., as a nonprofit corporation; authorizing
7 the council to levy an assessment on the sale of
8 masonry units by a manufacturer, under certain
9 circumstances; specifying the powers and duties of the
10 council; prohibiting the council from participating or
11 intervening in any political campaign; prohibiting the
12 council from using any receipt to benefit its
13 directors, officers, or other private persons;
14 prohibiting the council from engaging in certain
15 activities or exercising certain powers; providing for
16 the appointment of the governing board of the council;
17 providing that board members serve without
18 compensation; entitling members to receive
19 reimbursement for per diem and travel expenses;
20 authorizing the council to submit a referendum to
21 manufacturers of masonry units for authorization to
22 levy an assessment on the sale of concrete masonry
23 units; providing for the administrative powers and
24 duties of the council; authorizing the council to
25 accept grants, donations, contributions, or gifts
26 under certain circumstances; authorizing the council
27 to make payments to other organizations under certain
28 circumstances; requiring that a manufacturer of

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29 concrete masonry products collect the assessment from
 30 a purchaser at the time of sale of a concrete masonry
 31 unit; authorizing the council to initiate legal action
 32 against a manufacturer that fails to remit the
 33 assessment; providing a procedure for manufacturers to
 34 petition for a referendum to continue the assessment;
 35 requiring the council to adopt bylaws; providing an
 36 effective date.

37
 38 WHEREAS, the Legislature intends to promote the growth of
 39 the concrete masonry industry in this state; to assure the
 40 public that a superior, sustainable construction material is
 41 produced by a skilled and educated workforce; to provide for the
 42 general economic welfare of the state and of the producers,
 43 contractors, and end-use consumers of masonry products; and to
 44 provide the masonry industry of this state with the authority to
 45 establish a self-financed, self-governed program to help
 46 develop, maintain, and expand the state, national, and foreign
 47 markets for masonry products and services that are mined,
 48 manufactured, produced, or processed in this state, NOW,
 49 THEREFORE,

50
 51 Be It Enacted by the Legislature of the State of Florida:

52
 53 Section 1. Concrete Masonry Products Research, Education,
 54 and Promotion Act.-

55 (1) SHORT TITLE.-This section may be cited as the
 56 "Concrete Masonry Products Research, Education, and Promotion

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57 Act."

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

59 (a) "Commission" means the Florida Building Commission.

60 (b) "Concrete masonry products" refers to a broad class of
61 products, including, but not limited to, concrete masonry units
62 and hardscape products such as concrete pavers and segmental
63 retaining wall units that are manufactured on a block machine
64 using dry-cast concrete.

65 (c) "Concrete masonry unit" means a concrete masonry
66 product that is a man-made masonry unit having a nominal width
67 of 3 inches or greater and manufactured by a block machine using
68 dry-cast concrete. The term includes, but is not limited to,
69 gray block, architectural block, concrete brick, concrete
70 masonry units to be post-tensioned, concrete masonry units to be
71 surface-bonded, sound wall block, and fence block. The term does
72 not include concrete veneer units having a width of less than 3
73 inches, segmental retaining wall units, concrete pavers, clay
74 brick, clay masonry units, precast panels, cast stone, adhered
75 manufactured stone masonry veneer, calcium silicate units,
76 lintels and sills, articulating concrete or revetment block,
77 autoclave-aerated concrete, and dimension stone.

78 (d) "Council" means the Florida Concrete Masonry Council,
79 Inc.

80 (e) "Machine cavity" means the open space in the mold of a
81 block machine capable of forming a single masonry unit that has
82 nominal plan dimensions of 8 inches by 16 inches.

83 (f) "Manufacturer" means a person engaged in the business
84 of manufacturing concrete masonry units.

85 (g) "Masonry unit" means a noncombustible building product
 86 intended to be laid by hand or to be joined using mortar, grout,
 87 surface bonding, post-tensioning, or some combination of these
 88 methods.

89 (3) FLORIDA CONCRETE MASONRY COUNCIL, INC.; CREATION;
 90 PURPOSES.—

91 (a) There is created the Florida Concrete Masonry Council,
 92 Inc., a nonprofit corporation organized under the laws of this
 93 state and operating as a direct-support organization of the
 94 commission.

95 (b) The council may levy an assessment of 1 cent per
 96 concrete masonry unit that is produced and sold by a
 97 manufacturer in the state if the imposition of the assessment is
 98 approved by referendum pursuant to subsection (5). The proceeds
 99 of the assessment shall be used to fund the activities of the
 100 council. With respect to the administration of the assessment,
 101 the council shall:

102 1. Develop, implement, and monitor a collection system for
 103 the assessment which must be administered by an independent
 104 third party.

105 2. Conduct referenda under subsections (5) and (11).

106 (c) The council shall:

107 1. Plan, implement, and conduct programs of education,
 108 promotion, research, and consumer information and industry
 109 information which are designed to strengthen the market position
 110 of the concrete masonry industry in this state and in the
 111 nation, to maintain and expand domestic and foreign markets, and
 112 to expand the uses for concrete masonry products.

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113 2. Use the proceeds of the assessment for the purpose of
114 funding research, education, promotion, and consumer and
115 industry information of concrete masonry products in this state
116 and in the nation.

117 3. Coordinate research, education, promotion, industry,
118 and consumer information programs with national programs or
119 programs of other states.

120 4. Develop new uses and markets for concrete masonry
121 products.

122 5. Develop and improve educational access to individuals
123 seeking employment in the field of concrete masonry.

124 6. Develop methods of improving the quality of concrete
125 masonry products for the purpose of windstorm protection.

126 7. Develop methods of improving the energy efficiency
127 attributes of concrete masonry products.

128 8. Inform and educate the public concerning the
129 sustainability and economic benefits of concrete masonry
130 products.

131 9. Serve as a liaison within the concrete masonry and
132 other construction industries of the state and elsewhere in
133 matters that would increase efficiencies that ultimately benefit
134 both the consumer and the concrete masonry industry.

135 10. Buy, sell, mortgage, rent, or improve, in any manner
136 that the council considers expedient, real property or personal
137 property, or both.

138 11. Publish and distribute such papers or periodicals as
139 the board of directors considers necessary to encourage and
140 accomplish the purposes of the council.

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141 12. Do all other acts necessary or expedient for the
142 administration of the affairs and attainment of the purposes of
143 the council.

144 13. Approve an annual plan, budget, and audit for the
145 council.

146 (d)1. The council may not participate or intervene in any
147 political campaign on behalf of or in opposition to any
148 candidate for public office. This restriction includes, but is
149 not limited to, a prohibition against publishing or distributing
150 any statement.

151 2. The net receipts of the council may not in any part
152 inure to the benefit of or be distributable to its directors,
153 its officers, or other private persons, except that the council
154 may pay reasonable compensation for services rendered by staff
155 employees and may make payments and distributions in furtherance
156 of the purposes of this section.

157 3. Notwithstanding any other provision of law, the council
158 may not carry on any other activity not permitted to be carried
159 on by a corporation:

160 a. That is exempt from federal income tax under s.
161 501(c)(3) of the Internal Revenue Code; or

162 b. To which charitable contributions are deductible under
163 s. 170(c)(2) of the Internal Revenue Code.

164 4. Notwithstanding any other statement of the purposes and
165 responsibilities of the council, the council may not engage in
166 any activity or exercise any power that is not in furtherance of
167 its specific and primary purposes.

168 (4) GOVERNING BOARD.—

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169 (a) The Florida Concrete Masonry Council, Inc., shall be
170 governed by a board of directors composed of 15 members as
171 follows:

172 1. Nine members representing concrete masonry
173 manufacturers. Of these board members, at least five must be a
174 representative of a manufacturer that is a member of the Masonry
175 Association of Florida. These members must be representatives of
176 concrete masonry manufacturers of various sizes. A manufacturer
177 may not be represented by more than one member of the board.

178 2. One member representing the Florida Building
179 Commission.

180 3. One member representing the Florida Homebuilders
181 Association.

182 4. One member having expertise in apprenticeship or
183 vocational training.

184 5. Two members who are masonry contractors and who are
185 members of the Masonry Association of Florida.

186 6. One member who is not a masonry contractor or
187 manufacturer or an employee of a masonry contractor or
188 manufacturer, but who is otherwise a stakeholder in the masonry
189 industry.

190 (b) The initial board of directors shall be appointed by
191 the chair of the commission based on recommendations from the
192 Masonry Association of Florida. Five of the initial board
193 members shall be appointed to a 1-year term. Five shall be
194 appointed for a 2-year term. The remaining board members shall
195 be appointed for a 3-year term. Thereafter, each member shall be
196 appointed to serve a 3-year term and may be reappointed to serve

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197 an additional consecutive term. After the initial appointments
198 are made, each subsequent vacancy must be filled in accordance
199 with the bylaws of the council. A member may not serve more than
200 two consecutive terms. A member representing a manufacturer or a
201 contractor must be employed by a manufacturer or contractor
202 engaging in the trade or manufacture of concrete masonry
203 products for at least 5 years immediately preceding the first
204 day of his or her service on the board. All members of the board
205 shall serve without compensation. However, the board members are
206 entitled to reimbursement for per diem and travel expenses
207 incurred in carrying out the intents and purposes of this
208 section in accordance with s. 112.061, Florida Statutes.

209 (c) The council shall elect from its members a chair, vice
210 chair, and a secretary-treasurer to a 2-year term. The chair of
211 the board must be a concrete masonry manufacturer.

212 (d) The council shall provide for its officers through its
213 bylaws, including the ability to set forth offices and
214 responsibilities and form committees necessary for the
215 administration of this section.

216 (e) If a member of the board is absent for two
217 consecutive, officially called meetings, the board of directors
218 may declare that position vacant.

219 (f) The council shall provide through its bylaws a
220 mechanism for selecting board members which will require the
221 council to solicit candidates from throughout the concrete
222 masonry industry. The mechanism must ensure a fair and equitable
223 representation on the board of manufacturers of various sizes
224 and manufacturers from regions throughout the state.

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225 (5) REFERENDUM ON ASSESSMENTS.—All concrete masonry
226 manufacturers in this state may vote in a referendum to
227 determine whether the council may levy an assessment of 1 cent
228 per concrete masonry unit. The referendum shall pose the
229 question: "Do you approve of authorizing the Florida Concrete
230 Masonry Council, Inc., to levy an assessment, pursuant to
231 Florida law, of \$0.01 per concrete masonry unit sold by a
232 manufacturer in this state, to be used for the education of
233 concrete masonry workers, research, and the promotion of
234 concrete masonry products?" The ballot provided to each
235 manufacturer must be accompanied with a copy of this section.
236 The duration of an authorization to levy the assessment may not
237 exceed 5 years following the date of the approval of the levy
238 unless reauthorized pursuant to subsection (11).

239 (a) A referendum held under this section must be conducted
240 by the Bureau of Economic and Business Research at the
241 University of Florida by secret ballot in a manner prescribed by
242 the council and approved by the commission. The council may
243 solicit and accept contributions to fund costs incurred for the
244 referendum.

245 (b) Notice of a referendum to be held under this section
246 must be given by certified mail to each manufacturer at least 30
247 days before the referendum is held.

248 (c) Each manufacturer is entitled to at least one vote
249 plus one vote for every 10 machine cavities that are owned by
250 the manufacturer and located in this state 90 days before the
251 date of the referendum. However, a manufacturer may not have
252 more than four votes. Proof of identification of the

253 manufacturing of concrete masonry products and of the number of
 254 machine cavities must be presented before voting.

255 (d) A simple majority vote shall determine any issue that
 256 requires a referendum under this section.

257 (6) ADMINISTRATIVE POWERS AND DUTIES OF THE COUNCIL.—

258 (a) The council shall:

259 1. Receive and disburse funds, as prescribed elsewhere in
 260 this section, to be used in administering and implementing this
 261 section.

262 2. Maintain a permanent record of its business
 263 proceedings.

264 3. Maintain a permanent, detailed record of its financial
 265 dealings.

266 4. Prepare, for review by the concrete masonry industry in
 267 this state, periodic reports and an annual report for each
 268 fiscal year of its activities, and file the annual report with
 269 the commission.

270 5. Prepare, for review by the concrete masonry industry in
 271 this state, periodic reports and an annual accounting for each
 272 fiscal year of all receipts and expenditures, and retain a
 273 certified public accountant for this purpose.

274 6. Appoint a licensed banking institution to serve as the
 275 depository for program funds and handle disbursements of those
 276 funds.

277 7. Maintain frequent communication with public officers at
 278 the state and national levels, including the commission.

279 8. Maintain an office in this state.

280 (b) The council may:

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281 1. Conduct or contract for scientific research with any
282 accredited university, college, or similar institution, and
283 enter into other contracts or agreements that will aid in
284 carrying out the purposes of this section, including contracts
285 for the purchase or acquisition of facilities or equipment
286 necessary to carry out the purposes of this section.

287 2. Disseminate reliable information benefiting the
288 consumer and the concrete masonry industry.

289 3. Provide to governmental bodies, on request, information
290 relating to subjects of concern to the concrete masonry
291 industry, and act jointly or in cooperation with the state or
292 Federal Government, and agencies thereof, in the development or
293 administration of programs that the council considers to be
294 consistent with the objectives of this section.

295 4. Sue and be sued as a council without individual
296 liability of the members for acts of the council when acting
297 within the scope of the powers of this section and in the manner
298 prescribed by the laws of this state.

299 5. Borrow from licensed lending institutions money in
300 amounts that are not cumulatively greater than 50 percent of the
301 council's anticipated annual income.

302 6. Maintain a financial reserve for emergency use, the
303 total of which must not exceed 50 percent of the council's
304 anticipated annual income.

305 7. Appoint advisory groups composed of representatives
306 from organizations, institutions, governments, or businesses
307 related to or interested in the welfare of the concrete masonry
308 industry and the end-use consumer.

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309 8. Employ subordinate officers and employees of the
310 council, prescribe their duties, and fix their compensation and
311 terms of employment.

312 9. Cooperate with any local, state, regional, or
313 nationwide organization or agency engaged in work or activities
314 consistent with the objectives of the program.

315 10. Cause any duly authorized agent or representative to
316 enter upon the premises of any market agency, market agent,
317 collection agency, or manufacturer and examine or cause to be
318 examined by the authorized agent only books, papers, and records
319 that deal with the payment of the assessment provided for in
320 this section or with the enforcement of this section.

321 11. Do all other things necessary to further the intent of
322 this section which are not prohibited by law.

323 (7) ACCEPTANCE OF GRANTS AND GIFTS.—The council may accept
324 grants, donations, contributions, or gifts from any source if
325 the use of such resources is not restricted in any manner that
326 the council considers to be inconsistent with the objectives of
327 this section.

328 (8) PAYMENTS TO ORGANIZATIONS.—

329 (a) The council may make payments to other organizations
330 for work or services performed which are consistent with the
331 objectives of the program.

332 (b) Before making payments described in this subsection,
333 the council must secure a written agreement that the
334 organization receiving payment will:

335 1. Furnish at least annually, or more frequently on
336 request of the council, written or printed reports of program

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337 activities and reports of financial data that are relative to
338 the council's funding of such activities; and

339 2. Agree to have appropriate representatives attend
340 business meetings of the council as reasonably requested by the
341 chair of the council.

342 (c) The council may require adequate proof of security
343 bonding on the payments to any individual, business, or other
344 organization.

345 (9) COLLECTION OF MONEYS AT TIME OF SALE.-

346 (a) Each manufacturer shall assess from the purchaser, at
347 the time of sale by the manufacturer, the assessment levied by
348 the council. The amount of the assessment must be separately
349 stated on all receipts, invoices, or other evidence of sale as
350 the "Florida Building Sustainability Fee."

351 (b) The manufacturer shall collect all such moneys and
352 forward them quarterly to the council, and the council shall
353 provide appropriate business forms for the convenience of the
354 collecting agent in executing this duty.

355 (c) The council shall maintain within its financial
356 records a separate accounting of all moneys received under this
357 subsection. The council shall provide for an annual financial
358 audit of its accounts and records to be conducted by an
359 independent certified public accountant pursuant to rules
360 adopted by the Auditor General under s. 11.45, Florida Statutes.

361 (d) The assessment is due and payable upon the sale of
362 concrete masonry units that are produced in this state,
363 regardless of the location of the purchaser. The assessment
364 constitutes a personal debt of the manufacturer of concrete

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365 masonry units who collects the assessment or who otherwise owes
366 the assessment. If a manufacturer fails to remit any properly
367 due assessment, the council may bring a civil action against the
368 manufacturer in the circuit court of any county for the
369 collection thereof, and may add a penalty in the amount of 10
370 percent of the assessment owed, the cost of enforcing the
371 collection of the assessment, court costs, and reasonable
372 attorney's fees. The action shall be tried and judgment rendered
373 as in any other cause of action for debts due and payable. All
374 assessments, penalties, and enforcement costs are due and
375 payable to the council.

376 (10) VOTE ON CONTINUING THE ASSESSMENT.—Upon the delivery
377 by certified mail to the council of petitions that represent at
378 least 25 percent of the votes allocated under subsection (5) and
379 that ask, "Shall the assessment authorized by the Concrete
380 Masonry Products Research, Education, and Promotion Act
381 continue?" the council shall, within 90 days after the receipt
382 of the petitions, conduct a referendum to determine whether a
383 majority of the votes cast in the referendum support the
384 continuation of the Concrete Masonry Products Research,
385 Education, and Promotion Act. All signatures must be collected
386 within a 12-month period. A referendum held under this
387 subsection may not be held more than one time in a 3-year
388 period. Before each referendum, votes shall be reallocated using
389 the method described in subsection (5).

390 (11) BYLAWS.—The council shall, by September 30, 2012,
391 adopt bylaws to carry out the intents and purposes of this
392 section. These bylaws may be amended upon 30-days' notice to

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393 | board members at any regular or special meeting called for this
394 | purpose. The bylaws must conform to the requirements of this
395 | section but may also address any matter not in conflict with the
396 | general laws of this state.

397 | Section 2. This act shall take effect July 1, 2012.