

By the Committee on Governmental Oversight and Accountability;  
and Senators Bennett and Storms

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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  
29          concrete masonry products collect the assessment from

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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 "Concrete  
56 Masonry Products Research, Education, and Promotion Act."

57 (2) DEFINITIONS.-As used in this section, the term:

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

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

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

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

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

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

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

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

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

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

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

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

105       (c) The council shall:

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

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

116       3. Coordinate research, education, promotion, industry, and

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117 consumer information programs with national programs or programs  
118 of other states.

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

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

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

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

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

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

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

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

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

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

145 (d)1. The council may not participate or intervene in any

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146 political campaign on behalf of or in opposition to any  
147 candidate for public office or on behalf of or in opposition to  
148 any state or local ballot initiative. This restriction includes,  
149 but is not limited to, a prohibition against publishing or  
150 distributing 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.—

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

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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 Commission.

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

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

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

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

189 (b) The initial board of directors shall be appointed by  
190 the chair of the commission based on recommendations from the  
191 Masonry Association of Florida. Five of the initial board  
192 members shall be appointed to a 1-year term. Five shall be  
193 appointed for a 2-year term. The remaining board members shall  
194 be appointed for a 3-year term. Thereafter, each member shall be  
195 appointed to serve a 3-year term and may be reappointed to serve  
196 an additional consecutive term. After the initial appointments  
197 are made, each subsequent vacancy must be filled in accordance  
198 with the bylaws of the council. A member may not serve more than  
199 two consecutive terms. A member representing a manufacturer or a  
200 contractor must be employed by a manufacturer or contractor  
201 engaging in the trade or manufacture of concrete masonry  
202 products for at least 5 years immediately preceding the first  
203 day of his or her service on the board. All members of the board

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204 shall serve without compensation. However, the board members are  
205 entitled to reimbursement for per diem and travel expenses  
206 incurred in carrying out the intents and purposes of this  
207 section in accordance with s. 112.061, Florida Statutes.

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

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

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

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

224 (5) REFERENDUM ON ASSESSMENTS.—All concrete masonry  
225 manufacturers in this state may vote in a referendum to  
226 determine whether the council may levy an assessment of 1 cent  
227 per concrete masonry unit. The referendum shall pose the  
228 question: "Do you approve of authorizing the Florida Concrete  
229 Masonry Council, Inc., to levy an assessment, pursuant to  
230 Florida law, of \$0.01 per concrete masonry unit sold by a  
231 manufacturer in this state, to be used for the education of  
232 concrete masonry workers, research, and the promotion of



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233 concrete masonry products?" The ballot provided to each  
234 manufacturer must be accompanied with a copy of this section.  
235 The duration of an authorization to levy the assessment may not  
236 exceed 5 years following the date of the approval of the levy  
237 unless reauthorized pursuant to subsection (11).

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

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

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

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

256 (6) ADMINISTRATIVE POWERS AND DUTIES OF THE COUNCIL.-

257 (a) The council shall:

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

261 2. Maintain a permanent record of its business proceedings.

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262       3. Maintain a permanent, detailed record of its financial  
263 dealings.

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

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

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

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

277       8. Maintain an office in this state.

278       (b) The council may:

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

285       2. Disseminate reliable information benefiting the consumer  
286 and the concrete masonry industry.

287       3. Provide to governmental bodies, on request, information  
288 relating to subjects of concern to the concrete masonry  
289 industry, and act jointly or in cooperation with the state or  
290 Federal Government, and agencies thereof, in the development or

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291 administration of programs that the council considers to be  
292 consistent with the objectives of this section.

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

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

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

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

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

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

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

319 11. Do all other things necessary to further the intent of

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320 this section which are not prohibited by law.

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

326 (8) PAYMENTS TO ORGANIZATIONS.—

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

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

333 1. Furnish at least annually, or more frequently on request  
334 of the council, written or printed reports of program activities  
335 and reports of financial data that are relative to the council's  
336 funding of such activities; and

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

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

343 (9) COLLECTION OF MONEYS AT TIME OF SALE.—

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

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

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

359 (d) The assessment is due and payable upon the sale of  
360 concrete masonry units that are produced in this state,  
361 regardless of the location of the purchaser. The assessment  
362 constitutes a personal debt of the manufacturer of concrete  
363 masonry units who collects the assessment or who otherwise owes  
364 the assessment. If a manufacturer fails to remit any properly  
365 due assessment, the council may bring a civil action against the  
366 manufacturer in the circuit court of any county for the  
367 collection thereof, and may add a penalty in the amount of 10  
368 percent of the assessment owed, the cost of enforcing the  
369 collection of the assessment, court costs, and reasonable  
370 attorney's fees. The action shall be tried and judgment rendered  
371 as in any other cause of action for debts due and payable. All  
372 assessments, penalties, and enforcement costs are due and  
373 payable to the council.

374 (10) VOTE ON CONTINUING THE ASSESSMENT.—Upon the delivery  
375 by certified mail to the council of petitions that represent at  
376 least 25 percent of the votes allocated under subsection (5) and  
377 that ask, "Shall the assessment authorized by the Concrete

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378 Masonry Products Research, Education, and Promotion Act  
379 continue?" the council shall, within 90 days after the receipt  
380 of the petitions, conduct a referendum to determine whether a  
381 majority of the votes cast in the referendum support the  
382 continuation of the Concrete Masonry Products Research,  
383 Education, and Promotion Act. All signatures must be collected  
384 within a 12-month period. A referendum held under this  
385 subsection may not be held more than one time in a 3-year  
386 period. Before each referendum, votes shall be reallocated using  
387 the method described in subsection (5).

388 (11) BYLAWS.—The council shall, by September 30, 2012,  
389 adopt bylaws to carry out the intents and purposes of this  
390 section. These bylaws may be amended upon 30-days' notice to  
391 board members at any regular or special meeting called for this  
392 purpose. The bylaws must conform to the requirements of this  
393 section but may also address any matter not in conflict with the  
394 general laws of this state.

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