

HB 703

2013

1 A bill to be entitled
2 An act relating to concrete masonry products;
3 providing a short title; creating the Florida Concrete
4 Masonry Council, Inc.; authorizing the council to levy
5 an assessment on the sale of concrete masonry units
6 under certain circumstances; providing the powers and
7 duties of the council and restrictions upon actions of
8 the council; providing for appointment of the
9 governing board of the council; authorizing the
10 council to submit a referendum to manufacturers of
11 concrete masonry units for authorization to levy an
12 assessment on the sale of concrete masonry units;
13 providing procedure for holding the referendum;
14 authorizing the council to accept grants, donations,
15 contributions, and gifts under certain circumstances;
16 authorizing the council to make payments to other
17 organizations under certain circumstances; providing
18 requirements for the manufacturer's collection of
19 assessments; authorizing the council to initiate legal
20 action against a manufacturer under certain
21 conditions; providing a procedure for manufacturers to
22 petition for a referendum to continue the assessment;
23 requiring the council to adopt bylaws; providing an
24 effective date.

25
26 WHEREAS, the Legislature intends to promote the growth of
27 the concrete masonry industry in this state; to assure the
28 public that a superior, sustainable construction material is

HB 703

2013

29 produced by a skilled and educated workforce; to provide for the
 30 general economic welfare of the state and of the producers,
 31 contractors, and end-use consumers of masonry products; and to
 32 provide the masonry industry of this state with the authority to
 33 establish a self-governed program to help develop, maintain, and
 34 expand the state, national, and foreign markets for masonry
 35 products and services that are mined, manufactured, produced, or
 36 processed in this state, NOW, THEREFORE,

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

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40 Section 1. Concrete Masonry Products Research, Education,
 41 and Promotion Act.—

42 (1) SHORT TITLE.—This section may be cited as the
 43 "Concrete Masonry Products Research, Education, and Promotion
 44 Act."

45 (2) FLORIDA CONCRETE MASONRY COUNCIL, INC.; CREATION;
 46 PURPOSES.—

47 (a) There is created the Florida Concrete Masonry Council,
 48 Inc., a nonprofit corporation organized under the laws of this
 49 state and operating as a direct-support organization of the
 50 Florida Building Commission.

51 (b) The council may levy an assessment on each concrete
 52 masonry unit produced and sold by a manufacturer in the state if
 53 the imposition of the assessment is approved by referendum
 54 pursuant to subsection (4).

55 (c) The council shall:

56 1. Develop, implement, and monitor a collection system for

57 | the assessment, which must be administered by an independent
58 | third party.

59 | 2. Conduct referenda pursuant to subsections (4) and (8).

60 | 3. Plan, implement, and conduct programs of education,
61 | promotion, research, and consumer information and industry
62 | information that are designed to strengthen the market position
63 | of the concrete masonry industry in this state and in the
64 | nation, to maintain and expand domestic and foreign markets, and
65 | to expand the uses for concrete masonry products.

66 | 4. Use the means authorized by this section for the
67 | purpose of funding research, education, promotion, and consumer
68 | and industry information relating to concrete masonry products
69 | in this state and in the nation.

70 | 5. Coordinate research, education, promotion, and consumer
71 | and industry information programs with national programs or
72 | programs of other states.

73 | 6. Develop new uses and markets for concrete masonry
74 | products.

75 | 7. Develop and improve access to education for individuals
76 | seeking employment in the field of concrete masonry.

77 | 8. Develop methods of improving the quality of concrete
78 | masonry products for the purpose of windstorm protection.

79 | 9. Develop methods of improving the energy efficiency
80 | attributes of concrete masonry products.

81 | 10. Inform and educate the public concerning the
82 | sustainability and economic benefits of concrete masonry
83 | products.

84 | 11. Do all other things necessary or expedient for the

85 administration of the affairs and attainment of the purposes of
 86 the council.

87 (d) The council may:

88 1. Conduct or contract for scientific research with any
 89 accredited university, college, or similar institution and enter
 90 into other contracts or agreements that will aid in carrying out
 91 the purposes of this section, including contracts for the
 92 purchase or acquisition of facilities or equipment necessary to
 93 carry out the purposes of this section.

94 2. Disseminate reliable information benefiting the
 95 consumer and the concrete masonry industry.

96 3. Provide to governmental bodies, on request, information
 97 relating to subjects of concern to the concrete masonry industry
 98 and act jointly or in cooperation with the state or Federal
 99 Government, and agencies thereof, in the development or
 100 administration of programs that the council considers to be
 101 consistent with the objectives of this section.

102 4. Sue and be sued as a council without individual
 103 liability of the members for acts of the council when acting
 104 within the scope of the powers of this section and in the manner
 105 prescribed by the laws of this state.

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

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

112 7. Employ subordinate officers and employees of the

HB 703

2013

113 council, prescribe their duties, and fix their compensation and
114 terms of employment.

115 8. Cooperate with any local, state, regional, or
116 nationwide organization or agency engaged in work or activities
117 consistent with the objectives of this section.

118 9. Cause any duly authorized agent or representative to
119 enter upon the premises of any market agency, market agent,
120 collection agency, or manufacturer and examine or cause to be
121 examined by the authorized agent only books, papers, and records
122 that deal with the payment of the assessment provided for in
123 this section or with the enforcement of this section.

124 10. Do all other things necessary to further the intent of
125 this section that are not prohibited by law.

126 (e)1. The council may not participate or intervene in any
127 political campaign on behalf of or in opposition to any
128 candidate for public office or any state or local ballot
129 initiative. This restriction includes, but is not limited to, a
130 prohibition against publishing or distributing any statement.

131 2. The net receipts of the council may not in any part
132 inure to the benefit of or be distributable to its directors,
133 its officers, or other private persons, except that the council
134 may pay reasonable compensation for services rendered by staff
135 employees and may make payments and distributions in furtherance
136 of the purposes of this section.

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

140 a. That is exempt from federal income taxation under s.

141 501(c)(3) of the Internal Revenue Code; or
 142 b. To which charitable contributions are deductible under
 143 s. 170(c)(2) of the Internal Revenue Code.
 144 (3) GOVERNING BOARD.—
 145 (a) The Florida Concrete Masonry Council, Inc., shall be
 146 governed by a board of directors composed of 15 members as
 147 follows:
 148 1. Nine members representing concrete masonry
 149 manufacturers. Of these board members, at least five must be
 150 representatives of manufacturers that are members of the Masonry
 151 Association of Florida. These members must be representatives of
 152 concrete masonry manufacturers of various sizes. A manufacturer
 153 may not be represented by more than one member of the board.
 154 2. One member representing the Florida Building
 155 Commission.
 156 3. One member representing the Florida Homebuilders
 157 Association.
 158 4. One member having expertise in apprenticeship or
 159 vocational training.
 160 5. Two members who are masonry contractors and who are
 161 members of the Masonry Association of Florida.
 162 6. One member who is not a masonry contractor or
 163 manufacturer or an employee of a masonry contractor or
 164 manufacturer but who is otherwise a stakeholder in the masonry
 165 industry.
 166 (b) The initial board of directors shall adopt bylaws to
 167 govern initial terms of directors, governance of board members
 168 and meetings, term limits, and procedures for filling vacancies.

HB 703

2013

169 (4) REFERENDUM ON ASSESSMENT.—All concrete masonry
170 manufacturers in this state may vote in a referendum to
171 determine whether the council may levy an assessment per
172 concrete masonry unit. The referendum shall pose the question:

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174 "Do you approve of authorizing the Florida Concrete
175 Masonry Council, Inc., to levy an assessment, pursuant
176 to Florida law, of per concrete masonry unit sold
177 by a manufacturer in this state, to be used for the
178 education of concrete masonry workers, research, and
179 the promotion of concrete masonry products?"

180
181 The amount of the assessment shall be provided by the council.
182 The duration of an authorization to levy the assessment may not
183 exceed 5 years following the date of the approval of the levy
184 unless reauthorized pursuant to subsection (8).

185 (a) A referendum held under this subsection or subsection
186 (8) must be conducted by the Bureau of Economic and Business
187 Research at the University of Florida in the manner prescribed
188 by the council and approved by the Florida Building Commission.
189 The council may solicit and accept contributions to fund costs
190 incurred for the referendum.

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

194 (c) Each manufacturer is entitled to at least one vote
195 plus one vote for every 10 machine cavities that are owned by
196 the manufacturer and located in this state 90 days before the

HB 703

2013

197 date of the referendum. However, a manufacturer may not have
198 more than four votes. Proof of identification of the
199 manufacturing of concrete masonry products and of the number of
200 machine cavities must be presented before voting.

201 (d) A 60-percent majority vote shall determine any issue
202 that requires a levy of assessment referendum under this
203 section.

204 (5) ACCEPTANCE OF GRANTS AND GIFTS.—The council may accept
205 grants, donations, contributions, or gifts from any source if
206 the use of such resources is not restricted in any manner that
207 the council considers to be inconsistent with the objectives of
208 this section.

209 (6) PAYMENTS TO ORGANIZATIONS.—

210 (a) The council may make payments to other organizations
211 for work or services performed that are consistent with the
212 objectives of the program.

213 (b) Before making payments described in this subsection,
214 the council must secure a written agreement that the
215 organization receiving payment will furnish at least annually,
216 or more frequently on request of the council, written or printed
217 reports of program activities and reports of financial data that
218 are relative to the council's funding of such activities.

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

222 (7) COLLECTION OF MONEYS AT TIME OF SALE.—

223 (a) If an assessment is approved by referendum, each
224 manufacturer shall assess from the purchaser, at the time of

HB 703

2013

225 sale by the manufacturer, the assessment levied by the council.
226 The amount of the assessment must be separately stated on all
227 receipts, invoices, or other evidence of sale as the "Florida
228 Building Sustainability Fee."

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

233 (c) The council shall maintain within its financial
234 records a separate accounting of all moneys received under this
235 subsection. The council shall provide for an annual financial
236 audit of its accounts and records to be conducted by an
237 independent certified public accountant pursuant to rules
238 adopted by the Auditor General under s. 11.45.

239 (d) The assessment is due and payable upon the sale of
240 concrete masonry units that are produced in this state. The
241 assessment constitutes a personal debt of the manufacturer of
242 concrete masonry units who collects the assessment or who
243 otherwise owes the assessment. If a manufacturer fails to remit
244 any properly due assessment, the council may bring a civil
245 action against the manufacturer in the circuit court of any
246 county for the collection thereof, the cost of enforcing the
247 collection of the assessment, court costs, and reasonable
248 attorney fees. The action shall be tried and judgment rendered
249 as in any other cause of action for debts due and payable. All
250 assessments, penalties, and enforcement costs are due and
251 payable to the council.

252 (8) VOTE ON CONTINUING THE ASSESSMENT.—Upon the delivery

HB 703

2013

253 by certified mail to the council of petitions that represent at
254 least 25 percent of the votes allocated under subsection (4) and
255 that ask, "Shall the assessment authorized by the Concrete
256 Masonry Products Research, Education, and Promotion Act
257 continue?" the council shall, within 90 days after the receipt
258 of the petitions, conduct a referendum to determine whether 60
259 percent of the votes cast in the referendum support the
260 continuation of the Concrete Masonry Products Research,
261 Education, and Promotion Act. All signatures must be collected
262 within a 3-month period. A referendum held under this subsection
263 may not be held more than one time in a 3-year period. Before
264 each referendum, votes shall be reallocated using the method
265 described in subsection (4).

266 (9) BYLAWS.—The council shall, by September 30, 2013,
267 adopt bylaws to carry out the intents and purposes of this
268 section. These bylaws may be amended upon 30 days' notice to
269 board members at any regular or special meeting called for this
270 purpose. The bylaws must conform to the requirements of this
271 section but may also address any matter not in conflict with the
272 general laws of this state.

273 Section 2. This act shall take effect July 1, 2013.