

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [HB 741](#)

**TITLE:** Department of Commerce

**SPONSOR(S):** Owen

**COMPANION BILL:** [SB 998](#) (Yarborough)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Housing, Agriculture & Tourism](#)

[Transportation & Economic Development Budget](#)

[Commerce](#)

## SUMMARY

### Effect of the Bill:

The bill addresses various matters related to community, workforce, and economic development and the Florida Department of Commerce (Department). The bill revises provisions related to:

- The acquisition of state lands for the purpose of buffering a military installation against encroachment;
- The Rural Economic Development Initiative;
- The Florida Small Cities Community Development Block Grant Program;
- Florida Is For Veterans, Inc.; and
- Employment eligibility and verification.

### Fiscal or Economic Impact:

The bill may have an indeterminate fiscal impact on state government, because while the Department is granted rulemaking and enforcement authority, these activities align with current responsibilities and resources. The bill may have an indeterminate, positive impact on local governments due to reduced administrative processes.

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## ANALYSIS

### **EFFECT OF THE BILL:**

#### Acquisition of State Lands for Military Buffers

The bill exempts from the requirement that certain lands buffering a military installation against encroachment revert back to the Board of Trustees of the Internal Improvement Fund if the land is not used for its intended purposes as a buffer for a military installation, even if the specific military mission, use, or function of the land is modified or changed. (Section 1)

#### Rural Economic Development Initiative

The bill redefines what qualifies as a “rural community” for purposes of the Rural Economic Development Initiative (REDI) by: providing that an unincorporated area recommended by the [Department of Commerce](#) (Department) and designated by the Governor which has a population of 25,000 or fewer and which meets three or more economic distress factors may qualify as a rural community for REDI; removing unincorporated federal enterprise communities and incorporated rural cities with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, from the definition of a “rural community.” (Section 2)

#### Community Development Block Grant Program

**STORAGE NAME:** h0741.HAT

**DATE:** 2/3/2026

The bill replaces the Florida Small Cities Community Development Block Grant Program with the Community Development Block Grant Program (Program). (Sections [3](#), [4](#), and [5](#))

The bill repeals the following program provisions: (Section [3](#))

- [S. 290.0411, F.S.](#), relating to legislative intent and purpose.
- [S. 290.042, F.S.](#), relating to definitions.
- [S. 290.0455, F.S.](#), relating to the Small Cities Community Development Block Grant Loan Guarantee Program.
- [S. 290.046, F.S.](#), relating to procedures and requirements for grant applications.
- [S. 290.047, F.S.](#), relating to grant ceilings and maximum administrative cost percentages, elimination of population bias, and loans in default.
- [S. 290.0475, F.S.](#), relating to circumstances when grant applications are ineligible for funding.
- [S. 290.048, F.S.](#), relating to powers of the Department to carry out the purposes and provisions of the program.

The bill designates the Department as the state agency to receive federal funding from the U.S. Department of Housing and Urban Development (HUD) and to administer the Program. The bill allows the Department to award grants under the Program in any manner and in any amount, consistent with the purposes and requirements of the Housing and Community Development Act of 1974, as amended, and applicable federal regulations (Act). The Department may expend funds received from HUD consistent with the Act. (Section [5](#))

The bill provides that, if, in any year, the Department receives additional federal funding through HUD for necessary expenses related to disaster recovery, long-term recovery, and restoration of infrastructure in impacted and distressed areas arising from the consequences of a federally declared disaster, the Department must administer such funding in accordance with the federal law authorizing such funding, including any implementing guidance or regulations adopted by HUD. (Section [5](#))

The bill provides that, if, in any year, the Department receives additional federal funding through HUD for any purpose not specifically provided in the bill, the Department must administer such funding in accordance with the law authorizing such funding, including any implementing guidance or regulations adopted by HUD. (Section [5](#))

The bill allows the Department to adopt rules to administer the program. (Section [5](#))

### **Collaborations with Florida Is For Veterans, Inc.**

The bill removes programs and initiatives under the international trade and tourism direct support organization as programs that "Florida Is For Veterans, Inc." may collaborate with for outreach, information exchange, marketing, and referrals. (Section [6](#))

### **Employment Verification**

The bill clarifies and adds procedures for enforcing employment verification and eligibility procedures.

The bill creates the following definitions related to employment verification: (Section [7](#))

- "Employer" means any person, firm, company, corporation, association, joint stock company, partnership, organization, or other legal entity, or any agent thereof, which engages one or more individuals to perform labor or services in this state in exchange for salary, wages, or other remuneration. The term does not include:
  - An occupant or owner of a private residence with respect to an individual hired for casual labor, as defined in [s. 443.036, F.S.](#), which is to be performed entirely within that private residence.
  - A person or entity solely with respect to its engagement of an independent contractor, as defined in federal laws or regulations.

- "Noncompliance" means:
  - The failure of an employer to verify a new employee's employment eligibility through the E-Verify system.
  - An employer's failure to timely provide, upon request by a specified government entity, copies of the documentation the employer relied upon to verify a new employee's employment eligibility.

The bill requires employers to maintain an E-Verify case for each employee which verifies the employee's employment eligibility. (Section [7](#))

The bill provides that if an employer fails to provide requested documentation that was relied upon by the employer for the verification of a new employee's employment eligibility within 30 days after a request made by specified government entities, it constitutes noncompliance. Each failure to timely provide the documentation constitutes a noncompliance event for the application of fines. (Section [7](#))

If the Department has a reasonable basis to believe that an employer failed to use the E-Verify system to verify the employment eligibility of employees, then the Department must, before the imposition of a fine or suspension of licenses, issue an initial notification of noncompliance to the employer. (Section [7](#))

The bill provides that an employer's failure to provide copies of any documentation relied upon by the employer for the verification of a new employee's employment eligibility to the specified government entities constitutes a reasonable basis that an employer failed to use the E-Verify system. The Department must notify the employer that it must cure the noncompliance within 30 days after the date of the initial notification. The Department, for good cause shown by the employer, may grant the employer an additional 30 days to cure the noncompliance. If the employer does not timely cure the noncompliance, the Department shall issue a final determination of noncompliance to the employer, which is subject to Ch. 120, F.S., the Administrative Procedure Act (APA). If the employer requests a hearing, the hearing shall be held pursuant to s. 120.569 and 120.57(1), F.S., except that the order of an administrative law judge is a final order and reviewable under s. 120.68, F.S. (Section [7](#))

If the Department determines that an employer failed to use the E-Verify system and the employer failed to cure the noncompliance, then the Department must impose a fine of \$1,000 for each employee who is not verified, rather than a fine of \$1,000 per day until the employer provides the Department with sufficient proof that the noncompliance was cured after failing to use the E-Verify system three times in a 24-month period. Any subsequent noncompliance by the employer after the final determination of noncompliance constitutes grounds for the suspension of all licenses issued by a licensing agency until the noncompliance is cured, subject to the APA. (Section [7](#))

The bill provides that to cure noncompliance, the employer must: (Section [7](#))

- Register with the E-Verify system if the employer is not already registered.
- Use the E-Verify system or the Employment Eligibility Verification form (Form I-9) to properly verify the employment eligibility of each employee.
- Provide an E-Verify case result for each employee which verifies the employee's employment eligibility.
- Provide an affidavit to the Department, under penalty of perjury, that all instances of noncompliance have been corrected and that the employer is now in full compliance.

The bill provides that, in addition to any fines, the Department is entitled to recover the reasonable costs of investigation and prosecution if the employer is found to have violated employment eligibility provisions. The court determines the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections to the affidavit. If the assessed costs are not paid within 60 days after assessment, the Department may contract for the collection of such costs, in which case any fees charged by the collection agent may be added to the amount recovered from the employer, or the Department may bring a civil action to recover such costs, in which case the Department is also entitled to recover reasonable attorney fees and court costs incurred in such action. All recovered costs, including additional amounts recovered for collection efforts, must be deposited into the State Economic Enhancement and Development Trust Fund. (Section [7](#))

The bill provides that the Department may not investigate a complaint that is based solely on race, color, or national origin. (Section [7](#))

The bill changes the date on which the E-Verify provision expires. The bill provides that the provision expires after the E-Verify system is no longer provided or maintained by the Federal Government, or when the Federal Government requires the use of the E-Verify system by all employers in the United States, rather than 60 days after the E-Verify system is no longer a pilot program, and the Federal Government requires the use of the E-Verify system by all employers in the United States. (Section [7](#))

The bill provides a presumption that an employer knowingly employs an unauthorized alien when the employer is aware of the unauthorized alien's unauthorized status or fails to take reasonable steps to verify the unauthorized alien's employment eligibility after being made aware of potential violations. (Section [8](#))

The bill provides that if the Department finds or is notified by a specified government entity that an employer has knowingly employed an unauthorized alien, then the Department must provide the employer with a written determination subject to the APA. If the employer requests a hearing, the hearing shall be held pursuant to [ss. 120.569](#) and [120.57\(1\), F.S.](#), except that the order of an administrative law judge is a final order and reviewable under [s. 120.68, F.S.](#). The bill removes a redundant provision. (Section [8](#))

When an employer is on probation for a violation of [s. 448.09, F.S.](#), the bill requires the employer to submit an affidavit on or before the last day of each quarter that affirms the employer is not employing any unauthorized aliens and is in compliance with employment verification laws. The first quarter starts from the issuance date of the final order. Each subsequent quarter starts 90 days after the previous quarter. The Department may enforce compliance by filing a petition for enforcement with the circuit court in Leon County, and the venue for all such actions is in Leon County. (Section [8](#))

When any violation of [s. 448.09, F.S.](#), takes place within 24 months after a previous violation, constituting grounds for the suspension or revocation of all licenses, the bill requires the Department to provide the employer with a written determination subject to the APA. The hearing shall be held pursuant to [ss. 120.569](#) and [120.57\(1\), F.S.](#), except that the order of the administrative law judge is a final order and appealable pursuant to [s. 120.68, F.S.](#) (Section [8](#))

The bill allows the Department to adopt rules necessary to establish procedures for reporting, enforcement, compliance, noncompliance, license suspension, and the application of fines, as well as any other rules required for effective enforcement and administration of employment eligibility and employment of unauthorized alien provisions. (Sections [7](#) and [8](#))

The bill makes a conforming change. (Section [9](#))

The bill provides an effective date of July 1, 2026. (Section [10](#))

#### **RULEMAKING:**

The bill gives rulemaking authority to the Department to administer the Community Development Block Grant Program and for enforcement of employment verification requirements.

***Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.***

#### **FISCAL OR ECONOMIC IMPACT:**

**STATE GOVERNMENT:**

According to the Department, the bill has no direct impact on state revenues. State fiscal impacts are expected to be minimal and largely absorbed within existing resources. While the Department is granted rulemaking and enforcement authority, these activities align with current responsibilities. Streamlining the Community Development Block Grant program framework may improve administrative efficiency without increasing overall costs.<sup>1</sup>

**LOCAL GOVERNMENT:**

According to the Department, the bill reduces administrative processes which may deliver a positive fiscal impact to local governments. Local governments may experience reduced administrative and consulting expenses due to fewer procedural requirements.<sup>2</sup>

**RELEVANT INFORMATION****SUBJECT OVERVIEW:****Florida Department of Commerce**

The Department of Commerce (Department) was formed to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. The Department is the state's chief agency for business recruitment and expansion and economic development.<sup>3</sup> The Department has the following divisions and offices:<sup>4</sup>

- The Division of Economic Development,
- The Division of Community Development,
- The Division of Workforce Services,
- The Division of Finance and Administration,
- The Division of Information Technology,
- The Office of the Secretary, and
- The Office of Economic Accountability and Transparency.

**Acquisition of State Lands for Military Buffers**

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of Florida.<sup>5</sup> The Board of Trustees consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. The Board of Trustees may acquire, sell, transfer, and administer state lands in the manner consistent with Chs. 253 and 259, F.S.<sup>6</sup> The Department of Environmental Protection, through its Division of State Lands, performs all staff duties and functions related to the acquisition, administration, and disposition of state lands.<sup>7</sup>

“Conservation lands” are lands managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands acquired solely to facilitate the acquisition of other conservation lands.<sup>8</sup>

<sup>1</sup> Department of Commerce, Analysis of 2026 House Bill 741, p.6 (Dec. 22, 2025).

<sup>2</sup> *Id.*

<sup>3</sup> S. 20.60(4), F.S.

<sup>4</sup> S. 20.60(3)(a), F.S.

<sup>5</sup> S. 253.001, F.S.

<sup>6</sup> S. 253.02(1), F.S.

<sup>7</sup> S. 253.002(1), F.S.

<sup>8</sup> S. 253.034(2)(c), F.S.

The Board of Trustees may acquire nonconservation lands from the Department's annual list through the Military Base Protection Program to buffer a military installation against encroachment.<sup>9</sup> A conveyance at less than appraised value must state that the land will revert to the Board of Trustees if it is not used for its intended purpose as a military installation buffer, or if the military installation closes.<sup>10</sup>

### **Rural Economic Development Initiative**

The Rural Economic Development Initiative (REDI) was established by the Legislature to encourage and facilitate the location and expansion of major economic development projects of significant scale in rural communities.<sup>11</sup> Today, REDI operates as a statewide initiative led by the Department to better serve Florida's rural communities by providing a more focused and coordinated effort among state and regional agencies to improve the fiscal, economic, and community viability of these areas.<sup>12</sup>

Specified agencies and organizations<sup>13</sup> are required to designate a high-level staff person to serve as their REDI representative. Each REDI representative is responsible for ensuring that their agency or organization is informed about REDI and helps to identify opportunities to accommodate or include rural local governments in their agency programs.

REDI is required to review and evaluate the impact of statutes and rules on rural communities and work to minimize any adverse impacts, and undertake outreach and capacity-building efforts.<sup>14</sup> Under the REDI statute, a rural community is defined as:

- A county with a population of 75,000 or fewer;
- A county with a population of 125,000 or fewer, if the county is contiguous to a county with a population of 75,000 or fewer;
- Any municipality in a county that meets the above criteria; or
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer, with an employment base focused on traditional agriculture or resource-based industries, located in a county not defined as rural, and which has at least three or more economic distress factors.<sup>15</sup>

Each REDI member agency is required to review financial match requirements for projects in rural areas and develop a proposal to waive or reduce match requirements, and such proposals must be submitted to REDI.<sup>16</sup> REDI must call a meeting within 30 days of receipt of such proposals for comment and recommendation.<sup>17</sup> Waivers and reductions of financial match requirements must be requested by the county or community, and, to the fullest extent possible, member organizations must expedite the adoption of rules and amendments to incorporate the reduction in match for rural areas in financial distress.<sup>18</sup> REDI must prepare an annual report as a supplement to FloridaCommerce's annual report, which includes an evaluation of the status of changes to rules, the number of awards made with waivers, and recommendations for future changes.<sup>19</sup>

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<sup>9</sup> [S. 253.025\(21\)\(a\), F.S.](#)

<sup>10</sup> [S. 253.025\(21\)\(d\), F.S.](#)

<sup>11</sup> [S. 288.0656\(1\)\(a\), F.S.](#)

<sup>12</sup> [S. 288.0656\(3\), F.S.](#)

<sup>13</sup> The Department of Transportation, Department of Environmental Protection, Department of Agriculture and Consumer Services, Department of State, Department of Health, Department of Children and Families, Department of Corrections, Department of Education, Department of Juvenile Justice, Fish and Wildlife Conservation Commission, each water management district, CareerSource Florida, Inc., VISIT Florida, the Florida Regional Planning Council Association, Agency for Health Care Administration, and the Institute of Food and Agricultural Sciences (IFAS). *See* [s. 288.0656\(6\)\(a\), F.S.](#)

<sup>14</sup> [S. 288.0656\(4\), F.S.](#)

<sup>15</sup> [S. 288.0656\(2\)\(e\), F.S.](#)

<sup>16</sup> [S. 288.06561, F.S.](#)

<sup>17</sup> [S. 288.06561\(3\), F.S.](#)

<sup>18</sup> [S. 288.06561\(4\), \(7\), F.S.](#)

<sup>19</sup> [S. 288.06561\(8\), F.S.](#)

Based on recommendations of REDI, the Governor may designate up to three rural areas of opportunity (RAOs) by executive order,<sup>20</sup> which establishes certain local governments as a priority for the Department. The orders also permit all state agencies and departments to use all available tools and resources, to the extent permitted by law, to promote the creation and development of projects designated by the RAO that have been recommended by the department.<sup>21</sup>

### **Community Development Block Grant Program**

The Community Development Block Grant (CDBG) program under the U.S. Department of Housing and Urban Development (HUD) was established under Title I of the Housing and Community Development Act of 1974 (Act)<sup>22</sup> and has funded more than \$160 billion in block grants to support eligible program activities.<sup>23</sup>

The CDBG program is a long-standing program providing flexible federal funding to states and localities to support economic development, community development, and infrastructure. As a block grant program, CDBG provides grantees with some discretion in administering program funds within specific activity categories. Grantees are required to demonstrate that each grant-funded activity is aligned with one of the following three statutorily defined national objectives:<sup>24</sup>

- Principally benefit low- and moderate-income persons;
- Aid in the prevention or elimination of slums or blight; or
- Meet an urgent need by addressing conditions that pose a serious and immediate threat to the health and safety of residents.

Approximately 70% of CDBG program funds are distributed to entitlement communities, defined as:<sup>25</sup>

- Principal metropolitan cities,
- Other cities with populations of 50,000 or greater, and
- Urban counties with populations of 200,000 or greater (excluding entitlement city populations).

The remaining 30% of funds are allocated to states based on a separate formula allocation process. State CDBG funds are to be distributed by states to communities that do not qualify for entitlement funds. Before allocations are made to states and localities, \$7 million is statutorily set aside to be distributed among U.S. territories.<sup>26</sup>

The CDBG program works to provide decent housing and a suitable living environment by expanding economic opportunities to the most vulnerable in Florida communities. A need is considered urgent if it poses a serious and immediate threat to the health or welfare of the community and has arisen in the past 18 months.<sup>27</sup>

In Florida, the Department manages four CDBG programs:<sup>28</sup>

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<sup>20</sup> [S. 288.0656\(7\)\(a\), F.S.](#)

<sup>21</sup> Executive Orders 20-170, 21-149, and 23-132 and 25-141, [https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO\\_20-170.pdf](https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO_20-170.pdf), [https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO\\_21-149.pdf](https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO_21-149.pdf), <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO-23-132.pdf>, and <https://www.flgov.com/eog/sites/default/files/executive-orders/2025/EO%2025-141.pdf> (last visited Jan. 29, 2026)

<sup>22</sup> Public Law 93-383.

<sup>23</sup> Joseph V. Jaroszak, *Community Development Block Grants: Funding and Allocation Processes*, Congressional Research Service, R46733 (Mar. 24, 2021) [https://www.congress.gov/crs-product/R46733?q=%7B%22search%22%3A%22Housing+and+Community+Development+Act+of+1974%22%7D&s=2&r=1\\_1](https://www.congress.gov/crs-product/R46733?q=%7B%22search%22%3A%22Housing+and+Community+Development+Act+of+1974%22%7D&s=2&r=1_1) (last visited Feb. 2, 2026).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Florida Department of Commerce, *Community Development Block Grant Program*, <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/community-development-block-grant-program> (last visited Jan. 29, 2026).

<sup>28</sup> *Id.*

- Florida Small Cities Community Development Block Grant Program,
- CDBG – Coronavirus Relief Funding,
- Office of Disaster Recovery, and
- Neighborhood Stabilization Program.

#### *Small Cities Community Development Block Grant Program*

The Department administers the Small Cities CDBG Program and distributes funds to eligible non-entitlement communities. To be eligible, a city must have a population under 50,000 or a county must have a population under 200,000.<sup>29</sup> Subgrants are awarded to communities in the following funding categories: economic development, neighborhood revitalization, housing rehabilitation, commercial revitalization, and any other activity by federal law.<sup>30</sup>

The Department may annually set aside up to 15 percent of CDBG funds for use in eligible local government jurisdictions for which an emergency or natural disaster has been declared by executive order.<sup>31</sup>

The Department is prohibited from awarding a grant until it has conducted a site visit to verify the information contained in the local government's application.<sup>32</sup> The Department must rank each grant application and may prohibit an applicant from receiving the grant or penalize an applicant in the rating of an application if the Department determines that any applicant has failed to substantially accomplish the results it proposed in previously funded applications.<sup>33</sup> Additionally, applicants must hold at least two public hearings in the local jurisdiction where the project is to be completed: one for public input and community needs, and one for comments on the proposed application, including a published summary.<sup>34</sup>

#### Collaborations with Florida Is For Veterans, Inc.

“Florida Is For Veterans, Inc.” (Corporation) was created within the Florida Department of Veterans’ Affairs as a nonprofit corporation and is not a unit or entity of state government.<sup>35</sup> The Corporation serves as the state’s initial point of military transition assistance dedicated to promoting Florida as a veteran-friendly state helping to provide veterans and their spouses with employment opportunities and promoting the hiring of veterans and their spouses by the business community. The Corporation encourages retired and recently separated military personnel to remain in this state, promotes the value of military skill sets to businesses in this state, assists in tailoring the training of veterans and their spouses to match the needs of the employment marketplace, and enhances the entrepreneurial skills of veterans and their spouses.<sup>36</sup>

The Corporation may assist state agencies and entities with recruiting veteran talent into their workforces. The Corporation may collaborate with other state agencies and entities for outreach, information exchange, marketing, and referrals regarding programs and initiatives from several agencies, including the following from the Department:<sup>37</sup>

- The Disabled Veteran Outreach Program and local veteran employment representatives.
- CareerSource Florida, Inc., and local workforce boards employment and recruitment services.
- The Quick-Response Training Program.

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<sup>29</sup> *Id.*

<sup>30</sup> [S. 290.044\(3\), F.S.](#)

<sup>31</sup> [S. 290.044\(5\), F.S.](#)

<sup>32</sup> [S. 290.046\(2\)\(d\), F.S.](#)

<sup>33</sup> [S. 290.046\(2\)\(c\), F.S.](#)

<sup>34</sup> [S. 290.046\(4\), F.S.](#)

<sup>35</sup> [S. 295.21\(1\), F.S.](#)

<sup>36</sup> [S. 295.21\(2\), F.S.](#)

<sup>37</sup> [S. 295.22\(5\), F.S.](#)

- Efforts of the Florida Defense Support direct-support organization created under s. 288.987, the Florida Small Business Development Center Network, and the international trade and tourism direct support organization established in s. 288.012(6).

### Employment Verification

E-Verify is a web-based system that allows enrolled employers to confirm whether new employees are eligible to work in the United States. Florida requires the use of the E-Verify system to verify a new employee's employment eligibility by:<sup>38</sup>

- All public employers.
- Private employers with 25 or more employees.

Each employer in Florida that is required, or who volunteers, to use the E-Verify system, must certify on its first return each calendar year to the tax service provider that it is in compliance with E-Verify requirements when making contributions to or reimbursing the state's unemployment compensation or reemployment assistance system.<sup>39</sup>

The law provides requirements for employers when the system is unavailable,<sup>40</sup> requires employers to retain documentation of verifications,<sup>41</sup> and prohibits an employer from continuing to knowingly employ an unauthorized alien.<sup>42</sup>

If the E-Verify system is unavailable for the three business days after the first day a new employee begins working and the employer cannot access the system to verify the employee's employment eligibility, the employer must use the Employment Eligibility Verification Form (Form I-9) to verify employment eligibility. The employer must document the unavailability of the system by retaining: a screenshot each day that shows the employer's inability to access the system; a public announcement that the E-Verify system is not available; or any other communication or notice regarding the unavailability of the system.<sup>43</sup>

The following specified government entities may request, and an employer must provide, copies of any documentation relied upon by the employer for the verification of a new employee's employment eligibility:<sup>44</sup>

- The Department of Law Enforcement;
- The Attorney General;
- The state attorney in the circuit in which the new employee works;
- The statewide prosecutor; or
- The Department.

These entities must rely on the federal government to verify an employee's employment eligibility and may not independently make a final determination as to whether an employee is an unauthorized alien.<sup>45</sup>

An employer that uses the E-Verify system or, if that system is unavailable, the Form I-9, with respect to the employment of an unauthorized alien has established a rebuttable presumption and an affirmative defense that the

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<sup>38</sup> [S. 448.095\(2\)\(a\), F.S.](#)

<sup>39</sup> [S. 448.095\(2\)\(b\)3., F.S.](#)

<sup>40</sup> [S. 448.095\(2\)\(c\), F.S.](#)

<sup>41</sup> [S. 448.095\(2\)\(d\), F.S.](#)

<sup>42</sup> [S. 448.095\(2\)\(e\), F.S.](#)

<sup>43</sup> [S. 448.095\(2\)\(c\), F.S.](#)

<sup>44</sup> [S. 448.095\(3\)\(a\), F.S.](#)

<sup>45</sup> [S. 448.095\(3\)\(b\), F.S.](#)

employer has not violated the state prohibition on hiring unauthorized aliens,<sup>46</sup> with respect to such employment.<sup>47</sup>

The Department is responsible for the administration of compliance requirements, as follows:<sup>48</sup>

- If it determines that an employer failed to use the E-Verify system, the Department is required to:
  - Notify the employer of its determination; and
  - Provide the employer with 30 days to cure the noncompliance.
- If the Department determines that an employer failed to use the E-Verify system as required three times in any 24-month period, it must impose a fine of \$1,000 per day until the employer provides proof of compliance.
- Noncompliance constitutes grounds for the suspension of all licenses issued by a licensing agency subject to the Administrative Procedure Act, until the noncompliance is cured.
- Fines must be deposited into the State Economic Enhancement and Development Trust Fund for use by the Department for employer outreach and public notice of the state's employment verification laws.

#### *Federal E-Verify Law*

To use the E-Verify system, an employer must open a “case” for the employee on the system and enter basic information from the employee’s Form I-9 (name, address, and Social Security Number) into the case.<sup>49</sup> Then, the system checks the submitted information to records that are available to the U.S. Department of Homeland Security (DHS) and the U.S. Social Security Administration (SSA), and issues one of the following possible results to the employer:<sup>50</sup>

- **Employment Authorized** - The employee’s information matched records available to the DHS and/or SSA.
- **E-Verify Needs More Time** - This case was referred to the DHS for further verification.
- **Tentative Non-confirmation (Mismatch)** - Information did not match records available to the DHS and/or SSA. Additional action is required.
- **Case in Continuance** - The employee has contacted the DHS or visited an SSA field office, but more time is needed to determine a final case result.
- **Close Case and Resubmit** - The DHS or SSA requires that the employer close the case and create a new case for the employee. This result may be issued when the employee’s United States passport, passport card, or driver’s license information is incorrect.
- **Final Non-confirmation** - E-Verify cannot confirm the employee’s employment eligibility after the employee contacted the DHS or SSA, the time for resolving the case expired, or the DHS closed the case without confirming the employee’s employment eligibility for some other reason.

If the result is Tentative Non-confirmation, then the employer must notify the employee, who must take further action to verify his or her eligibility. If the result is E-Verify Needs More Time or Case in Continuance, then the E-Verify system needs more time to process the case.<sup>51</sup>

#### *E-Verify Defenses for Employers*

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<sup>46</sup> [S. 448.09, F.S.](#)

<sup>47</sup> [S. 448.095\(4\)\(a\), F.S.](#)

<sup>48</sup> [S. 448.095\(6\), F.S.](#)

<sup>49</sup> E-Verify, *Verification Process*, for details on how the system works, <https://www.e-verify.gov/employers/verification-process> (last visited Feb. 2, 2026). Before using E-Verify, an employer must enroll and sign a Memorandum of Understanding that provides the terms of agreement between the employer and the DHS. See E-Verify, *The E-Verify Memorandum of Understanding for Employers*, <https://www.e-verify.gov/sites/default/files/everify/memos/MOUforEVerifyEmployer.pdf> (last visited Feb. 2, 2026).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

The Immigration Reform and Control Act (IRCA) provides sanctions to be imposed on employers who knowingly employ aliens who are not authorized to work.<sup>52</sup> Federal law contains no criminal sanction for working without authorization, although document fraud is a civil violation.<sup>53</sup> The United States Citizenship and Immigration Services (USCIS) enforces these provisions.<sup>54</sup>

According to the Immigration and Nationality Act (INA), an employer using E-Verify or the Form I-9, establishing good faith compliance with the law, has established an affirmative defense and a rebuttable presumption that the person or entity has not violated the federal law with respect to such hiring, recruiting, or referring.<sup>55</sup>

### **The Administrative Procedure Act**

The Administrative Procedure Act<sup>56</sup> provides a process for determining when an agency action affects a person's substantial interests.<sup>57</sup> The process differs depending on whether the hearing involves a disputed issue of material fact.<sup>58</sup> If the dispute does not involve a disputed issue of material fact, the agency must:

- Give reasonable notice to all parties of the agency's action or inaction, including a summary of factual, legal, and policy grounds for making the decision.
- Give parties or their counsel the option to present the agency or hearing officer evidence in opposition to the action or inaction or provide a written statement.
- If the objections of the parties are overruled, provide a written explanation within seven days.<sup>59</sup>

If a disputed issue of material fact does exist, the issue is assigned to an administrative law judge who conducts a hearing in which all parties have an opportunity to respond, present evidence and argument on all issues involved, conduct cross-examination and submit rebuttal evidence, submit proposed findings of facts and orders, and file exceptions to the presiding officer's recommended order.<sup>60</sup> A hearing may only occur if the agency determines the petition contains all required information.<sup>61</sup>

Unless waived or extended with the consent of all parties, a final order in the proceeding must be rendered within 90 days:

- After the hearing is concluded, if conducted by the agency;
- After a recommended order is submitted to the agency and mailed to all parties, if the hearing is conducted by an administrative law judge; or
- After the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing.<sup>62</sup>

The final order must be in writing and include findings of fact, if any, as well as the conclusions of law.<sup>63</sup> A party who is adversely affected by final agency action is entitled to judicial review.<sup>64</sup>

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<sup>52</sup> 8 U.S.C. s. 1324a(a)(1)-(2).

<sup>53</sup> 8 U.S.C. s. 1324c.

<sup>54</sup> 8 U.S.C. s. 1324a.

<sup>55</sup> 8 U.S.C. s. 1324a(a)(3) and (b)(6); 8 U.S.C. s. 1324a notes, *Pilot Programs for Employment Eligibility Confirmation*.

<sup>56</sup> [Ch. 120, F.S.](#)

<sup>57</sup> [S. 120.569, F.S.](#)

<sup>58</sup> [S. 120.569\(1\), F.S.](#)

<sup>59</sup> [S. 120.57\(2\)\(a\), F.S.](#)

<sup>60</sup> [S. 120.57\(1\), F.S.](#)

<sup>61</sup> [S. 120.569\(2\)\(c\)-\(d\), F.S.](#)

<sup>62</sup> [S. 120.569\(2\)\(l\), F.S.](#)

<sup>63</sup> *Id.*

<sup>64</sup> [S. 120.68, F.S.](#)

**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#"><u>Housing, Agriculture &amp; Tourism Subcommittee</u></a>			Curtin	Wright
<a href="#"><u>Transportation &amp; Economic Development Budget Subcommittee</u></a>				
<a href="#"><u>Commerce Committee</u></a>				