

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 Agriculture

BILL: SB 614

INTRODUCER: Senator Garcia

SUBJECT: Authorization of Restrictions Concerning Dangerous Dogs

DATE: February 9, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 614 makes two changes to Florida’s “Dangerous Dogs” law. First, the bill incorporates “public housing authorities” into the statute that authorizes counties and municipalities to address safety and welfare concerns caused by attacks on persons or domestic animals by dogs by ordinance, provided such regulation is not specific to the breed of the dog. Thus, the bill authorizes a public housing authority to enact a rule or a policy to address dangerous dogs, but such rule or policy may not be breed specific. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds of dogs on housing authority property.

Second, the bill removes the grandfather provision in statute, which allows local governments to enforce dog breed-specific regulations, if the ordinance enacting such regulations was adopted before October 1, 1990. This change effectively nullifies Miami-Dade County’s regulations and restrictions on owners of “pit bull dogs.”

The bill takes effect October 1, 2022.

II. Present Situation:

Dangerous Dogs

Part II of ch. 767, F.S., outlines the state’s “Dangerous Dogs” provisions, originally enacted in 1990.¹ The Legislature found that “dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of the owners to confine and properly train and control their dogs; that existing laws

¹ Ch. 90-180, L.O.F.

inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements on the owners of dangerous dogs.”²

A “dangerous dog” is defined as a dog that:

- Has aggressively bitten, attacked, endangered or inflicted severe injury on a person on public or private property;
- Has more than one time severely injured or killed a domestic animal while the dog is off the owner’s property; or
- Has, when unprovoked, chased or approached a person in public in a menacing fashion, or with an attitude of attack.³

Process for Classification of Dogs as Dangerous

An animal control officer or employee is typically the person who would investigate an incident involving a dog. In areas unserved by an animal control authority, the sheriff assumes the duties required of an animal control officer.⁴

Upon receiving a report of a potentially dangerous dog, the animal control authority must investigate the incident, interview the owner, and require a sworn affidavit from any person who seeks to have a dog classified as dangerous.⁵ An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held.⁶ A dog that is being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation.⁷

The animal control authority may not declare a dog as dangerous if:

- The injured person was unlawfully on the property, or if lawfully on the property was tormenting, abusing, or assaulting the dog or its owner or a family member; or
- The dog was protecting a person within the immediate vicinity of the dog from an unjustified attack or assault.⁸

After investigating, the animal control authority must initially determine whether sufficient cause exists to classify the dog as dangerous and if sufficient cause is found, provide the owner an opportunity for a hearing before making a final determination regarding the classification or penalty.⁹ The animal control authority must provide written notice of sufficient cause and

² Section 767.10, F.S.

³ Section 767.11(1), F.S., requires an appropriate authority to document a dog as a dangerous dog. Section 767.11(2), F.S., further defines what is meant by “unprovoked” as that the victim whom while acting peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog. A severe injury is any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery. Section 767.11(3), F.S.

⁴ Section 767.11(5) and (6), F.S.

⁵ Section 767.12(1), F.S.

⁶ Section 767.12(1)(a), F.S.

⁷ Section 767.12(1)(b), F.S.

⁸ Section 767.12(2)(a-b), F.S.

⁹ Section 767.12(3), F.S.

proposed penalty to the owner by registered mail, certified hand delivery, or service in conformity with how service of process is made.

The owner has 7 calendar days from receiving the notice to file a written request for a hearing. The hearing officer must hold the hearing as soon as possible, no more than 21 calendar days, and no sooner than 5 days after receiving the request for hearing.¹⁰ If a hearing is not timely requested the authority's determination becomes final.

Local Government Regulation of Dangerous Dogs

Current law authorizes local governments to place further restrictions and additional requirements on owners of dogs that have bitten or attacked persons or domestic animals.¹¹ However, no local regulation may be breed-specific, or lessen the provisions of ch. 767, F.S., unless the regulation was adopted prior to October 1, 1990.¹² Breed-specific regulation is a term used for laws and ordinances that seek to reduce dog attacks on humans and other animals by regulating or banning a specific breed of dog.¹³ Florida is one of twenty-one states that prohibit local governments from enacting breed specific ordinances.¹⁴

Because of the 1990 grandfather provision, Miami-Dade County¹⁵ and the City of Sunrise¹⁶ are known to be the only two local governments in Florida with breed specific ordinances currently in effect. Miami-Dade's ordinance provides that pit bull dogs should be banned from purchase, from being brought into Miami-Dade County, or otherwise acquired and regulated due to unique history, nature and characteristics which require special regulation. The county defines "pit bull dog" with reference to the descriptions given by the American Kennel Club and the United Kennel Club. In 2012, Miami-Dade County held a referendum to gauge public opinion on keeping the ordinance in place. Over 63 percent of voters chose to keep the county's regulation of pit bull dogs in place.¹⁷

Public Housing Authorities

The federal government has created programs to provide housing assistance to lower-income households since the 1930s. Public housing developments which provide low-rent opportunities are generally owned and operated by the local public housing authorities (PHAs) in each state and subsidized and regulated by the federal government. Families are eligible to live in public housing if they are low-income¹⁸ but 40 percent of public housing units that become available in

¹⁰ Section 767.12(3), F.S.

¹¹ Section 767.14, F.S.

¹² Section 767.14, F.S.

¹³ What Is Breed-Specific Legislation?, ASPCA, available at: <https://www.aspc.org/improving-laws-animals/public-policy/what-breed-specific-legislation> (last visited Feb. 9, 2022).

¹⁴ What Is Breed-Specific Legislation? ASPCA, available at: <https://www.aspc.org/improving-laws-animals/public-policy/what-breed-specific-legislation> (last visited Feb. 9, 2022).

¹⁵ Ord. No. 89-22, § 2, 4-4-89

¹⁶ Ord. No. 251-A, § 2(4-17), 5-2-89

¹⁷ Official election records available at <https://enr.electionsfl.org/DAD/3042/Summary/> (last visited Feb. 9, 2022).

¹⁸ Low income is defined as earning at or below 80% of area median income for these purposes, Congressional Research Service, Overview of Federal Housing Assistance Programs and Policy, available at: <https://crsreports.congress.gov/product/pdf/RL/RL34591> (last visited Feb. 9, 2022).

a year must be given to families that are extremely low-income.¹⁹ Families living in public housing typically are required to pay 30 percent of their adjusted income toward rent.

PHAs receive several streams of funding from United States Department of Housing and Urban Development (HUD) to help make up the difference between what tenants pay in rent and what it costs to maintain public housing.²⁰ PHAs receive operating funds and capital funds through a formula allocation process; operating funds are used for management, administration and day-to-day costs of running a housing development, and capital funds are used for modernization needs (i.e., replacing a roof or heating and cooling system).²¹ Most PHAs own and manage the public housing developments themselves, but some contract with private management companies or transfer ownership to a private subsidiary or another entity that operates the development under public housing rules.²²

There are 99 active HUD-registered PHAs in Florida,²³ of which 91 are special districts.²⁴ PHAs are created pursuant to Florida law at municipal, county, and regional levels, and become active through resolution by the applicable governing body. The powers of each authority are vested in housing authority commissioners and action may be taken upon a majority vote of the commissioners.²⁵ Housing authorities have the power to:

- Acquire, lease, and operate housing projects.
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project.
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project.
- Invest funds held in reserves or sinking funds.²⁶

Pet Regulation in Public Housing Authorities

HUD regulations permit public housing tenants to own common household pets.²⁷ However, HUD allows local PHAs to enforce reasonable restrictions on the types of common household pets allowed in their rules and policies.²⁸ A tenant in public housing must maintain each pet responsibly, in accordance with relevant state and local public health, animal control and anti-cruelty laws, and in accordance with the policies established in the PHA's Annual Plan.²⁹

¹⁹ Extremely low income is defined as earning at or below the greater of 30% of area median income or the federal poverty guidelines. Congressional Research Service, *Overview of Federal Housing Assistance Programs and Policy*, available at: <https://crsreports.congress.gov/product/pdf/RL/RL34591> (last visited Feb. 9, 2022).

²⁰ *Id.*

²¹ *Id.*

²² Center on Budget and Policy Priorities, *Policy Basics: Public Housing*, available at: <https://www.cbpp.org/research/public-housing> (last visited Feb. 9, 2022).

²³ HUD, *Public Housing Authority Contact Information*, available at: https://www.hud.gov/sites/dfiles/PIH/documents/PHA_Contact_Report_FL.pdf (last visited Feb. 9, 2022).

²⁴ Florida Department of Economic Opportunity, *Official List of Special Districts Online*, available at: <http://specialdistrictreports.floridajobs.org/webreports/sumfunctionlist.aspx> (last visited Feb. 9, 2022).

²⁵ *Id.*

²⁶ Section 421.08, F.S.

²⁷ See HUD *Public Housing Occupancy Guidebook*, *Pet Ownership in Public Housing*, December 2020, available at: <https://www.hud.gov/sites/dfiles/PIH/documents/PHOGPetOwnership.pdf> (last visited Feb. 9, 2022).

²⁸ 24 CFR § 5.318(a); § 960.707(b)

²⁹ 24 CFR § 960.707(a)

A PHA's reasonable requirements for pet policies in general occupancy developments may include but are not limited to tenant and pet density; size, weight, and type of pets; pet fees and deposits; pet care and handling; and pet registration. PHAs have discretion to consider additional factors if reasonable and consistent with state or local law.³⁰

Currently, some PHAs include provisions in their policies prohibiting pets based on breed, behavior, or training of the pet.³¹ However, some regulations based on breed do not depend on a finding that the pet is vicious or dangerous. Additionally, the definition of "dangerous dog" under Florida law is not uniformly applied in all PHA policies.³²

III. Effect of Proposed Changes:

The bill amends s. 767.14, F.S., to authorize PHAs to adopt rules or policies imposing restrictions or further requirements on owners of dogs deemed dangerous, as defined by Florida law, as long as such requirements are not specific to breed. This provision is current law for local governments. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds of dogs for housing authority tenants.

The bill also removes a provision that exempts local ordinances adopted before October 1, 1990 from the prohibition on enacting ordinances that are specific to certain breeds of dogs. This change nullifies any breed-specific local government ordinances currently in place.

The bill takes effect on October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁰ 7 24 CFR § 960.707

³¹ See e.g., Tampa Housing Authority, <https://www.thafl.com/Departments/Real-Estate-Development/library/PHA-PLAN.pdf> (last visited Jan. 3, 2022) (forbidding "Pit bull, Rottweiler, German Shepherd, Chow, Doberman Pinscher or any species considered vicious, intimidating, or kept for the purpose of training for fighting or wagering of bets"); St. Petersburg Housing Authority, https://www.stpeteha.org/plugins/show_image.php?id=1912 (last visited Feb. 9, 2022) (prohibiting "any animal deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs . . . certain breeds may be prohibited at the discretion of [St. Petersburg Housing Authority]"); Key West Housing Authority, https://www.kwha.org/egov/documents/1614973714_73249.pdf (last visited Feb. 9, 2022) (prohibiting "vicious or intimidating pets. Dog breeds including pitbull, rottweiler, Doberman, are considered vicious or intimidating breeds").

³² See s. 767.11(1), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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 substantially amends section 767.14 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.