Commerce Committee

Thursday, February 15, 2024
9:00 AM - 1:00 PM
Webster Hall (212 Knott)

Meeting Packet

Paul Renner
Speaker

Bob Rommel
Chair

The Florida House of Representatives

Commerce Committee

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Bob Rommel
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Meeting Agenda

Thursday, February 15, 2024
9:00 am – 1:00 pm
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

CS/HB 47 Municipal Water and Sewer Utility Rates by Energy, Communications & Cybersecurity Subcommittee, Robinson, F.

HB 59 Provision Of Homeowners' Association Rules and Covenants by Arrington

CS/CS/HB 267 Building Regulations by Local Administration, Federal Affairs & Special Districts Subcommittee, Regulatory Reform & Economic Development Subcommittee, Esposito

CS/HB 293 Hurricane Protections for Homeowners' Associations by Regulatory Reform & Economic Development Subcommittee, Sirois, Daniels

CS/HB 605 Asset Protection Products by Insurance & Banking Subcommittee, Tramont

CS/HB 1245 Veterinary Professional Associates by Regulatory Reform & Economic Development Subcommittee, Killebrew

CS/CS/HB 1277 Municipal Utilities by Local Administration, Federal Affairs & Special Districts Subcommittee, Energy, Communications & Cybersecurity Subcommittee, Busatta Cabrera

CS/HB 1335 Department of Business and Professional Regulation by State Administration & Technology Appropriations Subcommittee, Maggard

HB 1347 Consumer Finance Loans by Brackett

CS/HB 1465 Pet Insurance and Wellness Programs by Insurance & Banking Subcommittee, Tuck

CS/HB 1579 Occupational Licensing by State Administration & Technology Appropriations Subcommittee, Mooney

CS/HB 1645 Energy Resources by Energy, Communications & Cybersecurity Subcommittee, Payne

Consideration of the following proposed committee substitute(s):

PCS for CS/HB 1203 -- Homeowners' Associations

PCS for CS/HB 1273 -- Reciprocity or Endorsement of Licensure

Consideration of the following proposed committee bill(s):

PCB COM 24-01 -- Fantasy Sports Contest Amusement Act

PCB COM 24-02 – Fees

V. Closing Remarks

VI. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 47 Municipal Water and Sewer Utility Rates
SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee, Robinson, F.
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 104

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	15 Y, 0 N, As CS	Bauldree	Keating
2) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Burgess	Darden
3) Commerce Committee		Bauldree	Hamon

SUMMARY ANALYSIS

Municipalities are authorized by general law to provide water and sewer utility services and to set the rates, fees, and charges for such services. These utility systems are exempt from the rate-setting jurisdiction of the Florida Public Service Commission. A municipality that provides water or sewer utility service outside of its municipal boundaries may impose, subject to limits specified in Florida law, higher rates, fees, and charges on consumers receiving service outside of its boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission).

The bill states that a municipality which operates a water or sewer utility outside its municipal boundaries must charge consumers outside its boundaries the same rates, fees, and charges as it charges consumers within its boundaries if:

- The consumers are located in a separate municipality, and
- The charging municipality uses a water or sewer treatment plant located in the separate municipality to serve those consumers.

The bill does not appear to impact state government revenues or state or local government expenditures. The bill may have a negative fiscal impact on certain local revenues. *See* Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes, except when expressly prohibited by law.[1] The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act with certain exceptions.[2] Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Municipalities are authorized by general law to provide water and sewer utility services.[3] With respect to public works projects, including water and sewer utility services,[4] municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare."[5] A municipality may not extend or apply these corporate powers within the corporate limits of another municipality.[6] However, it may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions.[7] An informal study conducted in 2014 indicated that approximately 250 municipalities provide water service and approximately 220 municipalities provide wastewater service. Of these municipalities, the study found that approximately 140 provide water and/or wastewater services to consumers outside of their municipal boundaries, which may include consumers in unincorporated areas of counties or in other municipalities.[8] These utility systems are exempt from the jurisdiction of the Florida Public Service Commission.[9]

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as

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[1] Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.

[2] Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

[3] Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.

[4] Other public works projects authorized under s. 180.06, F.S., include alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes, garbage collection and disposal, airports, hospitals, jails, golf courses, gas plants and distribution systems, and related facilities.

[5] S. 180.02(2), F.S.

[6] *Id.*

[7] S. 180.19, F.S.

[8] Analysis of House Bill 813 (2014), Florida House of Representatives.

[9] S. 367.022(2), F.S.

compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.[10]
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.[11]

For example, the City of North Miami Beach owns the Norwood Water Treatment Plant, which is located in Miami Gardens, and charges consumers outside of North Miami Beach municipal boundaries a 25% surcharge, including consumers in Miami Gardens.[12] However, there is no central repository for information concerning municipal water or sewer service rates that identifies municipalities that impose higher rates on consumers outside of the municipal boundaries, the specific mechanism used by such municipalities to establish such rates, or the level of any additional charge or surcharge imposed.

Effect of the Bill

The bill provides that a municipality which operates a water or sewer utility outside its municipal boundaries must charge consumers outside its boundaries the same rates, fees, and charges as it charges consumers within its boundaries if:

- The consumers are located in a separate municipality, and
- The charging municipality uses a water or sewer treatment plant located in the separate municipality to serve those consumers.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 180.191, F.S., relating to limitations on rates charged to consumers outside city limits.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

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[10] S. 180.191(1)(a), F.S.
[11] S. 180.191(1)(b), F.S.
[12] Kevin Ozebek & Leisa Williams, *New study reveals how much more some Miami Gardens residents are paying for water*, WSVN (January 19, 2023), https://wsvn.com/news/investigations/new-study-reveals-how-much-more-some-miami-gardens-residents-are-paying-for-water/ (last visited January 5, 2024).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a negative fiscal impact on municipalities which own and operate water or sewer utilities and serve consumers located in another municipality with facilities located in the recipient municipality, as it reduces the amount that those municipal water and sewer utilities that use such facilities can charge such consumers.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings for certain municipal water and sewer utility consumers located outside of municipal boundaries.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill reduces the amount that certain municipal water and sewer utilities can charge consumers outside of the municipal boundaries. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 10, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarified that the bill applies to municipal water or sewer utilities serving consumers within the boundaries of a separate municipality using a “water treatment plant or sewer treatment plant” within the boundaries of that separate municipality.

This analysis is drafted to the committee substitute as passed by the Energy, Communications & Cybersecurity Subcommittee.

1 A bill to be entitled
2 An act relating to municipal water and sewer utility
3 rates; amending s. 180.191, F.S.; requiring a
4 municipality to charge consumers receiving its utility
5 services in another municipality the same rates, fees,
6 and charges as it charges consumers within its own
7 municipal boundaries under certain circumstances;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Subsections (2), (3), and (4) of section
13 180.191, Florida Statutes, are renumbered as subsections (3),
14 (4), and (5), respectively, subsection (1) is amended, and a new
15 subsection (2) is added to that section, to read:
16 180.191 Limitation on rates charged consumer outside city
17 limits.—
18 (1) Any municipality within this ~~the~~ state that operates
19 ~~operating~~ a water or sewer utility outside of the boundaries of
20 the ~~such~~ municipality shall charge consumers outside the
21 boundaries rates, fees, and charges determined in one of the
22 following manners:
23 (a) It may charge the same rates, fees, and charges as
24 consumers inside the municipal boundaries. However, in addition
25 ~~thereto~~, the municipality may add a surcharge of not more than

26 25 percent of such rates, fees, and charges to consumers outside
27 the boundaries, except as provided in subsection (2). Fixing of
28 the ~~such~~ rates, fees, and charges in this manner does ~~shall~~ not
29 require a public hearing except as may be provided for service
30 to consumers inside the municipality.
31 (b) It may charge rates, fees, and charges that are just
32 and equitable and that ~~which~~ are based on the same factors used
33 in fixing the rates, fees, and charges for consumers inside the
34 municipal boundaries, except as provided in subsection (2). In
35 addition ~~thereto~~, the municipality may add a surcharge not to
36 exceed 25 percent of the ~~such~~ rates, fees, and charges for ~~said~~
37 services to consumers outside the boundaries. However, the total
38 of all the ~~such~~ rates, fees, and charges for the services to
39 consumers outside the boundaries may ~~shall~~ not be more than 50
40 percent in excess of the total amount the municipality charges
41 consumers served within the municipality for corresponding
42 service. The ~~No Such~~ rates, fees, and charges may not ~~shall~~ be
43 fixed until after a public hearing at which all of the users of
44 the water or sewer systems; owners, tenants, or occupants of
45 property served or to be served ~~thereby~~; and all others
46 interested have had ~~shall have~~ an opportunity to be heard
47 concerning the proposed rates, fees, and charges. Any change or
48 revision of the ~~such~~ rates, fees, or charges may be made in the
49 same manner as the ~~such~~ rates, fees, or charges were originally
50 established, but if a ~~such~~ change or revision is to be made

51 substantially pro rata as to all classes of service, both inside
52 and outside the municipality, a ~~no~~ hearing or notice is not
53 ~~shall be~~ required.
54 (2) Any municipality within this state that operates a
55 water or sewer utility providing service to consumers within the
56 boundaries of a separate municipality using a water treatment
57 plant or sewer treatment plant located within the boundaries of
58 that separate municipality shall charge consumers in the
59 separate municipality the same rates, fees, and charges as it
60 charges the consumers within its own municipal boundaries.
61 Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 59 Provision Of Homeowners' Association Rules and Covenants
SPONSOR(S): Arrington and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 50

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	14 Y, 0 N	Larkin	Anstead
2) Civil Justice Subcommittee	14 Y, 0 N	Mawn	Jones
3) Commerce Committee		Larkin	Hamon

SUMMARY ANALYSIS

A homeowners' association (HOA) is a community association in which voting membership is made up of parcel owners, membership is a mandatory condition of parcel ownership, and the association is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The HOA's declaration of covenants establishes the community's basic covenants and restrictions.

An HOA must maintain certain records which constitute the official records of the HOA, including a copy of the HOA's declaration of covenants, amendments thereto, and current HOA rules. The official records must be maintained within the state for at least 7 years and must be made available to a parcel owner for inspection or photocopying. An HOA may comply with these requirements by having a copy of the official records available for inspection or copying in the community or, at the option of the HOA, by making the records available to a parcel owner electronically or by allowing the records to be viewed in electronic format on a computer screen and printed upon request.

The bill requires an HOA to provide the following:

- Before October 1, 2024, a physical or digital copy of the HOA's rules and covenants to every member of the HOA.
- A physical or digital copy of the HOA's rules and covenants to every new member of the HOA.
- An updated copy of the amended rules or covenants, when an HOA's rules or covenants are amended, to every member of the association.

The bill also allows HOAs to adopt rules establishing standards for the manner of distribution and timeframe for providing copies of updated rules or covenants.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

A homeowners' association (HOA) is a community association in which voting membership is made up of parcel owners, membership is a mandatory condition of parcel ownership, and the association is authorized to impose assessments that, if unpaid, may become a lien on the parcel.[1] HOAs whose covenants and restrictions include mandatory assessments are regulated by ch. 720, F.S., the Homeowners' Association Act (HOA Act).

Like a condominium, an HOA is administered by an elected board of directors. The powers and duties of an HOA and its board include the powers and duties provided in the HOA Act, and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents.[2]

An HOA must be a Florida corporation and the initial governing documents must be recorded in the official records of the county in which the community is located.[3] No state agency has direct oversight over HOAs. However, Florida law provides for a limited mandatory binding arbitration program, administered by the Division of Condominiums, Timeshares and Mobile Homes, within the Department of Business and Professional Regulation, for certain election and recall disputes.[4]

HOA Governing Documents

An HOA's governing documents include the:

- Recorded declaration of covenants for a community and all duly adopted amendments thereto;
- HOA's articles of incorporation and bylaws and any duly adopted amendments thereto; and
- Rules and regulations adopted under the authority of the recorded declaration, articles of incorporation, or bylaws and any duly adopted amendments thereto.[5]

The declaration of covenants, much like a constitution, establishes the community's basic covenants and restrictions.[6] The articles of incorporation establish the HOA's existence, basic structure, and governance.[7] The bylaws govern the HOA's operation and administration, while the rules and regulations typically supplement the other documents, addressing matters of everyday policy.[8]

Unless otherwise provided in the governing documents or required by law, an HOA's governing documents may be amended by the affirmative vote of two-thirds of the HOA's voting interests.[9] Within 30 days after recording a governing document amendment, the HOA must give its members copies thereof unless a copy was provided to the members before the vote on the amendment, in which case the HOA must only provide the members with notice of the amendment's adoption.[10]

Official Records

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[1] S. 720.301(9), F.S.
[2] *See generally* ch. 720, F.S.
[3] S. 720.303(1), F.S.
[4] S. 720.311, F.S.
[5] S. 720.301(8), F.S.
[6] Joseph Adams, *HOA Governing Documents Explained* (July 1, 2018), https://www.floridacondohoalawblog.com/2018/07/01/hoa-governing-documents-explained/ (last visited Feb. 1, 2024).
[7] *Id.*
[8] *Id.*
[9] S. 720.306(1), F.S.
[10] *Id.*

An HOA must maintain each of the following items, when applicable, which constitute the official records of the HOA:[11]

- A copy of the HOA's governing documents, which include the:
  - declaration of covenants and each amendment,
  - bylaws and each amendment,
  - articles of incorporation and each amendment, and
  - current rules.
- Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the HOA is obligated to maintain, repair, or replace.
- The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.
- A current roster of all members and their designated mailing addresses and parcel identifications. A member's designated mailing address is the member's property address, unless the member has sent written notice to the association requesting that a different mailing address be used for all required notices. The association shall also maintain the e-mail addresses and the facsimile numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. A member's e-mail address is the e-mail address the member provided when consenting in writing to receiving notice by electronic transmission, unless the member has sent written notice to the association requesting that a different e-mail address be used for all required notices. The e-mail addresses and facsimile numbers provided by members to receive notice by electronic transmission must be removed from association records when the member revokes consent to receive notice by electronic transmission. However, the association is not liable for an erroneous disclosure of the e-mail address or the facsimile number for receiving electronic transmission of notices.
- All of the HOA's insurance policies, which must be retained for at least 7 years.
- A current copy of all contracts to which the HOA is a party, including, without limitation, any management agreement, lease, or other contract under which the HOA has any obligation or responsibility. Bids received by the HOA for work to be performed must also be considered official records and must be kept for a period of 1 year.
- The financial and accounting records of the HOA, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:
  - Accurate, itemized, and detailed records of all receipts and expenditures.
  - A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.
  - All tax returns, financial statements, and financial reports of the HOA.
  - Any other records that identify, measure, record, or communicate financial information.
- A copy of the disclosure summary.
- Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners, which must be maintained for at least 1 year after the date of the election, vote, or meeting.
- All affirmative acknowledgments made pursuant to s. 720.3085(3)(c)3, F.S.
- All other written records of the HOA which are related to the operation of the HOA.

The HOA bylaws must require the HOA to post all notices of board meetings in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency.[12]

[11] S. 720.303(4), F.S.

[12] S. 720.303(2)(c), F.S.

Access to Official Records

The official records must be maintained within the state for at least 7 years and be made available to a parcel owner for inspection or photocopying within 45 miles of the community or within the county in which the HOA is located within 10 business days after receipt by the board or its designee of a written request.[13] An HOA may comply with these requirements by having a copy of the official records available for inspection or copying in the community or, at the option of the HOA, by making the records available to a parcel owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request.[14]

If the HOA has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages.[15] However, an HOA may impose fees to cover the costs of providing copies of the official records.[16] Further, an association must allow a member or authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of providing the member or authorized representative with a copy of such records.[17] The association may not charge a fee to a member or his or her authorized representative for the use of a portable device.[18]

The failure of an association to provide access to the records within 10 business days after receipt of a written request submitted by certified mail, return receipt requested, creates a rebuttable presumption that the association willfully failed to comply with the records access requirements.[19] Further, a member who is denied access to official records is entitled to the actual damages or minimum damages for the HOA's willful failure to comply.[20] The minimum damages are to be $50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.[21]

The HOA may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month.[22] Further, the following records are not accessible to members or parcel owners:[23]

- Any record protected by the lawyer-client privilege as described in s. 90.502, F.S., and any record protected by the work-product privilege.
- Information obtained in connection with the approval of the lease, sale, or other transfer of a parcel.
- Information obtained in a gated community in connection with guests' visits to parcel owners or community residents.
- Personnel records of HOA or management company employees.
- Medical records of parcel owners or community residents.
- Personal identifying information of a parcel owner other than as provided for HOA notice requirements, excluding the person's name, parcel designation, mailing address, and property address.

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[13] S. 720.303(5), F.S.
[14] *Id.*
[15] *Id.*
[16] The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed $20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. *Id.*
[17] *Id.*
[18] S. 720.303(5), F.S.
[19] S. 720.303(5)(a), F.S.
[20] *Id.*
[21] S. 720.303(5)(b), F.S.
[22] S. 720.303(5)(c), F.S.
[23] S. 720.303(5)(c)1.-9., F.S.

- Any electronic security measure that is used to safeguard data, including passwords.
- The software and operating system which allows the manipulation of data; however, the data is part of the official records.
- All affirmative acknowledgments made pursuant to s. 720.3085(3)(c)3, F.S.

Effect of the Bill

The bill requires an HOA to provide the following:

- Before October 1, 2024, a physical or digital copy of the HOA's rules and covenants to every member of the HOA.
- A physical or digital copy of the HOA's rules and covenants to every new member of the HOA.
- An updated copy of the amended rules or covenants, when an HOA's rules or covenants are amended, to every member of the association.

The bill also permits an HOA to adopt rules establishing standards for the manner of distribution and timeframe for providing copies of updated rules or covenants, and specifies that the requirements to provide copies may be met by posting a complete copy of the rules and covenants, or a direct link thereto, on the homepage of the HOA's website if:

- The website is accessible to association members, and
- The HOA sends notice to the members of its intent to utilize the website for this purpose.

The notice must be sent:

- via email if the HOA member has an email address on file and the HOA member has consented to receive notices by electronic transmission; and
- via mail to all other HOA members at the address identified as the members' mailing addresses in the official records of the HOA.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 720.303, F.S., relating to association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive economic impact on the private sector to the extent that it ensures an HOA member has knowledge of all applicable covenants, rules, and regulations by which he or she must live, and such knowledge leads to a financial benefit (such as the avoidance of fines and liens for rule violations) for the HOA member.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to provision of homeowners'
3 association rules and covenants; amending s. 720.303,
4 F.S.; requiring an association to provide copies of
5 the association's rules and covenants to every member
6 before a specified date, and every new member
7 thereafter; requiring an association to provide
8 members with a copy of updated rules and covenants;
9 authorizing an association to adopt rules relating to
10 the standards and manner in which such copies are
11 distributed; authorizing an association to post a
12 complete copy of the association's rules and
13 covenants, or a direct link thereto, on the homepage
14 of the association's website under certain
15 circumstances; requiring an association to provide
16 specified notice to its members; providing an
17 effective date.
18
19 Be It Enacted by the Legislature of the State of Florida:
20
21 Section 1. Subsection (13) is added to section 720.303,
22 Florida Statutes, to read:
23 720.303 Association powers and duties; meetings of board;
24 official records; budgets; financial reporting; association
25 funds; recalls.—

26 (13) REQUIREMENT TO PROVIDE COPIES OF RULES AND
27 COVENANTS.—
28 (a) Before October 1, 2024, an association shall provide a
29 physical or digital copy of the association's rules and
30 covenants to every member of the association.
31 (b) An association shall provide a physical or digital
32 copy of the association's rules and covenants to every new
33 member of the association.
34 (c) If an association's rules or covenants are amended,
35 the association must provide every member of the association
36 with an updated copy of the amended rules or covenants. An
37 association may adopt rules establishing standards for the
38 manner of distribution and timeframe for providing copies of
39 updated rules or covenants.
40 (d) The requirements of this subsection may be met by
41 posting a complete copy of the association's rules and
42 covenants, or a direct link thereto, on the homepage of the
43 association's website if such website is accessible to the
44 members of the association and the association sends notice to
45 each member of the association of its intent to utilize the
46 website for this purpose. Such notice must be sent in both of
47 the following ways:
48 1. By electronic mail to any member of the association who
49 has consented to receive notices by electronic transmission and
50 provided an electronic mailing address to the association for

51 that purpose.
52 2. By mail to all other members of the association at the
53 address identified as the member's mailing address in the
54 official records of the association.
55 Section 2. This act shall take effect July 1, 2024.

CS/CS/HB 267

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 267 Building Regulations
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Regulatory Reform & Economic Development Subcommittee, Esposito
TIED BILLS: **IDEN./SIM. BILLS:** SB 684

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	9 Y, 6 N, As CS	Wright	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee	10 Y, 4 N, As CS	Mwakyanjala	Darden
3) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

The Florida Building Code (Building Code) must be applied and enforced uniformly and consistently across the state. Local governments are required to enforce the Building Code and are responsible for issuing building permits. Current law provides standards and timeframes for local governments to follow for the issuance of building permits.

The bill:

- Requires the Florida Building Commission (Commission) to provide an exception in the Building Code relating to sealed drawings by a design professional for replacement windows, doors, and garages.
- Requires the Commission to use the 2020 definition of "windborne debris region" for residential use.
- Requires a local government to:
  - Determine if a building permit application is complete within 5 business days of receiving the application, previously set at 10 days.
  - Determine if a building permit application is sufficient within 10 business days of receiving a completed application, previously set at 45 days.
  - Approve, approve with conditions, or deny a complete and sufficient permit application within the following timeframes:
    - 30 business days for applicants using local government review, previously set at 120 days;
    - 15 business days for applicants using a private provider, previously set at 120 days; and
    - 10 business days for applicants for a permit under an already-approved master plan permit, previously set at 120 days.
    - 60 business days for applicants for a multifamily project; previously set at 120 days.
  - Review an completed application for sufficiency within 10 business days.
  - Provide an opportunity for a virtual meeting, instead of just an in-person meeting, before a second request for additional information may be made.
- Provides that a local government can request additional information from an applicant two times, unless the applicant agrees otherwise, previously set at three times.
- Provides an exception to the fee reduction provision when a delay is caused by the applicant or by a force majeure or other extraordinary circumstance.

The bill may have an indeterminate fiscal impact on state and local government.

The bill provides an effective date of January 1, 2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation – Building Permits

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.[1]

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.[2] The current edition of the Building Code is the eighth edition, which is referred to as the 2023 Florida Building Code.[3]

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[4]

The Florida Building Commission (Commission) was created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,[5] the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.[6]

Use of Building Code Enforcement Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.[7] Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.[8] Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building

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[1] The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs,* p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 28, 2024).
[2] *Id.*
[3] Florida Building Commission Homepage, https://floridabuilding.org/c/default.aspx (last visited Jan. 28, 2024).
[4] *See* s. 553.72(1), F.S.
[5] The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, https://www.iccsafe.org/about/who-we-are/ (last visited Jan. 28, 2024).
[6] S. 553.73(7)(a), F.S.
[7] S. 553.80 F.S.
[8] *Id.*

plans, building inspections, re-inspections, building permit processing, and fire inspections.[9] Local governments must post all building permit and inspection fee schedules on their website.[10]

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous 4 fiscal years.[11]

DBPR Surcharges

Current law requires all local governments to assess and collect a 1% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.[12]

Current law also requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.[13]

Local government building departments are permitted to retain 10% of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.[14]

Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction project. Delays in the completion of a construction project may:[15]

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

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[9] S. 553.80(7)(a)1., F.S.
[10] Ss.125.56 (4)(c) F.S., and 166.222(2), F.S.
[11] S. 553.80(7)(a), F.S.
[12] S. 553.721, F.S.
[13] S. 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. s. 489.1401(2), F.S.
[14] Ss. 468.631, and 553.721, F.S.
[15] City of Austin Development Services Department, *A Program for Expedited Permitting*, http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf (last visited Jan. 28, 2024); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:[16]

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue; and
- Encourage economic development by having an efficient permit system.

Building Permit Application Review

Time-Period to Review

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law has established time-periods for local governments to review applications for the following building permits:[17]

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation permit;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units other than a single-family unit;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with the permit application.

When a local government receives an application for one of the above building permits, it must:[18]

- **Complete Application –** Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
    - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- **Sufficiency of Application –** Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
    - If additional information is needed the local government must specify what additional information is necessary.
    - The applicant may submit the additional information to the local government within 30 days or request that the local government act on the application without the additional information.
- **Approve or Deny Application –** Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.
    - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

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[16] *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf (last visited Jan. 28, 2024).

[17] S. 553.792(2), F.S.

[18] S. 553.792(1), F.S.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.[19]

Additional Information Standards[20]

A local government may only make **three** requests for additional information. However, an applicant may agree in writing to waive the limitation that local governments may only make three requests for additional information for such permits.

If a local government makes a request for additional information from an applicant for one the above building permits, and the applicant provides the information within **30 days** of receiving the request, the local government must[21]:

- **First Request –** Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 15 days** of receiving the information from the applicant, if the request is the local government's **first request**.
- **Second Request –** Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 10 days** of receiving the information from the applicant, if the request is the local government's **second request**.
- **Third Request –** Deem the application complete and approve the application, approve the application with conditions, or deny the application **within 10 days** of receiving the information from the applicant, if the request is the local government's **third request**.

Prior to making a third request for information the local government must **offer to meet** with the permit applicant to attempt to resolve outstanding issues.

If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, shall proceed to process the application for approval, approval with conditions, or denial.

Fee Reductions for Failure to Meet Timeframes

If a local government fails to meet these deadlines it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. However, these time limitations do not apply when a law, agency rule, or local ordinance specifies different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the Department of Business and Professional Regulation (DBPR) surcharges for funding the Commission, the Florida Building Code Administrators and Inspectors Board (BCAIB), and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.[22]

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[19] S. 553.792(1)(a), F.S.
[20] S. 553.792(1)(b), F.S.
[21] *Id.*
[22] S. 553.79(16)(d), F.S.

Time-Period to Review Single-Family Residential Dwelling Building Permit Applications

Single-family residential dwelling permits must be issued within:

- **30 business days** of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.[23]
- If the local enforcing agency does not issue a building permit for a single-family residential dwelling, within **30 business days** after receiving the permit application, it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. Each 10% reduction is based on the original amount of the building permit fee.
- The enforcing agency does not have to reduce the building permit fee if it provides notice to the applicant, by e-mail or United States Postal Service, within **30 business days** after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.[24]
- After receiving the written notice, the applicant has **10 business days** to correct the specifications written by the local enforcing agency and submit revisions to correct the permit application.
- If the applicant submits the revisions within 10 business days, the local enforcing agency has **10 business days** after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer permit in writing.[25]

If a government entity fails to approve or deny the single-family residential dwelling building permit within **10 business days** of receiving the applicant's revisions, it must: [26]

- Reduce the permit fee by 20% of the original permit fee for the first business day that it fails to meet the deadline; and
- An additional 10% of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

A government entity does not have to reduce the fee for a single-family residential dwelling building permit, if: [27]

- It provides written notice to the applicant, by email or USPS mail within **30 business days** of receiving the application; and
- The written notice specifically states how the application fails to satisfy the Building Code or the government entity's laws or ordinances, and that the applicant has **10 business days** after receiving the notice to remedy the deficiencies in their application or it will be denied.

A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within **15 business days** after receipt of the application unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.[28]

Construction Documents

Professional Engineers

Professional engineers and related qualified business organizations are regulated by Ch. 471, F.S., and by the Florida Board of Professional Engineers under DBPR.[29]

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[23] S. 553.79(16), F.S.
[24] S. 553.79(16)(a)-(b), F.S.
[25] S. 553.79(16)(c), F.S.
[26] S. 553.79(16)(c), F.S.
[27] S. 553.79(16)(b), F.S.
[28] S. 553.79(16)(e), F.S.
[29] S. 20.165(4)(a)11., F.S.

"Engineering" includes the term "professional engineering" and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services…."[30]

All final drawings, specifications, plans, reports, or documents prepared or issued by the professional engineer and being filed for **public record**, including for a building permit, and all final documents provided to the owner or the owner's representative must be signed by the licensee, dated, and sealed with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed.[31]

Architects

Architects and related qualified business organizations in the state are regulated by part I of Ch. 481, F.S., and by the Board of Architecture and Interior Design under DBPR.

"Architecture services" means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.[32]

All final construction documents and instruments of service which include drawings, plans, specifications, or reports prepared or issued by the registered architect or qualified architecture business and being filed for **public record**, including for a building permit, must bear the signature and seal of the registered architect who prepared or approved the document and the date on which they were sealed. The signature, date, and seal shall be evidence of the authenticity of that to which they are affixed.[33]

Building Code Requirements

The Building Code, Building, requires applicants for a permit to submit construction documents, a statement of special inspections, a geotechnical report, and other data in two or more sets with each permit application. The construction documents must be prepared by a registered design professional[34] where required by Ch. 471, F.S., or Ch. 481, F.S.[35]

Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional. However, the building official may waive

[30] S. 471.005(7), F.S.
[31] S. 471.025(1), F.S.
[32] S. 481.206(6), F.S.
[33] Ss. 481.219(4) and 481.221(2), F.S.
[34] The Building Code, Building, defines "registered design professional" as an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed. This includes any registered design professional so long as they are practicing within the scope of their license, which includes those licensed under Chs. 471 (professional engineers) and 481, F.S. (architects, interior designers, and landscape architects). S. 202, FBS, Building (8th Ed. 2023).
[35] S. 553.71(12), F.S.; S. 107.1, FBC, Building (8th Ed. 2023).

the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with the Building Code.[36]

Threshold Buildings

A "threshold building" is a building that is greater than 3 stories or 50 feet in height, or that has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.[37]

A "special inspector" is a licensed architect or engineer who is certified under Ch. 471, F.S., or Ch. 481, F.S. to conduct inspections of threshold buildings.[38]

During new construction or during repair or restoration projects in which the structural system or structural loading of a threshold building is being modified, including windows and doors, the enforcing agency must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.[39]

The structural inspection plan must be submitted to the enforcing agency prior to the issuance of a building permit for the construction of a threshold building.

The purpose of the structural inspection plans is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents.[40]

Residential Windborne Debris Region Requirements

Exposure D

The American Society of Civil Engineers (ASCE) and Structural Engineering Institute (SEI) developed and published the Minimum Design Loads and Associated Criteria for Buildings and Other Structures (commonly referred to as ASCE 7-22), which is the primary reference standard for structural loads in the 2024 International Building Code, 2024 International Residential Code, and the 2023 Florida Building Code. The standard specifies minimum structural design loads and other criteria for the design of buildings and other structures for dead, live, soil, flood, tsunami, snow, rain, atmospheric ice, earthquake, wind, and tornado loads. It also provides criteria on how to assess load combinations.[41]

ASCE 7-22 describes the process to which wind speed is converted into wind pressure used to design structures. The formula is based on many variables, one of which is called "Exposure Category", which is a category of wind exposure and reflects the characteristics of ground surface irregularities at a site which the building or structure is to be constructed. The rougher the surface, the lower the multiplier

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[36] *Id.*
[37] S. 202, FBS, Building (8th Ed. 2023).
[38] S. 553.71(9), F.S.
[39] 553.79(5)(a), F.S.; s. 110.8.1, FBC, Building (8th Ed. 2023).
[40] *Id.*
[41] Federal Emergency Management Agency, *FEMA Fact Sheet- Highlights of Significant Changes to the Wind Load Provisions of ASCE 7-22*, Aug. 2022, https://www.fema.gov/sites/default/files/documents/fema_asce-7-22-wind-highlights_fact-sheet_2022.pdf (last visited Feb. 13, 2024).

that converts wind speed to pressure.[42] "Exposure D" is the largest multiplier when converting wind velocity to wind pressure, representing coastal areas and the 'smoothness' of water relative to wind.

The 2023 Building Code, Residential provides that Exposure D applies:[43]

- Where the ground surface roughness in flat, unobstructed areas and water surfaces, prevails in the upwind direction for a distance of at least 5,000 feet (1524 m) or 20 times the height of the building, whichever is greater.
- Where the ground surface roughness immediately upwind of the site is Exposure B or C, and the site is within a distance of 600 feet (183 m) or 20 times the building height, whichever is greater, from an Exposure D condition.

Windborne Debris Region Definition Change

The Building Code requires certain increased building protections for homes in a windborne debris region, such as the requirement for impact windows.[44]

The Building Code, Residential, 8th edition, 2023, currently defines "windborne debris" as areas within hurricane-prone regions located in accordance with one of the following:[45]

- Within 1 mile (1.61 km) of the **mean high water line where an Exposure D condition exists upwind at the waterline** and the ultimate design wind speed, Vult, is 130 mph (58 m/s) or greater.
- In areas where the ultimate design wind speed, Vult, is 140 mph (63.6 m/s) or greater; or Hawaii.

However, in the previous edition of the Building Code, Residential, 7th edition, 2020, defined "windborne debris" as areas within hurricane-prone regions located in accordance with one of the following:[46]

- Within 1 mile (1.61 km) of the **coastal mean high water line** where the ultimate design wind speed, Vult, is 130 mph (58 m/s) or greater
- In areas where the ultimate design wind speed, Vult, is 140 mph (63.6 m/s) or greater; or Hawaii.

The ASCE 7-22 updated the definition of "windborne debris region" because the term "coastal mean high-water line" is not a defined term, and its interpretation has varied across jurisdictions in the hurricane-prone region due to confusion about the intent. The new criteria in ASCE 7-22 deletes the word "coastal" and adds language to require that an Exposure D condition exist upwind of the water line.[47]

This trigger now applies to locations that are within a mile of any body of water (located in hurricane-prone regions where the basic wind speed is equal to or greater than 130 mph and less than 140 mph) and an Exposure D condition exists upwind of the water line. For example, the impact of this change is

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[42] Engineering Express, ASCE 7 WIND EXPOSURE CATEGORIES AND HOW EXPOSURE 'D' WORKS, https://www.engineeringexpress.com/wiki/asce-7-exposure-d-work/ (last visited Feb. 13, 2024).
[43] S. R301.2.1.4.3, FBC, Residential (8th Ed. 2023).
[44] S. R301.2.1.2, FBC, Residential (8th Ed. 2023).
[45] S. R202, FBC, Residential (8th Ed. 2023).
[46] S. R202, FBC, Residential (7th Ed. 2020).
[47] FEMA, *supra* note 41.

illustrated in the figure below for Panama City where the basic wind speed ranges from 130 mph to 140 mph.

For the area on the left, buildings within 1 mile of the mean high-water line of the Gulf of Mexico where the basic wind speed is equal to or greater than 130 mph are within the windborne debris region. However, for the area on the right, the initial point to measure "1 mile from the coastal mean high-water line" was not clear under earlier definitions. In ASCE 7-22, this ambiguity has been removed and any building located within 1 mile of the mean high-water line of the bay that has exposure to a water surface that prevails for at least 5000 feet from the shoreline will be in the windborne debris region.[48]

Additionally, the new definition may include homes near certain inland lakes in a wind zone of at least 130 mph.

Effect of the Bill – Building Permits

Hurricane Building Requirements

The bill requires the Commission to modify the Building Code to provide that sealed drawings by a design professional will not be required for the replacement of windows, doors, or garage doors in an existing building if the replacements are installed in accordance with the manufacturer's instructions for the appropriate wind zone, meet the design pressure requirements of the Building Code, and a copy of the manufacturer's instructions are submitted with the permit application in a printed or digital format.

The bill provides that the definition of "windborne debris region" is the same as defined in the 7th edition of the Building Code, Residential, until the adoption of the 9th Building Code in 2026, which has a practical effect of replacing the new definition in the 8th edition with the previous version.

Building Permit Application Review

The bill removes a provision in Ch. 533, the Building Code, which requires single-family residential dwelling permits to be issued within 30 days unless the application does not conform to the Building Code or local laws or ordinances. However, the bill incorporates the time period to review single-family residential dwellings into the general section related to building permit applications.[49]

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[48] *Id.*

[49] *See,* s. 553.792, F.S.

The bill reduces current timelines and revises procedures for applying for and obtaining a building permit. The new procedures set out below apply to the following building permit applications:

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units **including a single-family residential unit or a single-family residential dwelling**;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with a permit application set forth above.

Timelines to Approve or Deny a Completed and Sufficient Building Permit Application

The bill reduces the time that a local government has to approve, approve with conditions, or deny a building permit application following receipt of a **completed and sufficient** application to the following timelines, unless the applicant waives such limitation in writing:

- For an applicant using local government plans review to obtain a building permit:
  - Within **30 business days** after receiving a complete and sufficient application **(currently 120 days, or 30 days for single-family residential dwellings)**.
- For an applicant using a private provider to obtain a building permit:
  - Within **15 business days** after receiving a complete and sufficient application **(currently 120 days, or 30 days for single-family residential dwellings).**
- For an applicant for a master plan permit:
  - Within **10 business days** after receiving a complete and sufficient application **(current timeframe is dependent on the local program, or 30 days for single-family residential dwellings)**.
- For an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant–Disaster Recovery program administered by the Department of Economic Opportunity:
  - Within **10 business days** after receipt of the application, unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances **(currently 15 days)**.
- For an applicant for multifamily residential units:
  - Within **60 business days** after receiving a complete and sufficient application.

If the local government does not approve, approve with conditions, or deny the completed and sufficient application within the required timeframes, the application is **deemed or determined to be approved**.

The bill requires a local government to maintain a policy on its website containing procedures and expectations for processing of any building permits and development orders required by law to be expedited.

Timelines to Determine a Complete and Sufficient Application

The bill reduces the time that a local government has to provide timely written notice to the applicant about what information, if any, is needed before the application is deemed or determined to be:

- **Completed:**
  - Local government has 5 business days to review an application and determine if it has been properly completed (from 10 days).
- **Sufficient:**
  - Local government has 10 business days to review a completed application to determine whether more information is needed or whether the application is sufficient (from 45 days).

The bill reduces the amount of times that a local government may request additional information from the applicant when reviewing an application for sufficiency for a building permit, to **two times**, from three times.

If the local government requests additional information for a second time, such request must be within **10 business days** of receiving additional information after the first request, and the local government must determine the sufficiency of the application within **10 business days** of receiving the requested additional information.

The bill allows a local government to offer to **meet virtually**, instead of only in person, with the applicant to attempt to resolve outstanding issues before a second request for additional information is made.

If the applicant believes a request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the bill requires the local government, at the applicant's written request, to approve the application, approve the application with conditions, or deny the application within **10 business days** after receipt of such. The local government must provide the applicant with sufficient reason for a denial.

The bill provides exceptions for local governments who fail to meet deadlines if:

- The parties involved agreed, in writing, to a reasonable extension of time.
- The delay is caused by the applicant.
- The delay is caused by a force majeure or other extraordinary circumstance.

Use of Building Code Enforcement Fees

The bill clarifies that local governments may use fees, and any related fines or investment earnings, they have collected for enforcing the Building Code to upgrade technology hardware and software systems used to enforce the Building Code.

B. SECTION DIRECTORY:

Section 1: Amends s. 553.73, F.S., relating to the Florida Building Code.
Section 2: Amends s. 553.79, F.S., relating to single-family residential permits.
Section 3: Amends s. 553.792, F.S., relating to building permit application processes.
Section 4: Amends s. 440.103, F.S., conforming a cross-reference.
Section 5: Amends s. 553.80, F.S.; relating to acceptable uses of local government Building Code enforcement fees.
Section 6: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

For a similar bill in 2023, DBPR stated that surcharge collections pursuant to s. 553.791, F.S., and s. 468.631, F.S., could be impacted by the bill.[50]

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

For a similar bill in 2023, DBPR stated that this bill may reduce the amount of permit fees that could be collected by local governments in certain circumstances.[51]

2. Expenditures:

This bill may impact local governments because they may have to hire more employees to meet the prescribed timeframes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For a similar bill in 2023, DBPR stated that the bill may reduce the cost of permit fees paid by the private sector to local governments based on the local governments failure to meet time requirements.[52] On the other hand, the local jurisdiction may raise permit fees so that they can hire employees to meet the time requirements in the bill.

The streamlined permitting processes in the bill may expedite development across the state.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill would require the Florida Building Commission to amend the Building Code to reflect some of the bill's changes to building permit application processing requirements.[53]

C. DRAFTING ISSUES OR OTHER COMMENTS:

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[50] Department of Business & Professional Regulation, Agency Analysis of 2023 Senate Bill 682, p. 4 (February 14, 2023).
[51] *Id.*, at 5.
[52] *Id.*
[53] *See* rule impacted, r. 61G20-1.001, F.A.C.

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 12, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Provides that vested rights in a preliminary plat are formed if an applicant commences developing the property based on an approval of such preliminary plat by a local government.
- Requires an applicant for a residential building permit pursuant to a preliminary plat to indemnify and hold harmless the local government from damages directly related to the issuance of such building permit before the approval of the final plat.
- Clarifies that timeframes in the updated permitting procedures are calculated using business days.
- Clarifies that if a local government fails to timely notify an applicant of what is needed to determine a sufficient application, such application will be automatically determined to be sufficient.
- Corrects a scrivener's error.

On January 31, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Removes provisions of the bill relating to platting.
- Requires the Commission to provide an exception in the Building Code relating to sealed drawings by a design professional.
- Requires local governments to approve applications for multifamily projects within 60 business days.
- Requires local governments to review completed applications for sufficiency within 10 business days.
- Provides an exception for the fee reduction provision.
- Changes the effective date of the bill to January 1, 2025.

This analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.

1 A bill to be entitled
2 An act relating to building regulations; amending s.
3 553.73, F.S.; requiring the Florida Building
4 Commission to modify provisions in the Florida
5 Building Code relating to replacement windows, doors,
6 or garage doors in an existing building; providing
7 requirements for such modifications; defining the term
8 "windborne debris region"; amending s. 553.79, F.S.;
9 removing provisions relating to acquiring building
10 permits for certain residential dwellings; amending s.
11 553.792, F.S.; revising the timeframes for approving,
12 approving with conditions, or denying certain building
13 permits; requiring local governments to follow the
14 prescribed timeframes unless a local ordinance is more
15 stringent; requiring a local government to provide
16 written notice to an applicant under certain
17 circumstances; revising how many times a local
18 government may request additional information from an
19 applicant; specifying when a permit application is
20 deemed complete and approved; requiring the
21 opportunity for an in-person or virtual meeting before
22 a second request for additional information may be
23 made; requiring a local government to process an
24 application within a specified timeframe without
25 additional information upon written request by the

26 applicant; reducing permit fees by a certain
27 percentage if certain timeframes are not met;
28 providing exceptions; providing construction;
29 conforming provisions to changes made by the act;
30 amending s. 553.80, F.S.; authorizing local
31 governments to use certain fees for certain technology
32 upgrades; amending s. 440.103, F.S.; conforming a
33 cross-reference; providing an effective date.
34
35 Be It Enacted by the Legislature of the State of Florida:
36
37 Section 1. Paragraphs (g) and (h) are added to subsection
38 (7) of section 553.73, Florida Statutes, to read:
39 553.73 Florida Building Code.—
40 (7)
41 (g) The commission shall modify the Florida Building Code
42 to state that sealed drawings by a design professional are not
43 required for the replacement of windows, doors, or garage doors
44 in an existing building if all of the following conditions are
45 met:
46 1. The replacement windows, doors, or garage doors are
47 installed in accordance with the manufacturer's instructions for
48 the appropriate wind zone.
49 2. The replacement windows, doors, or garage doors meet
50 the design pressure requirements in the most recent version of

51 the Florida Building Code.
52 3. A copy of the manufacturer's instructions is submitted
53 with the permit application in a printed or digital format.
54 (h) The term "windborne debris region" has the same
55 meaning as in the Florida Building Code, 7th Edition (2020)
56 Residential, until the adoption of the 9th Edition of the
57 Florida Building Code.
58 Section 2. Subsection (16) of section 553.79, Florida
59 Statutes, is amended to read:
60 553.79 Permits; applications; issuance; inspections.—
61 ~~(16) Except as provided in paragraph (c), a building~~
62 ~~permit for a single-family residential dwelling must be issued~~
63 ~~within 30 business days after receiving the permit application~~
64 ~~unless the permit application fails to satisfy the Florida~~
65 ~~Building Code or the enforcing agency's laws or ordinances.~~
66 ~~(a) If a local enforcement agency fails to issue a~~
67 ~~building permit for a single-family residential dwelling within~~
68 ~~30 business days after receiving the permit application, it must~~
69 ~~reduce the building permit fee by 10 percent for each business~~
70 ~~day that it fails to meet the deadline. Each 10-percent~~
71 ~~reduction shall be based on the original amount of the building~~
72 ~~permit fee.~~
73 ~~(b) A local enforcement agency does not have to reduce the~~
74 ~~building permit fee if it provides written notice to the~~
75 ~~applicant, by e-mail or United States Postal Service, within 30~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

76 ~~business days after receiving the permit application, that~~
77 ~~specifically states the reasons the permit application fails to~~
78 ~~satisfy the Florida Building Code or the enforcing agency's laws~~
79 ~~or ordinances. The written notice must also state that the~~
80 ~~applicant has 10 business days after receiving the written~~
81 ~~notice to submit revisions to correct the permit application and~~
82 ~~that failure to correct the application within 10 business days~~
83 ~~will result in a denial of the application.~~
84 ~~(c) The applicant has 10 business days after receiving the~~
85 ~~written notice to address the reasons specified by the local~~
86 ~~enforcement agency and submit revisions to correct the permit~~
87 ~~application. If the applicant submits revisions within 10~~
88 ~~business days after receiving the written notice, the local~~
89 ~~enforcement agency has 10 business days after receiving such~~
90 ~~revisions to approve or deny the building permit unless the~~
91 ~~applicant agrees to a longer period in writing. If the local~~
92 ~~enforcement agency fails to issue or deny the building permit~~
93 ~~within 10 business days after receiving the revisions, it must~~
94 ~~reduce the building permit fee by 20 percent for the first~~
95 ~~business day that it fails to meet the deadline unless the~~
96 ~~applicant agrees to a longer period in writing. For each~~
97 ~~additional business day, but not to exceed 5 business days, that~~
98 ~~the local enforcement agency fails to meet the deadline, the~~
99 ~~building permit fee must be reduced by an additional 10 percent.~~
100 ~~Each reduction shall be based on the original amount of the~~

101 ~~building permit fee.~~
102 ~~(d) If any building permit fees are refunded under this~~
103 ~~subsection, the surcharges provided in s. 468.631 or s. 553.721~~
104 ~~must be recalculated based on the amount of the building permit~~
105 ~~fees after the refund.~~
106 ~~(e) A building permit for a single-family residential~~
107 ~~dwelling applied for by a contractor licensed in this state on~~
108 ~~behalf of a property owner who participates in a Community~~
109 ~~Development Block Grant-Disaster Recovery program administered~~
110 ~~by the Department of Economic Opportunity must be issued within~~
111 ~~15 working days after receipt of the application unless the~~
112 ~~permit application fails to satisfy the Florida Building Code or~~
113 ~~the enforcing agency's laws or ordinances.~~
114 Section 3. Subsections (1) and (2) of section 553.792,
115 Florida Statutes, are amended and subsection (4) is added to
116 that section, to read:
117 553.792 Building permit application to local government.—
118 (1)(a) A local government must approve, approve with
119 conditions, or deny a building permit application after receipt
120 of a completed and sufficient application within the following
121 timeframes, unless the applicant waives such timeframes in
122 writing:
123 1. For an applicant using a local government plans
124 reviewer to obtain a building permit, within 30 business days
125 after receiving a complete and sufficient application.

126 2. For an applicant using a private provider consistent
127 with s. 553.791 to obtain a building permit, within 15 business
128 days after receiving a complete and sufficient application.
129 3. For an applicant for a master plan permit, within 10
130 business days after receiving a complete and sufficient
131 application.
132 4. For an applicant for a single-family residential
133 dwelling applied for by a contractor licensed in this state on
134 behalf of a property owner who participates in a Community
135 Development Block Grant-Disaster Recovery program administered
136 by the Department of Commerce, within 10 business days after
137 receipt of the application unless the permit application fails
138 to satisfy the Florida Building Code or the enforcing agency's
139 laws or ordinances.
140 5. For an applicant for a multifamily residential unit,
141 within 60 business days after receiving a complete and
142 sufficient application.
143
144 If the local government does not approve, approve with
145 conditions, or deny the completed and sufficient application
146 within the required timeframes in this paragraph, the
147 application is deemed or determined to be approved.
148 (b) A local government must meet the timeframes set forth
149 in this section for reviewing building permit applications
150 unless the timeframes set by local ordinance are more stringent

151 than those prescribed in this section.
152 (c) After ~~Within 10 days of~~ an applicant submits
153 ~~submitting~~ an application to the local government, the local
154 government must provide written notice to the applicant within 5
155 business days after receipt of the application advising ~~shall~~
156 ~~advise~~ the applicant what information, if any, is needed to deem
157 or determine that the application is properly completed in
158 compliance with the filing requirements published by the local
159 government. If the local government does not provide timely
160 written notice that the applicant has not submitted a ~~the~~
161 properly completed application, the application is ~~shall be~~
162 automatically deemed or determined to be properly completed and
163 accepted.
164 (d)1. Within 10 business ~~45~~ days after providing written
165 notice to the applicant that his or her application is properly
166 completed or upon receipt of any information needed to deem the
167 application complete ~~receiving a completed application~~, a local
168 government must provide written notice to ~~notify~~ an applicant if
169 additional information is required for the local government to
170 determine the sufficiency of the application, and the notice
171 must ~~shall~~ specify the additional information that is required.
172 The applicant may ~~must~~ submit the additional information to the
173 local government or request that the local government act
174 without the additional information. When reviewing an
175 application for a building permit, a local government may not

176 request additional information from the applicant more than two
177 times unless the applicant waives such limitation in writing.
178 The local government's second request for information must be
179 made within 10 business days after the local government receives
180 the additional information indicated in the first request. The
181 local government must determine the sufficiency of the
182 application within 10 business days after receiving the
183 additional information from a second request. If the local
184 government does not provide to the applicant timely written
185 notice that the applicant must submit additional information to
186 determine whether the application is sufficient, the application
187 is automatically deemed or determined to be sufficient.
188 2. Before a second request for additional information may
189 be made, the local government must offer the applicant an
190 opportunity to meet in person or virtually with the local
191 government to attempt to resolve outstanding issues.
192 3. If an applicant believes a request for additional
193 information is not authorized by ordinance, rule, statute, or
194 other legal authority, the local government, at the applicant's
195 written request, must process the application within 10 business
196 days after receipt of such request and approve the application,
197 approve the application with conditions, or deny the application
198 and provide the applicant with sufficient reason for such
199 denial. ~~While the applicant responds to the request for~~
200 ~~additional information, the 120-day period described in this~~

201 ~~subsection is tolled. Both parties may agree to a reasonable~~
202 ~~request for an extension of time, particularly in the event of a~~
203 ~~force majeure or other extraordinary circumstance. The local~~
204 ~~government must approve, approve with conditions, or deny the~~
205 ~~application within 120 days following receipt of a completed~~
206 ~~application.~~
207 (e) A local government shall maintain on its website a
208 policy containing procedures and expectations for expedited
209 processing of those building permits and development orders
210 required by law to be expedited.
211 ~~(b)1. When reviewing an application for a building permit,~~
212 ~~a local government may not request additional information from~~
213 ~~the applicant more than three times, unless the applicant waives~~
214 ~~such limitation in writing.~~
215 ~~2. If a local government requests additional information~~
216 ~~from an applicant and the applicant submits the requested~~
217 ~~additional information to the local government within 30 days~~
218 ~~after receiving the request, the local government must, within~~
219 ~~15 days after receiving such information:~~
220 ~~a. Determine if the application is properly completed;~~
221 ~~b. Approve the application;~~
222 ~~c. Approve the application with conditions;~~
223 ~~d. Deny the application; or~~
224 ~~e. Advise the applicant of information, if any, that is~~
225 ~~needed to deem the application properly completed or to~~

226 ~~determine the sufficiency of the application.~~
227 ~~3. If a local government makes a second request for~~
228 ~~additional information from the applicant and the applicant~~
229 ~~submits the requested additional information to the local~~
230 ~~government within 30 days after receiving the request, the local~~
231 ~~government must, within 10 days after receiving such~~
232 ~~information:~~
233 ~~a. Determine if the application is properly completed;~~
234 ~~b. Approve the application;~~
235 ~~c. Approve the application with conditions;~~
236 ~~d. Deny the application; or~~
237 ~~e. Advise the applicant of information, if any, that is~~
238 ~~needed to deem the application properly completed or to~~
239 ~~determine the sufficiency of the application.~~
240 ~~4. Before a third request for additional information may~~
241 ~~be made, the applicant must be offered an opportunity to meet~~
242 ~~with the local government to attempt to resolve outstanding~~
243 ~~issues. If a local government makes a third request for~~
244 ~~additional information from the applicant and the applicant~~
245 ~~submits the requested additional information to the local~~
246 ~~government within 30 days after receiving the request, the local~~
247 ~~government must, within 10 days after receiving such information~~
248 ~~unless the applicant waived the local government's limitation in~~
249 ~~writing, determine that the application is complete and:~~
250 ~~a. Approve the application;~~

251 ~~b. Approve the application with conditions; or~~
252 ~~c. Deny the application.~~
253 ~~5. If the applicant believes the request for additional~~
254 ~~information is not authorized by ordinance, rule, statute, or~~
255 ~~other legal authority, the local government, at the applicant's~~
256 ~~request, must process the application and either approve the~~
257 ~~application, approve the application with conditions, or deny~~
258 ~~the application.~~
259 (f)~~(c)~~ If a local government fails to meet a deadline
260 under this subsection ~~provided in paragraphs (a) and (b)~~, it
261 must reduce the building permit fee by 10 percent for each
262 business day that it fails to meet the deadline, unless the
263 parties agree in writing to a reasonable extension of time, the
264 delay is caused by the applicant, or the delay is attributable
265 to a force majeure or other extraordinary circumstances. Each
266 10-percent reduction shall be based on the original amount of
267 the building permit fee, unless the parties agree to an
268 extension of time.
269 (2)~~(a)~~ The procedures set forth in subsection (1) apply to
270 the following building permit applications: accessory structure;
271 alarm permit; nonresidential buildings less than 25,000 square
272 feet; electric; irrigation permit; landscaping; mechanical;
273 plumbing; residential units including a single-family
274 residential ~~other than a single family~~ unit or a single-family
275 residential dwelling; multifamily residential not exceeding 50

276 units; roofing; signs; site-plan approvals and subdivision plats
277 not requiring public hearings or public notice; and lot grading
278 and site alteration associated with the permit application set
279 forth in this subsection. The procedures set forth in subsection
280 (1) do not apply to permits for any wireless communications
281 facilities ~~or when a law, agency rule, or local ordinance~~
282 ~~specify different timeframes for review of local building permit~~
283 ~~applications~~.
284 ~~(b) If A local government has different timeframes than~~
285 ~~the timeframes set forth in subsection (1) for reviewing~~
286 ~~building permit applications described in paragraph (a), the~~
287 ~~local government must meet the deadlines established by local~~
288 ~~ordinance. If a local government does not meet an established~~
289 ~~deadline to approve, approve with conditions, or deny an~~
290 ~~application, it must reduce the building permit fee by 10~~
291 ~~percent for each business day that it fails to meet the~~
292 ~~deadline. Each 10-percent reduction shall be based on the~~
293 ~~original amount of the building permit fee, unless the parties~~
294 ~~agree to an extension of time. This paragraph does not apply to~~
295 ~~permits for any wireless communications facilities.~~
296 Section 4. Paragraph (a) of subsection (7) of section
297 553.80, Florida Statutes, is amended to read:
298 553.80 Enforcement.—
299 (7)(a) The governing bodies of local governments may
300 provide a schedule of reasonable fees, as authorized by s.

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301 125.56(2) or s. 166.222 and this section, for enforcing this
302 part. These fees, and any fines or investment earnings related
303 to the fees, may only ~~shall~~ be used ~~solely~~ for carrying out the
304 local government's responsibilities in enforcing the Florida
305 Building Code, including upgrading technology hardware and
306 software systems that are used in enforcement. When providing a
307 schedule of reasonable fees, the total estimated annual revenue
308 derived from fees, and the fines and investment earnings related
309 to the fees, may not exceed the total estimated annual costs of
310 allowable activities. Any unexpended balances must be carried
311 forward to future years for allowable activities or must be
312 refunded at the discretion of the local government. A local
313 government may not carry forward an amount exceeding the average
314 of its operating budget for enforcing the Florida Building Code
315 for the previous 4 fiscal years. For purposes of this
316 subsection, the term "operating budget" does not include reserve
317 amounts. Any amount exceeding this limit must be used as
318 authorized in subparagraph 2. However, a local government that
319 established, as of January 1, 2019, a Building Inspections Fund
320 Advisory Board consisting of five members from the construction
321 stakeholder community and carries an unexpended balance in
322 excess of the average of its operating budget for the previous 4
323 fiscal years may continue to carry such excess funds forward
324 upon the recommendation of the advisory board. The basis for a
325 fee structure for allowable activities must relate to the level

326 of service provided by the local government and must include
327 consideration for refunding fees due to reduced services based
328 on services provided as prescribed by s. 553.791, but not
329 provided by the local government. Fees charged must be
330 consistently applied.
331 1. As used in this subsection, the phrase "enforcing the
332 Florida Building Code" includes the direct costs and reasonable
333 indirect costs associated with review of building plans,
334 building inspections, reinspections, and building permit
335 processing; building code enforcement; and fire inspections
336 associated with new construction. The phrase may also include
337 training costs associated with the enforcement of the Florida
338 Building Code and enforcement action pertaining to unlicensed
339 contractor activity to the extent not funded by other user fees.
340 2. A local government must use any excess funds that it is
341 prohibited from carrying forward to rebate and reduce fees, or
342 to pay for the construction of a building or structure that
343 houses a local government's building code enforcement agency or
344 the training programs for building officials, inspectors, or
345 plans examiners associated with the enforcement of the Florida
346 Building Code. Excess funds used to construct such a building or
347 structure must be designated for such purpose by the local
348 government and may not be carried forward for more than 4
349 consecutive years. An owner or builder who has a valid building
350 permit issued by a local government for a fee, or an association

351 of owners or builders located in the state that has members with
352 valid building permits issued by a local government for a fee,
353 may bring a civil action against the local government that
354 issued the permit for a fee to enforce this subparagraph.
355 3. The following activities may not be funded with fees
356 adopted for enforcing the Florida Building Code:
357 a. Planning and zoning or other general government
358 activities.
359 b. Inspections of public buildings for a reduced fee or no
360 fee.
361 c. Public information requests, community functions,
362 boards, and any program not directly related to enforcement of
363 the Florida Building Code.
364 d. Enforcement and implementation of any other local
365 ordinance, excluding validly adopted local amendments to the
366 Florida Building Code and excluding any local ordinance directly
367 related to enforcing the Florida Building Code as defined in
368 subparagraph 1.
369 4. A local government must use recognized management,
370 accounting, and oversight practices to ensure that fees, fines,
371 and investment earnings generated under this subsection are
372 maintained and allocated or used solely for the purposes
373 described in subparagraph 1.
374 5. The local enforcement agency, independent district, or
375 special district may not require at any time, including at the

376 time of application for a permit, the payment of any additional
377 fees, charges, or expenses associated with:
378 a. Providing proof of licensure under chapter 489;
379 b. Recording or filing a license issued under this
380 chapter;
381 c. Providing, recording, or filing evidence of workers'
382 compensation insurance coverage as required by chapter 440; or
383 d. Charging surcharges or other similar fees not directly
384 related to enforcing the Florida Building Code.
385 Section 5. Section 440.103, Florida Statutes, is amended
386 to read:
387 440.103 Building permits; identification of minimum
388 premium policy.—Every employer shall, as a condition to applying
389 for and receiving a building permit, show proof and certify to
390 the permit issuer that it has secured compensation for its
391 employees under this chapter as provided in ss. 440.10 and
392 440.38. Such proof of compensation must be evidenced by a
393 certificate of coverage issued by the carrier, a valid exemption
394 certificate approved by the department, or a copy of the
395 employer's authority to self-insure and shall be presented,
396 electronically or physically, each time the employer applies for
397 a building permit. As provided in s. 553.79(23) ~~s. 553.79(24)~~,
398 for the purpose of inspection and record retention, site plans
399 or building permits may be maintained at the worksite in the
400 original form or in the form of an electronic copy. These plans

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401 and permits must be open to inspection by the building official
402 or a duly authorized representative, as required by the Florida
403 Building Code. As provided in s. 627.413(5), each certificate of
404 coverage must show, on its face, whether or not coverage is
405 secured under the minimum premium provisions of rules adopted by
406 rating organizations licensed pursuant to s. 627.221. The words
407 "minimum premium policy" or equivalent language shall be typed,
408 printed, stamped, or legibly handwritten.
409 Section 6. This act shall take effect January 1, 2025.

COMMERCE COMMITTEE

CS/CS/HB 267 by Rep. Esposito
Building Regulations

AMENDMENT SUMMARY
February 15, 2024

Amendment 1 by Rep. Esposito (lines 37-147):

- Provides that only one support rail in an elevator needs to be continuous and be at least 42 inches.
- Provides that completing an internship program for residential building inspectors is a pathway for licensure as a residential building inspector.
- Clarifies that not requiring sealed plans for window and door replacement is only applicable to existing one- or two-family dwellings or townhouses.
- Reduces the time frame that a local government has to issue a building permit to a private provider who is a licensed engineer or architect who seals the plans, to 10 days after receipt of the application, from 20 days.
- Provides that a local government may not require a waiver of the timeframes as a condition to review an application for a building permit.

Amendment 2 by Rep. Esposito (line 384):

- Provides that unvented attic and unvented enclosed rafter assemblies that are insulated and air sealed with a minimum of R-20 air-impermeable insulation meet the requirements of the Building Code, Energy Conservation, under certain circumstances.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	______	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 37-147 and insert:
6 Section 1. Paragraph (b) of subsection (1) of section
7 399.035, Florida Statutes, is amended to read:
8 399.035 Elevator accessibility requirements for the
9 physically handicapped.—
10 (1) Each elevator, the installation of which is begun
11 after October 1, 1990, must be made accessible to physically
12 handicapped persons with the following requirements:
13 (b) Each elevator car interior must have a support rail on
14 at least one wall. All support rails must be smooth and have no
15 sharp edges and must not be more than 1 1/2 inches thick or 2
16 1/2 inches in diameter. At least one support rail ~~Support rails~~

17 must be continuous and a minimum length of 42 inches overall.
18 The inside surface of support rails must be 1 1/2 inches clear
19 of the car wall. The distance from the top of the support rail
20 to the finished car floor must be at least 31 inches and not
21 more than 33 inches. Padded or tufted material or decorative
22 materials such as wallpaper, vinyl, cloth, or the like may not
23 be used on support rails.
24 Section 2. Paragraph (c) of subsection (2) of section
25 468.609, Florida Statutes, is amended to read:
26 468.609 Administration of this part; standards for
27 certification; additional categories of certification.—
28 (2) A person may take the examination for certification as
29 a building code inspector or plans examiner pursuant to this
30 part if the person:
31 (c) Meets eligibility requirements according to one of the
32 following criteria:
33 1. Demonstrates 4 years' combined experience in the field
34 of construction or a related field, building code inspection, or
35 plans review corresponding to the certification category sought;
36 2. Demonstrates a combination of postsecondary education
37 in the field of construction or a related field and experience
38 which totals 3 years, with at least 1 year of such total being
39 experience in construction, building code inspection, or plans
40 review;

41 3. Demonstrates a combination of technical education in
42 the field of construction or a related field and experience
43 which totals 3 years, with at least 1 year of such total being
44 experience in construction, building code inspection, or plans
45 review;
46 4. Currently holds a standard certificate issued by the
47 board or a firesafety inspector license issued under chapter
48 633, with a minimum of 3 years' verifiable full-time experience
49 in firesafety inspection or firesafety plan review, and has
50 satisfactorily completed a building code inspector or plans
51 examiner training program that provides at least 100 hours but
52 not more than 200 hours of cross-training in the certification
53 category sought. The board shall establish by rule criteria for
54 the development and implementation of the training programs. The
55 board must accept all classroom training offered by an approved
56 provider if the content substantially meets the intent of the
57 classroom component of the training program;
58 5. Demonstrates a combination of the completion of an
59 approved training program in the field of building code
60 inspection or plan review and a minimum of 2 years' experience
61 in the field of building code inspection, plan review, fire code
62 inspections and fire plans review of new buildings as a
63 firesafety inspector certified under s. 633.216, or
64 construction. The approved training portion of this requirement
65 must include proof of satisfactory completion of a training

66 program that provides at least 200 hours but not more than 300
67 hours of cross-training that is approved by the board in the
68 chosen category of building code inspection or plan review in
69 the certification category sought with at least 20 hours but not
70 more than 30 hours of instruction in state laws, rules, and
71 ethics relating to professional standards of practice, duties,
72 and responsibilities of a certificateholder. The board shall
73 coordinate with the Building Officials Association of Florida,
74 Inc., to establish by rule the development and implementation of
75 the training program. However, the board must accept all
76 classroom training offered by an approved provider if the
77 content substantially meets the intent of the classroom
78 component of the training program;
79 6. Currently holds a standard certificate issued by the
80 board or a firesafety inspector license issued under chapter 633
81 and:
82 a. Has at least 4 years' verifiable full-time experience
83 as an inspector or plans examiner in a standard certification
84 category currently held or has a minimum of 4 years' verifiable
85 full-time experience as a firesafety inspector licensed under
86 chapter 633.
87 b. Has satisfactorily completed a building code inspector
88 or plans examiner classroom training course or program that
89 provides at least 200 but not more than 300 hours in the
90 certification category sought, except for residential training

91 programs, which must provide at least 500 but not more than 800
92 hours of training as prescribed by the board. The board shall
93 establish by rule criteria for the development and
94 implementation of classroom training courses and programs in
95 each certification category; or
96 7.a. Has completed a 4-year internship certification
97 program as a building code inspector or plans examiner,
98 including an internship program for residential inspectors,
99 while also employed full-time by a municipality, county, or
100 other governmental jurisdiction, under the direct supervision of
101 a certified building official. A person may also complete the
102 internship certification program, including an internship
103 program for residential inspectors, while employed full time by
104 a private provider or a private provider's firm that performs
105 the services of a building code inspector or plans examiner,
106 while under the direct supervision of a certified building
107 official. Proof of graduation with a related vocational degree
108 or college degree or of verifiable work experience may be
109 exchanged for the internship experience requirement year-for-
110 year, but may reduce the requirement to no less than 1 year.
111 b. Has passed an examination administered by the
112 International Code Council in the certification category sought.
113 Such examination must be passed before beginning the internship
114 certification program.

115 c. Has passed the principles and practice examination
116 before completing the internship certification program.
117 d. Has passed a board-approved 40-hour code training
118 course in the certification category sought before completing
119 the internship certification program.
120 e. Has obtained a favorable recommendation from the
121 supervising building official after completion of the internship
122 certification program.
123 Section 3. Section 1. Paragraphs (g) and (h) are added to
124 subsection (7) of section 553.73, Florida Statutes, to read:
125 553.73 Florida Building Code.—
126 (7)
127 (g) The commission shall modify the Florida Building Code
128 to state that sealed drawings by a design professional are not
129 required for the replacement of windows, doors, or garage doors
130 in an existing one- or two-family dwelling or townhouse if all
131 of the following conditions are met:
132 1. The replacement windows, doors, or garage doors are
133 installed in accordance with the manufacturer's instructions for
134 the appropriate wind zone.
135 2. The replacement windows, doors, or garage doors meet
136 the design pressure requirements in the most recent version of
137 the Florida Building Code, Residential.
138 3. A copy of the manufacturer's instructions is submitted
139 with the permit application in a printed or digital format.

140 4. The replacement windows, doors, or garage doors are the
141 same existing size and installed in the same existing opening.
142 (h) The term "windborne debris region" has the same
143 meaning as in the Florida Building Code, 7th Edition (2020)
144 Residential, until the adoption of the 9th Edition of the
145 Florida Building Code.
146 Section 4. Subsection (16) of section 553.79, Florida
147 Statutes, is amended to read:
148 553.79 Permits; applications; issuance; inspections.—
149 ~~(16) Except as provided in paragraph (c), a building~~
150 ~~permit for a single-family residential dwelling must be issued~~
151 ~~within 30 business days after receiving the permit application~~
152 ~~unless the permit application fails to satisfy the Florida~~
153 ~~Building Code or the enforcing agency's laws or ordinances.~~
154 ~~(a) If a local enforcement agency fails to issue a~~
155 ~~building permit for a single-family residential dwelling within~~
156 ~~30 business days after receiving the permit application, it must~~
157 ~~reduce the building permit fee by 10 percent for each business~~
158 ~~day that it fails to meet the deadline. Each 10-percent~~
159 ~~reduction shall be based on the original amount of the building~~
160 ~~permit fee.~~
161 ~~(b) A local enforcement agency does not have to reduce the~~
162 ~~building permit fee if it provides written notice to the~~
163 ~~applicant, by e-mail or United States Postal Service, within 30~~
164 ~~business days after receiving the permit application, that~~

165 ~~specifically states the reasons the permit application fails to~~
166 ~~satisfy the Florida Building Code or the enforcing agency's laws~~
167 ~~or ordinances. The written notice must also state that the~~
168 ~~applicant has 10 business days after receiving the written~~
169 ~~notice to submit revisions to correct the permit application and~~
170 ~~that failure to correct the application within 10 business days~~
171 ~~will result in a denial of the application.~~
172 ~~(c) The applicant has 10 business days after receiving the~~
173 ~~written notice to address the reasons specified by the local~~
174 ~~enforcement agency and submit revisions to correct the permit~~
175 ~~application. If the applicant submits revisions within 10~~
176 ~~business days after receiving the written notice, the local~~
177 ~~enforcement agency has 10 business days after receiving such~~
178 ~~revisions to approve or deny the building permit unless the~~
179 ~~applicant agrees to a longer period in writing. If the local~~
180 ~~enforcement agency fails to issue or deny the building permit~~
181 ~~within 10 business days after receiving the revisions, it must~~
182 ~~reduce the building permit fee by 20 percent for the first~~
183 ~~business day that it fails to meet the deadline unless the~~
184 ~~applicant agrees to a longer period in writing. For each~~
185 ~~additional business day, but not to exceed 5 business days, that~~
186 ~~the local enforcement agency fails to meet the deadline, the~~
187 ~~building permit fee must be reduced by an additional 10 percent.~~
188 ~~Each reduction shall be based on the original amount of the~~
189 ~~building permit fee.~~

190 ~~(d) If any building permit fees are refunded under this~~
191 ~~subsection, the surcharges provided in s. 468.631 or s. 553.721~~
192 ~~must be recalculated based on the amount of the building permit~~
193 ~~fees after the refund.~~
194 ~~(e) A building permit for a single-family residential~~
195 ~~dwelling applied for by a contractor licensed in this state on~~
196 ~~behalf of a property owner who participates in a Community~~
197 ~~Development Block Grant-Disaster Recovery program administered~~
198 ~~by the Department of Economic Opportunity must be issued within~~
199 ~~15 working days after receipt of the application unless the~~
200 ~~permit application fails to satisfy the Florida Building Code or~~
201 ~~the enforcing agency's laws or ordinances.~~
202 Section 5. Paragraphs (a), (b) and (c) of subsection (7)
203 of section 553.791, Florida Statutes, are amended to read:
204 553.791 Alternative plans review and inspection.—
205 (7)(a)1. No more than 20 business days after receipt of a
206 permit application and the affidavit from the private provider
207 required pursuant to subsection (6), the local building official
208 shall issue the requested permit or provide a written notice to
209 the permit applicant identifying the specific plan features that
210 do not comply with the applicable codes, as well as the specific
211 code chapters and sections. If the local building official does
212 not provide a written notice of the plan deficiencies within the
213 prescribed 20-day period, the permit application shall be deemed

214 approved as a matter of law, and the permit shall be issued by
215 the local building official on the next business day.
216 2. Where the private provider is a person licensed as a
217 professional engineer under Chapter 471 or as an architect under
218 chapter 481 and affixes his or her industry seal to the
219 affidavit required under subsection (6), the local building
220 official must issue the requested permit or provide a written
221 notice to the permit applicant identifying the specific plan
222 features that do not comply with the applicable codes, as well
223 as the specific code chapters and sections, within 10 business
224 days after receipt of the permit application and affidavit. The
225 local building official must provide with specificity the plan's
226 deficiencies, the reasons the permit application failed, and the
227 applicable codes being violated in such written notice. If the
228 local building official does not provide specific written notice
229 to the permit applicant within the prescribed 10-day period, the
230 permit application is deemed approved as a matter of law, and
231 the permit must be issued by the local building official on the
232 next business day.
233 (b) If the local building official provides a written
234 notice of plan deficiencies to the permit applicant within the
235 prescribed time period in paragraph (a) ~~20-day period~~, the time
236 ~~20-day~~ period shall be tolled pending resolution of the matter.
237 To resolve the plan deficiencies, the permit applicant may elect

238 to dispute the deficiencies pursuant to subsection (14) or to
239 submit revisions to correct the deficiencies.
240 (c) If the permit applicant submits revisions, the local
241 building official has the remainder of the tolled time ~~20-day~~
242 period plus 5 business days from the date of resubmittal to
243 issue the requested permit or to provide a second written notice
244 to the permit applicant stating which of the previously
245 identified plan features remain in noncompliance with the
246 applicable codes, with specific reference to the relevant code
247 chapters and sections. Any subsequent review by the local
248 building official is limited to the deficiencies cited in the
249 written notice. If the local building official does not provide
250 the second written notice within the prescribed time period, the
251 permit shall be deemed approved as a matter of law, and the
252 local building official must issue the permit on the next
253 business day.
254 Section 6. Subsections (1) and (2) of section 553.792,
255 Florida Statutes, are amended and subsection (4) is added to
256 that section, to read:
257 553.792 Building permit application to local government.—
258 (1)(a) A local government must approve, approve with
259 conditions, or deny a building permit application after receipt
260 of a completed and sufficient application within the following
261 timeframes, unless the applicant waives such timeframes in
262 writing:

263 1. For an applicant using a local government plans
264 reviewer to obtain a building permit, within 30 business days
265 after receiving a complete and sufficient application.
266 2. For an applicant using a private provider consistent
267 with s. 553.791 to obtain a building permit, within 15 business
268 days after receiving a complete and sufficient application.
269 3. For an applicant for a master plan permit, within 10
270 business days after receiving a complete and sufficient
271 application.
272 4. For an applicant for a single-family residential
273 dwelling applied for by a contractor licensed in this state on
274 behalf of a property owner who participates in a Community
275 Development Block Grant-Disaster Recovery program administered
276 by the Department of Commerce, within 10 business days after
277 receipt of the application unless the permit application fails
278 to satisfy the Florida Building Code or the enforcing agency's
279 laws or ordinances.
280 5. For an applicant for a multifamily residential unit,
281 within 60 business days after receiving a complete and
282 sufficient application.
283
284 If the local government does not approve, approve with
285 conditions, or deny the completed and sufficient application
286 within the required timeframes in this paragraph, the
287 application is deemed or determined to be approved. A local

288 government may not require a waiver of the timeframes as a
289 condition to review an application for a building permit.
290
291 ---
292 **T I T L E A M E N D M E N T**
293 Remove lines 3-10 and insert:
294 309.035, F.S.; changing requirements for handrails; s. 468.609,
295 F.S.; allowing use of an internship program as a basis for a
296 license; s. 553.73, F.S.; requiring the Florida Building
297 Commission to modify provisions in the Florida Building Code
298 relating to replacement windows, doors, or garage doors in an
299 existing building; providing requirements for such
300 modifications; defining the term "windborne debris region";
301 amending s. 553.79, F.S.; removing provisions relating to
302 acquiring building permits for certain residential dwellings;
303 amending s. 553.791, F.S.; relating to permit time frames for
304 certain private providers; amending s.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER ___

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment (with title amendment)**
5 Between lines 384 and 385, insert:
6 Section 5. Section 553.9065, Florida Statutes, is created
7 to read:
8 553.9065 Thermal efficiency standards for unvented attic
9 and unvented enclosed rafter assemblies.—Unvented attic and
10 unvented enclosed rafter assemblies that are insulated and air
11 sealed with a minimum of R-20 air-impermeable insulation meet
12 the requirements of sections R402 of the Florida Building Code,
13 8th Edition (2023), Energy Conservation, if all of the following
14 apply:
15 (1) The building has a blower door test result of less
16 than 3 ACH50.

17 (2) The building has a positive input ventilation system
18 or a balanced or hybrid whole-house mechanical ventilation
19 system.
20 (3) If the insulation is installed below the roof deck and
21 the exposed portion of roof rafters is not already covered by
22 the R-20 air-impermeable insulation, the exposed portion of the
23 roof rafters is insulated by a minimum of R-3 air-impermeable
24 insulation unless directly covered by a finished ceiling. Roof
25 rafters are not required to be covered by a minimum of R-3 air-
26 impermeable insulation if continuous insulation is installed
27 above the roof deck.
28 (4) All indoor heating, cooling, and ventilation equipment
29 and ductwork is inside the building thermal envelope.
30
31 ---
32 **T I T L E A M E N D M E N T**
33 Remove line 32 and insert:
34 upgrades; creating s. 553.9065, F.S.; providing that
35 certain unvented attic and unvented enclosed rafter
36 assemblies meet the requirements of the Florida
37 Building Code, Energy Conservation; amending s.
38 440.103, F.S.; conforming a

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 293 Hurricane Protections for Homeowners' Associations
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Sirois
TIED BILLS: **IDEN./SIM. BILLS:** SB 600

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 0 N, As CS	Larkin	Anstead
2) Civil Justice Subcommittee	18 Y, 0 N	Yeager	Jones
3) Commerce Committee		Larkin	Hamon

SUMMARY ANALYSIS

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs may to impose assessments that, if unpaid, may become a lien on the parcel. HOAs may levy fines against or suspend certain access rights of a parcel owner for failing to comply with the HOA's governing documents.

If the HOA's governing documents allow, an HOA or its architectural, construction improvement, or other similar committee (ARC) may:

- Require a review and approval of plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel before a parcel owner makes such improvement.
- Enforce standards for the external appearance of any structure or improvement located on a parcel.

Hurricane hardening involves improvements to a home or other structure to make it less susceptible to damage from extreme wind, flooding, or flying debris. Hardening improves the durability and stability of a structure, making it better able to withstand the impacts of hurricanes without sustaining major damage.

The bill:

- Requires an HOA or ARC to adopt **hurricane protection** specifications for each structure or other improvement on a parcel governed by the HOA. The specifications may include the color and style of hurricane protection products and must comply with the applicable building code.
- Prohibits an HOA or ARC from denying an application for installation, enhancement, or replacement of hurricane protection by a parcel owner which conforms to specifications adopted by the HOA or ARC.
- Allows the HOA or ARC to require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.
- Provides that "hurricane protection" includes, but is not limited to:
  - Metal roofs,
  - Permanent fixed or roll-down track storm shutters,
  - Impact-resistant windows and doors,
  - Polycarbonate panels,
  - Reinforced garage doors,
  - Erosion controls,
  - Exterior fixed generators, and
  - Fuel storage tanks.

The bill provides that in order to protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by parcel owners, the bill applies to all HOAs in the state, regardless of when the community was created. The bill does not appear to have a fiscal impact on state or local governments and is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Homeowners' Associations

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs are authorized to impose assessments that, if unpaid, may become a lien on the parcel.[1]

Only HOAs whose covenants and restrictions include mandatory assessments are regulated by ch. 720, F.S., the Homeowners' Association Act (HOA Act). Like a condominium, an HOA is administered by an elected board of directors (board). The powers and duties of an HOA include the powers and duties provided in the HOA Act, and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents.[2]

An HOA must be a Florida corporation and the initial governing documents must be recorded in the official records of the county in which the community is located. The powers and duties of an association include those set forth in the HOA Act and in the governing documents, except as expressly limited or restricted in the HOA Act.

No state agency has direct oversight over HOAs. However, Florida law provides for a limited mandatory binding arbitration program, administered by the Division of Condominiums, Timeshares and Mobile Homes, within the Department of Business and Professional Regulation, for certain election and recall disputes.[3]

HOA Architectural and Construction Improvement Covenants and Rules

If the governing documents allow, an HOA or its architectural, construction improvement, or other similar committee (ARC) may:[4]

- Require a review and approval of plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel before a parcel owner makes such improvement.
- Enforce standards for the external appearance of any structure or improvement located on a parcel.

The HOA or ARC may not restrict the right of a parcel owner to select from any options given in the governing documents for the use of material, the size of the structure or improvement, the design of the structure or improvement, or the location of the structure or improvement on the parcel.[5]

Each parcel owner is entitled to the rights and privileges set forth in the governing documents concerning the architectural use of the parcel, and the construction of permitted structures and improvements on the parcel and such rights and privileges may not be unreasonably infringed upon or impaired by the HOA or ARC. If the an HOA or ARC unreasonably, knowingly, and willfully infringes

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[1] S. 720.301(9), F.S.
[2] *See generally* ch. 720, F.S.
[3] S. 720.311, F.S.
[4] S. 720.3035(1), F.S.
[5] S. 720.3035(2), F.S.

upon or impairs such rights and privileges, the adversely affected parcel owner may recover damages, including any costs and reasonable attorney fees.[6]

An HOA or ARC may not enforce any policy or restriction that is inconsistent with the rights and privileges of a parcel owner set forth in the governing documents, whether uniformly applied or not.[7]

Levying Fines

Owners, tenants, and guests must comply with an HOA's governing documents, including those related to architectural or construction improvements. HOAs may levy fines against or suspend the right of a parcel owner, tenant, or guest of an owner or occupant, to use the common areas[8] or any other association property for failing to comply with any provision in the HOA's governing documents.[9]

No fine may exceed $100 per violation, although a fine may be levied on the basis of each day of a continuing violation provided that fine does not exceed $1,000 in the aggregate. However, a fine may exceed $1,000 if the HOA's governing documents authorize it. A fine may not become a lien on the property unless it exceeds $1,000.[10]

Hurricane Hardening

Generally, hurricane hardening involves improvements to a building structure and its openings to make it less susceptible to damage from extreme wind, flooding, or flying debris. Hardening improves the durability and stability of a structure, making it better able to withstand the impacts of hurricanes and weather events without sustaining major damage.[11]

Hurricane hardening includes installing hurricane impact-rated doors, windows with impact-resistant glass, reinforced roof and wall structures that meet or exceed high-velocity impact codes, independent emergency power systems, potable water storage, fuel stores, and other supplies and systems that will sustain those within the building for a certain time period after a storm.[12]

Most hurricane hardening must be installed in compliance with applicable codes, including the Florida Building Code, and by a licensed construction contractor.[13]

Condominium Hurricane Protection Specifications

Each residential condominium must adopt hurricane shutter specifications for each building of the condominium, which must include color, style, and other factors deemed relevant by the condominium. All such specifications must comply with the applicable building code.[14] A condominium is not required to adopt other hurricane protection specifications.

A condominium may not refuse to approve the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by a condominium unit owner conforming to the condominium's specifications.[15]

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[6] S. 720.3035(4), F.S.
[7] S. 720.3035(5), F.S.
[8] This does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. S. 720.305(2)(a), F.S.
[9] S. 720.305, F.S.
[10] S. 720.305(2), F.S.
[11] *Hurricane Hardening*, WGI, (June 14, 2018), https://wginc.com/hurricane-hardening/ (last visited Dec. 8, 2023); *Hardening and Resiliency U.S. Energy Industry Response to Recent Hurricane Seasons*, U.S. Department of Energy, Aug. 2010, p.8, https://www.oe.netl.doe.gov/docs/HR-Report-final-081710.pdf (last visited Dec. 8, 2023).
[12] *Id.*
[13] *See* s. 553.72(1), F.S.; s. 489.105, F.S.
[14] S. 718.113(5), F.S.
[15] S. 718.113(5)(d), F.S.

Effect of the Bill

The bill requires an HOA or any ARC to adopt **hurricane protection** specifications for each structure or other improvement on a parcel governed by the HOA. The specifications may include the color and style of hurricane protection products and any other factor deemed relevant by the board. All specifications adopted by the HOA must comply with the applicable building code.

The bill allows the HOA or ARC to require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.

The bill provides that, regardless of any other provision in the HOA's governing documents, the HOA or ARC may not deny an application for the installation, enhancement, or replacement of hurricane protection by a parcel owner which conforms to the specifications adopted by the HOA or ARC.

The bill provides that "hurricane protection" includes, but is not limited to:

- Metal roofs,
- Permanent fixed storm shutters,
- Roll-down track storm shutters,
- Impact-resistant windows and doors,
- Polycarbonate panels,
- Reinforced garage doors,
- Erosion controls,
- Exterior fixed generators,
- Fuel storage tanks, and
- Other hurricane protection products used to preserve and protect the structures or improvements on a parcel governed by the HOA.

The bill provides that in order to protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by parcel owners, the bill applies to all HOAs in the state, regardless of when the community was created.

The bill is effective upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends s. 720.3035, F.S.; requiring HOAs to provide certain guidance and allow certain improvements related to hurricane protection.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   The bill may allow more HOA parcel owners to harden their homes to withstand a storm, which could increase construction in the state and reduce effects of a storm on residences.

D. FISCAL COMMENTS:

   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 17, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute adds exterior fixed generators and fuel storage tanks to the list of items for which an HOA must adopt specifications for acceptable use or installation by parcel owners.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.

1 A bill to be entitled
2 An act relating to hurricane protections for
3 homeowners' associations; amending s. 720.3035, F.S.;
4 providing applicability; requiring the board or a
5 committee of a homeowners' association to adopt
6 hurricane protection specifications; requiring that
7 such specifications conform to applicable building
8 codes; prohibiting the board or a committee of an
9 association from denying an application for the
10 installation, enhancement, or replacement of certain
11 hurricane protection; authorizing the requirement to
12 adhere to certain guidelines regarding the external
13 appearance of a structure or an improvement on a
14 parcel; defining the term "hurricane protection";
15 providing an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Subsection (6) is added to section 720.3035,
20 Florida Statutes, to read:
21 720.3035 Architectural control covenants; parcel owner
22 improvements; rights and privileges.—
23 (6)(a) To protect the health, safety, and welfare of the
24 people of the state and to ensure uniformity and consistency in
25 the hurricane protection installed by parcel owners, this

26 subsection applies to all homeowners' associations in the state,
27 regardless of when the community was created. The board or any
28 architectural, construction improvement, or other such similar
29 committee of an association must adopt hurricane protection
30 specifications for each structure or other improvement on a
31 parcel governed by the association. The specifications may
32 include the color and style of hurricane protection products and
33 any other factor deemed relevant by the board. All
34 specifications adopted by the board must comply with the
35 applicable building code.
36 (b) Notwithstanding any other provision in the governing
37 documents of the association, the board or any architectural,
38 construction improvement, or other such similar committee may
39 not deny an application for the installation, enhancement, or
40 replacement of hurricane protection by a parcel owner which
41 conforms to the specifications adopted by the board or
42 committee. The board or committee may require a parcel owner to
43 adhere to an existing unified building scheme regarding the
44 external appearance of the structure or other improvement on the
45 parcel.
46 (c) For purposes of this subsection, the term "hurricane
47 protection" includes, but is not limited to, metal roofs,
48 permanent fixed storm shutters, roll-down track storm shutters,
49 impact-resistant windows and doors, polycarbonate panels,
50 reinforced garage doors, erosion controls, exterior fixed

51 generators, fuel storage tanks, and other hurricane protection
52 products used to preserve and protect the structures or
53 improvements on a parcel governed by the association.
54 Section 2. This act shall take effect upon becoming a law.

CODING: Words stricken are deletions; words underlined are additions.

CS/HB 605

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 605 Asset Protection Products
SPONSOR(S): Insurance & Banking Subcommittee, Tramont
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 902

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	18 Y, 0 N, As CS	Herrera	Lloyd
2) State Administration & Technology Appropriations Subcommittee	12 Y, 0 N	Perez	Clark
3) Commerce Committee		Herrera	Hamon

SUMMARY ANALYSIS

Under the Motor Vehicle Sales Finance Act, individuals, excluding banks, trust companies, savings and loan associations, or credit unions authorized to operate in Florida, must obtain a license from the Office of Financial Regulations (OFR) to conduct motor vehicle retail installment transactions.

Once an entity receives its licensing it is authorized to offer a retail installment contract. A retail installment contract refers to an agreement where a seller retains or acquires a title or lien on a motor vehicle as security, wholly or partially, for the buyer's obligations. When entering into a new retail installment contract, loan contract, or lease agreement for a motor vehicle, a motor vehicle retail installment seller, sales finance company, retail lessor, or any assignee may offer optional guaranteed asset protection products for a fee or otherwise. The term guaranteed asset protection product refers to a provision in a loan, lease, or retail installment contract, or a modification or addendum to such contracts, wherein a creditor agrees to exempt a customer from liability for payment of any or all of the amount exceeding the collateral's value. Vehicle Value Protection Agreement Act (VVPA) and excess wear agreements are not currently regulated by statute.

The bill makes changes related to asset protection products, including:

- **Guaranteed Asset Protection Products:** Limits coverage to cases of total damage or theft. Permits benefits such as waiving a part of the purchase price or providing credit for a replacement vehicle, with the option to offer these benefits at no additional cost. Changes to retail installment contracts include refunding buyers for terminated products, subject to a 90-day notification period and administrative fees. The bill also allows cancelation or noncancellation of products after a 30-day free look period, with refunds paid directly to the vehicle holder in specific circumstances.
- **VVPA:** Establishes a statutory framework for Vehicle Value Protection Agreements (VVPAs), defining them as agreements offering benefits to reduce finance agreement deficiency balances or facilitate the acquisition of replacement motor vehicles or services in adverse events. VVPAs are not considered insurance under the Florida Insurance Code and have specific financial security requirements. The bill imposes requirements for offering VVPAs, ensuring transparent pricing and non-contingent terms on credit extensions or motor vehicle transactions. Providers must adhere to insurance and financial reserve standards. Disclosure requirements include identifying information, agreement terms, cancelation details, and the non-conditionality of credit or vehicle sale/lease terms on VVPA purchase. The bill mandates specific terms in VVPAs, including cancelation conditions and refund details, with penalties for intentional violations outlined.
- **Excess Wear and Use Waiver:** Establishes that an excess wear and use waiver is a contractual agreement within a motor vehicle lease where the lessor, with or without an extra charge, agrees to cancel or waive amounts due under the lease for excessive wear, use, or mileage. Disclosure requirements include total charge, limitations, and cancellation terms with a possible administrative fee capped at $75.

The bill has no fiscal impact on local government, an indeterminate positive impact on state government revenues and an indeterminate negative effect on expenditures, and an indeterminate economic impact on the private sector.

This bill provides an effective date as of October 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Office of Financial Regulation

The Office of Financial Regulation (OFR) is the regulatory authority for Florida's financial services industry.[1] OFR reports to the Financial Services Commission (Commission) which is made up of the Governor and the members of the Florida Cabinet: the Chief Financial Officer (CFO), Attorney General (AG), and Agriculture Commissioner.[2] OFR enforces and administers the Financial Institutions Codes; is responsible for supervising banks, credit unions, savings associations, and international bank agencies; and licenses and regulates non-depository finance companies and the securities industry.[3]

Regulation of Consumer Finance

The Division of Consumer Finance is responsible for licensing and overseeing different facets of non-depository financial services sectors.[4] This includes the regulation of motor vehicle retail installment sellers, governed by Chapter 520 of the Florida Statutes.[5] According to Chapter 520, Florida Statutes, it is imperative for individuals to hold a license before engaging in the motor vehicle retail installment seller business or operating a branch thereof.[6]

Florida Motor Vehicle Retail Sales Finance Act

Under the Motor Vehicle Sales Finance Act, individuals, excluding banks, trust companies, savings and loan associations, or credit unions authorized to operate in Florida, must obtain a license from the OFR to conduct motor vehicle retail installment transactions.[7] Florida's Motor Vehicle Retail Sales Finance Act[8] is administered by the Financial Services Commission.[9]

To obtain a license, an application must be submitted to the Office of Financial Regulation of the Financial Services Commission, adhering to the prescribed form.[10] The Commission may request information essential for assessing eligibility, including details about officers, directors, control persons, members, partners, joint ventures, or individuals with a 10 percent or greater interest in the applicant.[11] The Office may seek various information, such as names, age, social security numbers, residential history, qualifications, educational and business background, and disciplinary and criminal history. If approved, the license, valid for up to two years, will be issued.[12] An initial application fee is required, and it is nonrefundable.[13]

A licensed entity must transact business as a motor vehicle retail installment seller solely under its licensed name.[14] Licenses granted under this act are neither transferable nor assignable.[15]

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[1] Florida Office of Financial Regulation, About Our Agency, https://flofr.gov/sitePages/AboutOFR.htm (last visited Jan. 16, 2024).
[2] *Id.*
[3] *Id.*
[4] Florida Office of Financial Regulations, Agency Analysis of 2024 SB 902, p. 2 (Jan. 16, 2024).
[5] *Id.*
[6] *Id.*
[7] S. 520.03(1), F.S.
[8] S. 520.01, F.S.
[9] Id. at (2). As to the regulations relating to motor vehicle sales finance, *see* Fla. Admin. Code R. 69V-50.001 to 69V-50.085. The FSC is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. S. 20.121(3), F.S.
[10] S.520.03(2), F.S.
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] S.520.03(4), F.S.
[15] *Id.*

Retail Installment Contracts

Once an entity receives its licensing it is authorized to offer a retail installment contract. A retail installment contract refers to an agreement where a seller retains or acquires a title or lien on a motor vehicle as security, wholly or partially, for the buyer's obligations.[16] This includes conditional sales contracts and contracts for the bailment or leasing of a motor vehicle, where the bailee or lessee agrees to pay compensation equivalent to or exceeding the vehicle's value, with the option to become the owner upon full compliance with the contract's provisions.[17]

The contract must include, among other things, specific details such as a statement on the absence of liability insurance coverage for bodily injury and property damage, the names and addresses of the seller and buyer, a detailed description of the motor vehicle, including make, year, model, and identification number, as well as financial information like the amount financed, finance charge, total payments, total sale price, and the number, amount, and date of scheduled payments.[18]

Moreover, the seller is required to provide a separate written breakdown of the amount financed, disclosing the cash price, down payment, the difference between cash price and down payment, amounts for insurance and other benefits, and any taxes and official fees not covered in the cash price.[19] This breakdown may be presented on a separate disclosure statement or within the same document as the contract, provided it is clearly and prominently segregated.[20]

Guaranteed Asset Protection Products

When entering into a new retail installment contract, loan contract, or lease agreement for a motor vehicle, a motor vehicle retail installment seller, sales finance company, retail lessor, or any assignee may offer optional guaranteed asset protection products for a fee or otherwise.[21] The term guaranteed asset protection product refers to a provision in a loan, lease, or retail installment contract, or a modification/addendum to such contracts, wherein a creditor agrees to exempt a customer from liability for payment of any or all of the amount exceeding the collateral's value.[22] It is important to note that this product does not fall under the category of insurance as defined by the Florida Insurance Code.[23] This subsection is applicable to all guaranteed asset protection products issued before October 1, 2008.[24]

To offer guaranteed asset protection products, the motor vehicle retail installment seller, sales finance company, retail lessor, or assignee must adhere to the following[25]:

- The cost of any guaranteed asset protection product should not exceed the amount of the indebtedness.[26]
- A guaranteed asset protection product is considered an obligation of any person acquiring the loan contract covering the product.[27]
- Entities providing guaranteed asset protection products must offer clear and understandable disclosures detailing eligibility requirements, conditions, refunds, and exclusions. The purchase of the product must be optional, and the disclosures should be in plain language and easily readable.[28]
- The entity must provide a copy of the executed guaranteed asset protection product contract to the buyer, with the entity bearing the burden of proving the contract was provided.[29]

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[16] S. 520.02(17), F.S.
[17] *Id.*
[18] S. 520.07, F.S.
[19] S. 520.07(3), F.S.
[20] *Id.*
[21] S.520.07(11), F.S.
[22] S. 520.02(7), F.S.
[23] Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the Florida Insurance Code. *See also* s. 624.01, F.S.
[24] S. 520.02(7), F.S.
[25] S. 520.07(11), F.S.
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*

- Contracts for guaranteed asset protection products cannot include terms allowing the entity to unilaterally modify the contract unless the modification benefits the buyer without additional charges or the buyer is notified of any proposed changes and provided a reasonable opportunity to cancel without penalty before the changes take effect.[30]
- If a contract for a guaranteed asset protection product is terminated, the entity must refund any unearned fees paid by the buyer unless the contract specifies otherwise. To receive a refund, the buyer must notify the entity of the termination event within 90 days and request a refund. An entity may offer a contract without a refund provision only if a bona fide option for a comparable contract with a refund provision is also offered to the buyer.[31]

Vehicle Value Protection Agreement

A vehicle value protection agreement is a contractual arrangement offering benefits when a vehicle owner replaces the vehicle during trade-in, in case of theft, or after an adverse event affecting the vehicle's value.[32] An agreement that complies with the act is not considered insurance and is exempt from regulatory oversight as insurance.[33] Vehicle Value Protection agreements is not currently regulated in Florida.

Excess Wear and Use Coverage

Excess wear and use coverage can be added to a lease agreement to protect lessees from incurring additional charges related to damages or excessive wear on the leased vehicle.[34] The liability under most open-end leases is influenced by the vehicle's wear, significantly impacting financial obligations. Excessive wear and tear, as defined in a lease agreement, refers to wear surpassing stipulated standards, often explicitly outlined and required to be reasonable. Similar to excess mileage, excessive wear and tear invariably diminishes the vehicle's value, whether leased or purchased.[35]

The assumed residual value in the lease is based on the expectation that the vehicle will be returned in a specified condition. This additional coverage typically addresses various issues such as dents, scratches, tire wear, interior stains, and more. It offers reassurance by relieving lessees of financial responsibility for the typical wear and tear on the vehicle.[36] Excess wear and use coverage is not currently regulated in Florida.

Effect of the Bill

Guaranteed Asset Protection Products

The bill limits guaranteed asset protection products covering a purchaser's responsibility for paying the debt exceeding the collateral value in cases of total damage or unrecovered theft. It allows the product to offer benefits like waiving a part of the purchase price or providing a credit for a replacement motor vehicle. It also specifies that such agreements and benefits may be offered with or without additional cost to the purchaser.

The bill introduces changes to retail installment contracts, including:

- Refunding buyers for terminated guaranteed asset protection products, unless the contract specifies otherwise. No refund is due if the buyer has received a benefit, and a 90-day notification period is required.
- Authorizing an administrative fee to be deducted from refunds of up to $75, except for refunds following a 30-day free look period.

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[30] *Id.*
[31] *Id.*
[32] Colo. Rev. Stat. S. 42-21-101 (2023)
[33] *Id.*
[34] Board of Governors of the Federal Reserve System, *More Information about Excessive Wear-and-Tear Charges*, https://www.federalreserve.gov/pubs/leasing/resource/consider/endopen_info10.htm (last visited Jan. 16, 2024).
[35] *Id.*
[36] *Id.*

- Allowing cancelation or noncancellation of guaranteed asset protection products after a minimum 30-day free look period, provided no benefits are provided.
- Directly paying refunds to the vehicle holder or its assignee for terminations due to default, repossession, or contract termination, unless the retail installment contract is paid in full.

Vehicle Value Protection Agreement Act (VVPA)

The bill creates a statutory framework for VVPA. It provides relevant definitions for administrator, commercial, commission, contract holder, finance agreement, motor vehicle, provider, and vehicle value protection agreement. The bill defines VVPA as an agreement that provides:

- benefits for reducing the current finance agreement deficiency balance of the contract holder; or
- facilitating the acquisition or leasing of a replacement motor vehicle or motor vehicle services in case of adverse events such as loss, theft, damage, obsolescence, diminished value, or depreciation.

VVPAs are not insurance subject to the Florida Insurance Code and are not subject to financial security requirements except as specified in the bill.

Further, the bill creates requirements for offering VVPA for personal use vehicles. VVPA can be offered, sold, or given to consumers as long as:

- Any amount charged or financed is clearly stated for the VVPA and is not considered a finance charges or interest.
- The extension of credit, terms of credit, and terms of the related motor vehicle sale or lease are not contingent upon the consumer's payment for or financing of any charge for a VVPA. However, these agreements may be discounted or provided at no charge with the purchase of noncredit-related goods or services.
- VVPA's are sold only after providing the contract holder with access to a copy of the agreement.

Additionally, the sale of VVPA is prohibited if the coverage duplicates another VVPA for the same vehicle or a guaranteed asset protection product.

- Providers are required to:
  - Insure all VVPA liabilities under a policy from an authorized insurer.
  - Maintain a reserve account not less than 40 percent of gross consideration received, less claims paid, for in-force contracts in the state.
  - Maintain a net worth or stockholders' equity directly or via the worth of its parent company of $100 million, providing financial statements upon request.

The bill requires all VVPA to disclose the following:

- Identifying information of the provider, purchaser, and administrator;
- Explicit terms of the agreement, including purchase price, eligibility criteria, coverage conditions, and exclusions;
- Notification that the contract is cancelable within a minimum 30-day free look period, with a full refund if canceled during this time and no benefits have been provided;
- Procedure for obtaining benefits, cancelation conditions, and refund details; and
- Credit extension or vehicle sale/lease terms is not conditioned on VVPA purchase.

The bill requires that all VVPA must incorporate the following terms:

- Precise terms and conditions for cancelation by either the provider or contract holder;
- Requirement for the provider to give a 5-day written notice before cancelation, stating the effective date and reason, except in specific circumstances;
- Full refund by the provider if the agreement is canceled for reasons other than nonpayment, deducting any claims paid if coverage continues after a claim; and
- Allowance for a reasonable administrative fee, not exceeding $75, by the provider.

The bill specifies that any provider, administrators, or any individual intentionally violating Part II of ch. 520, F.S., relating to VVPAs may be subject to fines not to exceed $500 per violation and no more than $10,000 for all violations of a similar nature.

Excess Wear and Use Waiver

The bill authorizes an excess wear and use waiver to a contractual agreement within a motor vehicle lease where the lessor, with or without an extra charge, agrees to cancel or waive amounts due under the lease for excessive wear, use, or mileage but the waiver agreement must disclose the following:

- The total charge for the waiver.
- Any exclusions or limitations on the amount of excess wear and use that the waiver covers.
- Terms, restrictions, and conditions for canceling the waiver before its termination or expiration, including a potential administrative fee not exceeding $75.

B. SECTION DIRECTORY:

Section 1: Amends s. 520.02, F.S., relating to definitions.

Section 2: Amends s. 520.07, F.S., relating to requirements and prohibitions as to retail installment contracts.

Section 3: Redesignates parts II through VI of Ch. 520 as parts III through VII.

Section 4: Creates Part II of Ch. 520, F.S., relating to Vehicle Value Protection Agreements.

Section 5: Amends s. 521.003, F.S., relating to definitions.

Section 6: Creates s. 521.007, F.S., relating to extended wear and use waiver.

Section 7: Amends s. 24.118, F.S., relating to other prohibited acts; penalties.

Section 8: Amends s. 501.604, F.S., relating to exemptions.

Section 9: Amends s. 671.304, F.S., relating to laws not repealed; precedence where code provisions in conflict with other laws; certain statutory remedies retained.

Section 10: Providing an effective date of October 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate, as the number of entities subject to the registration requirement is unknown[37].

2. Expenditures:

   OFR must amend existing rules to incorporate the changes made in the bill, as well as update the Regulatory Enforcement and Licensing (REAL) system and website. These adjustments will have minimal fiscal impact and can be absorbed within OFR's current appropriations[38].

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

[37] Office of Financial Regulation, Agency Analysis of 2024 Senate Bill 902, p. 7 (Jan. 18, 2024).

[38] *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Since GAP products will be limited to total loss cases, consumers may experience increased cost to obtain full coverage by now having to purchase a second product; i.e., both a GAP and a VVPA. Purchasers may experience savings where the products authorized by the bill cover losses that have not previously been provided for by an authorized product.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

The retroactive application to "related products" raises constitutional concerns, particularly regarding fairness and due process. Applying regulations retroactively without accompanying findings may infringe on individuals' rights to fair notice and protection against arbitrary government actions, posing potential constitutional issues.

B. RULE-MAKING AUTHORITY:

None provided by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 18, 2024, the Insurance & Banking Subcommittee considered the bill, adopted an amendment, and reported the bill favorably as a committee substitute. The amendment makes technical changes, including consolidating the bill's provisions into a single Part of the current Chapter 520, rather than creating a new part of the chapter and an additional chapter of Florida Statute.

The analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

1 A bill to be entitled
2 An act relating to asset protection products; amending
3 s. 520.02, F.S.; revising the definition of the term
4 "guaranteed asset protection product"; amending s.
5 520.07, F.S.; prohibiting certain entities from
6 deducting more than a specified amount in
7 administrative fees when providing a refund of a
8 guaranteed asset protection product; authorizing
9 guaranteed asset protection products to be cancelable
10 or noncancelable under certain circumstances;
11 authorizing certain entities to pay refunds directly
12 to the holder or administrator of a loan under certain
13 circumstances; creating s. 520.151, F.S.; providing a
14 short title; creating s. 520.152, F.S.; providing
15 definitions; creating s. 520.153, F.S.; authorizing
16 the offer, sale, or gift of vehicle value protection
17 agreements in compliance with a certain act;
18 specifying a requirement regarding the amount charged
19 or financed for a vehicle value protection agreement;
20 prohibiting the conditioning of credit offers or terms
21 for the sale or lease of a motor vehicle upon a
22 consumer's payment for or financing of any charge for
23 a vehicle value protection agreement; authorizing
24 discounting or giving the vehicle value protection
25 agreement at no charge under certain circumstances;

26 authorizing providers to use an administrator or other
27 designee for administration of vehicle value
28 protection agreements; prohibiting vehicle value
29 protection agreements from being sold under certain
30 circumstances; specifying financial security
31 requirements for providers; prohibiting additional
32 financial security requirements from being imposed on
33 providers; creating s. 520.154, F.S.; requiring
34 vehicle value protection agreements to include certain
35 written disclosures in clear and understandable
36 language; requiring vehicle value protection
37 agreements to state the terms, restrictions, or
38 conditions governing cancellation by the provider or
39 the contract holder; specifying requirements for
40 notice by the provider, refund of fees, and deduction
41 of fees if the agreement is canceled; creating s.
42 520.155, F.S.; providing an exemption for vehicle
43 value protection agreements in connection with a
44 commercial transaction; creating s. 520.156, F.S.;
45 providing noncriminal penalties; defining the term
46 "violations of a similar nature"; creating s. 520.157,
47 F.S.; defining the term "excess wear and use waiver";
48 providing an effective date.
49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Subsection (7) of section 520.02, Florida
53 Statutes, is amended to read:
54 520.02 Definitions.—In this act, unless the context or
55 subject matter otherwise requires:
56 (7) "Guaranteed asset protection product" means a loan,
57 lease, or retail installment contract term, or modification or
58 addendum to a loan, lease, or retail installment contract, under
59 which a creditor agrees with or without a separate charge, to
60 cancel or waive a customer's liability for payment of some or
61 all of the amount by which the debt exceeds the value of the
62 collateral that has incurred total physical damage or is the
63 subject of an unrecovered theft. A guaranteed asset protection
64 product may also provide, with or without a separate charge, a
65 benefit that waives a portion of, or provides a customer with a
66 credit towards, the purchase of a replacement motor vehicle.
67 Such a product is not insurance for purposes of the Florida
68 Insurance Code. This subsection also applies to all guaranteed
69 asset protection products issued before October 1, 2008.
70 Section 2. Paragraph (g) of subsection (11) of section
71 520.07, Florida Statutes, is amended, and paragraphs (h) and (i)
72 are added to that subsection, to read:
73 520.07 Requirements and prohibitions as to retail
74 installment contracts.—
75 (11) In conjunction with entering into any new retail

76 installment contract or contract for a loan, a motor vehicle
77 retail installment seller as defined in s. 520.02, a sales
78 finance company as defined in s. 520.02, or a retail lessor as
79 defined in s. 521.003, and any assignee of such an entity, may
80 offer, for a fee or otherwise, optional guaranteed asset
81 protection products in accordance with this chapter. The motor
82 vehicle retail installment seller, sales finance company, retail
83 lessor, or assignee may not require the purchase of a guaranteed
84 asset protection product as a condition for making the loan. In
85 order to offer any guaranteed asset protection product, a motor
86 vehicle retail installment seller, sales finance company, or
87 retail lessor, and any assignee of such an entity, shall comply
88 with the following:
89 (g) If a contract for a guaranteed asset protection
90 product is terminated, the entity shall refund to the buyer any
91 unearned fees paid for the contract unless the contract provides
92 otherwise. A refund is not due to a consumer who receives a
93 benefit under such product. In order to receive a refund, the
94 buyer must notify the entity of the event terminating the
95 contract and request a refund within 90 days after the
96 occurrence of the event terminating the contract. An entity may
97 offer a buyer a contract that does not provide for a refund only
98 if the entity also offers that buyer a bona fide option to
99 purchase a comparable contract that provides for a refund. <u>An</u>
100 <u>entity may not deduct more than $75 in administrative fees from</u>

101 a refund made under this subsection.
102 (h) Guaranteed asset protection products may be cancelable
103 or noncancelable after a free-look period as defined in s.
104 520.152.
105 (i) If the termination of the guaranteed asset protection
106 product occurs because of a default under the retail installment
107 contract or contract for a loan, the repossession of the motor
108 vehicle associated with the retail installment contract or
109 contract for a loan, or any other termination of the retail
110 installment contract or contract for a loan, the entity may pay
111 any refund due directly to the holder or administrator and apply
112 the refund as a reduction of the amount owed under the retail
113 installment contract or contract for a loan, unless the buyer
114 can show that the retail installment contract has been paid in
115 full.
116 Section 3. Section 520.151, Florida Statutes, is created
117 to read:
118 520.151 Florida Vehicle Value Protection Agreements Act.—
119 Sections 520.151-520.156 may be cited as the "Florida Vehicle
120 Value Protection Agreements Act."
121 Section 4. Section 520.152, Florida Statutes, is created
122 to read:
123 520.152 Definitions.—As used in ss. 520.151-520.156,
124 unless the context or subject matter otherwise requires, the
125 term:

126 (1) "Administrator" means the person who is responsible
127 for the administrative or operational function of managing
128 vehicle value protection agreements, including, but not limited
129 to, the adjudication of claims or benefit requests by contract
130 holders.
131 (2) "Commercial transaction" means a transaction in which
132 the motor vehicle subject to the transaction is used primarily
133 for business or commercial purposes.
134 (3) "Contract holder" means a person who is the purchaser
135 or holder of a vehicle value protection agreement.
136 (4) "Finance agreement" means a loan, retail installment
137 sales contract, or lease for the purchase, refinancing, or lease
138 of a motor vehicle.
139 (5) "Free-look period" means the period of time,
140 commencing on the effective date of the contract, during which
141 the buyer may cancel the contract for a full refund of the
142 purchase price. This period may not be shorter than 30 days.
143 (6) "Motor vehicle" has the same meaning as provided in s.
144 520.02.
145 (7) "Provider" means a person that is obligated to provide
146 a benefit under a vehicle value protection agreement. A provider
147 may function as an administrator or retain the services of a
148 third-party administrator.
149 (8) "Vehicle value protection agreement" includes a
150 contractual agreement that provides a benefit toward either the

151 reduction of some or all of the contract holder's current
152 finance agreement deficiency balance or the purchase or lease of
153 a replacement motor vehicle or motor vehicle services upon the
154 occurrence of an adverse event to the motor vehicle, including,
155 but not limited to, loss, theft, damage, obsolescence,
156 diminished value, or depreciation. The term does not include
157 guaranteed asset protection products as defined in s. 520.02.
158 Such a product is not insurance for the purposes of the Florida
159 Insurance Code.
160 Section 5. Section 520.153, Florida Statutes, is created
161 to read:
162 520.153 Requirements and prohibitions as to vehicle value
163 protection agreements.—
164 (1) Vehicle value protection agreements may be offered,
165 sold, or given to consumers in this state in compliance with
166 this act.
167 (2) Notwithstanding any other law, any amount charged or
168 financed for a vehicle value protection agreement is not
169 considered a finance charge or interest and must be separately
170 stated in the finance agreement and in the vehicle value
171 protection agreement.
172 (3) The extension of credit, the terms of credit, or the
173 terms of the related motor vehicle sale or lease may not be
174 conditioned upon the consumer's payment for or financing of any
175 charge for a vehicle value protection agreement. However, a

176 vehicle value protection agreement may be discounted or given at
177 no charge in connection with the purchase of other noncredit
178 related goods or services.
179 (4) A provider may use an administrator or other designee
180 to administer a vehicle value protection agreement.
181 (5) A vehicle value protection agreement may not be sold
182 or given to any person unless he or she has been or will be
183 provided access to a copy of such vehicle value protection
184 agreement at a reasonable time after such vehicle value
185 protection agreement is sold or given.
186 (6) A vehicle value protection agreement may not be sold
187 or given if coverage is duplicative of another vehicle value
188 protection agreement sold or given to a person or duplicative of
189 a guaranteed asset protection product.
190 (7) Each provider shall do one of the following:
191 (a) Insure all of its vehicle value protection agreements
192 under a policy that pays or reimburses the contract holder in
193 the event the provider fails to perform its obligations under
194 the vehicle value protection agreement. The insurer must be
195 licensed or otherwise authorized or eligible to do business in
196 this state;
197 (b) Maintain a funded reserve account for its obligations
198 under its contracts issued and outstanding in this state. The
199 reserves may not be less than 40 percent of gross consideration
200 received, less claims paid, on the sale of the vehicle value

201 protection agreement for all in-force contracts in this state.
202 The reserve must be placed in trust with the office and have a
203 financial security deposit valued at not less than 5 percent of
204 the gross consideration received, less claims paid, on the sale
205 of the vehicle value protection agreements for all vehicle value
206 protection agreements issued and in force in this state, but at
207 least $25,000. The reserve account must consist of one of the
208 following:
209 1. A surety bond issued by an authorized surety;
210 2. Securities of the type eligible for deposit by insurers
211 as provided in s. 625.52;
212 3. Cash; or
213 4. A letter of credit issued by a qualified financial
214 institution; or
215 (c) Maintain, or together with its parent corporation
216 maintain, a net worth or stockholders' equity of $100 million
217 and, upon request, provide the office with a copy of the
218 provider's or the provider's parent company's Form 10-K or Form
219 20-F filed with the Securities and Exchange Commission within
220 the last calendar year, or if the company does not file with the
221 Securities and Exchange Commission, a copy of the company's
222 audited financial statements, which must show a net worth of the
223 provider or its parent company of at least $100 million. If the
224 provider's parent company's Form 10-K, Form 20-F, or financial
225 statements are filed to meet the provider's financial security

226 requirement, the parent company must agree to guarantee the
227 obligations of the provider relating to vehicle value protection
228 agreements sold by the provider in this state.
229 (8) A financial security requirement other than those
230 imposed in subsection (7) may not be imposed on vehicle value
231 protection agreement providers.
232 Section 6. Section 520.154, Florida Statutes, is created
233 to read:
234 520.154 Disclosures.—
235 (1) A vehicle value protection agreement must disclose in
236 writing, in clear, understandable language, all of the
237 following:
238 (a) The name and address of the provider, contract holder,
239 and administrator, if any.
240 (b) The terms of the vehicle value protection agreement,
241 including, but not limited to, the purchase price to be paid by
242 the contract holder, if any, the requirements for eligibility
243 and conditions of coverage, and any exclusions.
244 (c) Whether the vehicle value protection agreement may be
245 canceled by the contract holder during a free-look period as
246 defined in s. 520.152, and that, in the event of cancellation,
247 the contract holder is entitled to a full refund of the purchase
248 price, if any, so long as no benefits have been provided.
249 (d) The procedure the contract holder must follow, if any,
250 to obtain a benefit under the terms and conditions of the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

251 vehicle value protection agreement, including, if applicable, a
252 telephone number, website, or mailing address where the contract
253 holder may apply for a benefit.
254 (e) Whether the vehicle value protection agreement is
255 cancellable after the free-look period and the conditions under
256 which it may be canceled, including the procedures for
257 requesting any refund of the unearned purchase price paid by the
258 contract holder. In the event that the agreement is cancelable,
259 it must include the methodology for calculating any refund due
260 of the unearned purchase price of the vehicle value protection
261 agreement.
262 (f) That the extension of credit, the terms of the credit,
263 or the terms of the related motor vehicle sale or lease may not
264 be conditioned upon the purchase of the vehicle value protection
265 agreement.
266 (2) A vehicle value protection agreement must state the
267 terms, restrictions, or conditions governing cancellation of the
268 vehicle value protection agreement before the termination or
269 expiration date of the vehicle value protection agreement by
270 either the provider or the contract holder. The provider of the
271 vehicle value protection agreement shall mail a written notice
272 to the contract holder at the last known address of the contract
273 holder contained in the records of the provider at least 5 days
274 before cancellation by the provider, which notice must state the
275 effective date of the cancellation and the reason for the

276 cancellation. However, such prior notice is not required if the
277 reason for cancellation is nonpayment of the provider fee, a
278 material misrepresentation by the contract holder to the
279 provider or administrator, or a substantial breach of duties by
280 the contract holder relating to the covered motor vehicle or its
281 use. If a vehicle value protection agreement is canceled by the
282 provider for a reason other than nonpayment of the provider fee,
283 the provider must refund to the contract holder 100 percent of
284 the unearned pro rata provider fee paid by the contract holder,
285 if any. If coverage under the vehicle value protection agreement
286 continues after a claim, any refund may reflect a deduction for
287 claims paid and, at the discretion of the provider, an
288 administrative fee of not more than $75.
289 Section 7. Section 520.155, Florida Statutes, is created
290 to read:
291 520.155 Commercial transactions exempt.—Sections 520.154
292 and 520.156 do not apply to vehicle value protection agreements
293 offered in connection with a commercial transaction.
294 Section 8. Section 520.156, Florida Statutes, is created
295 to read:
296 520.156 Penalties.—A provider, an administrator, or any
297 other person who willfully and intentionally violates ss.
298 520.151-520.155 commits a noncriminal violation, as defined in
299 s. 775.08(3), punishable by a fine not to exceed $500 per
300 violation and not more than $10,000 in the aggregate for all

CODING: Words stricken are deletions; words underlined are additions.

301 violations of a similar nature. For purposes of this section,
302 the term "violations of a similar nature" means violations that
303 consist of the same or similar course of conduct, action, or
304 practice, irrespective of the number of times the action,
305 conduct, or practice, determined to be a violation of ss.
306 520.151-520.155 occurred.
307 Section 9. Section 520.157, Florida Statutes, is created
308 to read:
309 520.157 Excess wear and use waiver.—For purposes of this
310 section, the term "excess wear and use waiver" means a
311 contractual agreement wherein a lessor agrees, regardless of
312 whether subject to a separate fee, to cancel or waive all or
313 part of amounts that may become due under a lease agreement as a
314 result of excess wear and use of a motor vehicle, which
315 agreement must be part of, or a separate addendum to, the lease
316 agreement. Such waivers may also cancel or waive amounts due for
317 excess mileage.
318 Section 10. This act shall take effect October 1, 2024.

COMMERCE COMMITTEE

CS/HB 605 by Rep. Tramont
Asset Protection Products

AMENDMENT SUMMARY
February 15, 2024

Amendment 1 by Rep. Tramont (Line 90): The amendment makes the following changes:

- Clarifies that the unearned portion of the purchase price may be refunded, excluding any associated finance charges.
- Conforms the bill to its Senate counterpart.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ____ (Y/N)
ADOPTED AS AMENDED ____ (Y/N)
ADOPTED W/O OBJECTION ____ (Y/N)
FAILED TO ADOPT ____ (Y/N)
WITHDRAWN ____ (Y/N)
OTHER

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Tramont offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 90-317 and insert:
6 product is terminated, the entity shall refund to the buyer <u>all</u>
7 ~~any~~ unearned <u>portions of the purchase price of</u> ~~fees paid for~~ the
8 contract unless the contract provides otherwise. A refund is not
9 due to a consumer who receives a benefit under such product. In
10 order to receive a refund, the buyer must notify the entity of
11 the event terminating the contract and request a refund within
12 90 days after the occurrence of the event terminating the
13 contract. An entity may offer a buyer a contract that does not
14 provide for a refund only if the entity also offers that buyer a
15 bona fide option to purchase a comparable contract that provides

16 for a refund. An entity may not deduct more than $75 in
17 administrative fees from a refund made under this subsection.
18 (h) Guaranteed asset protection products may be cancelable
19 or noncancelable after a free-look period as defined in s.
20 520.152.
21 (i) If the termination of the guaranteed asset protection
22 product occurs because of a default under the retail installment
23 contract or contract for a loan, the repossession of the motor
24 vehicle associated with the retail installment contract or
25 contract for a loan, or any other termination of the retail
26 installment contract or contract for a loan, the entity may pay
27 any refund due directly to the holder or administrator and apply
28 the refund as a reduction of the amount owed under the retail
29 installment contract or contract for a loan, unless the buyer
30 can show that the retail installment contract has been paid in
31 full.
32 Section 3. Section 520.151, Florida Statutes, is created
33 to read:
34 520.151 Florida Vehicle Value Protection Agreements Act.—
35 Sections 520.151-520.156 may be cited as the "Florida Vehicle
36 Value Protection Agreements Act."
37 Section 4. Section 520.152, Florida Statutes, is created
38 to read:

39 520.152 Definitions.—As used in ss. 520.151-520.156,
40 unless the context or subject matter otherwise requires, the
41 term:
42 (1) "Administrator" means the person who is responsible
43 for the administrative or operational function of managing
44 vehicle value protection agreements, including, but not limited
45 to, the adjudication of claims or benefit requests by contract
46 holders.
47 (2) "Commercial transaction" means a transaction in which
48 the motor vehicle subject to the transaction is used primarily
49 for business or commercial purposes.
50 (3) "Contract holder" means a person who is the purchaser
51 or holder of a vehicle value protection agreement.
52 (4) "Finance agreement" means a loan, retail installment
53 sales contract, or lease for the purchase, refinancing, or lease
54 of a motor vehicle.
55 (5) "Free-look period" means the period of time,
56 commencing on the effective date of the contract, during which
57 the buyer may cancel the contract for a full refund of the
58 purchase price. This period may not be shorter than 30 days.
59 (6) "Motor vehicle" has the same meaning as provided in s.
60 520.02.
61 (7) "Provider" means a person that is obligated to provide
62 a benefit under a vehicle value protection agreement. A provider

63 may function as an administrator or retain the services of a
64 third-party administrator.
65 (8) "Vehicle value protection agreement" includes a
66 contractual agreement that provides a benefit toward either the
67 reduction of some or all of the contract holder's current
68 finance agreement deficiency balance or the purchase or lease of
69 a replacement motor vehicle or motor vehicle services upon the
70 occurrence of an adverse event to the motor vehicle, including,
71 but not limited to, loss, theft, damage, obsolescence,
72 diminished value, or depreciation. The term does not include
73 guaranteed asset protection products as defined in s. 520.02.
74 Such a product is not insurance for purposes of the Florida
75 Insurance Code.
76 Section 5. Section 520.153, Florida Statutes, is created
77 to read:
78 520.153 Requirements and prohibitions as to vehicle value
79 protection agreements.—
80 (1) Vehicle value protection agreements may be offered,
81 sold, or given to consumers in this state in compliance with
82 this act.
83 (2) Notwithstanding any other law, any amount charged or
84 financed for a vehicle value protection agreement is not
85 considered a finance charge or interest and must be separately
86 stated in the finance agreement and in the vehicle value
87 protection agreement.

88 (3) The extension of credit, the terms of credit, or the
89 terms of the related motor vehicle sale or lease may not be
90 conditioned upon the consumer's payment for or financing of any
91 charge for a vehicle value protection agreement. However, a
92 vehicle value protection agreement may be discounted or given at
93 no charge in connection with the purchase of other noncredit
94 related goods or services.
95 (4) A provider may use an administrator or other designee
96 to administer a vehicle value protection agreement.
97 (5) A vehicle value protection agreement may not be sold
98 or given to any person unless he or she has been or will be
99 provided access to a copy of such vehicle value protection
100 agreement at a reasonable time after such vehicle value
101 protection agreement is sold or given.
102 (6) A vehicle value protection agreement may not be sold
103 or given if coverage is duplicative of another vehicle value
104 protection agreement sold or given to a person or duplicative of
105 a guaranteed asset protection product.
106 (7) Each provider shall do one of the following:
107 (a) Insure all of its vehicle value protection agreements
108 under a policy that pays or reimburses the contract holder in
109 the event the provider fails to perform its obligations under
110 the vehicle value protection agreement. The insurer must be
111 licensed or otherwise authorized or eligible to do business in
112 this state.

113 (b) Maintain a funded reserve account for its obligations
114 under its contracts issued and outstanding in this state. The
115 reserves may not be less than 40 percent of gross consideration
116 received, less claims paid, on the sale of the vehicle value
117 protection agreement for all in-force contracts in this state.
118 The reserve must be placed in trust with the office and have a
119 financial security deposit valued at not less than 5 percent of
120 the gross consideration received, less claims paid, on the sale
121 of the vehicle value protection agreements for all vehicle value
122 protection agreements issued and in force in this state, but at
123 least $25,000. The reserve account must consist of one of the
124 following:
125 1. A surety bond issued by an authorized surety.
126 2. Securities of the type eligible for deposit by insurers
127 as provided in s. 625.52.
128 3. Cash.
129 4. A letter of credit issued by a qualified financial
130 institution.
131 (c) Maintain, or together with its parent corporation
132 maintain, a net worth or stockholders' equity of $100 million
133 and, upon request, provide the office with a copy of the
134 provider's or the provider's parent company's Form 10-K or Form
135 20-F filed with the Securities and Exchange Commission within
136 the last calendar year, or if the company does not file with the
137 Securities and Exchange Commission, a copy of the company's

138 audited financial statements, which must show a net worth of the
139 provider or its parent company of at least $100 million. If the
140 provider's parent company's Form 10-K, Form 20-F, or financial
141 statements are filed to meet the provider's financial security
142 requirement, the parent company must agree to guarantee the
143 obligations of the provider relating to vehicle value protection
144 agreements sold by the provider in this state.
145 (8) A financial security requirement other than those
146 imposed in subsection (7) may not be imposed on vehicle value
147 protection agreement providers.
148 Section 6. Section 520.154, Florida Statutes, is created
149 to read:
150 520.154 Disclosures.—
151 (1) A vehicle value protection agreement must disclose in
152 writing, in clear, understandable language, all of the
153 following:
154 (a) The name and address of the provider, contract holder,
155 and administrator, if any.
156 (b) The terms of the vehicle value protection agreement,
157 including, but not limited to, the purchase price to be paid by
158 the contract holder, if any, the requirements for eligibility
159 and conditions of coverage, and any exclusions.
160 (c) Whether the vehicle value protection agreement may be
161 canceled by the contract holder during a free-look period as
162 defined in s. 520.152, and that, in the event of cancellation,

163 the contract holder is entitled to a full refund of the purchase
164 price, if any, so long as no benefits have been provided.
165 (d) The procedure the contract holder must follow, if any,
166 to obtain a benefit under the terms and conditions of the
167 vehicle value protection agreement, including, if applicable, a
168 telephone number, website, or mailing address where the contract
169 holder may apply for a benefit.
170 (e) Whether the vehicle value protection agreement is
171 cancelable after the free-look period and the conditions under
172 which it may be canceled, including the procedures for
173 requesting any refund of the unearned purchase price paid by the
174 contract holder. In the event that the agreement is cancelable,
175 it must include the methodology for calculating any refund due
176 of the unearned purchase price of the vehicle value protection
177 agreement.
178 (f) That the extension of credit, the terms of the credit,
179 or the terms of the related motor vehicle sale or lease may not
180 be conditioned upon the purchase of the vehicle value protection
181 agreement.
182 (2) A vehicle value protection agreement must state the
183 terms, restrictions, or conditions governing cancellation of the
184 vehicle value protection agreement before the termination or
185 expiration date of the vehicle value protection agreement by
186 either the provider or the contract holder. The provider of the
187 vehicle value protection agreement shall mail a written notice

188 to the contract holder at the last known address of the contract
189 holder contained in the records of the provider at least 5 days
190 before cancellation by the provider, which notice must state the
191 effective date of the cancellation and the reason for the
192 cancellation. However, such prior notice is not required if the
193 reason for cancellation is nonpayment of the provider fee, a
194 material misrepresentation by the contract holder to the
195 provider or administrator, or a substantial breach of duties by
196 the contract holder relating to the covered motor vehicle or its
197 use. If a vehicle value protection agreement is canceled by the
198 provider for a reason other than nonpayment of the provider fee,
199 the provider must refund to the contract holder 100 percent of
200 the unearned pro rata provider fee paid by the contract holder,
201 if any. If coverage under the vehicle value protection agreement
202 continues after a claim, any refund may reflect a deduction for
203 claims paid and, at the discretion of the provider, an
204 administrative fee of not more than $75.
205 Section 7. Section 520.155, Florida Statutes, is created
206 to read:
207 520.155 Commercial transactions exempt.—Sections 520.154
208 and 520.156 do not apply to vehicle value protection agreements
209 offered in connection with a commercial transaction.
210 Section 8. Section 520.156, Florida Statutes, is created
211 to read:

212 520.156 Penalties.—A provider, an administrator, or any
213 other person who willfully and intentionally violates ss.
214 520.151-520.155 commits a noncriminal violation as defined in s.
215 775.08(3), punishable by a fine not to exceed $500 per violation
216 and not more than $10,000 in the aggregate for all violations of
217 a similar nature. For purposes of this section, the term
218 "violations of a similar nature" means violations that consist
219 of the same or similar course of conduct, action, or practice,
220 irrespective of the number of times the action, conduct, or
221 practice determined to be a violation of ss. 520.151-520.155
222 occurred.
223 Section 9. Section 520.157, Florida Statutes, is created
224 to read:
225 520.157 Excess wear and use waiver.—
226 (1) For purposes of this section, the term "excess wear
227 and use waiver" means a contractual agreement wherein a lessor
228 agrees, regardless of whether subject to a separate fee, to
229 cancel or waive all or part of amounts that may become due under
230 a lease agreement as a result of excess wear and use of a motor
231 vehicle, which agreement must be part of, or a separate addendum
232 to, the lease agreement. Such waivers may also cancel or waive
233 amounts due for excess mileage.
234 (2) A retail lessee may contract with a retail lessor for
235 an excess wear and use waiver in connection with a lease
236 agreement.

237 (3) The terms of the related motor vehicle lease may not
238 be conditioned upon the consumer's payment for any excess wear
239 and use waiver. However, excess wear and use waivers may be
240 discounted or given at no charge in connection with the purchase
241 of other noncredit-related goods.
242 (4) A lease agreement that includes an excess wear and use
243 waiver must disclose all of the following:
244 (a) The total charge for the excess wear and use waiver.
245 (b) Any exclusions or limitations on the amount of excess
246 wear and use which may be waived under the excess wear and use
247 waiver.
248 (c) The terms, restrictions, or conditions governing
249 cancellation of the excess wear and use waiver before the
250 termination or expiration of the excess wear and use waiver,
251 which may include an administrative fee of not more than $75.
252 (5) An excess wear and use waiver is not insurance for
253 purposes of the Florida Insurance Code.
254
255 ---
256 **T I T L E A M E N D M E N T**
257 Remove line 48 and insert:
258 authorizing a retail lessee to contract with a retail lessor for
259 an excess wear and use waiver; prohibiting conditioning the
260 terms of the consumer's motor vehicle lease on his or her
261 payment for any excess wear and use waiver; authorizing

262 discounting or giving the excess wear and use waiver at no
263 charge under certain circumstances; requiring certain
264 disclosures for a lease agreement that includes an excess wear
265 and use waiver; providing construction; providing an effective
266 date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1245 Veterinary Professional Associates
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Killebrew and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1038

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	14 Y, 0 N, As CS	Phelps	Anstead
2) Commerce Committee		Phelps	Hamon

SUMMARY ANALYSIS

In Florida, the practice of “veterinary medicine” means the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease. Veterinarians are regulated by the Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) pursuant to ch. 474, F.S., relating to veterinary medical practice (practice act).

Currently, there are approximately 13,000 veterinarians in the state of Florida. Some estimates indicate that 70 percent of Florida households own a pet, meaning that there may be at least five million pets in Florida. Many experts believe there are not enough veterinarians to handle the growing pet population in the state.

A veterinary professional health care provider, which is a similar position to the human medical profession's physician assistant (PA), is not currently authorized in the veterinary practice act.

The bill creates the title “veterinary professional associate” and allows such individuals who have obtained this title, working under the supervision of a veterinarian, to practice veterinary medicine on a limited basis, as follows:

- Allows the title "veterinary professional associate" to be used only by an individual who has successfully completed an approved program.
- Unless otherwise prohibited by federal or state law, authorizes a veterinary professional associate to practice veterinary medicine, while working under the supervision of a Florida licensed veterinarian.
- Prohibits a veterinary professional associate from:
  - Prescribing medicinal drugs or controlled substances.
  - Except for sterilizations or dental surgeries, performing a surgical procedure.
- Makes supervising veterinarians using a veterinary professional associate liable for any acts or omissions of the veterinary professional associate acting under the veterinarian's supervision and control.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Practice of Veterinary Medicine

The Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practices to protect public health and safety.[1]

A "veterinarian" is a health care practitioner licensed by the Board to engage in the practice of veterinary medicine in Florida[2] and they are subject to disciplinary action from the Board for various violations of the practice act.[3]

The practice of "veterinary medicine" is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.[4]

Veterinary medicine includes, with respect to animals:[5]

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine); and
- Other branches or specialties of veterinary medicine.

The practice act does not apply to the following categories of persons:

- Veterinary aides, nurses, laboratory technicians, preceptors,[6] or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision[7] of a licensed veterinarian;
- Certain non-Florida licensed veterinarians who are consulting upon request of a Florida-licensed veterinarian on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner.
- Faculty veterinarians when they have assigned teaching duties at accredited[8] institutions;
- Certain graduated intern/resident veterinarians of accredited institutions;
- Certain students in a school or college of veterinary medicine who perform assigned duties by an instructor or work as preceptors;

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[1] S. 474.201, F.S.
[2] S. 474.202(11), F.S.
[3] Ss. 474.213 & 474.214, F.S.
[4] *See* s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.
[5] *See* s. 474.202(13), F.S. Section 474.202(1), F.S., defines "animal" as "any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead."
[6] A preceptor is a skilled practitioner or faculty member who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. *See also* https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary (last visited Jan. 16, 2024).
[7] The term "responsible supervision" is defined in s. 474.202(10), F.S., as the "control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services" delegated to unlicensed personnel.
[8] Ss. 474.203(1)-(2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates.

- Certain doctors of veterinary medicine employed by a state agency or the United States Government;
- Persons or their employees caring for the persons' own animals, as well as certain part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks; and
- Certain entities or persons[9] that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.[10]

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by DBPR.[11] Each person to whom a veterinary license or premises permit is issued must conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.[12]

By virtue of accepting a license to practice veterinary medicine in Florida, a veterinarian consents to:

- Render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.
- Waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the licensee when the department has reason to believe that a violation of this chapter has occurred and when the department issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint.[13]

For Fiscal Year 2022-2023, there were 13,285 actively licensed veterinarians in Florida. DBPR received 484 complaints, which resulted in 16 disciplinary actions.[14]

Immediate Supervision

The practice act defines "immediate supervision" to mean that a "licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided."[15]

Veterinary tasks requiring immediate supervision include:[16]

- Administering anesthesia and tranquilization by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian.
- Administering certain vaccinations by a veterinary aide, nurse, technician, intern or other employee of a licensed veterinarian which is not specifically prohibited.

The following tasks may be performed without the licensed veterinarian on the premises:[17]

- Administering medication and treatment, excluding vaccinations, as directed by the licensed veterinarian; and
- Obtaining samples and the performance of those diagnostic tests, including radiographs, directed by the licensed veterinarian.

Veterinarian Shortage

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[9] *See* s. 474.203(6), F.S., which states that the exemption applies to "[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof ...."
[10] *See* s. 474.203, F.S.
[11] S. 474.215(1), F.S.
[12] S. 474.216, F.S.
[13] S. 474.2185, F.S.
[14] Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2022-2023*, http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2022-23.pdf (last visited Jan. 16, 2024).
[15] S. 4764.202(5), F.S.
[16] R. 61G18-17.005, F.A.C.
[17] *Id.*

According to a survey conducted by the American Pet Products Association (APPA), 70 percent of U.S. households, or about 90.5 million families, own a pet. This is an increase from 56 percent of U.S. households in 1988, and 67 percent in 2019.[18] As a result, experts say there is a shortage of veterinarians in the U.S., which is expected to result in the need for approximately 15,000 veterinarians by the year 2030.[19] A study from Banfield Pet Hospital reveals an estimated 75 million pets in the U.S. may not have access to the veterinary care they need by 2030, with an important factor being a critical shortage of veterinarians.[20]

The University of Florida's Dean of the College of Veterinary Medicine, Dana Zimmel, has indicated that there is a shortage of veterinarians in Florida, which in addition to pets has "1.7 million beef cattle and dairy cows, more horses than Kentucky and an alarming decline of manatee." The state's only veterinary medical college, the University of Florida, also reports that due to limited capacity, it must turn away 1,500 qualified candidates a year.[21]

According to the American Veterinary Medical Association (AVMA), "conditions have pushed the idea of a midlevel practitioner to the fore as veterinary practices have struggled to meet service demands. This issue has been compounded by continued inefficiencies in practices as pandemic disruptions persist and client expectations for availability and convenience. Inflation has also increased costs for labor and for products such as medical equipment and medications, creating additional concern around clients' ability to afford needed care. Additionally, retention of veterinary practice staff members and attrition from the profession are ongoing and increasing concerns."[22] The AVMA found that a midlevel practitioner may not be the best option to address these concerns, and that "time and effort should be spent on resources, tools, and programs designed to retain veterinarians and credentialed veterinary technicians; further develop veterinary technician specialties; help veterinary practices operate at optimum efficiency; and effectively collaborate—within practice teams and across the profession—to meet clients' needs for high-quality veterinary services."[23]

However, according to a study conducted by the National Library of Medicine, "the projected shortage of veterinarians has created a need to explore alternatives designed to meet society's future demands. A veterinary professional health care provider, similar to the human medical profession's physician assistant (PA), is one such alternative. It is suggested that perhaps veterinary professional associates, modeled after PAs, could be employed to handle routine veterinary care and thereby allow veterinarians additional time to focus on the more demanding and challenging aspects of veterinary medicine. Perhaps a team approach, similar to the physician/PA team, could help the field of veterinary medicine to better serve both clients and patients. As veterinary medicine directs its attention toward the new challenges on the horizon, creative solutions will be needed. Perhaps some variation of a veterinary professional associate is worthy of future discussion."[24]

Human PAs

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[18] Insurance Information Institute, *Facts + Statistics: Pet Ownership and Insurance*, https://www.iii.org/fact-statistic/facts-statistics-pet-ownership-and-insurance#:~:text=Seventy%20percent%20of%20U.S.%20households,and%2067%20percent%20in%202019. (last visited Jan. 16, 2024).

[19] Spectrum News 13, *Mobile 'ElleVet' clinic helps relieve veterinarian shortage*, https://www.mynews13.com/fl/orlando/news/2023/02/03/the-ellevet-project-#:~:text=%E2%80%94%20Experts%20say%20there's%20a%20shortage,States%20may%20not%20get%20care. (last visited Jan. 16, 2024).

[20] Banfield Pet Hospital, *75 million pets may not have access to veterinary care by 2030, New Banfield® study finds*, https://www.banfield.com/en/about-banfield/newsroom/press-releases/2020/75-million-pets-may-not-have-access-to-veterinary (last visited Jan. 16, 2024).

[21] Dana Zimmel, *Florida needs more veterinarians | Column*, Tampa Bay Times (Jan. 3, 2022), https://www.tampabay.com/opinion/2022/01/03/florida-needs-more-veterinarians-column/ (last visited Jan. 21, 2024).

[22] American Veterinary Medical Association, AVMA News, *Idea of midlevel practitioner rejected in favor of better support, engagement of credentialed veterinary technicians* (Jan. 10, 2023), https://www.avma.org/news/idea-midlevel-practitioner-rejected-favor-better-support-engagement-credentialed-veterinary (last visited Jan. 16, 2024).

[23] *Id.*

[24] Lori Kogan, Sherry Stewart, *Veterinary professional associates: does the profession's foresight include a mid-tier professional similar to physician assistants?,* National Library of Medicine (2009), https://pubmed.ncbi.nlm.nih.gov/19625672/ (last visited Jan. 16, 2024).

According to the Mayo Clinic, PAs are "licensed medical professionals who hold an advanced degree and are able to provide direct patient care. They work with patients of all ages in virtually all specialty and primary care areas, diagnosing and treating common illnesses and working with minor procedures. With an increasing shortage of health care providers, PAs are a critical part of today's team-based approach to health care. They increase access to quality health care for many populations and communities. The specific duties of a PA are determined by their supervising physician and state law, but they provide many of the same services as a primary care physician. They practice in every state and in a wide variety of clinical settings and specialties."[25]

In Florida, PAs are licensed medical professionals that are authorized to perform services delegated by a supervising physician.[26] PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S. During fiscal year 2022-2023, there were 11,504 actively licensed PAs in the state, and 1,471 initial PA licenses were issued by the Florida Department of Health.[27]

Effect of the Bill

The bill creates the title "veterinary professional associate" and allows individuals working under the supervision of a veterinarian to practice veterinary medicine on a limited basis, as follows:

- Provides the following legislative findings:

  > the practice in this state of veterinary professional associates, with their education, training, and experience in the field of veterinary medicine, will provide increased efficiency of and access to high-quality veterinary medical services at a reasonable cost to consumers.

- Defines the following terms:
  - "Approved program" means a master's program in veterinary clinical care, or the equivalent, in the United States or in its territories or possessions from an accredited school of veterinary medicine.
  - "Supervision" means responsible supervision and control, and, except in cases of emergency, requires the easy availability or physical presence of a licensed veterinarian for consultation and direction of the actions of a veterinary professional associate. For the purposes of this paragraph, the term "easy availability" includes the ability to communicate by way of telecommunication.
  - "Veterinary professional associate" means a person who has earned a master's degree from an approved program or who meets standards approved by the Board and is authorized to perform veterinary medical services delegated by a supervising veterinarian.
- Allows the title "veterinary professional associate" to be used only by an individual who has successfully completed an approved program.
- Unless otherwise prohibited by federal or state law, authorizes a veterinary professional associate to perform duties or actions, including those identified in s. 474.202(9) and (13), F.S., (practice of veterinary medicine) in which he or she is competent and has the necessary training, current knowledge, and experience to perform, as assigned by a veterinarian licensed in this state while working under the supervision of that veterinarian.
- Prohibits a veterinary professional associate from:

[25] Mayo Clinic College of Medicine and Science, *Physician Assistant*, https://college.mayo.edu/academics/explore-health-care-careers/careers-a-z/physician-assistant/ (last visited Jan. 16, 2024).
[26] Ss. 458.347(2)(e) and 459.022(2)(e).
[27] Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long-Range Plan, Fiscal Year 2022-2023, https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/MQAAnnualReport2022-2023.pdf (last visited Jan. 16, 2024).

    - Prescribing medicinal drugs or drugs as defined in s. 465.003(15) or a controlled substance listed in s. 893.03.
    - Except for veterinary sterilizations or veterinary dental surgeries, performing a surgical procedure.
- Makes each supervising veterinarian using a veterinary professional associate liable for any acts or omissions of the veterinary professional associate acting under the veterinarian's supervision and control.

B. SECTION DIRECTORY:

Section 1: Creates the title, "Veterinary Workforce Innovation Act."

Section 2: Creates s. 474.2126, F.S., relating to veterinary professional associate.

Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill may reduce the amount of rabies cases and other animal diseases, infections, and illnesses in the state, the associated risks to the health of humans and animals, and related expenses to the public and private sector.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Made a grammatical change.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.

1 A bill to be entitled
2 An act relating to veterinary professional associates;
3 providing a short title; creating s. 474.2126, F.S.;
4 providing legislative findings; defining terms;
5 authorizing certain individuals to use the title
6 "veterinary professional associate"; authorizing such
7 associates to perform certain duties and actions;
8 prohibiting such associates from prescribing certain
9 drugs or controlled substances or performing surgical
10 procedures; providing exceptions; providing that
11 veterinarians are liable for the acts or omissions of
12 veterinary professional associates under their
13 supervision and control; providing an effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. This act may be cited as the "Veterinary
18 Workforce Innovation Act."
19 Section 2. Section 474.2126, Florida Statutes, is created
20 to read:
21 474.2126 Veterinary professional associate.—
22 (1) The Legislature finds that the practice in this state
23 of veterinary professional associates, with their education,
24 training, and experience in the field of veterinary medicine,
25 will provide increased efficiency of and access to high-quality

26 veterinary medical services at a reasonable cost to consumers.
27 (2) As used in this section, the term:
28 (a) "Approved program" means a master's program in
29 veterinary clinical care, or the equivalent, in the United
30 States or in its territories or possessions from an accredited
31 school of veterinary medicine.
32 (b) "Supervision" means responsible supervision and
33 control, and, except in cases of emergency, requires the easy
34 availability or physical presence of a licensed veterinarian for
35 consultation and direction of the actions of a veterinary
36 professional associate. For the purposes of this paragraph, the
37 term "easy availability" includes the ability to communicate by
38 way of telecommunication.
39 (c) "Veterinary professional associate" means a person who
40 has earned a master's degree from an approved program or who
41 meets standards approved by the board and is authorized to
42 perform veterinary medical services delegated by a supervising
43 veterinarian.
44 (3) The title "veterinary professional associate" may be
45 used only by an individual who has successfully completed an
46 approved program.
47 (4) Unless otherwise prohibited by federal or state law, a
48 veterinary professional associate may perform duties or actions,
49 including those identified in s. 474.202(9) and (13), in which
50 he or she is competent and has the necessary training, current

51 knowledge, and experience to perform, as assigned by a
52 veterinarian licensed in this state while working under the
53 supervision of that veterinarian. A veterinary professional
54 associate may not do either of the following:
55 (a) Prescribe medicinal drugs or drugs as defined in s.
56 465.003(15) or a controlled substance listed in s. 893.03.
57 (b) Except for veterinary sterilizations or veterinary
58 dental surgeries, perform a surgical procedure.
59 (5) Each veterinarian that is supervising a veterinary
60 professional associate is liable for any acts or omissions of
61 the veterinary professional associate acting under the
62 veterinarian's supervision and control.
63 Section 3. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1277 Municipal Utilities
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Energy, Communications & Cybersecurity Subcommittee, Busatta Cabrera
TIED BILLS: **IDEN./SIM. BILLS:** SB 1510

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	13 Y, 2 N, As CS	Bauldree	Keating
2) Local Administration, Federal Affairs & Special Districts Subcommittee	11 Y, 4 N, As CS	Burgess	Darden
3) Commerce Committee		Bauldree	Hamon

SUMMARY ANALYSIS

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries and, by agreement, in unincorporated areas and in other municipalities.

Many municipalities own and operate electric and natural gas utilities. Municipalities are also authorized by general law to provide water and sewer utility services. A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. Municipalities routinely transfer a portion of their utility earnings to their general funds for non-utility purposes, though the amounts and percentages vary widely among municipalities.

Under the bill, a municipality that intends to offer utility service under a new, extended, renewed, or materially amended agreement must, in conjunction with the local government of the area to be served, conduct a public meeting within the area to be served. The bill also requires municipalities that provide such service to conduct an annual customer meeting in the areas served outside the municipal boundaries. The bill limits the portion of municipal utility revenues earned from service provided outside the municipal boundaries that may be used to fund or finance the municipality's non-utility related general government functions. The bill requires each municipality which provides utility service outside of its municipal boundaries to report annually certain information to the Florida Public Service Commission (PSC) for each type of utility service it provides and requires the PSC to compile and report this data to the Legislature and the Governor.

The bill limits the rates, fees, and charges that a municipal water or sewer utility may impose on consumers outside its boundaries to no more than 25 percent above the total amount the municipal water or sewer utility charges consumers within the municipal boundaries, provided rates for outside consumers are set in a public hearing using the same methods as rates for other consumers. The bill prohibits a municipal water or sewer utility that serves consumers within the boundaries of a separate municipality, using a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality, from imposing rates, fees, and charges higher than those imposed on consumers inside its own municipal boundaries.

The bill does not impact state government revenues or state or local government expenditures. The bill may have a negative fiscal impact on certain local revenues. *See* Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2025.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Local Government Utility Services

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes, except when expressly prohibited by law.[1] The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act with certain exceptions.[2] Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Many municipalities own and operate electric utilities and natural gas utilities and govern the operation of those utilities through ordinance, code, or policies. Currently, there are 33 municipal electric utilities in the state.[3] Municipal electric and natural gas utility rates are not directly regulated by the Florida Public Service Commission (PSC), however, the PSC does have jurisdiction over municipal electric utilities for matters related to rate structure, power plant transmission line site certification, general reporting jurisdiction, service territory and territory disputes, energy efficiency reporting, ten-year site plans, reporting on system hardening and resiliency, reporting on net metering, audits related to regulatory assessment fees, monitoring renewable energy, reporting on facilities inspection and vegetation management, and grid bill jurisdiction.[4]

Municipalities are authorized by general law to provide water and sewer utility services.[5] With respect to public works projects, including water and sewer utility services,[6] municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare."[7] A municipality may not extend or apply these corporate powers within the corporate limits of another municipality.[8] In general, however, local governments may enter into mutually advantageous agreements to provide services or facilities to other localities.[9] Further, the law specifically authorizes a municipality to permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and

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[1] Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.
[2] Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.
[3] Presentation on *Florida Public Power*, Florida Municipal Electric Association (Feb. 9, 2023), slide 2, available at https://www.myfloridahouse.gov/Sections/Documents/publications.aspx?CommitteeId=3226&PublicationType=Committees&DocumentType=Meeting%20Packets&SessionId=99 (last visited Jan. 16, 2024)
[4] *Id.* at slide 3.
[5] Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.
[6] Other public works projects authorized under s. 180.06, F.S., include alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes, garbage collection and disposal, airports, hospitals, jails, golf courses, gas plants and distribution systems, and related facilities.
[7] S. 180.02(2), F.S.
[8] *Id.*
[9] *See* s. 163.01, F.S.

conditions.[10] An informal study conducted in 2014 indicated that approximately 250 municipalities provide water service and approximately 220 municipalities provide wastewater service. Of these municipalities, the study found that approximately 140 provide water and/or waste water services to customers outside of their municipal boundaries, which may include customers in unincorporated areas of counties or in other municipalities.[11] These utility systems are exempt from PSC jurisdiction.

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.[12]
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.[13]

There is no central repository for information concerning municipal water or sewer service rates that identifies municipalities that impose higher rates on consumers outside of the municipal boundaries, the specific mechanism used by such municipalities to establish such rates, or the level of any additional charge or surcharge imposed.

Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission). Six municipal electric utility systems in Florida are governed by separate utility boards, or "authorities," which are typically appointed by the municipality's governing body.[14] These utility authorities vary in structure, though the charter documents for each generally address the powers and duties of the authority (including terms related to rate-setting, financing, acquisitions, and eminent domain), the selection process for authority members (including qualifications and terms of office), the management and personnel of the authority, the transfer of revenues from utility operations to the municipality, and the degree of continuing oversight by the municipal governing body.

Current law authorizes municipalities to raise amounts of money which are necessary for the conduct of the municipal government. A municipality may do so by taxation and licenses authorized by Florida's constitution or general law, or by user charges or fees authorized by ordinance.[15] Municipalities routinely transfer a portion of their utility earnings to their general funds for non-utility purposes, though the amounts and percentages may vary widely among municipalities.[16] These transfers may be limited in some circumstances by ordinance, but they are not governed by state law.

Effect of the Bill

Under the bill, a municipality that intends to offer retail electric, natural gas, water, or sewer utility service in another municipality or unincorporated area outside of the municipality's boundaries must

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[10] S. 180.19, F.S.
[11] Analysis of House Bill 813 (2014), Florida House of Representatives.
[12] S. 180.191(1)(a), F.S.
[13] S. 180.191(1)(b), F.S.
[14] The Keys Energy Services Utility Board is the only utility authority in the state with elected board members. Key West has an elected board, with 2 of the 5 members from outside the city limits. Presentation on *Florida Public Power*, Florida Municipal Electric Association *supra* n. 3, slide 8.
[15] S. 166.201, F.S.
[16] Presentation on *Florida Public Power*, Florida Municipal Electric Association *supra* n. 3, slide 6.

hold a public meeting in conjunction with the governing body of each municipality or unincorporated area to be served before a new agreement to provide such service, or a renewal, extension, or material amendment of an existing agreement, may take effect. The public meeting must be held within each municipality and unincorporated area to be served for the purpose of providing information and soliciting public input on:

- The nature of the service to be provided or changes to the service being provided;
- The rates, fees, and charges to be imposed for the services provided or intended to be provided, including any differential with the rates, fees, and charges imposed for the same service on customers located within the boundaries of the serving municipality, the basis for the differential, and the length of time that the differential is expected to exist;
- The extent to which revenues generated from the provision of the service will be used to fund or finance non-utility government functions or services; and
- Any other matters deemed relevant by the parties to the agreement.

Further, the bill requires that a new agreement to provide these utility services beyond a municipality's boundaries, or an extension, renewal, or material amendment to an existing agreement, must be in writing. Under the bill, any agreement to provide water or sewer utility service must comply with the other provisions of the bill limiting rates charged to consumers outside city limits when providing such services.

The bill requires that an appointed representative[17] of each municipality providing utility service in another municipality or unincorporated area outside of the municipality's boundaries must conduct an annual customer meeting in conjunction with the governing body of each municipality and unincorporated area in which it provides service. The purpose of this meeting is to receive public input on utility-related matters, including rates and service. The bill provides this meeting does not need to be a separate public meeting conducted specifically for this purpose.

Under the bill, a municipality may not transfer more than 10 percent of the gross revenues it generates from electric, natural gas, water, or sewer service provided to consumers outside its municipal boundaries to fund or finance non-utility governmental functions. Further, the bill requires that the revenues remaining after a transfer must be reinvested into the municipal utility or returned to customers living beyond the municipality's corporate limits.

The bill requires that by November 1, 2024, and annually thereafter, each municipality which provides utility service outside its municipal boundaries report to the PSC, for each type of utility service it provides outside of municipal boundaries, the following information:

- The number and percentage of customers that receive utility service provided by the municipality at a location outside the boundaries of the municipality;
- The volume and percentage of sales made to such customers, and the gross revenues generated from such sales; and
- Whether the rates, fees, and charges imposed on customers that receive service at a location outside the municipality's boundaries are different than the rates, fees, and charges imposed on customers within the boundaries of the municipality, and, if so, the amount and percentage of the differential.

The bill requires the PSC to compile this information and report it to the Speaker of the House of Representatives, the Senate President, and the Governor by January 31, 2025, and annually thereafter. The bill provides that it does not modify or extend the authority of the PSC otherwise provided by law with respect to any municipal utility that must report this information.

The bill removes the provision from current law allowing water or sewer utilities to add, for consumers outside of its boundaries, a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries without a public meeting. Furthermore, the bill changes the limit on the

[17] The appointed representative must be an executive-level leadership employee of the municipality, or the municipality's utility authority, board, or commission, specifically appointed by the governing body of the municipality to serve as its representative for the purpose of the meeting.

rates, fees, and charges such utilities can impose on customers outside of municipal boundaries to no more than 25 percent above the total amount the municipal water or sewer utility charges customers within the municipal boundaries, provided rates for outside customers are set in a public hearing using the same methods as rates for other customers.

The bill limits the rates, fees, and charges that a municipal water or sewer utility that provides service to consumers within the boundaries of a separate municipality, using a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality, by requiring that such charges are no more than the rates, fees, and charges imposed on consumers inside its own municipal boundaries.

The bill provides an effective date of July 1, 2025.

B. SECTION DIRECTORY:

Section 1: Amends s. 180.19, F.S., relating to use by other municipalities and by individuals outside corporate limits.

Section 2: Amends s. 180.191, F.S., relating to limitation on rates charged consumer outside city limits.

Section 3: Provides an effective date of July 1, 2025.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill will likely have a negative fiscal impact on some local governments which own and operate water or wastewater utilities, as it reduces the maximum amount that municipal water and sewer utilities can charge customers outside the municipal boundaries.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings to municipal water and sewer utility customers located outside of municipal boundaries. A municipal water or sewer utility may increase rates for other customers to mitigate revenue impacts.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill reduces the maximum amount that municipal water and sewer utilities can charge customers outside the municipal boundaries. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided that a new, extended, renewed, or materially amended agreement for the provision of municipal utility service at retail to customers located in another municipality or in an unincorporated area must be written and may not become effective before a public meeting is held in the service area for the purpose of providing certain information and soliciting public input on matters related to the agreement.
- Required annual customer meetings to be held in such service areas for the purpose of soliciting public input on utility-related matters.
- Required that these meetings be held in conjunction with specified governing bodies for the areas in which service is provided.
- Provided that a municipality that generates revenue from the provision of utility service to customers located in another municipality or in an unincorporated area may not use more than 10 percent of the gross revenues generated from such services to fund or finance general government functions.
- Removed provisions of the bill that limited transfers from municipal utility revenues based on rates of return on equity approved by the Public Service Commission for investor-owned utilities and based on the proportion of customers served beyond municipal boundaries.
- Required annual data reporting regarding the provision of municipal utility service to customers located in another municipality or in an unincorporated area.
- Retained provisions of the bill that reduce the maximum rate differential between municipal water and sewer utility customers located within and outside the municipal boundaries.
- Retained provisions of the bill that prohibit the imposition of a surcharge on customers located in certain other municipalities.

On January 31, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment differs from the bill as filed in that it:

- Specified that required customer meetings are not required to be a separate public meeting.
- Clarified that a municipality must be represented at a customer meeting by an appointed representative, who must be an executive-level leadership employee of the municipality or the municipality's utility authority, board, or commission.

- Required excess revenue, once costs are paid to fund or finance general government functions, to be reinvested into the municipal utility or returned to customers living beyond the municipality's corporate limits.

This analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.

1 A bill to be entitled
2 An act relating to municipal utilities; amending s.
3 180.19, F.S.; requiring certain public meetings as a
4 condition precedent to the effectiveness of a new or
5 extended agreement under which a municipality will
6 provide specified utility services in other
7 municipalities or unincorporated areas; specifying the
8 matters to be addressed in such public meetings;
9 requiring such agreements to be written; requiring
10 annual public customer meetings; defining the terms
11 "appointed representative" and "governing body" for
12 specified purposes; limiting the portion of certain
13 utility revenues that a municipality may use to fund
14 or finance general government functions; requiring
15 excess revenues to be reinvested into the municipal
16 utility or returned to customers; requiring
17 municipalities that provide specified utility services
18 to report certain information by a specified date to
19 the Public Service Commission on an annual basis;
20 requiring the commission to compile certain
21 information and submit a report containing such
22 information to the Governor and the Legislature by a
23 specified date; providing construction; amending s.
24 180.191, F.S.; revising provisions relating to
25 permissible rates, fees, and charges imposed by

26 municipal water and sewer utilities on customers
27 located outside the municipal boundaries; providing an
28 effective date.
29
30 Be It Enacted by the Legislature of the State of Florida:
31
32 Section 1. Section 180.19, Florida Statutes, is amended to
33 read:
34 180.19 Use by other municipalities and by individuals
35 outside corporate limits.—
36 (1) A municipality which constructs any works as are
37 authorized by this chapter, may permit any other municipality
38 and the owners or association of owners of lots or lands outside
39 of its corporate limits or within the limits of any other
40 municipality, to connect with or use the utilities mentioned in
41 this chapter upon such terms and conditions as may be agreed
42 between such municipalities, and the owners or association of
43 owners of such outside lots or lands.
44 (2) Any private company or corporation organized to
45 accomplish the purposes set forth in this chapter, which has
46 been granted a privilege or franchise by a municipality, may
47 permit the owners or association of owners of lots or lands
48 outside of the boundaries of said municipality granting said
49 privilege or franchise, or other municipality, to connect with
50 and use the utility operated by the said private company or

51 corporation upon such terms as may be agreed between the said
52 private company or corporation and the owners or association of
53 owners of said lots or lands or the said municipality.
54 (3)(a) A new agreement, or an extension, renewal, or
55 material amendment of an existing agreement, to provide
56 electric, natural gas, water, or sewer utility service at retail
57 pursuant to subsection (1) must be written and may not become
58 effective before an appointed representative of the municipality
59 that provides service or intends to provide the service, in
60 conjunction with the governing body of each municipality and
61 unincorporated area served or to be served, has participated in
62 a public meeting, which is not required to be a separate public
63 meeting, within each municipality and unincorporated area served
64 or to be served for purposes of providing information and
65 soliciting public input on:
66 1. The nature of the service to be provided or changes to
67 the service being provided;
68 2. The rates, fees, and charges to be imposed for the
69 services provided or intended to be provided, including any
70 differential with the rates, fees, and charges imposed for the
71 same service on customers located within the boundaries of the
72 serving municipality, the basis for the differential, and the
73 length of time that the differential is expected to exist;
74 3. The extent to which revenues generated from the
75 provision of the service will be used to fund or finance non-

76 utility government functions or services; and
77 4. Any other matters deemed relevant by the parties to the
78 agreement.
79 (b) Rates, fees, and charges imposed for water or sewer
80 utility service provided pursuant to subsection (1) shall comply
81 with s. 180.191.
82 (c) A representative of each municipality that provides
83 electric, natural gas, water, or sewer utility service pursuant
84 to subsection (1), in conjunction with the governing body of
85 each municipality and unincorporated area in which it provides
86 service, must annually conduct a public customer meeting, which
87 is not required to be a separate public meeting, within each
88 such municipality and unincorporated area for purposes of
89 soliciting public input on utility-related matters, including
90 rates and service.
91 (d) For purposes of this subsection, the term:
92 1. "Appointed representative" means an executive level
93 leadership employee of a municipality, or such municipality's
94 related and separate utility authority, board, or commission,
95 specifically appointed by the governing body to serve as its
96 representative for purposes of this subsection.
97 2. "Governing body" means a:
98 a. Governing body of a municipality in which service is
99 provided or proposed to be extended.
100 b. Board of county commissioners of a county in which

101 service is provided or proposed to be extended, if service is
102 provided or will be extended in an unincorporated area within
103 the county.
104 (4) A municipality that generates revenue from the
105 provision of electric, natural gas, water, or sewer utility
106 service to locations beyond its corporate limits may not use
107 more than 10 percent of the gross revenues generated from such
108 services to fund or finance general government functions. After
109 the transfer of such revenues to fund or finance general
110 government functions, if any revenues from such service remain
111 after payment of the municipal utility's costs to provide
112 service, these excess revenues must be reinvested into the
113 municipal utility or returned to customers who received service
114 at locations beyond the municipality's corporate limits.
115 (5)(a) By November 1, 2024, and annually thereafter, each
116 municipality that provides electric, natural gas, water, or
117 sewer utility service pursuant to subsection (1) must provide a
118 report to the Florida Public Service Commission that identifies,
119 for each type of utility service provided by the municipality:
120 1. The number and percentage of customers that receive
121 utility service provided by the municipality at a location
122 outside the boundaries of the municipality;
123 2. The volume and percentage of sales made to such
124 customers, and the gross revenues generated from such sales; and
125 3. Whether the rates, fees, and charges imposed on

126 customers that receive service at a location outside the
127 municipality's boundaries are different than the rates, fees,
128 and charges imposed on customers within the boundaries of the
129 municipality, and, if so, the amount and percentage of the
130 differential.
131 (b) The commission shall compile the information provided
132 pursuant to paragraph (a) and submit a report containing this
133 information to the Governor, the President of the Senate, and
134 the Speaker of the House of Representatives by January 31, 2025,
135 and annually thereafter.
136 (c) This subsection does not modify or extend the
137 authority of the commission otherwise provided by law with
138 respect to any municipal utility that is required to comply with
139 paragraph (a).
140 Section 2. Subsection (1) of section 180.191, Florida
141 Statutes, is amended to read:
142 180.191 Limitation on rates charged consumer outside city
143 limits.—
144 (1) Any municipality within the state operating a water or
145 sewer utility outside of the boundaries of such municipality
146 shall charge consumers outside the boundaries rates, fees, and
147 charges determined in one of the following manners:
148 (a) It may charge the same rates, fees, and charges as
149 consumers inside the municipal boundaries. ~~However, in addition~~
150 ~~thereto, the municipality may add a surcharge of not more than~~

151 ~~25 percent of such rates, fees, and charges to consumers outside~~
152 ~~the boundaries.~~ Fixing of such rates, fees, and charges in this
153 manner shall not require a public hearing except as may be
154 provided for service to consumers inside the municipality.
155 (b)1. It may charge rates, fees, and charges that are just
156 and equitable and which are based on the same factors used in
157 fixing the rates, fees, and charges for consumers inside the
158 municipal boundaries. ~~In addition thereto, the municipality may~~
159 ~~add a surcharge not to exceed 25 percent of such rates, fees,~~
160 ~~and charges for said services to consumers outside the~~
161 ~~boundaries. However, the total of all~~ Such rates, fees, and
162 charges for the services to consumers outside the boundaries may
163 ~~shall~~ not exceed 25 ~~be more than 50~~ percent ~~in excess~~ of the
164 total amount the municipality charges consumers served within
165 the municipality for corresponding service. No such rates, fees,
166 and charges shall be fixed until after a public hearing at which
167 all of the users of the water or sewer systems; owners, tenants,
168 or occupants of property served or to be served thereby; and all
169 others interested shall have an opportunity to be heard
170 concerning the proposed rates, fees, and charges. Any change or
171 revision of such rates, fees, or charges may be made in the same
172 manner as such rates, fees, or charges were originally
173 established, but if such change or revision is to be made
174 substantially pro rata as to all classes of service, both inside
175 and outside the municipality, no hearing or notice shall be

176 required.
177 2. Any municipality within the state operating a water or
178 sewer utility that provides service to consumers within the
179 boundaries of a separate municipality through the use of a water
180 treatment plant or sewer treatment plant located within the
181 boundaries of that separate municipality may charge consumers in
182 the separate municipality no more than the rates, fees, and
183 charges imposed on consumers inside its own municipal
184 boundaries.
185 Section 3. This act shall take effect July 1, 2025.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1335 Department of Business and Professional Regulation
SPONSOR(S): State Administration & Technology Appropriations Subcommittee, Maggard
TIED BILLS: **IDEN./SIM. BILLS:** SB 1544

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	12 Y, 2 N	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee	13 Y, 0 N, As CS	Helpling	Topp
3) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

The Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating various businesses and professions throughout the state, including tobacco; nicotine products; alcohol; drugs, devices, and cosmetics; construction contractors; asbestos abatement; pilots; elevators; employee leasing companies; certified public accountants (CPAs); real estate; barbers; cosmetologists; and mobile homes.

The bill:

- Requires applicants and licensees for the following to create and maintain an online account for communication with DBPR:
  - Tobacco and nicotine product industry,
  - Alcohol industry,
  - CPAs and firms, and
  - Elevator industry.
- Increases the amount of the required surety bond that a tobacco product distributor must maintain with DBPR to $25,000, from $1,000.
- Allows DBPR to determine additional surety amounts or reduce surety amounts for tobacco products distributors based on certain factors.
- Dissolves and replaces with DBPR-run programs:
  - The Florida Mobile Home Relocation Corporation, and
  - The Board of Employee Leasing Companies.
- Increases caps on claims and lifetime limits for the Florida Homeowners' Construction Recovery Fund.
- Removes an obsolete provision from the barber and cosmetology practice acts.
- Removes certain mentorship and eligibility requirements for pilots.
- Removes a time limit on using a real estate course completion for licensure.
- Removes certain financial responsibility proof requirements for asbestos abatement professionals.
- Allows local construction contractor licensing agencies to recommend restitution as a disciplinary action.
- Allows applicants to be a designated representative for certain pharmaceutical wholesalers to prove experience in two new ways.

The bill has a negative, indeterminate fiscal impact on state government and no impact on local governments. *See* Fiscal Impact & Economic Impact Statement.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through the following divisions:

- The Division of Administration,
- The Division of Alcoholic Beverages and Tobacco (ABT),
- The Division of Certified Public Accounting (DCPA),
- The Division of Drugs, Devices, and Cosmetics (DDC),
- The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH),
- The Division of Hotels and Restaurants (H&R),
- The Division of Pari-mutuel Wagering,
- The Division of Professions (Professions),
- The Division of Real Estate (DRE),
- The Division of Regulation,
- The Division of Technology, and
- The Division of Service Operations.[1]

Professions licenses and regulates more than 434,000 professionals through the following professional boards and programs:

- Board of Architecture and Interior Design,
- Asbestos Licensing Unit,
- Athlete Agents,
- Board of Auctioneers,
- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Regulatory Council of Community Association Managers,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Home Inspectors,
- Board of Landscape Architecture,
- Mold-Related Services,
- Board of Pilot Commissioners,
- Board of Professional Geologists,
- Talent Agencies,
- Board of Veterinary Medicine, and
- Florida Board of Professional Engineers.[2]

DCPA is responsible for the regulation of certified public accountants and accounting firms in the state.[3]

DRE is responsible for the regulation of real estate sales associates, brokers, and appraisers, in conjunction with the Florida Real Estate Commission and the Florida Real Estate Appraisal Board.[4]

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[1] S. 20.165, F.S.

[2] Florida Department of Business and Professional Regulation, *Division of Professions*, http://www.myfloridalicense.com/DBPR/division-of-professions/ (last visited Jan. 21, 2024).

[3] S. 473.3035, F.S.; Florida Department of Business and Professional Regulation, *Certified Public Accounting*, Certified Public Accounting – MyFloridaLicense.com (last visited Jan. 21, 2024).

[4] S. 475.021, F.S.

The Division of Regulation is the enforcement authority for the Florida Athletic Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.[5] To ensure compliance with applicable laws and rules by those professions and related businesses, the division investigates complaints, utilizes compliance mechanisms, and performs inspections.[6]

DDC protects the health, safety, and welfare of Floridians from adulterated, contaminated, and misbranded drugs, drug ingredients, and cosmetics by enforcing Part I of ch. 499, F.S., the Florida Drug and Cosmetic Act (FDCA).[7] The Act conforms to United Stated Food and Drug Administration (FDA) drug laws and regulations and authorizes DBPR to issue permits to Florida drug manufacturers and wholesale distributors and register drugs manufactured, packaged, repackaged, labeled, or relabeled in Florida.[8]

ABT regulates the manufacture, distribution, sale, and service of alcoholic beverages and tobacco products in Florida, including:

- receipt and processing of license applications;
- collection and auditing of taxes, surcharges, and fees paid by licensees; and
- enforcement of the laws and regulations governing the sale of alcoholic beverages and tobacco products.[9]

FCTMH provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.[10] FCTMH has limited regulatory authority over the following business entities and individuals:[11]

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (jurisdiction is limited to arbitration of election and recall disputes).

H&R licenses, inspects and regulates public lodging and food service establishments in Florida. The division also licenses and regulates elevators, escalators and other vertical conveyance devices.[12]

Tobacco and Nicotine Products – Current Situation

ABT is responsible for the regulation of tobacco products under ch. 210, F.S., which sets out tax requirements specific to cigarettes and tobacco products, and ch. 569, F.S., which sets out requirements for tobacco sales.[13]

A person, firm, association, or corporation must obtain a permit from ABT to function as any of the following in Florida:

- Retail tobacco products dealer,[14]
- Cigarette manufacturer,[15]
- Cigarette wholesale dealer,[16]

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[5] Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers.
[6] Florida Department of Business and Professional Regulation, *Division of Regulation*, http://www.myfloridalicense.com/DBPR/division-of-regulation/ (last visited Jan. 21, 2024).
[7] Florida Department of Business and Professional Regulation, *Division of Drugs, Devices, and Cosmetics,* available at http://www.myfloridalicense.com/DBPR/drugs-devices-and-cosmetics/ (last visited Mar. 19, 2021).
[8] S. 499.01, F.S.
[9] Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/ (last visited Mar. 19, 2021).
[10] Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/, (last visited Mar. 19, 2021).
[11] *Id.*
[12] Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, http://www.myfloridalicense.com/DBPR/hotels-restaurants/ (last visited Mar. 19, 2021).
[13] S. 561.02, F.S.
[14] S. 569.003, F.S.
[15] Ss. 210.01(21) and 210.15, F.S.

- Cigarette distributing agent,[17]
- Cigarette importer,[18]
- Cigarette exporter,[19] or
- Cigar wholesale dealer,[20]
- Tobacco wholesale dealer/distributor,[21] or
- Retail nicotine products dealer.[22]

"Cigarettes" are defined in s. 210.01(1), F.S., relating to state taxes on cigarettes, as "any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient." This definition does not include cigars.

"Tobacco products" are defined in s. 210.25(11), F.S., relating to state taxes on tobacco products other than cigarettes or cigars, as "loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing."

"Nicotine product" means any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means. The term also includes any nicotine dispensing device. The term does not include a:
- Tobacco product.
- Product regulated as a drug or device by the FDA under Chapter V of the FDCA; or
- Product that contains incidental nicotine.[23]

There is currently no requirement that a tobacco or nicotine products licensee must apply using or maintain an online account with ABT.

Tobacco and Nicotine Product Online Account – Effect of the Bill

The bill requires each person or entity licensed or permitted or applying for a cigarette, tobacco product, nicotine, or cigar license or permit within Florida to:
- Create and maintain an account with ABT's online system, and
- Provide an e-mail address to ABT to function as the primary means of contact for all communication by ABT to the licensee, permittee, or applicant.
- maintaining accurate contact information on file with ABT.

The bill also provides that:
- A person or an entity seeking such a license or permit must apply using forms furnished by ABT which are filed through ABT's online system before commencing operations.
- ABT may not process an application for a license or permit unless the application is submitted through ABT's online system.

Surety Bond for Tobacco Product Distributor's License – Current Situation

Each application for a tobacco product distributor's license must be accompanied by a corporate surety bond issued by a surety company authorized to do business in Florida, conditioned for the payment

[16] Ss. 210.01(6) and 210.15(1), F.S.
[17] Ss. 210.01(14) and 210.15(1), F.S.
[18] Ss. 210.01(20) and 210.15(1), F.S.
[19] Ss. 210.01(17) and 210.15(1), F.S.
[20] S. 210.65(2), F.S.
[2121] Ss. 210.25(5) and 210.40, F.S.
[22] S. 569.31(6), F.S.
[23] S. 569.31(4), F.S.

when due of all taxes, penalties, and accrued interest which may be due the state. The bond must be in the sum of $1,000 and in a form prescribed by ABT.

Whenever ABT finds that the bond given by a licensee is inadequate to fully protect the state, ABT must require an additional bond in such amount as is deemed sufficient. A separate application for a license must be made for each place of business at which a distributor proposes to engage in business as a distributor, but an applicant may provide one bond in an amount determined by ABT for all applications made by the distributor.[24]

Surety Bond for Tobacco Product Distributor's License – Effect of the Bill

The bill increases the amount of the required tobacco product distributor corporate surety bond to $25,000, from $1,000.

The bill requires ABT to review the amount of the corporate surety bond on a semiannual basis to ensure that the bond amount is adequate to protect the state. ABT may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount. The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state.

The bill requires that a corporate surety bond, with the sum determined by ABT, is required for renewal of a distributor's license.

The bill allows ABT to prescribe by rule increases in the corporate surety bond amounts required as a condition of licensure.

The bill allows ABT to reduce the amount of a corporate surety bond upon a distributor's showing of **good cause**. In determining the amount of the surety bond:

- "Good cause" means a consistent pattern of **responsible financial behavior** by the distributor over a period of at least the preceding 4 years, and having the sum of the distributor's final audited tax liabilities, penalties, and interest be less than the amount of the distributor's corporate surety bond for every month for a period of at least the preceding 4 years.
- "Responsible financial behavior" includes the timely and complete reporting and payment of all tax liabilities, penalties, and accrued interest due to the state for a period of at least the preceding 4 years.

The bill prohibits ABT from reducing a corporate surety bond amount when a licensee:

- Is in default of any tax liabilities, penalties, or interest due to the state;
- Is the subject of a pending criminal prosecution in any jurisdiction until such prosecution has been fully resolved;
- Has pending administrative charges brought by an authorized regulatory body or agency which have not been fully resolved in accordance with applicable rules and procedures; or
- Is under investigation by any administrative body or agency for potential criminal violations until any such investigation is completed and the findings of the investigation have been fully resolved in accordance with applicable law.

The bill provides that such a matter is "fully resolved" if the criminal or administrative charges or investigations have been definitively closed or dismissed, have resulted in an acquittal, or have otherwise ended in such a manner that no further legal or administrative actions relating to charges or investigations are pending against a licensee under applicable laws, rules, or regulations.

The bill requires ABT to notify a distributor in writing of any change in the distributor's corporate surety bond requirements by the date on which the distributor's audited tax assessments become final.

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[24] S. 210.40, F.S.

The bill provides that a decision by ABT on the amount of the surety bond is not subject to review under s. 120.60, F.S., including judicial review.[25]

The bill allows ABT to adopt rules related to surety bonds.

Alcohol – Current Situation

In Florida, the Beverage Law[26] regulates the manufacture, distribution, and sale of wine, beer, and liquor by licensed or permitted manufacturers, distributors, and vendors.[27]

Any person or entity currently licensed or permitted by ABT must provide an electronic mail address to function as the primary contact for all communication by ABT to the licensee or permittee. Licensees and permittees are responsible for maintaining accurate contact information on file with ABT.[28] However, there is no similar requirement for applicants.

Alcohol – Effect of the Bill

The bill requires all applicants for an alcohol license or permit to:

- Provide an electronic mail address to function as the primary means of contact for all communication by ABT,
- Maintain accurate contact information on file with ABT, and
- Apply using forms prepared by ABT and filed through ABT's online system before engaging in any business for which a license or permit is required.

The bill provides that ABT may not process an application for an alcohol license unless the application is submitted through the ABT's online system.

Elevators – Current Situation

Chapter 399, F.S., regulates elevator safety procedures, and is enforced by H&R. H&R issues the following:[29]

- Permits to install, relocate, or alter elevators,
- Certificates of operation for elevators, and
- Licenses for:
    - Elevator companies,
    - Elevator technicians, and
    - Elevator inspectors.

Currently, applicants for examination or licensure do not have to create or maintain an online account with DBPR.

Elevators – Effect of the Bill

The bill requires persons who have or are applying for an elevator license, certificate, or permit to:

- Create and maintain an online account with H&R,
- Provide an e-mail address to the division to function as the primary means of contact for all communication from H&R, and
- Maintain accurate contact information on file with H&R.

The bill allows H&R to adopt rules to implement this provision.

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[25] Chapter 120, F.S., the Administrative Procedure Act (APA), provides uniform procedures for state agencies, including the conduct of rulemaking, implementing disciplinary actions, and the granting and denial of license applications. Section 120.60, F.S., provides the process for the granting or denial of license applications upon receipt of a license application, including judicial review of a decision.
[26] Section 561.01(6), F.S., provides that the "The Beverage Law" includes chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[27] *See* s. 561.14, F.S.
[28] S. 561.17(5), F.S.
[29] S. 399.01, F.S.

Certified Public Accountants – Current Situation

The Florida Board of Accounting under DCPA is responsible for regulating and licensing certified public accountants (CPA) and accounting firms in Florida. [30]

Currently, applicants for examination or licensure do not have to create or maintain an online account with DBPR.

Certified Public Accountants – Effect of the Bill

A person applying to the department to take the licensure examination, or for licensure as a CPA or firm, must:

- Create and maintain an online account with DBPR,
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from DBPR,
- Maintain accurate contact information on file with DBPR, and
- Submit any change in the applicant's e-mail address or home address within 30 days after any contact information changes. All changes must be submitted through DBPR's online system.

Pilots – Current Situation

Chapter 310, F.S., regulates the piloting of vessels utilizing the navigable waters of Florida in order that such resources, the environment, life, and property may be protected to the fullest extent possible.[31] The Board of Pilot Commissioners is responsible for licensing and regulating pilots and determines the number of pilots in a port based on the supply and demand for piloting services and the public interest in maintaining efficient and safe piloting services.[32]

“Pilot” means a licensed state pilot or a certificated deputy pilot.[33]

The pilot or pilots in a port must train and compensate all deputy pilots in that port and establish a competency-based mentor program by which minority persons[34] may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. DBPR must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons who:

- Have participated in each mentor program,
- Are licensed state pilots or certificated deputy pilots, and
- Have applied for state pilot licensure or deputy pilot certification.[35]

When DBPR examines applications for a certificate as deputy pilot, and finds them qualified, DBPR must certify all such applicants as qualified, provided that not more than five persons who passed the examination are certified for each declared opening.[36]

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[30] S. 473.303, F.S.
[31] S. 310.001, F.S.
[32] S. 310.061, F.S.
[33] S. 310.002(2), F.S.
[34] As defined in s. 288.703, which means a lawful, permanent resident of Florida who is:
• An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin.
• A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.
• An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778.
• A Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services.
• An American woman.
[35] S. 310.0015(3)(d), F.S.
[36] S. 310.081(2), F.S.

If more than five applicants per opening pass the examination, the persons having the highest scores must be certified as qualified up to the number of openings times five. DBPR must give consideration to the minority and female status of applicants when qualifying deputy pilots, in the interest of ensuring diversification within the state piloting profession. DBPR must appoint and certificate such number of deputy pilots from those applicants deemed qualified as in the discretion of the board are required in the respective ports of the state.[37]

Pilots – Effect of the Bill

The bill removes the requirement for a competency-based mentor program for minority persons and the related report.

The bill removes the requirement that DBPR must consider the minority and female status of applicants when qualifying deputy pilots.

Employee Leasing Companies – Current Situation

Generally, "employee leasing" means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions.[38]

The Board of Employee Leasing Companies licenses and regulates employee leasing companies[39] and consists of seven members to be appointed by the Governor and confirmed by the Senate, as follows:[40]

- Five members of the board must be chosen from licensed individuals already engaged in the employee leasing industry.
- Two board members must be Florida residents and must not be, or ever have been, connected with the business of employee leasing.[41]

Employee Leasing Companies – Effect of the Bill

The bill dissolves the Board of Employee Leasing Companies, and provides that employee leasing companies will be regulated as a DBPR-run licensing program.

The bill makes conforming changes.

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[37] *Id.*
[38] S. 468.520(4), F.S.
[39] S. 468.521, F.S.
[40] S. 468.521(1), F.S.
[41] S. 468.521(2), F.S.

Real Estate – Current Situation

The Florida Real Estate Commission (FREC), within the DRE, administers and enforces real estate licensing laws applicable to real estate brokers[42] and sales associates.[43]

"Broker" means, in pertinent part, a person who, for another, and for compensation or valuable consideration directly or indirectly paid or promised, expressly or implied, or with an intent to collect or receive a compensation or valuable consideration therefore, appraises, auctions, sells, exchanges, buys, rents any real property or an interest in or concerning the same; or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in such business.[44]

"Sales associate" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of a broker.[45]

FREC must certify for licensure any applicant who satisfies the education, character, and examination requirements. An application for licensure expires 2 years after the date received if the applicant does not pass the appropriate examination within that time. Additionally, if an applicant does not pass the licensing examination within 2 years after the successful course completion date, the applicant's successful course completion may not be used for licensure.[46]

Real Estate – Effect of the Bill

The bill allows an applicant to use any completion of a required course for licensure, regardless if the applicant has not passed the examination within a certain timeframe.

Barbers and Cosmetologists – Current Situation

The Barbers' Board under Ch. 476, F.S., governs the regulation and licensing of barbers and barbershops in the state. A barber license is required to perform barbering services.[47] Barbering services include hair services and limited skin care services when done for compensation, but not for medical purposes.[48]

The Board of Cosmetology under Ch. 477, F.S., governs the licensing and regulation of cosmetologists, nail specialists, facial specialists, full specialists, and related salons in the state. A cosmetology license or a specialty registration is required to perform cosmetology services. Cosmetology services include hair services, nail services, and skin care services when done for compensation, but not for medical purposes.[49]

Both practice acts contain conflicting provisions related to licensure by endorsement, where one provision requires licensure in another jurisdiction for a year to qualify,[50] and another allows a license by endorsement regardless of how long the applicant has held the license in another jurisdiction.[51]

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[42] S. 475.01(1)(a), F.S.
[43] S. 475.01(1)(j), F.S.
[44] S. 475.01(1)(a), F.S.
[45] S. 475.01(1)(j), F.S.
[46] S. 475.181(2), F.S.
[47] S. 476.144(1), F.S.
[48] S. 476.034(2), F.S.
[49] S. 477.013(4), F.S.
[50] Ss. 476.114(2)(c)1. and 477.019(2)(c)1., F.S.
[51] Ss. 476.144(5) and 477.019(6), F.S.

Barbers and Cosmetologists – Effect of the Bill

The bill removes a conflicting provision for licensure by endorsement, and allows barbers and cosmetologists licensed in another jurisdiction to qualify for a license by endorsement regardless of how long the applicant has held the license in another jurisdiction.

Asbestos Consultants and Contractors – Current Situation

Asbestos consultants and contractors are regulated by ch. 469, F.S., and licensed by the Asbestos Licensing Unit in DBPR. Florida licensing standards must also comply with the U.S. Environmental Protection Agency's Asbestos Model Accreditation Plan for States (MAP), which includes mandatory nationwide standards for testing and education.[52]

"Asbestos abatement" means the removal, encapsulation, enclosure, or disposal of asbestos.[53]

An asbestos consultant may:
- Conduct an asbestos survey,
- Develop an operation and maintenance plan,
- Monitor and evaluate asbestos abatement, and
- Prepare asbestos abatement specifications.[54]

An asbestos contractor may perform the work of an asbestos consultant and conduct asbestos abatement work.[55]

In addition to proving certain experience, education, and completion of examination, an applicant for licensure as either an asbestos consultant or contractor also must provide evidence of financial responsibility. Criteria used by DBPR to determine financial responsibility must include, but is not be limited to, credit history and limits of bondability and credit.[56]

Asbestos Consultants and Contractors – Effect of the Bill

The bill removes the requirement for DBPR to consider an applicant's limits of bondability when determining an asbestos consultant or contractor applicant's financial responsibility.

Designated Representatives – Current Situation

DDC has broad authority to inspect and discipline DDC permittees for violations of state or federal laws and regulations, which can include seizure and condemnation of adulterated or misbranded drugs or suspension or revocation of a permit.[57]

Each establishment that is issued a permit as a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor must designate in writing to DBPR at least one natural person to serve as the designated representative of the wholesale distributor. Such person must have an active certification as a designated representative from DBPR.[58]

A designated representative:
- Must be actively involved in and aware of the actual daily operation of the wholesale distributor.
- Must be employed full time in a managerial position by the wholesale distributor.

[52] 40 C.F.R. § 763 Appendix C to Subpart E.
[53] S. 469.001(1), F.S.
[54] S. 469.003, F.S.
[55] S. 469.003(3), F.S.
[56] S. 469.005-.006, F.S.
[57] Ss. 499.051, 499.062, 499.065. 499.066, 499.0661, and 499.067, F.S.
[58] S. 499.012(15)(a), F.S.

- Must be physically present at the establishment during normal business hours, except for time periods when absent due to illness, family illness or death, scheduled vacation, or other authorized absence.
- May serve as a designated representative for only one wholesale distributor at any one time.[59]

To be certified as a designated representative, a natural person must:
- Submit an application and pay the appropriate fees.
- Be at least 18 years of age.
- Have at least 2 years of verifiable full-time:
  - Work experience in a pharmacy licensed in Florida or another state, where the person's responsibilities included, but were not limited to, recordkeeping for prescription drugs;
  - Managerial experience with a prescription drug wholesale distributor licensed in Florida or in another state; or
  - Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs.
- Pass the required examination.
- Provide DBPR with a personal information statement and fingerprints.[60]

Designated Representatives – Effect of the Bill

The bill adds two additional ways that an applicant may demonstrate work experience in order to obtain a license as a designated representative, as follows:
- Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; and
- Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

Local Construction Contractor Licensing – Current Situation

Chapter 489, F.S., relates to "contracting," with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR. The CILB is responsible for licensing statewide construction contractors and regulating the construction industry in Florida under part I of Ch. 489, F.S,[61] and is divided into two divisions with separate jurisdictions:
- Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.[62]
- Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.[63]

"Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of

[59] S. 499.012(15)(d), F.S.
[60] S. 499.012(15)(b), F.S.
[61] *See* s. 489.107, F.S.
[62] *See* s. 489.105(3)(a)-(c), F.S.
[63] S. 489.105(3) (d) - (q), F.S.

competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.[64]

"Certified specialty contractors" are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.[65]

"Registered contractors" are individuals licensed at the local level that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.[66] Registered contractors must register the local license with the CILB.

The local governing body of a county or municipality, or its local enforcement body, is authorized to enforce the provisions of part I of Ch. 489, F.S., as well as its local ordinances against locally licensed or registered contractors, as appropriate. The local jurisdiction enforcement body may conduct disciplinary proceedings against a locally licensed or registered contractor and may:

- Require restitution,
- Impose a suspension or revocation of the local license,
- Impose a fine not to exceed $5,000, or
- Impose a combination thereof.[67]

In addition to any disciplinary action the local jurisdiction enforcement body may take against the local licensee, the local jurisdiction enforcement body must issue a recommended penalty to the CILB for the CILB to take additional action. This recommended penalty may include a recommendation for:

- No further action,
- Suspension,
- Revocation,
- Restriction of the registration,
- A fine to be levied by CILB, or
- A combination thereof.[68]

Currently, a local jurisdiction enforcement body may not recommend that the CILB require restitution as an action against the local contractor.

Local Construction Contractor Licensing – Effect of the Bill

The bill allows a local jurisdiction enforcement body to recommend that the CILB require restitution from the local contractor.

The bill requires that the recommended penalty must specify the practice act violations upon which the recommendation is based.

Florida Homeowners' Construction Recovery Fund – Current Situation

The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed contractors. Covered losses include financial mismanagement or misconduct, project abandonment, or fraudulent statement of a contractor or related party.[69] A homeowner must have engaged a contractor for construction or improvement of

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[64] S. 489.105(8), F.S.
[65] S. 489.105(3)(q), F.S.
[66] S. 489.105(10), F.S.
[67] S. 489.131(7)(b), F.S.
[68] S. 489.131(7)(c), F.S.
[69] *See* ss. 489.140-489.144, F.S.

the homeowner's Florida residence, and the damage must have been caused by a Division I licensee or a Division II licensee.[70]

Claims are filed with DBPR, who reviews for completeness and statutory eligibility. DBPR then presents the claim to the Construction Industry Licensing Board (CILB) for review.[71]

Current law requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.[72]

The maximum amounts payable for recovery fund claims and the total lifetime aggregate limits are set forth in s. 489.143, F.S,[73] as follows:

- Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, recovery fund claims are limited to a $50,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of $500,000 for each Division I licensee.
- Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, (the date that claims against Division II licensees were first authorized to be filed), recovery fund claims are limited to a $15,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of $150,000 for each Division II licensee.

Claims awarded to a claimant by the CILB are paid in the order that they are filed, up to the lifetime aggregate limits for each transaction and licensee, and to the limits of amounts appropriated to pay claims against the recovery fund.[74] Payments may not exceed the total claim limits or lifetime aggregate limits.[75]

As of July 31, 2023, the overall Recovery Fund balance was $23,235,064.00. For fiscal years 20/21, 21/22, and 22/23, the average amount of revenue going into the fund from the surcharge per fiscal year was $6,188,495.00, and the average amount of claims awarded was $2,882,184 per fiscal year. However, between FY 20/21 and FY 22/23, the number of claims presented and awarded each year more than doubled. In FY 22/23, **232** claims were awarded for a total amount of $4,449,552.00. Of the 232 claims, 125 were against Division I contractors, and 107 were against Division II contractors.[76]

Florida Homeowners' Construction Recovery Fund – Effect of the Bill

The bill increases the maximum amounts payable for recovery fund claims and the total lifetime aggregate limits as follows:

- Beginning January 1, 2025, for each Division I contract entered into after July 1, 2024, recovery fund claims are limited to a $100,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of $2 million for each Division I licensee.
- Beginning January 1, 2025, for each Division II contract entered into on or after July 1, 2024, recovery fund claims are limited to a $30,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of $600,000 for each Division II licensee.

[70] Section 489.1402, F.S., defines the term "residence" to mean "a single-family residence, an individual residential condominium or cooperative unit, or a residential building containing not more than two residential units in which the owner contracting for the improvement is residing or will reside 6 months or more each calendar year upon completion of the improvement."
[71] S. 489.1401(2), F.S.
[72] S. 468.631, F.S.
[73] For recovery fund claims for contracts entered into before July 1, 2004, *see* s. 489.143(6), F.S.
[74] S. 489.143(7), F.S.
[75] *Id.*
[76] DBPR, Agency Analysis of 2024 House Bill 1335, p.3 (Jan. 8, 2024).

Florida Mobile Home Relocation Corporation – Current Situation

Chapter 723, F.S., the "Florida Mobile Home Act," addresses the unique relationship between a mobile home owner and a mobile home park owner.[77] The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.[78]

Chapter 723.003, F.S., provides the following relevant definitions:

- "Mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.[79]
- "Mobile home owner," "mobile homeowner," "home owner," or "homeowner" means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.[80]

In 2001, the Legislature created the Florida Mobile Home Relocation Corporation (corporation) in s. 723.0611, F.S., to provide for the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park. [81] Specifically, s. 723.0612, F.S., provides for relocation expenses to be paid from the corporation to the mobile home owner from the Florida Mobile Home Relocation Trust Fund.[82]

The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or $3,000 for a single-section mobile home or $6,000 for a multi-section mobile home, whichever is less.[83]

In lieu of collecting moving expenses from the corporation, a mobile home owner may elect to abandon the home and collect payment from the corporation in the amount of $1,375 for a single section mobile home and $2,750 for a multi-section mobile home.[84] Upon election of abandonment, the mobile home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.[85] The mobile home park owner is required to pay the corporation an amount equal to the amount the mobile home owner is entitled to receive from the corporation.[86]

The mobile home park owner is not required to make the payments, nor is the mobile home owner entitled to compensation, if: [87]

- The mobile home owner is moved to another space in the park or to another mobile home park at the park owner's expense;
- The mobile home owner notified the mobile home park owner, before the notice of a change in land use, that he or she was vacating the premises;
- A mobile home owner abandons the home in the park; or
- The mobile home owner had an eviction action for nonpayment of lot rental amount filed against him or her prior to the mailing date of the change in the use of land.

The corporation is administered by a board of directors made up of 6 members who are each appointed by the Secretary of DBPR from a list of nominees:[88]

- The Federation of Manufactured Home Owners of Florida submits nominees for 3 board members. This organization is comprised of residents who reside in mobile home parks.

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[77] S. 723.004, F.S.
[78] S. 723.002(1), F.S.
[79] S. 723.003(12), F.S.
[80] S. 723.003(11), F.S.
[81] Ch. 2001-227, L.O.F.
[82] Ss. 723.007(2), 723.0612(2) and (7), F.S.
[83] S. 723.0612(1), F.S.
[84] S. 723.0612(7), F.S.
[85] *Id.*
[86] S. 723.0612(7), F.S.
[87] Ss. 723.0612(2) and (7), F.S.
[88] S. 723.0611(1), F.S.

- The Florida Manufactured Housing Association submits nominees for 3 board members. This organization is comprised of park owners and operators.

The board has historically had an executive director who managed the administrative and financial transactions of the corporation, as well as performed other necessary functions. However, as of the end of June 2023, the corporation is being managed by a management company in Tallahassee.[89]

The Mobile Home Relocation Trust Fund has a current balance of $5,671,376.86. An accounting of the fund is as follows:[90]

Revenue to the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Park Owner Fees	$54,638	$134,581	$26,625	$2,750	$16,500
DHSMV Surcharge	$438,631	$378,405	$406,433	$412,814	$401,807
FCTMH Surcharge	$282,885	$283,353	$282,390	$294,231	$282,455
Interest	$74,630	$115,712	$67,082	$33,827	$78,673
Total Revenue	$850,784	$912,051	$782,530	$743,622	$779,435

Expenditures from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Transferred to corporation	$338,450	$422,000	$357,086	$284,573	$241,592
Service Charge to General Revenue	$65,960	$74,671	$64,334	$56,773	$61,901
Interest Assessment	$3,598	$4,241	$4,655	$4,770	$5,358
Total Expenditures	$408,008	$500,912	$426,075	$346,116	$308,788

Payouts from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Total Paid Out	$68,250	$141,500	$9,875	$4,125	$29,125
Number of Payouts	30	61	4	2	16

Florida Mobile Home Relocation Corporation – Effect of the Bill

The bill dissolves the corporation and requires the FTCMH to take over its duties of running the Florida Mobile Home Relocation Program.

The bill conforms several related provisions to replace references to the corporation with FTCMH.

Appropriation from the Florida Mobile Home Relocation Trust Fund

The bill appropriates, for the 2024-2025 fiscal year, the sum of $95,000 in recurring funds from the Florida Mobile Home Relocation Trust Fund to DBPR for the purpose of implementing the bill.

The bill provides an effective date of July 1, 2024.

[89] DBPR, *supra* note 76, at 5.

[90] Email from Chris Kingry, Deputy Legislative Affairs Director, DBPR, RE: Florida Mobile Home Relocation Trust Fund (Jan. 30, 2024),

B. SECTION DIRECTORY:

Section 1: Amends s. 210.15, F.S.; relating to online account requirements for tobacco licensees.
Section 2: Creates s. 210.32, F.S.; relating to online account requirements for tobacco licensees.
Section 3: Amends s. 210.40, F.S.; relating to surety bond requirements for certain tobacco licensees.
Section 4: Amends s. 310.0015, F.S.; relating to a mentor program to become a deputy pilot.
Section 5: Amends s. 310.081, F.S.; relating to consideration of certain factors in licensing deputy pilots.
Section 6: Creates s. 399.18, F.S.; relating to online account requirements for elevator licensees.
Section 7: Creates s. 468.519, F.S.; creating the employee leasing licensing program.
Section 8: Repeals s. 468.521, F.S.; dissolving the Board of Employee Leasing Companies.
Section 9: Amends s. 469.006, F.S.; relating to requirements for asbestos abatement licensing.
Section 10: Amends s. 473.306, F.S.; relating to online account requirements for CPA applicants.
Section 11: Amends s. 473.308, F.S.; relating to online account requirements for CPA firm applicants.
Section 12: Amends s. 475.181, F.S.; removing an examination expiration for certain real estate license applicants.
Section 13: Amends s. 476.114, F.S.; removing a superfluous provision related to barber licenses.
Section 14: Amends s. 477.019, F.S.; removing a superfluous provision related to cosmetology licenses.
Section 15: Amends s. 489.131, F.S.; relating to disciplinary actions available to local governments for construction licensing.
Section 16: Amends s. 489.143, F.S.; increasing thresholds for the Florida Homeowners' Construction Recovery Fund.
Section 17: Amends s. 499.012, F.S.; relating to experience requirements for designated representatives of certain prescription drug wholesale distributors.
Section 18: Amends s. 561.17, F.S.; relating to online account requirements for alcohol licensees.
Section 19: Amends s. 569.00256, F.S.; relating to online account requirements for tobacco licensees.
Section 20: Amends s. 569.3156, F.S.; relating to online account requirements for nicotine products licensees.
Section 21: Amends s. 723.061, F.S.; conforming a provision.
Section 22: Repeals s. 723.0611, F.S.; dissolving the Florida Mobile Home Relocation Corporation.
Section 23: Amends s. 723.06115, F.S.; requiring FCTMH to administer the Florida Mobile Home Relocation Trust Fund.
Section 24: Amends s. 723.06116, F.S.; conforming a provision.
Section 25: Amends s. 723.0612, F.S.; conforming a provision.
Section 26: Amends s. 20.165, F.S.; conforming a provision.
Section 27: Amends s. 210.16, F.S.; conforming a provision.
Section 28: Amends s. 212.08, F.S.; conforming a provision.
Section 29: Amends s. 440.02, F.S.; conforming a provision.
Section 30: Amends s. 448.26, F.S.; conforming a provision
Section 31: Amends s. 468.520, F.S.; conforming a provision.
Section 32: Amends s. 468.522, F.S.; conforming a provision.
Section 33: Amends s. 468.524, F.S.; conforming a provision.
Section 34: Amends s. 468.5245, F.S.; conforming a provision.
Section 35: Amends s. 468.525, F.S.; conforming a provision
Section 36: Amends s. 468.526, F.S.; conforming a provision.
Section 37: Amends s. 468.527, F.S.; conforming a provision.
Section 38: Amends s. 468.5275, F.S.; conforming a provision.
Section 39: Amends s. 468.529, F.S.; conforming a provision.
Section 40: Amends s. 468.530, F.S.; conforming a provision.
Section 41: Amends s. 468.531, F.S.; conforming a provision.
Section 42: Amends s. 468.532, F.S.; conforming a provision.
Section 43: Amends s. 476.144, F.S.; conforming a provision.
Section 44: Amends s. 627.192, F.S.; conforming a provision.
Section 45: Reenacts s. 723.061, F.S.

Section 46: Reenacts s. 48.184, F.S.
Section 47: Reenacts s. 723.031, F.S.
Section 48: Reenacts s. 723.032, F.S.
Section 49: Reenacts s. 723.085, F.S.
Section 50: Reenacts s. 320.08015, F.S.
Section 51: Provides an appropriation from the Mobile Home Relocation Trust Fund to DBPR.
Section 52: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By increasing the aggregate cap per licensee and the per claim cap for each contract, the number of claimants who receive compensation from the Florida Homeowner's Construction Recovery Fund and the amount of compensation will increase.

Removing the bondability requirement for asbestos abatement professionals will reduce the cost to applicants, estimated to be $100 per applicant.[91]

D. FISCAL COMMENTS:

According to DBPR:

Since recovery fund claims under the Florida Homeowner's Construction Recovery Fund are required to be based on contracts for eligible work, and must be based on either a final order, judgment, or decree, any fiscal impact from the increase in the caps will likely not occur for at least a year, July 2025 at the earliest.[92]

Modifications to DBPR's licensing system, Versa: Regulation (VR), and online system, Versa: Online (VO), related to creating and maintaining online accounts and changes to licensure processes, are required.[93] These changes can be made using existing resources.

Eliminating the Board of Employee Leasing Companies will result in a reduction of expenditures pertaining to board travel, costs, etc. However, the reduction in expenditures will be offset by the need for a consultant to review employee leasing licensure applications.

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[91] *Id*. at.10.
[92] *Id*. at 12.
[93] *Id*. at 10.

By increasing the aggregate cap per licensee and the per-claim cap for each contract, the number and amounts of Florida Homeowner's Construction Recovery Fund claims awarded will increase. However, the impact is indeterminate.

The bill appropriates, for the 2024-2025 fiscal year, the sum of $95,000 in recurring funds from the Florida Mobile Home Relocation Trust Fund to DBPR for the purpose of implementing the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DBPR will need to amend several rules related to requiring online accounts, dissolving the Board of Employee Leasing Companies, dissolving the Florida Mobile Home Relocation Corporation, and changing licensure requirements for asbestos abatement professionals.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 6, 2024, the State Administration & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment reduced the appropriation provided in the bill to $95,000.

This analysis is drafted to the committee substitute as passed by the State Administration & Technology Appropriations Subcommittee.

1 A bill to be entitled
2 An act relating to the Department of Business and
3 Professional Regulation; amending s. 210.15 and
4 creating s. 210.32, F.S.; requiring persons or
5 entities licensed or permitted by the department's
6 Division of Alcoholic Beverages and Tobacco, or
7 applying for such license or permit, to create and
8 maintain an account with the division's online system
9 and provide an e-mail address to the division;
10 specifying application requirements; prohibiting the
11 division from processing applications not submitted
12 through the online system; amending s. 210.40, F.S.;
13 revising the amount of an initial corporate surety
14 bond required as a condition of licensure as a tobacco
15 product distributor; requiring the division to review
16 corporate surety bond amounts on a specified basis;
17 authorizing the division to increase a bond amount,
18 subject to specified conditions; authorizing the
19 division to adjust bond amounts by rule; authorizing
20 the division to reduce a bond amount upon a showing of
21 good cause; defining terms; requiring the division to
22 notify distributors in writing if their corporate
23 surety bond requirements change; providing
24 applicability; prohibiting the division from reducing
25 a bond amount under specified circumstances;

26 authorizing the division to adopt rules; amending s.
27 310.0015, F.S.; deleting a provision requiring a
28 competency-based mentor program at ports; deleting a
29 requirement that the department submit an annual
30 report on the mentor program; amending s. 310.081,
31 F.S.; deleting a requirement that the department
32 consider certain characteristics for applicants for
33 certification as a deputy pilot; making technical
34 changes; creating s. 399.18, F.S.; requiring certain
35 persons or entities certified or registered under the
36 Elevator Safety Act, or applying for such
37 certifications or registrations, to create and
38 maintain an online account with the department's
39 Division of Hotels and Restaurants and provide an e-
40 mail address to the division; requiring such persons
41 and entities to maintain the accuracy of their contact
42 information; requiring the division to adopt rules;
43 creating s. 468.519, F.S.; creating the employee
44 leasing companies licensing program under the
45 department; providing legislative intent; repealing s.
46 468.521, F.S., relating to the department's Board of
47 Employee Leasing Companies; amending s. 469.006, F.S.;
48 revising requirements for department rules governing
49 evidence of financial responsibility of applicants
50 seeking licensure as a business organization under ch.

51 469, F.S.; amending s. 473.306, F.S.; requiring
52 applicants for the accountancy licensure examination
53 to create and maintain an online account with the
54 department and provide an e-mail address; requiring
55 applicants to maintain the accuracy of their contact
56 information; requiring that address changes be
57 submitted through the department's online system
58 within a specified timeframe; conforming cross-
59 references; amending s. 473.308, F.S.; requiring a
60 person seeking licensure as a Florida certified public
61 accountant, or a firm seeking to engage in public
62 accountancy, to create and maintain an online account
63 with the department and provide an e-mail address;
64 requiring certified public accountants and accounting
65 firms to maintain the accuracy of their contact
66 information; requiring that address changes be
67 submitted through the department's online system
68 within a specified timeframe; amending s. 475.181,
69 F.S.; revising conditions regarding issuance of a
70 licensure under part I of ch. 475, F.S.; amending s.
71 476.114, F.S.; revising eligibility requirements for
72 licensure as a barber; making technical changes;
73 amending s. 477.019, F.S.; revising eligibility
74 requirements for licensure by examination to practice
75 cosmetology; amending s. 489.131, F.S.; revising the

76 types of penalties that may be recommended by a local
77 jurisdiction enforcement body against a contractor;
78 specifying requirements for any such recommended
79 penalties; amending s. 489.143, F.S.; revising payment
80 limitations for payments made from the department's
81 Florida Homeowners' Construction Recovery Fund;
82 amending s. 499.012, F.S.; revising requirements for
83 certification as a designated representative of a
84 prescription drug wholesale distributor; amending s.
85 561.17, F.S.; requiring persons or entities licensed
86 or permitted by the Division of Alcoholic Beverages
87 and Tobacco, or applying for such license or permit,
88 to create and maintain an account with the division's
89 online system; specifying application requirements;
90 prohibiting the division from processing applications
91 not submitted through the online system; creating ss.
92 569.00256 and 569.3156, F.S.; requiring certain
93 persons or entities licensed or permitted by the
94 division, or applying for such a license or permit, to
95 create and maintain an account with the division's
96 online system; requiring licensees, permittees, and
97 applicants to provide the division with an e-mail
98 address and maintain accurate contact information;
99 specifying application requirements; prohibiting the
100 division from processing applications not submitted

101 through the online system; amending s. 723.061, F.S.;
102 conforming provisions to changes made by the act;
103 replacing the Florida Mobile Home Relocation
104 Corporation with the Division of Florida Condominiums,
105 Timeshares, and Mobile Homes with regard to a
106 specified notice; repealing s. 723.0611, F.S.,
107 relating to the Florida Mobile Home Relocation
108 Corporation; amending s. 723.06115, F.S.; replacing
109 the Florida Mobile Home Relocation Corporation with
110 the Division of Florida Condominiums, Timeshares, and
111 Mobile Homes as the manager and administrator of the
112 Florida Mobile Home Relocation Trust Fund; revising
113 the uses of the trust fund; making conforming changes;
114 amending s. 723.06116, F.S.; replacing the Florida
115 Mobile Home Relocation Corporation with the Division
116 of Florida Condominiums, Timeshares, and Mobile Homes
117 with regard to payments made from mobile home park
118 owners to the Florida Mobile Home Relocation Trust
119 Fund; amending s. 723.0612, F.S.; replacing the
120 Florida Mobile Home Relocation Corporation with the
121 Division of Florida Condominiums, Timeshares, and
122 Mobile Homes with regard to relocation expenses to be
123 paid to mobile home owners from the Florida Mobile
124 Home Relocation Trust Fund; making technical changes;
125 conforming a cross-reference; amending ss. 20.165,

126 210.16, 212.08, 440.02, 448.26, 468.520, 468.522,
127 468.524, 468.5245, 468.525, 468.526, 468.527,
128 468.5275, 468.529, 468.530, 468.531, 468.532, 476.144,
129 and 627.192, F.S.; conforming cross-references and
130 provisions to changes made by the act; reenacting ss.
131 48.184(1), 723.004(5), 723.031(9), 723.032(1), and
132 723.085(2), F.S., relating to service of process for
133 the removal of unknown parties in possession of mobile
134 homes, legislative intent, mobile home lot rental
135 agreements, prohibited or unenforceable provisions in
136 mobile home lot rental agreements, and the rights of
137 lienholders on mobile homes in rental mobile home
138 parks, respectively, to incorporate the amendment made
139 in s. 723.061, F.S., in references thereto; reenacting
140 s. 320.08015(1), F.S., relating to license tax
141 surcharges, to incorporate the amendment made in s.
142 723.06115, F.S., in a reference thereto; providing an
143 appropriation; providing an effective date.
144
145 Be It Enacted by the Legislature of the State of Florida:
146
147 Section 1. Present paragraphs (a) through (h) of
148 subsection (1) of section 210.15, Florida Statutes, are
149 redesignated as paragraphs (b) through (i), respectively, and a
150 new paragraph (a) is added to that subsection, to read:

151 210.15 Permits.—
152 (1)
153 (a) A person or an entity licensed or permitted by the
154 division, or applying for a license or a permit, must create and
155 maintain an account with the division's online system and
156 provide an e-mail address to the division to function as the
157 primary means of contact for all communication by the division
158 to the licensee, permittee, or applicant. Licensees, permittees,
159 and applicants are responsible for maintaining accurate contact
160 information on file with the division. A person or an entity
161 seeking a license or permit under this part must apply using
162 forms furnished by the division which are filed through the
163 division's online system before commencing operations. The
164 division may not process an application for a license or permit
165 issued by the division under this part unless the application is
166 submitted through the division's online system.
167 Section 2. Section 210.32, Florida Statutes, is created to
168 read:
169 210.32 Account; online system.—A person or an entity
170 licensed or permitted by the division, or applying for a license
171 or a permit, must create and maintain an account with the
172 division's online system and provide an e-mail address to the
173 division to function as the primary means of contact for all
174 communication by the division to the licensee, permittee, or
175 applicant. Licensees, permittees, and applicants are responsible

176 for maintaining accurate contact information on file with the
177 division. A person or an entity seeking a license or a permit
178 under this part must apply using forms furnished by the division
179 which are filed through the division's online system before
180 commencing operations. The division may not process an
181 application for a license or permit issued by the division under
182 this part unless the application is submitted through the
183 division's online system.
184 Section 3. Section 210.40, Florida Statutes, is amended to
185 read:
186 210.40 License fees; surety bond; application for each
187 place of business.—
188 (1) Each application for a distributor's license must
189 ~~shall~~ be accompanied by a fee of $25. The application must ~~shall~~
190 also be accompanied by a corporate surety bond issued by a
191 surety company authorized to do business in this state,
192 conditioned for the payment when due of all taxes, penalties,
193 and accrued interest which may be due the state. The initial
194 corporate surety bond shall be in the sum of $25,000 ~~$1,000~~ and
195 in a form prescribed by the division.
196 (a) The division shall review the amount of a corporate
197 surety bond on a semiannual basis to ensure that the bond amount
198 is adequate to protect the state.
199 (b) The division may increase the corporate surety bond
200 amount before renewing a distributor's license or after

201 completing its semiannual review of the bond amount.
202 (c) The corporate surety bond amount may be increased to
203 the sum of the distributor's highest month of final audited tax
204 liabilities, penalties, and accrued interest which are due to
205 the state.
206 (2) A corporate surety bond, with the sum determined by
207 the division in accordance with paragraph (1)(c), is required
208 for renewal of a distributor's license.
209 (3) The division may prescribe by rule increases in the
210 corporate surety bond amounts required as a condition of
211 licensure.
212 (4)(a) The division may reduce the amount of a corporate
213 surety bond upon a distributor's showing of good cause. For
214 purposes of this subsection, the term:
215 1. "Fully resolved" means that criminal or administrative
216 charges or investigations have been definitively closed or
217 dismissed, have resulted in an acquittal, or have otherwise
218 ended in such a manner that no further legal or administrative
219 actions relating to charges or investigations are pending
220 against a licensee under applicable laws, rules, or regulations.
221 2. "Good cause" means a consistent pattern of responsible
222 financial behavior by the distributor over a period of at least
223 the preceding 4 years, and having the sum of the distributor's
224 final audited tax liabilities, penalties, and interest be less
225 than the amount of the distributor's corporate surety bond for

226 every month for a period of at least the preceding 4 years.
227 3. "Responsible financial behavior" includes the timely
228 and complete reporting and payment of all tax liabilities,
229 penalties, and accrued interest due to the state for a period of
230 at least the preceding 4 years.
231 (b) The division may not reduce a corporate surety bond
232 amount when a licensee:
233 1. Is in default of any tax liabilities, penalties, or
234 interest due to the state;
235 2. Is the subject of a pending criminal prosecution in any
236 jurisdiction until such prosecution has been fully resolved;
237 3. Has pending administrative charges brought by an
238 authorized regulatory body or agency which have not been fully
239 resolved in accordance with applicable rules and procedures; or
240 4. Is under investigation by any administrative body or
241 agency for potential criminal violations until any such
242 investigation is completed and the findings of the investigation
243 have been fully resolved in accordance with applicable law.
244 (5) The division shall notify a distributor in writing of
245 any change in the distributor's corporate surety bond
246 requirements by the date on which the distributor's audited tax
247 assessments become final.
248 (6) The provisions of this section governing corporate
249 surety bonds are not subject to s. 120.60 ~~Whenever it is the~~
250 ~~opinion of the division that the bond given by a licensee is~~

251 ~~inadequate in amount to fully protect the state, the division~~
252 ~~shall require an additional bond in such amount as is deemed~~
253 ~~sufficient~~.
254 (7) A separate application for a license must ~~shall~~ be
255 made for each place of business at which a distributor proposes
256 to engage in business as a distributor under this part, but an
257 applicant may provide one corporate surety bond in an amount
258 determined by the division for all applications made by the
259 distributor consistent with the requirements of this section.
260 (8) The division may adopt rules to administer this
261 section.
262 Section 4. Paragraph (d) of subsection (3) of section
263 310.0015, Florida Statutes, is amended to read:
264 310.0015 Piloting regulation; general provisions.—
265 (3) The rate-setting process, the issuance of licenses
266 only in numbers deemed necessary or prudent by the board, and
267 other aspects of the economic regulation of piloting established
268 in this chapter are intended to protect the public from the
269 adverse effects of unrestricted competition which would result
270 from an unlimited number of licensed pilots being allowed to
271 market their services on the basis of lower prices rather than
272 safety concerns. This system of regulation benefits and protects
273 the public interest by maximizing safety, avoiding uneconomic
274 duplication of capital expenses and facilities, and enhancing
275 state regulatory oversight. The system seeks to provide pilots

276 with reasonable revenues, taking into consideration the normal
277 uncertainties of vessel traffic and port usage, sufficient to
278 maintain reliable, stable piloting operations. Pilots have
279 certain restrictions and obligations under this system,
280 including, but not limited to, the following:
281 (d)~~1.~~ The pilot or pilots in a port shall train and
282 compensate all member deputy pilots in that port. Failure to
283 train or compensate such deputy pilots <u>constitutes</u> ~~shall~~
284 ~~constitute~~ a ground for disciplinary action under s. 310.101.
285 Nothing in this subsection <u>may</u> ~~shall~~ be deemed to create an
286 agency or employment relationship between a pilot or deputy
287 pilot and the pilot or pilots in a port.
288 ~~2. The pilot or pilots in a port shall establish a~~
289 ~~competency-based mentor program by which minority persons as~~
290 ~~defined in s. 288.703 may acquire the skills for the~~
291 ~~professional preparation and education competency requirements~~
292 ~~of a licensed state pilot or certificated deputy pilot. The~~
293 ~~department shall provide the Governor, the President of the~~
294 ~~Senate, and the Speaker of the House of Representatives with a~~
295 ~~report each year on the number of minority persons as defined in~~
296 ~~s. 288.703 who have participated in each mentor program, who are~~
297 ~~licensed state pilots or certificated deputy pilots, and who~~
298 ~~have applied for state pilot licensure or deputy pilot~~
299 ~~certification.~~
300 Section 5. Subsection (2) of section 310.081, Florida

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

301 Statutes, is amended to read:
302 310.081 Department to examine and license state pilots and
303 certificate deputy pilots; vacancies.—
304 (2) The department shall similarly examine persons who
305 file applications for certificate as deputy pilot, and, if upon
306 examination to determine proficiency the department finds them
307 qualified, the department must ~~shall~~ certify as qualified all
308 applicants who pass the examination, provided that not more than
309 five persons who passed the examination are certified for each
310 declared opening. If more than five applicants per opening pass
311 the examination, the persons having the highest scores must
312 ~~shall~~ be certified as qualified up to the number of openings
313 times five. ~~The department shall give consideration to the~~
314 ~~minority and female status of applicants when qualifying deputy~~
315 ~~pilots, in the interest of ensuring diversification within the~~
316 ~~state piloting profession.~~ The department shall appoint and
317 certificate such number of deputy pilots from those applicants
318 deemed qualified as in the discretion of the board are required
319 in the respective ports of the state. A deputy pilot shall be
320 authorized by the department to pilot vessels within the limits
321 and specifications established by the licensed state pilots at
322 the port where the deputy is appointed to serve.
323 Section 6. Section 399.18, Florida Statutes, is created to
324 read:
325 399.18 Online services account.—

326 (1) A certified elevator inspector, certified elevator
327 technician, or registered elevator company; a person or entity
328 seeking to become certified or registered as such; a person who
329 has been issued an elevator certificate of competency; a person
330 who is seeking such certificate; a person or entity who has been
331 issued an elevator certificate of operation; and a person or
332 entity who is seeking such a certificate must create and
333 maintain an online account with the division and provide an e-
334 mail address to the division to function as the primary means of
335 contact for all communication from the division. Each person or
336 entity is responsible for maintaining accurate contact
337 information on file with the division.
338 (2) The division shall adopt rules to implement this
339 section.
340 Section 7. Section 468.519, Florida Statutes, is created,
341 and incorporated into part XI of chapter 468, Florida Statutes,
342 to read:
343 468.519 Employee leasing companies licensing program;
344 purpose.—
345 (1) There is created within the department the employee
346 leasing companies licensing program.
347 (2) The Legislature finds it necessary in the interest of
348 the public safety and welfare to ensure that consumers of
349 employee leasing companies can rely on the competence and
350 integrity of such companies through the licensing requirements

351 of this part.
352 Section 8. Section 468.521, Florida Statutes, is repealed.
353 Section 9. Paragraph (c) of subsection (2) of section
354 469.006, Florida Statutes, is amended to read:
355 469.006 Licensure of business organizations; qualifying
356 agents.—
357 (2)
358 (c) As a prerequisite to the issuance of a license under
359 this section, the applicant shall submit the following:
360 1. An affidavit on a form provided by the department
361 attesting that the applicant has obtained workers' compensation
362 insurance as required by chapter 440, public liability
363 insurance, and property damage insurance, in amounts determined
364 by department rule. The department shall establish by rule a
365 procedure to verify the accuracy of such affidavits based upon a
366 random sample method.
367 2. Evidence of financial responsibility. The department
368 shall adopt rules to determine financial responsibility which
369 must ~~shall~~ specify grounds on which the department may deny
370 licensure. Such criteria must ~~shall~~ include, but is not ~~be~~
371 limited to, credit history ~~and limits of bondability and credit~~.
372 Section 10. Section 473.306, Florida Statutes, is amended
373 to read:
374 473.306 Examinations.—
375 (1) A person desiring to be licensed as a Florida

376 certified public accountant shall apply to the department to
377 take the licensure examination.
378 (2) A person applying to the department to take the
379 licensure examination must create and maintain an online account
380 with the department and provide an e-mail address to function as
381 the primary means of contact for all communication to the
382 applicant from the department. Each applicant is responsible for
383 maintaining accurate contact information on file with the
384 department and must submit any change in the applicant's e-mail
385 address or home address within 30 days after the change. All
386 changes must be submitted through the department's online
387 system.
388 (3) An applicant is entitled to take the licensure
389 examination to practice in this state as a certified public
390 accountant if:
391 (a) The applicant has completed 120 semester hours or 180
392 quarter hours from an accredited college or university with a
393 concentration in accounting and business courses as specified by
394 the board by rule; and
395 (b) The applicant shows that she or he has good moral
396 character. For purposes of this paragraph, the term "good moral
397 character" has the same meaning as provided in s. 473.308(7)(a)
398 ~~s. 473.308(6)(a)~~. The board may refuse to allow an applicant to
399 take the licensure examination for failure to satisfy this
400 requirement if:

401 1. The board finds a reasonable relationship between the
402 lack of good moral character of the applicant and the
403 professional responsibilities of a certified public accountant;
404 and
405 2. The finding by the board of lack of good moral
406 character is supported by competent substantial evidence.
407
408 If an applicant is found pursuant to this paragraph to be
409 unqualified to take the licensure examination because of a lack
410 of good moral character, the board shall furnish to the
411 applicant a statement containing the findings of the board, a
412 complete record of the evidence upon which the determination was
413 based, and a notice of the rights of the applicant to a
414 rehearing and appeal.
415 (4) ~~(3)~~ The board shall have the authority to establish the
416 standards for determining and shall determine:
417 (a) What constitutes a passing grade for each subject or
418 part of the licensure examination;
419 (b) Which educational institutions, in addition to the
420 universities in the State University System of Florida, shall be
421 deemed to be accredited colleges or universities;
422 (c) What courses and number of hours constitute a major in
423 accounting; and
424 (d) What courses and number of hours constitute additional
425 accounting courses acceptable under s. 473.308(4) ~~s. 473.308(3)~~.

426 <u>(5)</u>~~(4)~~ The board may adopt an alternative licensure
427 examination for persons who have been licensed to practice
428 public accountancy or its equivalent in a foreign country so
429 long as the International Qualifications Appraisal Board of the
430 National Association of State Boards of Accountancy has ratified
431 an agreement with that country for reciprocal licensure.
432 <u>(6)</u>~~(5)~~ For the purposes of maintaining the proper
433 educational qualifications for licensure under this chapter, the
434 board may appoint an Educational Advisory Committee, which shall
435 be composed of one member of the board, two persons in public
436 practice who are licensed under this chapter, and four
437 academicians on faculties of universities in this state.
438 Section 11. Present subsections (3) through (9) of section
439 473.308, Florida Statutes, are redesignated as subsections (4)
440 through (10), respectively, a new subsection (3) is added to
441 that section, and subsection (2), paragraph (b) of present
442 subsection (4), and present subsection (8) of that section are
443 amended, to read:
444 473.308 Licensure.—
445 (2) The board shall certify for licensure any applicant
446 who successfully passes the licensure examination and satisfies
447 the requirements of subsections <u>(4), (5), and (6)</u> ~~(3), (4), and~~
448 ~~(5),~~ and shall certify for licensure any firm that satisfies the
449 requirements of ss. 473.309 and 473.3101. The board may refuse
450 to certify any applicant or firm that has violated any of the

451 provisions of s. 473.322.
452 (3) A person desiring to be licensed as a Florida
453 certified public accountant or a firm desiring to engage in the
454 practice of public accounting must create and maintain an online
455 account with the department and provide an e-mail address to
456 function as the primary means of contact for all communication
457 from the department. Certified public accountants and firms are
458 responsible for maintaining accurate contact information on file
459 with the department and must submit any change in an e-mail
460 address or street address within 30 days after the change. All
461 changes must be submitted through the department's online
462 system.
463 (5) ~~(4)~~
464 (b) However, an applicant who completed the requirements
465 of subsection (4) ~~(3)~~ on or before December 31, 2008, and who
466 passes the licensure examination on or before June 30, 2010, is
467 exempt from the requirements of this subsection.
468 (9) ~~(8)~~ If the applicant has at least 5 years of experience
469 in the practice of public accountancy in the United States or in
470 the practice of public accountancy or its equivalent in a
471 foreign country that the International Qualifications Appraisal
472 Board of the National Association of State Boards of Accountancy
473 has determined has licensure standards that are substantially
474 equivalent to those in the United States, or has at least 5
475 years of work experience that meets the requirements of

476 subsection (5) ~~(4)~~, the board must ~~shall~~ waive the requirements
477 of subsection (4) ~~(3)~~ which are in excess of a baccalaureate
478 degree. All experience that is used as a basis for waiving the
479 requirements of subsection (4) ~~(3)~~ must be while licensed as a
480 certified public accountant by another state or territory of the
481 United States or while licensed in the practice of public
482 accountancy or its equivalent in a foreign country that the
483 International Qualifications Appraisal Board of the National
484 Association of State Boards of Accountancy has determined has
485 licensure standards that are substantially equivalent to those
486 in the United States. The board shall have the authority to
487 establish the standards for experience that meet this
488 requirement.
489 Section 12. Subsection (2) of section 475.181, Florida
490 Statutes, is amended to read:
491 475.181 Licensure.—
492 (2) The commission shall certify for licensure any
493 applicant who satisfies the requirements of ss. 475.17, 475.175,
494 and 475.180. The commission may refuse to certify any applicant
495 who has violated any of the provisions of s. 475.42 or who is
496 subject to discipline under s. 475.25. The application shall
497 expire 2 years after the date received if the applicant does not
498 pass the appropriate examination. ~~Additionally, if an applicant~~
499 ~~does not pass the licensing examination within 2 years after the~~
500 ~~successful course completion date, the applicant's successful~~

501 ~~course completion is invalid for licensure.~~
502 Section 13. Subsections (2) and (3) of section 476.114,
503 Florida Statutes, are amended to read:
504 476.114 Examination; prerequisites.—
505 (2) An applicant is ~~shall be~~ eligible for licensure by
506 examination to practice barbering if the applicant:
507 (a) Is at least 16 years of age;
508 (b) Pays the required application fee; and
509 (c)~~1. Holds an active valid license to practice barbering~~
510 ~~in another state, has held the license for at least 1 year, and~~
511 ~~does not qualify for licensure by endorsement as provided for in~~
512 ~~s. 476.144(5); or~~
513 ~~2.~~ Has received a minimum of 900 hours of training in
514 sanitation, safety, and laws and rules, as established by the
515 board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to,
516 the equivalent of completion of services directly related to the
517 practice of barbering at one of the following:
518 1.~~a.~~ A school of barbering licensed pursuant to chapter
519 1005;
520 2.~~b.~~ A barbering program within the public school system;
521 or
522 3.~~c.~~ A government-operated barbering program in this
523 state.
524
525 The board shall establish by rule procedures whereby the school

526 or program may certify that a person is qualified to take the
527 required examination after the completion of a minimum of 600
528 actual school hours. If the person passes the examination, she
529 or he <u>has</u> ~~shall have~~ satisfied this requirement; but if the
530 person fails the examination, she or he <u>may</u> ~~shall~~ not be
531 qualified to take the examination again until the completion of
532 the full requirements provided by this section.
533 (3) An applicant who meets the requirements set forth in
534 <u>paragraph (2)(c)</u> ~~subparagraphs (2)(c)1. and 2.~~ who fails to pass
535 the examination may take subsequent examinations as many times
536 as necessary to pass, except that the board may specify by rule
537 reasonable timeframes for rescheduling the examination and
538 additional training requirements for applicants who, after the
539 third attempt, fail to pass the examination. Prior to
540 reexamination, the applicant must file the appropriate form and
541 pay the reexamination fee as required by rule.
542 Section 14. Subsection (2) of section 477.019, Florida
543 Statutes, is amended to read:
544 477.019 Cosmetologists; qualifications; licensure;
545 supervised practice; license renewal; endorsement; continuing
546 education.—
547 (2) An applicant <u>is</u> ~~shall be~~ eligible for licensure by
548 examination to practice cosmetology if the applicant:
549 (a) Is at least 16 years of age or has received a high
550 school diploma;

551 (b) Pays the required application fee, which is not
552 refundable, and the required examination fee, which is
553 refundable if the applicant is determined to not be eligible for
554 licensure for any reason other than failure to successfully
555 complete the licensure examination; and
556 (c)~~1. Is authorized to practice cosmetology in another~~
557 ~~state or country, has been so authorized for at least 1 year,~~
558 ~~and does not qualify for licensure by endorsement as provided~~
559 ~~for in subsection (5); or~~
560 ~~2.~~ Has received a minimum of 1,200 hours of training as
561 established by the board, which <u>must</u> ~~shall~~ include, but <u>is</u> ~~shall~~
562 not ~~be~~ limited to, the equivalent of completion of services
563 directly related to the practice of cosmetology at one of the
564 following:
565 <u>1.</u>~~a.~~ A school of cosmetology licensed pursuant to chapter
566 1005.
567 <u>2.</u>~~b.~~ A cosmetology program within the public school
568 system.
569 <u>3.</u>~~c.~~ The Cosmetology Division of the Florida School for
570 the Deaf and the Blind, provided the division meets the
571 standards of this chapter.
572 <u>4.</u>~~d.~~ A government-operated cosmetology program in this
573 state.
574
575 The board shall establish by rule procedures whereby the school

576 or program may certify that a person is qualified to take the
577 required examination after the completion of a minimum of 1,000
578 actual school hours. If the person then passes the examination,
579 he or she has ~~shall have~~ satisfied this requirement; but if the
580 person fails the examination, he or she may ~~shall~~ not be
581 qualified to take the examination again until the completion of
582 the full requirements provided by this section.
583 Section 15. Paragraph (c) of subsection (7) of section
584 489.131, Florida Statutes, is amended to read:
585 489.131 Applicability.—
586 (7)
587 (c) In addition to any action the local jurisdiction
588 enforcement body may take against the individual's local
589 license, and any fine the local jurisdiction may impose, the
590 local jurisdiction enforcement body shall issue a recommended
591 penalty for board action. This recommended penalty may include a
592 recommendation for no further action, or a recommendation for
593 suspension, restitution, revocation, or restriction of the
594 registration, or a fine to be levied by the board, or a
595 combination thereof. The recommended penalty must specify the
596 violations of this chapter upon which the recommendation is
597 based. The local jurisdiction enforcement body shall inform the
598 disciplined contractor and the complainant of the local license
599 penalty imposed, the board penalty recommended, his or her
600 rights to appeal, and the consequences should he or she decide

601 not to appeal. The local jurisdiction enforcement body shall,
602 upon having reached adjudication or having accepted a plea of
603 nolo contendere, immediately inform the board of its action and
604 the recommended board penalty.
605 Section 16. Subsections (3) and (6) of section 489.143,
606 Florida Statutes, are amended to read:
607 489.143 Payment from the fund.—
608 (3) Beginning January 1, 2005, for each Division I
609 contract entered into after July 1, 2004, payment from the
610 recovery fund is subject to a $50,000 maximum payment for each
611 Division I claim. Beginning January 1, 2017, for each Division
612 II contract entered into on or after July 1, 2016, payment from
613 the recovery fund is subject to a $15,000 maximum payment for
614 each Division II claim. Beginning January 1, 2025, for Division
615 I and Division II contracts entered into on or after July 1,
616 2024, payment from the recovery fund is subject to a $100,000
617 maximum payment for each Division I claim and a $30,000 maximum
618 payment for each Division II claim.
619 (6) For contracts entered into before July 1, 2004,
620 payments for claims against any one licensee may not exceed, in
621 the aggregate, $100,000 annually, up to a total aggregate of
622 $250,000. For any claim approved by the board which is in excess
623 of the annual cap, the amount in excess of $100,000 up to the
624 total aggregate cap of $250,000 is eligible for payment in the
625 next and succeeding fiscal years, but only after all claims for

626 the then-current calendar year have been paid. Payments may not
627 exceed the aggregate annual or per claimant limits under law.
628 Beginning January 1, 2005, for each Division I contract entered
629 into after July 1, 2004, payment from the recovery fund is
630 subject only to a total aggregate cap of $500,000 for each
631 Division I licensee. Beginning January 1, 2017, for each
632 Division II contract entered into on or after July 1, 2016,
633 payment from the recovery fund is subject only to a total
634 aggregate cap of $150,000 for each Division II licensee.
635 Beginning January 1, 2025, for Division I and Division II
636 contracts entered into on or after July 1, 2024, payment from
637 the recovery fund is subject only to a total aggregate cap of $2
638 million for each Division I licensee and $600,000 for each
639 Division II licensee.
640 Section 17. Paragraph (b) of subsection (15) of section
641 499.012, Florida Statutes, is amended to read:
642 499.012 Permit application requirements.—
643 (15)
644 (b) To be certified as a designated representative, a
645 natural person must:
646 1. Submit an application on a form furnished by the
647 department and pay the appropriate fees.
648 2. Be at least 18 years of age.
649 3. Have at least 2 years of verifiable full-time:
650 a. Work experience in a pharmacy licensed in this state or

651 another state, where the person's responsibilities included, but
652 were not limited to, recordkeeping for prescription drugs;
653 b. Managerial experience with a prescription drug
654 wholesale distributor licensed in this state or in another
655 state; ~~or~~
656 c. Managerial experience with the United States Armed
657 Forces, where the person's responsibilities included, but were
658 not limited to, recordkeeping, warehousing, distributing, or
659 other logistics services pertaining to prescription drugs;
660 d. Managerial experience with a state or federal
661 organization responsible for regulating or permitting
662 establishments involved in the distribution of prescription
663 drugs, whether in an administrative or a sworn law enforcement
664 capacity; or
665 e. Work experience as a drug inspector or investigator
666 with a state or federal organization, whether in an
667 administrative or a sworn law enforcement capacity, where the
668 person's responsibilities related primarily to compliance with
669 state or federal requirements pertaining to the distribution of
670 prescription drugs.
671 4. Receive a passing score of at least 75 percent on an
672 examination given by the department regarding federal laws
673 governing distribution of prescription drugs and this part and
674 the rules adopted by the department governing the wholesale
675 distribution of prescription drugs. This requirement shall be

676 effective 1 year after the results of the initial examination
677 are mailed to the persons that took the examination. The
678 department shall offer such examinations at least four times
679 each calendar year.
680 5. Provide the department with a personal information
681 statement and fingerprints pursuant to subsection (9).
682 Section 18. Subsection (5) of section 561.17, Florida
683 Statutes, is amended to read:
684 561.17 License and registration applications; approved
685 person.—
686 (5) Any person or entity licensed or permitted by the
687 division, or applying for a license or permit, must create and
688 maintain an account with the division's online system and
689 provide an e-mail ~~electronic mail~~ address to the division to
690 function as the primary means of contact for all communication
691 by the division to the licensee, ~~or~~ permittee, or applicant.
692 Licensees, ~~and~~ permittees, and applicants are responsible for
693 maintaining accurate contact information on file with the
694 division. A person or an entity seeking a license or permit from
695 the division must apply using forms prepared by the division and
696 filed through the division's online system before engaging in
697 any business for which a license or permit is required. The
698 division may not process an application for an alcoholic
699 beverage license unless the application is submitted through the
700 division's online system.

701 Section 19. Section 569.00256, Florida Statutes, is
702 created to read:
703 569.00256 Account; online system.—A person or an entity
704 licensed or permitted by the division under this part, or
705 applying for a license or a permit, must create and maintain an
706 account with the division's online system and provide an e-mail
707 address to the division to function as the primary means of
708 contact for all communication by the division to the licensee,
709 permittee, or applicant. Licensees, permittees, and applicants
710 are responsible for maintaining accurate contact information
711 with the division. A person or an entity seeking a license or
712 permit from the division must apply using forms prepared by the
713 division and filed through the division's online system before
714 engaging in any business for which a license or permit is
715 required. The division may not process an application to deal,
716 at retail, in tobacco products unless the application is
717 submitted through the division's online system.
718 Section 20. Section 569.3156, Florida Statutes, is created
719 to read:
720 569.3156 Account; online system.—A person or an entity
721 licensed or permitted by the division under this part, or
722 applying for a license or a permit, must create and maintain an
723 account with the division's online system and provide an e-mail
724 address to the division to function as the primary means of
725 contact for all communication by the division to the licensee,

CODING: Words stricken are deletions; words underlined are additions.

726 permittee, or applicant. Licensees, permittees, and applicants
727 are responsible for maintaining accurate contact information
728 with the division. A person or an entity seeking a license or
729 permit from the division must apply using forms prepared by the
730 division and filed through the division's online system before
731 engaging in any business for which a license or permit is
732 required. The division may not process an application to deal,
733 at retail, in nicotine products unless the application is
734 submitted through the division's online system.
735 Section 21. Paragraph (d) of subsection (1) of section
736 723.061, Florida Statutes, is amended to read:
737 723.061 Eviction; grounds, proceedings.—
738 (1) A mobile home park owner may evict a mobile home
739 owner, a mobile home tenant, a mobile home occupant, or a mobile
740 home only on one or more of the following grounds:
741 (d) Change in use of the land comprising the mobile home
742 park, or the portion thereof from which mobile homes are to be
743 evicted, from mobile home lot rentals to some other use, if:
744 1. The park owner gives written notice to the homeowners'
745 association formed and operating under ss. 723.075-723.079 of
746 its right to purchase the mobile home park, if the land
747 comprising the mobile home park is changing use from mobile home
748 lot rentals to a different use, at the price and under the terms
749 and conditions set forth in the written notice.
750 a. The notice shall be delivered to the officers of the

751 homeowners' association by United States mail. Within 45 days
752 after the date of mailing of the notice, the homeowners'
753 association may execute and deliver a contract to the park owner
754 to purchase the mobile home park at the price and under the
755 terms and conditions set forth in the notice. If the contract
756 between the park owner and the homeowners' association is not
757 executed and delivered to the park owner within the 45-day
758 period, the park owner is under no further obligation to the
759 homeowners' association except as provided in sub-subparagraph
760 b.
761 b. If the park owner elects to offer or sell the mobile
762 home park at a price lower than the price specified in her or
763 his initial notice to the officers of the homeowners'
764 association, the homeowners' association has an additional 10
765 days to meet the revised price, terms, and conditions of the
766 park owner by executing and delivering a revised contract to the
767 park owner.
768 c. The park owner is not obligated under this subparagraph
769 or s. 723.071 to give any other notice to, or to further
770 negotiate with, the homeowners' association for the sale of the
771 mobile home park to the homeowners' association after 6 months
772 after the date of the mailing of the initial notice under sub-
773 subparagraph a.
774 2. The park owner gives the affected mobile home owners
775 and tenants at least 6 months' notice of the eviction due to the

776 projected change in use and of their need to secure other
777 accommodations. Within 20 days after giving an eviction notice
778 to a mobile home owner, the park owner must provide the division
779 with a copy of the notice. ~~The division must provide the~~
780 ~~executive director of the Florida Mobile Home Relocation~~
781 ~~Corporation with a copy of the notice.~~
782 a. The notice of eviction due to a change in use of the
783 land must include in a font no smaller than the body of the
784 notice the following statement:
785
786 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA
787 MOBILE HOME RELOCATION TRUST FUND, ADMINISTERED BY THE
788 DIVISION OF CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES
789 ~~FLORIDA MOBILE HOME RELOCATION CORPORATION (FMHRC)~~.
790 DIVISION ~~FMHRC~~ CONTACT INFORMATION IS AVAILABLE FROM
791 THE FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL
792 REGULATION.
793
794 b. The park owner may not give a notice of increase in lot
795 rental amount within 90 days before giving notice of a change in
796 use.
797 Section 22. Section 723.0611, Florida Statutes, is
798 repealed.
799 Section 23. Section 723.06115, Florida Statutes, is
800 amended to read:

801 723.06115 Florida Mobile Home Relocation Trust Fund.—
802 (1) The Florida Mobile Home Relocation Trust Fund is
803 established within the Department of Business and Professional
804 Regulation. The trust fund is to be used to fund the
805 administration and operations of the Division of Florida
806 Condominiums, Timeshares, and Mobile Homes ~~Florida Mobile Home~~
807 ~~Relocation Corporation~~. All interest earned from the investment
808 or deposit of moneys in the trust fund shall be deposited in the
809 trust fund. The trust fund shall be funded from moneys collected
810 by the division ~~corporation~~ from mobile home park owners under
811 s. 723.06116, the surcharge collected by the department under s.
812 723.007(2), the surcharge collected by the Department of Highway
813 Safety and Motor Vehicles, and from other appropriated funds.
814 (2) Moneys in the Florida Mobile Home Relocation Trust
815 Fund may be expended only:
816 (a) To pay the administration costs of the division
817 ~~Florida Mobile Home Relocation Corporation~~; and
818 (b) To carry out the purposes and objectives of the
819 division ~~corporation~~ by making payments to mobile home owners
820 under the relocation program.
821 (3) The department shall distribute moneys in the Florida
822 Mobile Home Relocation Trust Fund to the division ~~Florida Mobile~~
823 ~~Home Relocation Corporation~~ in accordance with the following:
824 (a) Before the beginning of each fiscal year, the division
825 ~~corporation~~ shall submit its annual operating budget, as

826 approved by the <u>division</u> ~~corporation board~~, for the fiscal year
827 and set forth that amount to the department in writing. One-
828 fourth of the operating budget shall be transferred to the
829 <u>division</u> ~~corporation~~ each quarter. The department shall make the
830 first one-fourth quarter transfer on the first business day of
831 the fiscal year and make the remaining one-fourth quarter
832 transfers before the second business day of the second, third,
833 and fourth quarters. The <u>division</u> ~~corporation board~~ may approve
834 changes to the operational budget for a fiscal year by providing
835 written notification of such changes to the department. The
836 written notification must indicate the changes to the
837 operational budget and the conditions that were unforeseen at
838 the time the <u>division</u> ~~corporation~~ developed the operational
839 budget and why the changes are essential in order to continue
840 operation of the <u>division</u> ~~corporation~~.
841 (b) The <u>division</u> ~~corporation~~ shall periodically submit
842 requests to the department for the transfer of funds to the
843 <u>division</u> ~~corporation~~ needed to make payments to mobile home
844 owners under the relocation program. Requests must include
845 documentation indicating the amount of funds needed, the name
846 and location of the mobile home park, the number of approved
847 applications for moving expenses or abandonment allowance, and
848 summary information specifying the number and type, single-
849 section or multisection, of homes moved or abandoned. The
850 department shall process requests that include such

851 documentation, subject to the availability of sufficient funds
852 within the trust fund, within 5 business days after receipt of
853 the request. Transfer requests may be submitted electronically.
854 (c) Funds transferred from the trust fund to the division
855 ~~corporation~~ shall be transferred electronically and shall be
856 transferred to and maintained in a qualified public depository
857 as defined in s. 280.02 which is specified by the division
858 ~~corporation~~.
859 (4) Other than the requirements specified under this
860 section, neither the division ~~corporation~~ nor the department is
861 required to take any other action as a prerequisite to
862 accomplishing the provisions of this section.
863 (5) This section does not preclude department inspection
864 of division ~~corporation~~ records 5 business days after receipt of
865 written notice.
866 Section 24. Section 723.06116, Florida Statutes, is
867 amended to read:
868 723.06116 Payments to the Division of Florida
869 Condominiums, Timeshares, and Mobile Homes ~~Mobile Home~~
870 ~~Relocation Corporation~~.—
871 (1) If a mobile home owner is required to move due to a
872 change in use of the land comprising a mobile home park as set
873 forth in s. 723.061(1)(d), the mobile home park owner shall,
874 upon such change in use, pay to the Division of Florida
875 Condominiums, Timeshares, and Mobile Homes ~~Mobile Home~~

876 ~~Relocation Corporation~~ for deposit in the Florida Mobile Home
877 Relocation Trust Fund $2,750 for each single-section mobile home
878 and $3,750 for each multisection mobile home for which a mobile
879 home owner has made application for payment of moving expenses.
880 The mobile home park owner shall make the payments required by
881 this section and by s. 723.0612(7) to the <u>division</u> ~~corporation~~
882 within 30 days after receipt from the <u>division</u> ~~corporation~~ of
883 the invoice for payment. Failure to make such payment within the
884 required time period shall result in a late fee being imposed.
885 (a) If payment is not submitted within 30 days after
886 receipt of the invoice, a 10-percent late fee shall be assessed.
887 (b) If payment is not submitted within 60 days after
888 receipt of the invoice, a 15-percent late fee shall be assessed.
889 (c) If payment is not submitted within 90 days after
890 receipt of the invoice, a 20-percent late fee shall be assessed.
891 (d) Any payment received 120 days or more after receipt of
892 the invoice shall include a 25-percent late fee.
893 (2) A mobile home park owner is not required to make the
894 payment prescribed in subsection (1), nor is the mobile home
895 owner entitled to compensation under s. 723.0612(1), when:
896 (a) The mobile home park owner moves a mobile home owner
897 to another space in the mobile home park or to another mobile
898 home park at the park owner's expense;
899 (b) A mobile home owner is vacating the premises and has
900 informed the mobile home park owner or manager before the change

901 in use notice has been given; or
902 (c) A mobile home owner abandons the mobile home as set
903 forth in s. 723.0612(7).
904 (d) The mobile home owner has a pending eviction action
905 for nonpayment of lot rental amount pursuant to s. 723.061(1)(a)
906 which was filed against him or her prior to the mailing date of
907 the notice of change in use of the mobile home park given
908 pursuant to s. 723.061(1)(d).
909 (3) This section and s. 723.0612(7) are enforceable by the
910 <u>division</u> ~~corporation~~ by action in a court of appropriate
911 jurisdiction.
912 (4) In any action brought by the <u>division</u> ~~corporation~~ to
913 collect payments assessed under this chapter, the <u>division</u>
914 ~~corporation~~ may file and maintain such action in Leon County. If
915 the <u>division</u> ~~corporation~~ is a party in any other action, venue
916 for such action shall be in Leon County.
917 Section 25. Subsections (1) through (5), (7) through (9),
918 (11), and (12) of section 723.0612, Florida Statutes, are
919 amended to read:
920 723.0612 Change in use; relocation expenses; payments by
921 park owner.—
922 (1) If a mobile home owner is required to move due to a
923 change in use of the land comprising the mobile home park as set
924 forth in s. 723.061(1)(d) and complies with the requirements of
925 this section, the mobile home owner is entitled to payment from

926 the Division of Florida Condominiums, Timeshares, and Mobile
927 Homes ~~Mobile Home Relocation Corporation~~ of:
928 (a) The amount of actual moving expenses of relocating the
929 mobile home to a new location within a 50-mile radius of the
930 vacated park, or
931 (b) The amount of $3,000 for a single-section mobile home
932 or $6,000 for a multisection mobile home, whichever is less.
933 Moving expenses include the cost of taking down, moving, and
934 setting up the mobile home in a new location.
935 (2) A mobile home owner is not ~~shall not be~~ entitled to
936 compensation under subsection (1) when:
937 (a) The park owner moves a mobile home owner to another
938 space in the mobile home park or to another mobile home park at
939 the park owner's expense;
940 (b) A mobile home owner is vacating the premises and has
941 informed the park owner or manager before notice of the change
942 in use has been given;
943 (c) A mobile home owner abandons the mobile home as set
944 forth in subsection (7); or
945 (d) The mobile home owner has a pending eviction action
946 for nonpayment of lot rental amount pursuant to s. 723.061(1)(a)
947 which was filed against him or her prior to the mailing date of
948 the notice of change in use of the mobile home park given
949 pursuant to s. 723.061(1)(d).
950 (3) Except as provided in subsection (7), in order to

951 obtain payment from the <u>division</u> ~~Florida Mobile Home Relocation~~
952 ~~Corporation~~, the mobile home owner shall submit to the <u>division</u>
953 ~~corporation~~, with a copy to the park owner, an application for
954 payment which includes:
955 (a) A copy of the notice of eviction due to change in use;
956 and
957 (b) A contract with a moving or towing contractor for the
958 moving expenses for the mobile home.
959 (4) The <u>division</u> ~~Florida Mobile Home Relocation~~
960 ~~Corporation~~ must approve payment within 45 days after receipt of
961 the information set forth in subsection (3), or payment is
962 deemed approved. A copy of the approval must be forwarded to the
963 park owner with an invoice for payment. Upon approval, the
964 <u>division</u> ~~corporation~~ shall issue a voucher in the amount of the
965 contract price for relocating the mobile home. The moving
966 contractor may redeem the voucher from the <u>division</u> ~~corporation~~
967 following completion of the relocation and upon approval of the
968 relocation by the mobile home owner.
969 (5) Actions of the <u>division</u> ~~Florida Mobile Home Relocation~~
970 ~~Corporation~~ under this section are not subject to the provisions
971 of chapter 120 but are reviewable only by writ of certiorari in
972 the circuit court in the county in which the claimant resides in
973 the manner and within the time provided by the Florida Rules of
974 Appellate Procedure.
975 (7) In lieu of collecting payment from the <u>division</u>

976 ~~Florida Mobile Home Relocation Corporation~~ as set forth in
977 subsection (1), a mobile home owner may abandon the mobile home
978 in the mobile home park and collect $1,375 for a single section
979 and $2,750 for a multisection from the <u>division</u> ~~corporation~~ as
980 long as the mobile home owner delivers to the park owner the
981 current title to the mobile home duly endorsed by the owner of
982 record and valid releases of all liens shown on the title. If a
983 mobile home owner chooses this option, the park owner shall make
984 payment to the <u>division</u> ~~corporation~~ in an amount equal to the
985 amount the mobile home owner is entitled to under this
986 subsection. The mobile home owner's application for funds under
987 this subsection shall require the submission of a document
988 signed by the park owner stating that the home has been
989 abandoned under this subsection and that the park owner agrees
990 to make payment to the <u>division</u> ~~corporation~~ in the amount
991 provided to the home owner under this subsection. However, in
992 the event that the required documents are not submitted with the
993 application, the <u>division</u> ~~corporation~~ may consider the facts and
994 circumstances surrounding the abandonment of the home to
995 determine whether the mobile home owner is entitled to payment
996 pursuant to this subsection. The mobile home owner is not
997 entitled to any compensation under this subsection if there is a
998 pending eviction action for nonpayment of lot rental amount
999 pursuant to s. 723.061(1)(a) which was filed against him or her
1000 prior to the mailing date of the notice of change in the use of

1001 the mobile home park given pursuant to s. 723.061(1)(d).
1002 (8) The division ~~Florida Mobile Home Relocation~~
1003 ~~Corporation~~ may ~~shall~~ not be liable to any person for recovery
1004 if funds are insufficient to pay the amounts claimed. In any
1005 such event, the division ~~corporation~~ shall keep a record of the
1006 time and date of its approval of payment to a claimant. If
1007 sufficient funds become available, the division ~~corporation~~ must
1008 ~~shall~~ pay the claimant whose unpaid claim is the earliest by
1009 time and date of approval.
1010 (9) Any person whose application for funding pursuant to
1011 subsection (1) or subsection (7) is approved for payment by the
1012 division ~~corporation~~ is ~~shall be~~ barred from asserting any claim
1013 or cause of action under this chapter directly relating to or
1014 arising out of the change in use of the mobile home park against
1015 the division ~~corporation~~, the park owner, or the park owner's
1016 successors in interest. An ~~No~~ application for funding pursuant
1017 to subsection (1) or subsection (7) may not ~~shall~~ be approved by
1018 the division ~~corporation~~ if the applicant has filed a claim or
1019 cause of action, is actively pursuing a claim or cause of
1020 action, has settled a claim or cause of action, or has a
1021 judgment against the division ~~corporation~~, the park owner, or
1022 the park owner's successors in interest under this chapter
1023 directly relating to or arising out of the change in use of the
1024 mobile home park, unless such claim or cause of action is
1025 dismissed with prejudice.

1026 (11) In an action to enforce the provisions of this
1027 section and ss. ~~723.0611,~~ 723.06115~~,~~ and 723.06116, the
1028 prevailing party is entitled to reasonable attorney ~~attorney's~~
1029 fees and costs.
1030 (12) An application to the division ~~corporation~~ for
1031 compensation under subsection (1) or subsection (7) must be
1032 received within 1 year after the expiration of the eviction
1033 period as established in the notice required under s.
1034 723.061(1)(d). If the applicant files a claim or cause of action
1035 that disqualifies the applicant under subsection (9) and the
1036 claim is subsequently dismissed, the application must be
1037 received within 6 months following filing of the dismissal with
1038 prejudice as required under subsection (9). However, such an
1039 applicant must apply within 2 years after the expiration of the
1040 eviction period as established in the notice required under s.
1041 723.061(1)(d).
1042 Section 26. Paragraph (a) of subsection (4) of section
1043 20.165, Florida Statutes, is amended to read:
1044 20.165 Department of Business and Professional
1045 Regulation.—There is created a Department of Business and
1046 Professional Regulation.
1047 (4)(a) The following boards and programs are established
1048 within the Division of Professions:
1049 1. Board of Architecture and Interior Design, created
1050 under part I of chapter 481.

1051 2. Florida Board of Auctioneers, created under part VI of
1052 chapter 468.
1053 3. Barbers' Board, created under chapter 476.
1054 4. Florida Building Code Administrators and Inspectors
1055 Board, created under part XII of chapter 468.
1056 5. Construction Industry Licensing Board, created under
1057 part I of chapter 489.
1058 6. Board of Cosmetology, created under chapter 477.
1059 7. Electrical Contractors' Licensing Board, created under
1060 part II of chapter 489.
1061 8. Employee leasing companies licensing program ~~Board of~~
1062 ~~Employee Leasing Companies~~, created under part XI of chapter
1063 468.
1064 9. Board of Landscape Architecture, created under part II
1065 of chapter 481.
1066 10. Board of Pilot Commissioners, created under chapter
1067 310.
1068 11. Board of Professional Engineers, created under chapter
1069 471.
1070 12. Board of Professional Geologists, created under
1071 chapter 492.
1072 13. Board of Veterinary Medicine, created under chapter
1073 474.
1074 14. Home inspection services licensing program, created
1075 under part XV of chapter 468.

1076 15. Mold-related services licensing program, created under
1077 part XVI of chapter 468.
1078 Section 27. Subsection (2) of section 210.16, Florida
1079 Statutes, is amended to read:
1080 210.16 Revocation or suspension of permit.—
1081 (2) The division shall revoke the permit or permits of any
1082 person who would be ineligible to obtain a new license or renew
1083 a license by reason of any of the conditions for permitting
1084 provided in s. 210.15(1)(d)1.-6. ~~s. 210.15(1)(c)1.-6.~~
1085 Section 28. Paragraph (uuu) of subsection (7) of section
1086 212.08, Florida Statutes, is amended to read:
1087 212.08 Sales, rental, use, consumption, distribution, and
1088 storage tax; specified exemptions.—The sale at retail, the
1089 rental, the use, the consumption, the distribution, and the
1090 storage to be used or consumed in this state of the following
1091 are hereby specifically exempt from the tax imposed by this
1092 chapter.
1093 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
1094 entity by this chapter do not inure to any transaction that is
1095 otherwise taxable under this chapter when payment is made by a
1096 representative or employee of the entity by any means,
1097 including, but not limited to, cash, check, or credit card, even
1098 when that representative or employee is subsequently reimbursed
1099 by the entity. In addition, exemptions provided to any entity by
1100 this subsection do not inure to any transaction that is

1101 otherwise taxable under this chapter unless the entity has
1102 obtained a sales tax exemption certificate from the department
1103 or the entity obtains or provides other documentation as
1104 required by the department. Eligible purchases or leases made
1105 with such a certificate must be in strict compliance with this
1106 subsection and departmental rules, and any person who makes an
1107 exempt purchase with a certificate that is not in strict
1108 compliance with this subsection and the rules is liable for and
1109 shall pay the tax. The department may adopt rules to administer
1110 this subsection.
1111 (uuu) *Small private investigative agencies.*—
1112 1. As used in this paragraph, the term:
1113 a. "Private investigation services" has the same meaning
1114 as "private investigation," as defined in s. 493.6101(17).
1115 b. "Small private investigative agency" means a private
1116 investigator licensed under s. 493.6201 which:
1117 (I) Employs three or fewer full-time or part-time
1118 employees, including those performing services pursuant to an
1119 employee leasing arrangement as defined in <u>s. 468.520(3)</u> ~~s.~~
1120 ~~468.520(4)~~, in total; and
1121 (II) During the previous calendar year, performed private
1122 investigation services otherwise taxable under this chapter in
1123 which the charges for the services performed were less than
1124 $150,000 for all its businesses related through common
1125 ownership.

1126 2. The sale of private investigation services by a small
1127 private investigative agency to a client is exempt from the tax
1128 imposed by this chapter.
1129 3. The exemption provided by this paragraph may not apply
1130 in the first calendar year a small private investigative agency
1131 conducts sales of private investigation services taxable under
1132 this chapter.
1133 Section 29. Paragraph (a) of subsection (19) of section
1134 440.02, Florida Statutes, is amended to read:
1135 440.02 Definitions.—When used in this chapter, unless the
1136 context clearly requires otherwise, the following terms shall
1137 have the following meanings:
1138 (19)(a) "Employer" means the state and all political
1139 subdivisions thereof, all public and quasi-public corporations
1140 therein, every person carrying on any employment, and the legal
1141 representative of a deceased person or the receiver or trustees
1142 of any person. The term also includes employee leasing
1143 companies, as defined in s. 468.520(4) ~~s. 468.520(5)~~, and
1144 employment agencies that provide their own employees to other
1145 persons. If the employer is a corporation, parties in actual
1146 control of the corporation, including, but not limited to, the
1147 president, officers who exercise broad corporate powers,
1148 directors, and all shareholders who directly or indirectly own a
1149 controlling interest in the corporation, are considered the
1150 employer for the purposes of ss. 440.105, 440.106, and 440.107.

1151 Section 30. Section 448.26, Florida Statutes, is amended
1152 to read:
1153 448.26 Application.—Nothing in this part shall exempt any
1154 client of any labor pool or temporary help arrangement entity as
1155 defined in s. 468.520(3)(a) ~~s. 468.520(4)(a)~~ or any assigned
1156 employee from any other license requirements of state, local, or
1157 federal law. Any employee assigned to a client who is licensed,
1158 registered, or certified pursuant to law shall be deemed an
1159 employee of the client for such licensure purposes but shall
1160 remain an employee of the labor pool or temporary help
1161 arrangement entity for purposes of chapters 440 and 443.
1162 Section 31. Subsection (2) of section 468.520, Florida
1163 Statutes, is amended to read:
1164 468.520 Definitions.—As used in this part:
1165 ~~(2) "Board" means the Board of Employee Leasing Companies.~~
1166 Section 32. Section 468.522, Florida Statutes, is amended
1167 to read:
1168 468.522 Rules ~~of the board~~.—The department may ~~board has~~
1169 ~~authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54
1170 to implement ~~the provisions of~~ this part. Every licensee shall
1171 be governed and controlled by this part and the rules adopted by
1172 the department ~~board~~.
1173 Section 33. Subsections (2) and (4) of section 468.524,
1174 Florida Statutes, are amended to read:
1175 468.524 Application for license.—

1176 (2) The department ~~board~~ may require information and
1177 certifications necessary to determine that the applicant is of
1178 good moral character and meets other licensure requirements of
1179 this part.
1180 (4) An applicant or licensee is ineligible to reapply for
1181 a license for a period of 1 year following final agency action
1182 on the denial or revocation of a license applied for or issued
1183 under this part. This time restriction does not apply to
1184 administrative denials or revocations entered because:
1185 (a) The applicant or licensee has made an inadvertent
1186 error or omission on the application;
1187 (b) The experience documented to the department ~~board~~ was
1188 insufficient at the time of the previous application;
1189 (c) The department is unable to complete the criminal
1190 background investigation because of insufficient information
1191 from the Florida Department of Law Enforcement, the Federal
1192 Bureau of Investigation, or any other applicable law enforcement
1193 agency;
1194 (d) The applicant or licensee has failed to submit
1195 required fees; or
1196 (e) An applicant or licensed employee leasing company has
1197 been deemed ineligible for a license because of the lack of good
1198 moral character of an individual or individuals when such
1199 individual or individuals are no longer employed in a capacity
1200 that would require their licensing under this part.

1201 Section 34. Section 468.5245, Florida Statutes, is amended
1202 to read:
1203 468.5245 Change of ownership.—
1204 (1) A license or registration issued to any entity under
1205 this part may not be transferred or assigned. The department
1206 ~~board~~ shall adopt rules to provide for a licensee's or
1207 registrant's change of name or location.
1208 (2) A person or entity that seeks to purchase or acquire
1209 control of an employee leasing company or group licensed or
1210 registered under this part must first apply to the department
1211 ~~board~~ for a certificate of approval for the proposed change of
1212 ownership. However, prior approval is not required if, at the
1213 time the purchase or acquisition occurs, a controlling person of
1214 the employee leasing company or group maintains a controlling
1215 person license under this part. Notification must be provided to
1216 the department ~~board~~ within 30 days after the purchase or
1217 acquisition of such company in the manner prescribed by the
1218 department ~~board~~.
1219 (3) Any application that is submitted to the department
1220 ~~board~~ under this section is ~~shall be~~ deemed approved if the
1221 department ~~board~~ has not approved the application or rejected
1222 the application, and provided the applicant with the basis for a
1223 rejection, within 90 days after the receipt of the completed
1224 application.
1225 (4) The department ~~board~~ shall establish filing fees for a

1226 change-of-ownership application in accordance with s.
1227 468.524(1).
1228 Section 35. Subsections (2) and (3) of section 468.525,
1229 Florida Statutes, are amended to read:
1230 468.525 License requirements.—
1231 (2)(a) As used in this part, "good moral character" means
1232 a personal history of honesty, trustworthiness, fairness, a good
1233 reputation for fair dealings, and respect for the rights of
1234 others and for the laws of this state and nation. A thorough
1235 background investigation of the individual's good moral
1236 character shall be instituted by the department. Such
1237 investigation shall require:
1238 1. The submission of fingerprints, for processing through
1239 appropriate law enforcement agencies, by the applicant and the
1240 examination of police records by the department ~~board~~.
1241 2. Such other investigation of the individual as the
1242 department ~~board~~ may deem necessary.
1243 (b) The department ~~board~~ may deny an application for
1244 licensure or renewal citing lack of good moral character.
1245 Conviction of a crime within the last 7 years does ~~shall~~ not
1246 automatically bar any applicant or licensee from obtaining a
1247 license or continuing as a licensee. The department ~~board~~ shall
1248 consider the type of crime committed, the crime's relevancy to
1249 the employee leasing industry, the length of time since the
1250 conviction and any other factors deemed relevant by the

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1251 department ~~board~~.
1252 (3) Each employee leasing company licensed by the
1253 department shall have a registered agent for service of process
1254 in this state and at least one licensed controlling person. In
1255 addition, each licensed employee leasing company shall comply
1256 with the following requirements:
1257 (a) The employment relationship with workers provided by
1258 the employee leasing company to a client company shall be
1259 established by written agreement between the leasing company and
1260 the client, and written notice of that relationship shall be
1261 given by the employee leasing company to each worker who is
1262 assigned to perform services at the client company's worksite.
1263 (b) An applicant for an initial employee leasing company
1264 license shall have a tangible accounting net worth of not less
1265 than $50,000.
1266 (c) An applicant for initial or renewal license of an
1267 employee leasing company license or employee leasing company
1268 group shall have an accounting net worth or shall have
1269 guaranties, letters of credit, or other security acceptable to
1270 the department ~~board~~ in sufficient amounts to offset any
1271 deficiency. A guaranty will not be acceptable to satisfy this
1272 requirement unless the applicant submits sufficient evidence to
1273 satisfy the department ~~board~~ that the guarantor has adequate
1274 resources to satisfy the obligation of the guaranty.
1275 (d) Each employee leasing company shall maintain an

1276 accounting net worth and positive working capital, as determined
1277 in accordance with generally accepted accounting principles, or
1278 shall have guaranties, letters of credit, or other security
1279 acceptable to the department ~~board~~ in sufficient amounts to
1280 offset any deficiency. A guaranty will not be acceptable to
1281 satisfy this requirement unless the licensee submits sufficient
1282 evidence, as defined by rule, that the guarantor has adequate
1283 resources to satisfy the obligation of the guaranty. In
1284 determining the amount of working capital, a licensee shall
1285 include adequate reserves for all taxes and insurance, including
1286 plans of self-insurance or partial self-insurance for claims
1287 incurred but not paid and for claims incurred but not reported.
1288 Compliance with the requirements of this paragraph is subject to
1289 verification by department ~~or board~~ audit.
1290 (e) Each employee leasing company or employee leasing
1291 company group shall submit annual financial statements audited
1292 by an independent certified public accountant, with the
1293 application and within 120 days after the end of each fiscal
1294 year, in a manner and time prescribed by the department ~~board~~,
1295 provided however, that any employee leasing company or employee
1296 leasing company group with gross Florida payroll of less than
1297 $2.5 million during any fiscal year may submit financial
1298 statements reviewed by an independent certified public
1299 accountant for that year.
1300 (f) The licensee shall notify the department ~~or board~~ in

1301 writing within 30 days after any change in the application or
1302 status of the license.
1303 (g) Each employee leasing company or employee leasing
1304 company group shall maintain accounting and employment records
1305 relating to all employee leasing activities for a minimum of 3
1306 calendar years.
1307 Section 36. Subsections (3) and (5) of section 468.526,
1308 Florida Statutes, are amended to read:
1309 468.526 License required; fees.—
1310 (3) Each employee leasing company and employee leasing
1311 company group licensee shall pay to the department upon the
1312 initial issuance of a license and upon each renewal thereafter a
1313 license fee not to exceed $2,500 to be established by the
1314 department ~~board~~. In addition to the license fee, the department
1315 ~~board~~ shall establish an annual assessment for each employee
1316 leasing company and each employee leasing company group
1317 sufficient to cover all costs for regulation of the profession
1318 pursuant to this chapter, chapter 455, and any other applicable
1319 provisions of law. The annual assessment shall:
1320 (a) Be due and payable upon initial licensure and
1321 subsequent renewals thereof and 1 year before the expiration of
1322 any licensure period; and
1323 (b) Be based on a fixed percentage, variable classes, or a
1324 combination of both, as determined by the department ~~board~~, of
1325 gross Florida payroll for employees leased to clients by the

1326 applicant or licensee during the period beginning five quarters
1327 before and ending one quarter before each assessment. It is the
1328 intent of the Legislature that the greater weight of total fees
1329 for licensure and assessments should be on larger companies and
1330 groups.
1331 (5) Each controlling person licensee shall pay to the
1332 department upon the initial issuance of a license and upon each
1333 renewal thereafter a license fee to be established by the
1334 department ~~board~~ in an amount not to exceed $2,000.
1335 Section 37. Subsection (1) of section 468.527, Florida
1336 Statutes, is amended to read:
1337 468.527 Licensure and license renewal.—
1338 (1) The department shall license any applicant who the
1339 department ~~board~~ certifies is qualified to practice employee
1340 leasing as an employee leasing company, employee leasing company
1341 group, or controlling person.
1342 Section 38. Subsection (2) of section 468.5275, Florida
1343 Statutes, is amended to read:
1344 468.5275 Registration and exemption of de minimis
1345 operations.—
1346 (2) A registration is valid for 1 year. Each registrant
1347 shall pay to the department upon initial registration, and upon
1348 each renewal thereafter, a registration fee to be established by
1349 the department ~~board~~ in an amount not to exceed:
1350 (a) Two hundred and fifty dollars for an employee leasing

1351 company.
1352 (b) Five hundred dollars for an employee leasing company
1353 group.
1354 Section 39. Subsections (2), (4), and (5) of section
1355 468.529, Florida Statutes, are amended to read:
1356 468.529 Licensee's insurance; employment tax; benefit
1357 plans.—
1358 (2) An initial or renewal license may not be issued to any
1359 employee leasing company unless the employee leasing company
1360 first files with the department ~~board~~ evidence of workers'
1361 compensation coverage for all leased employees in this state.
1362 Each employee leasing company shall maintain and make available
1363 to its workers' compensation carrier the following information:
1364 (a) The correct name and federal identification number of
1365 each client company.
1366 (b) A listing of all covered employees provided to each
1367 client company, by classification code.
1368 (c) The total eligible wages by classification code and
1369 the premiums due to the carrier for the employees provided to
1370 each client company.
1371 (4) An initial or renewal license may not be issued to any
1372 employee leasing company unless the employee leasing company
1373 first provides evidence to the department ~~board~~, as required by
1374 department ~~board~~ rule, that the employee leasing company has
1375 paid all of the employee leasing company's obligations for

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1376 payroll, payroll-related taxes, workers' compensation insurance,
1377 and employee benefits. All disputed amounts must be disclosed in
1378 the application.
1379 (5) The provisions of this section are subject to
1380 verification by department ~~or board~~ audit.
1381 Section 40. Subsections (3) and (4) of section 468.530,
1382 Florida Statutes, are amended to read:
1383 468.530 License, contents; posting.—
1384 (3) No license shall be valid for any person or entity who
1385 engages in the business under any name other than that specified
1386 in the license. A license issued under this part <u>is</u> ~~shall~~ not ~~be~~
1387 assignable, and no licensee may conduct a business under a
1388 fictitious name without prior written authorization of the
1389 <u>department</u> ~~board~~ to do so. The <u>department</u> ~~board~~ may not
1390 authorize the use of a name which is so similar to that of a
1391 public officer or agency, or of that used by another licensee,
1392 that the public may be confused or misled thereby. No licensee
1393 shall be permitted to conduct business under more than one name
1394 unless it has obtained a separate license. A licensee desiring
1395 to change its licensed name at any time except upon license
1396 renewal shall notify the <u>department</u> ~~board~~ and pay a fee not to
1397 exceed $50 for each authorized change of name.
1398 (4) Each employee leasing company or employee leasing
1399 company group licensed under this part shall be properly
1400 identified in all advertisements, which must include the license

1401 number, licensed business name, and other appropriate
1402 information in accordance with <u>department</u> rules ~~established by~~
1403 ~~the board~~.
1404 Section 41. Subsection (1) of section 468.531, Florida
1405 Statutes, is amended to read:
1406 468.531 Prohibitions; penalties.—
1407 (1) No person or entity shall:
1408 (a) Practice or offer to practice as an employee leasing
1409 company, an employee leasing company group, or a controlling
1410 person unless such person or entity is licensed pursuant to this
1411 part;
1412 (b) Practice or offer to practice as an employee leasing
1413 company or employee leasing company group unless all controlling
1414 persons thereof are licensed pursuant to this part;
1415 (c) Use the name or title "licensed employee leasing
1416 company," "employee leasing company," "employee leasing company
1417 group," "professional employer," "professional employer
1418 organization," "controlling person," or words that would tend to
1419 lead one to believe that such person or entity is registered
1420 pursuant to this part, when such person or entity has not
1421 registered pursuant to this part;
1422 (d) Present as his or her own or his or her entity's own
1423 the license of another;
1424 (e) Knowingly give false or forged evidence to the
1425 <u>department</u> ~~board or a member thereof~~; or

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1426 (f) Use or attempt to use a license that has been
1427 suspended or revoked.
1428 Section 42. Subsections (1), (2), and (4) of section
1429 468.532, Florida Statutes, are amended to read:
1430 468.532 Discipline.—
1431 (1) The following constitute grounds for which
1432 disciplinary action against a licensee may be taken by the
1433 department ~~board~~:
1434 (a) Being convicted or found guilty of, or entering a plea
1435 of nolo contendere to, regardless of adjudication, bribery,
1436 fraud, or willful misrepresentation in obtaining, attempting to
1437 obtain, or renewing a license.
1438 (b) Being convicted or found guilty of, or entering a plea
1439 of nolo contendere to, regardless of adjudication, a crime in
1440 any jurisdiction which relates to the operation of an employee
1441 leasing business or the ability to engage in business as an
1442 employee leasing company.
1443 (c) Being convicted or found guilty of, or entering a plea
1444 of nolo contendere to, regardless of adjudication, fraud,
1445 deceit, or misconduct in the classification of employees
1446 pursuant to chapter 440.
1447 (d) Being convicted or found guilty of, or entering a plea
1448 of nolo contendere to, regardless of adjudication, fraud,
1449 deceit, or misconduct in the establishment or maintenance of
1450 self-insurance, be it health insurance or workers' compensation

1451 insurance.
1452 (e) Being convicted or found guilty of, or entering a plea
1453 of nolo contendere to, regardless of adjudication, fraud,
1454 deceit, or misconduct in the operation of an employee leasing
1455 company.
1456 (f) Conducting business without an active license.
1457 (g) Failing to maintain workers' compensation insurance as
1458 required in s. 468.529.
1459 (h) Transferring or attempting to transfer a license
1460 issued pursuant to this part.
1461 (i) Violating any provision of this part or any lawful
1462 order or rule issued under the provisions of this part or
1463 chapter 455.
1464 (j) Failing to notify the department ~~board~~, in writing, of
1465 any change of the primary business address or the addresses of
1466 any of the licensee's offices in the state.
1467 (k) Having been confined in any county jail,
1468 postadjudication, or being confined in any state or federal
1469 prison or mental institution, or when through mental disease or
1470 deterioration, the licensee can no longer safely be entrusted to
1471 deal with the public or in a confidential capacity.
1472 (l) Having been found guilty for a second time of any
1473 misconduct that warrants suspension or being found guilty of a
1474 course of conduct or practices which shows that the licensee is
1475 so incompetent, negligent, dishonest, or untruthful that the

1476 money, property, transactions, and rights of investors, or those
1477 with whom the licensee may sustain a confidential relationship,
1478 may not safely be entrusted to the licensee.
1479 (m) Failing to inform the department ~~board~~ in writing
1480 within 30 days after being convicted or found guilty of, or
1481 entering a plea of nolo contendere to, any felony, regardless of
1482 adjudication.
1483 (n) Failing to conform to any lawful order of the
1484 department ~~board~~.
1485 (o) Being determined liable for civil fraud by a court in
1486 any jurisdiction.
1487 (p) Having adverse material final action taken by any
1488 state or federal regulatory agency for violations within the
1489 scope of control of the licensee.
1490 (q) Failing to inform the department ~~board~~ in writing
1491 within 30 days after any adverse material final action by a
1492 state or federal regulatory agency.
1493 (r) Failing to meet or maintain the requirements for
1494 licensure as an employee leasing company or controlling person.
1495 (s) Engaging as a controlling person any person who is not
1496 licensed as a controlling person by the department ~~board~~.
1497 (t) Attempting to obtain, obtaining, or renewing a license
1498 to practice employee leasing by bribery, misrepresentation, or
1499 fraud.
1500 (2) When the department ~~board~~ finds any violation of

1501 subsection (1), it may do one or more of the following:
1502 (a) Deny an application for licensure.
1503 (b) Permanently revoke, suspend, restrict, or not renew a
1504 license.
1505 (c) Impose an administrative fine not to exceed $5,000 for
1506 every count or separate offense.
1507 (d) Issue a reprimand.
1508 (e) Place the licensee on probation for a period of time
1509 and subject to such conditions as the department ~~board~~ may
1510 specify.
1511 (f) Assess costs associated with investigation and
1512 prosecution.
1513 (4) The department ~~board~~ shall specify the penalties for
1514 any violation of this part.
1515 Section 43. Paragraph (a) of subsection (6) of section
1516 476.144, Florida Statutes, is amended to read:
1517 476.144 Licensure.—
1518 (6) A person may apply for a restricted license to
1519 practice barbering. The board shall adopt rules specifying
1520 procedures for an applicant to obtain a restricted license if
1521 the applicant:
1522 (a)1. Has successfully completed a restricted barber
1523 course, as established by rule of the board, at a school of
1524 barbering licensed pursuant to chapter 1005, a barbering program
1525 within the public school system, or a government-operated

1526 barbering program in this state; or
1527 2.a. Holds or has within the previous 5 years held an
1528 active valid license to practice barbering in another state or
1529 country or has held a Florida barbering license which has been
1530 declared null and void for failure to renew the license, and the
1531 applicant fulfilled the requirements of s. 476.114(2)(c) ~~s.~~
1532 ~~476.114(2)(c)2.~~ for initial licensure; and
1533 b. Has not been disciplined relating to the practice of
1534 barbering in the previous 5 years; and
1535
1536 The restricted license shall limit the licensee's practice to
1537 those specific areas in which the applicant has demonstrated
1538 competence pursuant to rules adopted by the board.
1539 Section 44. Paragraph (a) of subsection (2) of section
1540 627.192, Florida Statutes, is amended to read:
1541 627.192 Workers' compensation insurance; employee leasing
1542 arrangements.—
1543 (2) For purposes of the Florida Insurance Code:
1544 (a) "Employee leasing" shall have the same meaning as set
1545 forth in s. 468.520(3) ~~s. 468.520(4)~~.
1546 Section 45. For the purpose of incorporating the amendment
1547 made by this act to section 723.061, Florida Statutes, in a
1548 reference thereto, subsection (1) of section 48.184, Florida
1549 Statutes, is reenacted to read:
1550 48.184 Service of process for removal of unknown parties

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1551 in possession.—
1552 (1) This section applies only to actions governed by s.
1553 82.03, s. 83.21, s. 83.59, or s. 723.061 and only to the extent
1554 that such actions seek relief for the removal of an unknown
1555 party or parties in possession of real property. The provisions
1556 of this section are cumulative to other provisions of law or
1557 rules of court about service of process, and all other such
1558 provisions are cumulative to this section.
1559 Section 46. For the purpose of incorporating the amendment
1560 made by this act to section 723.061, Florida Statutes, in a
1561 reference thereto, subsection (5) of section 723.004, Florida
1562 Statutes, is reenacted to read:
1563 723.004 Legislative intent; preemption of subject matter.—
1564 (5) Nothing in this chapter shall be construed to prevent
1565 the enforcement of a right or duty under this section, s.
1566 723.022, s. 723.023, s. 723.031, s. 723.032, s. 723.033, s.
1567 723.035, s. 723.037, s. 723.038, s. 723.061, s. 723.0615, s.
1568 723.062, s. 723.063, or s. 723.081 by civil action after the
1569 party has exhausted its administrative remedies, if any.
1570 Section 47. For the purpose of incorporating the amendment
1571 made by this act to section 723.061, Florida Statutes, in a
1572 reference thereto, subsection (9) of section 723.031, Florida
1573 Statutes, is reenacted to read:
1574 723.031 Mobile home lot rental agreements.—
1575 (9) No rental agreement shall provide for the eviction of

1576 a mobile home owner on a ground other than one contained in s.
1577 723.061.
1578 Section 48. For the purpose of incorporating the amendment
1579 made by this act to section 723.061, Florida Statutes, in a
1580 reference thereto, subsection (1) of section 723.032, Florida
1581 Statutes, is reenacted to read:
1582 723.032 Prohibited or unenforceable provisions in mobile
1583 home lot rental agreements.—
1584 (1) A mobile home lot rental agreement may provide a
1585 specific duration with regard to the amount of rental payments
1586 and other conditions of the tenancy, but the rental agreement
1587 shall neither provide for, nor be construed to provide for, the
1588 termination of any tenancy except as provided in s. 723.061.
1589 Section 49. For the purpose of incorporating the amendment
1590 made by this act to section 723.061, Florida Statutes, in a
1591 reference thereto, subsection (2) of section 723.085, Florida
1592 Statutes, is reenacted to read:
1593 723.085 Rights of lienholder on mobile homes in rental
1594 mobile home parks.—
1595 (2) Upon the foreclosure of the lien for unpaid purchase
1596 price and sale of the mobile home, the owner of the mobile home
1597 must qualify for tenancy in the mobile home park in accordance
1598 with the rules and regulations of the mobile home park. The park
1599 owner shall comply with the provisions of s. 723.061 in
1600 determining whether the homeowner may qualify as a tenant.

1601 Section 50. For the purpose of incorporating the amendment
1602 made by this act to section 723.06115, Florida Statutes, in a
1603 reference thereto, subsection (1) of section 320.08015, Florida
1604 Statutes, is reenacted to read:
1605 320.08015 License tax surcharge.—
1606 (1) Except as provided in subsection (2), there is levied
1607 on each license tax imposed under s. 320.08(11) a surcharge in
1608 the amount of $1, which shall be collected in the same manner as
1609 the license tax and shall be deposited in the Florida Mobile
1610 Home Relocation Trust Fund, as created in s. 723.06115. This
1611 surcharge may not be imposed during the next registration and
1612 renewal period if the balance in the Florida Mobile Home
1613 Relocation Trust Fund exceeds $10 million on June 30. The
1614 surcharge shall be reinstated in the next registration and
1615 renewal period if the balance in the Florida Mobile Home
1616 Relocation Trust Fund is below $6 million on June 30.
1617 Section 51. For the 2024-2025 fiscal year, the sum of
1618 $95,000 in recurring funds is appropriated from the Florida
1619 Mobile Home Relocation Trust Fund to the Department of Business
1620 and Professional Regulation for the purpose of implementing this
1621 act.
1622 Section 52. This act shall take effect July 1, 2024.

COMMERCE COMMITTEE

CS/HB 1335 by Rep. Maggard
Department of Business and Professional Regulation

AMENDMENT SUMMARY
February 15, 2024

Amendment 1 by Rep. Maggard (line 371):

- Clarifies that an exclusion from engineering licensing requirements applies to all business organizations, not just corporations.

Amendment 2 by Rep. Maggard (lines 489-1041):

- Removes provisions relating to mobile homes.
- Removes a provision relating to real estate professionals.
- Removes an appropriation related to mobile homes.
- Reduces a lookback period relating to criminal history that may be used to disqualify an applicant for a license under the Beverage Law, to 10 years prior to applying for such a license for a conviction for a felony, from 15 years.

Amendment 3 by Rep. Maggard (line 1546):

- Removes provisions relating to mobile homes.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED __ (Y/N)
ADOPTED AS AMENDED __ (Y/N)
ADOPTED W/O OBJECTION __ (Y/N)
FAILED TO ADOPT __ (Y/N)
WITHDRAWN __ (Y/N)
OTHER ______

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Maggard offered the following:
3
4 **Amendment (with title amendment)**
5 Between lines 371 and 372, insert:
6 Section 1. Paragraph (c) of subsection (2) of section
7 471.003, Florida Statutes, is amended to read:
8 471.003 Qualifications for practice; exemptions.—
9 (2) The following persons are not required to be licensed
10 under the provisions of this chapter as a licensed engineer:
11 (c) Regular full-time employees of a business organization
12 ~~corporation~~ not engaged in the practice of engineering as such,
13 whose practice of engineering for such business organization
14 ~~corporation~~ is limited to the design or fabrication of
15 manufactured products and servicing of such products.
16

17
18 ---
19 **T I T L E A M E N D M E N T**
20 Remove line 51 and insert:
21 469, F.S.; amending s. 471.003, F.S.; clarifying a provision;
22 amending s. 473.306, F.S.; requiring

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Maggard offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 489-1041 and insert:
6 Section 13. Subsections (2) and (3) of section 476.114,
7 Florida Statutes, are amended to read:
8 476.114 Examination; prerequisites.—
9 (2) An applicant is ~~shall be~~ eligible for licensure by
10 examination to practice barbering if the applicant:
11 (a) Is at least 16 years of age;
12 (b) Pays the required application fee; and
13 (c)~~1. Holds an active valid license to practice barbering~~
14 ~~in another state, has held the license for at least 1 year, and~~
15 ~~does not qualify for licensure by endorsement as provided for in~~
16 ~~s. 476.144(5); or~~

17 ~~2.~~ Has received a minimum of 900 hours of training in
18 sanitation, safety, and laws and rules, as established by the
19 board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to,
20 the equivalent of completion of services directly related to the
21 practice of barbering at one of the following:
22 1.~~a.~~ A school of barbering licensed pursuant to chapter
23 1005;
24 2.~~b.~~ A barbering program within the public school system;
25 or
26 3.~~c.~~ A government-operated barbering program in this
27 state.
28
29 The board shall establish by rule procedures whereby the school
30 or program may certify that a person is qualified to take the
31 required examination after the completion of a minimum of 600
32 actual school hours. If the person passes the examination, she
33 or he has ~~shall have~~ satisfied this requirement; but if the
34 person fails the examination, she or he may ~~shall~~ not be
35 qualified to take the examination again until the completion of
36 the full requirements provided by this section.
37 (3) An applicant who meets the requirements set forth in
38 paragraph (2)(c) ~~subparagraphs (2)(c)1. and 2.~~ who fails to pass
39 the examination may take subsequent examinations as many times
40 as necessary to pass, except that the board may specify by rule
41 reasonable timeframes for rescheduling the examination and

42 additional training requirements for applicants who, after the
43 third attempt, fail to pass the examination. Prior to
44 reexamination, the applicant must file the appropriate form and
45 pay the reexamination fee as required by rule.
46 Section 14. Subsection (2) of section 477.019, Florida
47 Statutes, is amended to read:
48 477.019 Cosmetologists; qualifications; licensure;
49 supervised practice; license renewal; endorsement; continuing
50 education.—
51 (2) An applicant is ~~shall be~~ eligible for licensure by
52 examination to practice cosmetology if the applicant:
53 (a) Is at least 16 years of age or has received a high
54 school diploma;
55 (b) Pays the required application fee, which is not
56 refundable, and the required examination fee, which is
57 refundable if the applicant is determined to not be eligible for
58 licensure for any reason other than failure to successfully
59 complete the licensure examination; and
60 (c)~~1. Is authorized to practice cosmetology in another~~
61 ~~state or country, has been so authorized for at least 1 year,~~
62 ~~and does not qualify for licensure by endorsement as provided~~
63 ~~for in subsection (5); or~~
64 ~~2.~~ Has received a minimum of 1,200 hours of training as
65 established by the board, which must ~~shall~~ include, but is ~~shall~~
66 not ~~be~~ limited to, the equivalent of completion of services

67 directly related to the practice of cosmetology at one of the
68 following:
69 1.~~a.~~ A school of cosmetology licensed pursuant to chapter
70 1005.
71 2.~~b.~~ A cosmetology program within the public school
72 system.
73 3.~~c.~~ The Cosmetology Division of the Florida School for
74 the Deaf and the Blind, provided the division meets the
75 standards of this chapter.
76 4.~~d.~~ A government-operated cosmetology program in this
77 state.
78
79 The board shall establish by rule procedures whereby the school
80 or program may certify that a person is qualified to take the
81 required examination after the completion of a minimum of 1,000
82 actual school hours. If the person then passes the examination,
83 he or she has ~~shall have~~ satisfied this requirement; but if the
84 person fails the examination, he or she may ~~shall~~ not be
85 qualified to take the examination again until the completion of
86 the full requirements provided by this section.
87 Section 15. Paragraph (c) of subsection (7) of section
88 489.131, Florida Statutes, is amended to read:
89 489.131 Applicability.—
90 (7)

91 (c) In addition to any action the local jurisdiction
92 enforcement body may take against the individual's local
93 license, and any fine the local jurisdiction may impose, the
94 local jurisdiction enforcement body shall issue a recommended
95 penalty for board action. This recommended penalty may include a
96 recommendation for no further action, or a recommendation for
97 suspension, restitution, revocation, or restriction of the
98 registration, or a fine to be levied by the board, or a
99 combination thereof. The recommended penalty must specify the
100 violations of this chapter upon which the recommendation is
101 based. The local jurisdiction enforcement body shall inform the
102 disciplined contractor and the complainant of the local license
103 penalty imposed, the board penalty recommended, his or her
104 rights to appeal, and the consequences should he or she decide
105 not to appeal. The local jurisdiction enforcement body shall,
106 upon having reached adjudication or having accepted a plea of
107 nolo contendere, immediately inform the board of its action and
108 the recommended board penalty.
109 Section 16. Subsections (3) and (6) of section 489.143,
110 Florida Statutes, are amended to read:
111 489.143 Payment from the fund.—
112 (3) Beginning January 1, 2005, for each Division I
113 contract entered into after July 1, 2004, payment from the
114 recovery fund is subject to a $50,000 maximum payment for each
115 Division I claim. Beginning January 1, 2017, for each Division

116 II contract entered into on or after July 1, 2016, payment from
117 the recovery fund is subject to a $15,000 maximum payment for
118 each Division II claim. Beginning January 1, 2025, for Division
119 I and Division II contracts entered into on or after July 1,
120 2024, payment from the recovery fund is subject to a $100,000
121 maximum payment for each Division I claim and a $30,000 maximum
122 payment for each Division II claim.
123 (6) For contracts entered into before July 1, 2004,
124 payments for claims against any one licensee may not exceed, in
125 the aggregate, $100,000 annually, up to a total aggregate of
126 $250,000. For any claim approved by the board which is in excess
127 of the annual cap, the amount in excess of $100,000 up to the
128 total aggregate cap of $250,000 is eligible for payment in the
129 next and succeeding fiscal years, but only after all claims for
130 the then-current calendar year have been paid. Payments may not
131 exceed the aggregate annual or per claimant limits under law.
132 Beginning January 1, 2005, for each Division I contract entered
133 into after July 1, 2004, payment from the recovery fund is
134 subject only to a total aggregate cap of $500,000 for each
135 Division I licensee. Beginning January 1, 2017, for each
136 Division II contract entered into on or after July 1, 2016,
137 payment from the recovery fund is subject only to a total
138 aggregate cap of $150,000 for each Division II licensee.
139 Beginning January 1, 2025, for Division I and Division II
140 contracts entered into on or after July 1, 2024, payment from

141 the recovery fund is subject only to a total aggregate cap of $2
142 million for each Division I licensee and $600,000 for each
143 Division II licensee.
144 Section 17. Paragraph (b) of subsection (15) of section
145 499.012, Florida Statutes, is amended to read:
146 499.012 Permit application requirements.—
147 (15)
148 (b) To be certified as a designated representative, a
149 natural person must:
150 1. Submit an application on a form furnished by the
151 department and pay the appropriate fees.
152 2. Be at least 18 years of age.
153 3. Have at least 2 years of verifiable full-time:
154 a. Work experience in a pharmacy licensed in this state or
155 another state, where the person's responsibilities included, but
156 were not limited to, recordkeeping for prescription drugs;
157 b. Managerial experience with a prescription drug
158 wholesale distributor licensed in this state or in another
159 state; ~~or~~
160 c. Managerial experience with the United States Armed
161 Forces, where the person's responsibilities included, but were
162 not limited to, recordkeeping, warehousing, distributing, or
163 other logistics services pertaining to prescription drugs;
164 d. Managerial experience with a state or federal
165 organization responsible for regulating or permitting

166 establishments involved in the distribution of prescription
167 drugs, whether in an administrative or a sworn law enforcement
168 capacity; or
169 e. Work experience as a drug inspector or investigator
170 with a state or federal organization, whether in an
171 administrative or a sworn law enforcement capacity, where the
172 person's responsibilities related primarily to compliance with
173 state or federal requirements pertaining to the distribution of
174 prescription drugs.
175 4. Receive a passing score of at least 75 percent on an
176 examination given by the department regarding federal laws
177 governing distribution of prescription drugs and this part and
178 the rules adopted by the department governing the wholesale
179 distribution of prescription drugs. This requirement shall be
180 effective 1 year after the results of the initial examination
181 are mailed to the persons that took the examination. The
182 department shall offer such examinations at least four times
183 each calendar year.
184 5. Provide the department with a personal information
185 statement and fingerprints pursuant to subsection (9).
186 Section 17. Subsection (2) of section 561.15, Florida
187 Statutes, is amended to read:
188 561.15 Licenses; qualifications required.—
189 (2) No license under the Beverage Law shall be issued to
190 any person who has been convicted within the last past 5 years

191 of any offense against the beverage laws of this state, the
192 United States, or any other state; who has been convicted within
193 the last past 5 years in this state or any other state or the
194 United States of soliciting for prostitution, pandering, letting
195 premises for prostitution, or keeping a disorderly place or of
196 any criminal violation of chapter 893 or the controlled
197 substance act of any other state or the Federal Government; or
198 who has been convicted in the last past 10 ~~15~~ years of any
199 felony in this state or any other state or the United States; or
200 to a corporation, any of the officers of which shall have been
201 so convicted. The term "conviction" shall include an
202 adjudication of guilt on a plea of guilty or nolo contendere or
203 the forfeiture of a bond when charged with a crime.
204 Section 18. Subsection (5) of section 561.17, Florida
205 Statutes, is amended to read:
206 561.17 License and registration applications; approved
207 person.—
208 (5) Any person or entity licensed or permitted by the
209 division, or applying for a license or permit, must create and
210 maintain an account with the division's online system and
211 provide an e-mail ~~electronic mail~~ address to the division to
212 function as the primary means of contact for all communication
213 by the division to the licensee, ~~or~~ permittee, or applicant.
214 Licensees, ~~and~~ permittees, and applicants are responsible for
215 maintaining accurate contact information on file with the

216 division. A person or an entity seeking a license or permit from
217 the division must apply using forms prepared by the division and
218 filed through the division's online system before engaging in
219 any business for which a license or permit is required. The
220 division may not process an application for an alcoholic
221 beverage license unless the application is submitted through the
222 division's online system.
223 Section 19. Section 569.00256, Florida Statutes, is
224 created to read:
225 569.00256 Account; online system.—A person or an entity
226 licensed or permitted by the division under this part, or
227 applying for a license or a permit, must create and maintain an
228 account with the division's online system and provide an e-mail
229 address to the division to function as the primary means of
230 contact for all communication by the division to the licensee,
231 permittee, or applicant. Licensees, permittees, and applicants
232 are responsible for maintaining accurate contact information
233 with the division. A person or an entity seeking a license or
234 permit from the division must apply using forms prepared by the
235 division and filed through the division's online system before
236 engaging in any business for which a license or permit is
237 required. The division may not process an application to deal,
238 at retail, in tobacco products unless the application is
239 submitted through the division's online system.

240 Section 20. Section 569.3156, Florida Statutes, is created
241 to read:
242 569.3156 Account; online system.—A person or an entity
243 licensed or permitted by the division under this part, or
244 applying for a license or a permit, must create and maintain an
245 account with the division's online system and provide an e-mail
246 address to the division to function as the primary means of
247 contact for all communication by the division to the licensee,
248 permittee, or applicant. Licensees, permittees, and applicants
249 are responsible for maintaining accurate contact information
250 with the division. A person or an entity seeking a license or
251 permit from the division must apply using forms prepared by the
252 division and filed through the division's online system before
253 engaging in any business for which a license or permit is
254 required. The division may not process an application to deal,
255 at retail, in nicotine products unless the application is
256 submitted through the division's online system.
257
258 ---
259 **T I T L E A M E N D M E N T**
260 Remove lines 68-125 and insert:
261 within a specified timeframe; amending s. 476.114, F.S.;
262 revising eligibility requirements for licensure as a barber;
263 making technical changes; amending s. 477.019, F.S.; revising
264 eligibility requirements for licensure by examination to

265 practice cosmetology; amending s. 489.131, F.S.; revising the
266 types of penalties that may be recommended by a local
267 jurisdiction enforcement body against a contractor; specifying
268 requirements for any such recommended penalties; amending s.
269 489.143, F.S.; revising payment limitations for payments made
270 from the department's Florida Homeowners' Construction Recovery
271 Fund; amending s. 499.012, F.S.; revising requirements for
272 certification as a designated representative of a prescription
273 drug wholesale distributor; amending s. 561.15, F.S.; reducing a
274 lookback period for criminal history for a license under the
275 Beverage Law; amending s. 561.17, F.S.; requiring persons or
276 entities licensed or permitted by the Division of Alcoholic
277 Beverages and Tobacco, or applying for such license or permit,
278 to create and maintain an account with the division's online
279 system; specifying application requirements; prohibiting the
280 division from processing applications not submitted through the
281 online system; creating ss. 569.00256 and 569.3156, F.S.;
282 requiring certain persons or entities licensed or permitted by
283 the division, or applying for such a license or permit, to
284 create and maintain an account with the division's online
285 system; requiring licensees, permittees, and applicants to
286 provide the division with an e-mail address and maintain
287 accurate contact information; specifying application
288 requirements; prohibiting the division from processing
289 applications not submitted through the online system;

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	______	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Maggard offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 1546-1621
6
7
8 ---
9 **T I T L E A M E N D M E N T**
10 Remove lines 130-143 and insert:
11 provisions to changes made by the act; providing an effective
12 date.

HB 1347

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1347 Consumer Finance Loans
SPONSOR(S): Brackett
TIED BILLS: **IDEN./SIM. BILLS:** SB 1436

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	16 Y, 0 N	Fletcher	Lloyd
2) State Administration & Technology Appropriations Subcommittee	11 Y, 3 N	Perez	Topp
3) Commerce Committee		Fletcher	Hamon

SUMMARY ANALYSIS

The Florida Consumer Finance Act, ch. 516, F.S. (Act), prohibits businesses from making consumer finance loans unless first authorized to do so under the Act. Under the Act, licensed lenders are allowed to make secured or unsecured loans up to $25,000 with a tiered interest rate structure, such that the maximum annual interest rate allowed on each tier decreases as principal amount increases:

- 30% per annum, computed on the first $3,000 of the principal amount;
- 24% per annum on that part of the principal amount exceeding $3,000 and up to $4,000; and
- 18% per annum on that part of the principal amount exceeding $4,000 and up to $25,000.

The Act requires that, at the time of applying for a license, the applicant pay to the Office of Financial Regulation (OFR) a nonrefundable biennial license fee of $625. Other than applications to renew or reactivate a license, applicants must also pay a nonrefundable investigation fee of $200. Additionally, the Act prohibits licensees from applying delinquency charges until a borrower has been in default for 10 days.

The bill:

- Provides a definition for the term “branch;”
- Prohibits the operation of a branch that makes consumer finance loans without first obtaining a license;
- Requires an application fee of $625 to be paid to OFR for each branch application filed;
- Increases the maximum interest rate and the amount of principal for the tiered interest rate structure, such that the tiered structure will be as follows:
  - 36% per annum, computed on the first $10,000 of the principal amount
  - 30% per annum on that part of the principal amount exceeding $10,000 and up to $20,000
  - 24% per annum on that part of the principal amount exceeding $20,000 and up to $25,000;

  This yields an allowable maximum interest rate for the following loan amounts:

Loan Amount	Approximate Maximum Interest Rate	
	Current	Proposed
$5,000	26.4%	36.0%
$10,000	22.2%	36.0%
$15,000	20.8%	34.0%
$25,000	19.2%	31.2%

- Changes the 10-day rule for a licensee applying delinquency charges to 12 days;
- Requires licensees that provide assistance programs during a disaster to report to OFR details of such assistance programs; and
- Requires licensees to annually submit to OFR reports of certain information, which OFR may publish in a report after anonymizing and consolidating the data for all licensees.

The bill has a negative, likely insignificant, fiscal impact on state government, no fiscal impact on local government, and an indeterminate fiscal impact on the private sector, both positive and negative.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission (Commission) relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.[1] OFR's Division of Consumer Finance (Division) licenses and regulates non-depository financial service industries and individuals, and conducts examinations and complaint investigations for licensed entities to determine compliance with Florida law.[2]

The Florida Consumer Finance Act, ch. 516, F.S. (Act), prohibits individuals and entities from engaging in the business of making consumer finance loans unless first authorized to do so under the Act.[3] A consumer finance loan is defined as "a loan of money, credit, goods, or choses in action, including, except as otherwise specifically indicated, provision of a line of credit, in an amount or to a value of $25,000 or less for which the lender charges, contracts for, collects, or receives interest at a rate greater than 18 percent per annum."[4]

Currently, the Act provides that, at the time of applying for a license, the applicant shall pay to OFR a nonrefundable biennial license fee of $625.[5] Applications, except for applications to renew or reactivate a license, must also be accompanied by a nonrefundable investigation fee of $200.[6]

The Act also prohibits licensees from applying delinquency charges until a borrower has been in default for 10 days.[7]

Licensed lenders are allowed to make secured or unsecured loans up to $25,000 with a tiered interest rate structure, such that the maximum annual interest rate allowed on each tier decreases as principal amounts increase:

- 30% per annum, computed on the first $3,000 of the principal amount;
- 24% per annum on that part of the principal amount exceeding $3,000 and up to $4,000; and
- 18% per annum on that part of the principal amount exceeding $4,000 and up to $25,000.[8]

This yields an allowable maximum interest rate for the following loan amounts:

Loan Amount	Approximate Maximum Interest Rate
$5,000	26.4%
$10,000	22.2%
$15,000	20.8%
$25,000	19.2%

Effect of the Bill

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[1] S. 20.121(3)(a)2., F.S. *See also* Florida Office of Financial Regulation, Agency Analysis of 2024 House Bill 1347, p. 1 (Jan. 19, 2024).
[2] Florida Office of Financial Regulation, *Division of Consumer Finance*, https://flofr.gov/sitePages/DivisionOfConsumerFinance.htm (last visited Jan., 19, 2024).
[3] S. 516.02(1), F.S.
[4] S. 516.01(2), F.S.
[5] S. 516.03(1), F.S.
[6] *Id.*
[7] S. 516.031(3)(a)9., F.S.
[8] S. 516.031(1), F.S.

General

The bill provides a definition for the term “branch,” namely, “any location, other than a licensee’s principal place of business, at which a licensee operates or conducts business … or which the licensee owns or controls for the purposes of conducting business….”

The bill clarifies a person must not engage in the business of making consumer finance loans or operate a branch of such business unless first authorized to do so under the Act. The bill requires an application fee of $625 be paid to OFR for each branch application filed, which is in addition to the $625 application fee for the branch’s principal place of business. The bill provides that applications for a license for the principal place of business be accompanied by a nonrefundable investigation fee of $200.

Maximum Rate Increase; Delinquency Charges

The bill retains the tiered interest rate structure but increases the maximum interest rate and the amount of principal for each tier, such that the tiered interest rate structure will be as follows:

- 36% per annum, computed on the first $10,000 of the principal amount;
- 30% per annum on that part of the principal amount exceeding $10,000 and up to $20,000; and
- 24% per annum on that part of the principal amount exceeding $20,000 and up to $25,000.

This yields an allowable maximum interest rate for the following loan amounts:

Loan Amount	Approximate Maximum Interest Rate	
	Current	Proposed
$5,000	26.4%	36.0%
$10,000	22.2%	36.0%
$15,000	20.8%	34.0%
$25,000	19.2%	31.2%

Disaster Relief and Suspension of Penalties

The bill provides that in the event of a Federal Emergency Management Agency (FEMA) response to a Presidential Disaster Declaration in Florida, if a licensee offers any assistance program to borrowers impacted by the disaster, the licensee must send to OFR a written notice within 10 days after the licensee’s establishment of the assistance program. The notice must include, at a minimum, the following:

- The licensed locations impacted by the disaster, including the physical addresses, if applicable;
- The telephone number, e-mail address, or other contact information for the licensee;
- A brief description of the assistance programs available to borrowers in the impacted areas; and
- The start date and, if known, the end date of the assistance program.

The bill provides that assistance programs may include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification, or changing payment due dates.

Similarly, in the event of a FEMA response to a Presidential Disaster Declaration in Florida, the bill requires a licensee operating in a county designated in the disaster declaration to suspend, for a period of 90 days after the date of the initial declaration, all of the following:

- Application of delinquency charges;
- Repossessions of collateral pledged to loans made under the Act; and
- Filing of lawsuits for collection of amounts owed for loans made under the Act.

Annual Reports

The bill requires a licensee, by March 15, 2024, and annually thereafter, to file a report with OFR, in a form and manner prescribed by commission rule, using aggregated and anonymized data without

reference to any borrower's nonpublic personal information. The bill requires the report to include the following information for the preceding calendar year:

- The number of licenses under the Act held by the licensee as of December 31st of the preceding calendar year;
- The number of loan originations by the licensee from all licenses held under the Act during the preceding calendar year;
- The total number and dollar amount of loans outstanding with the licensee from all licenses held under the Act as of December 31st of the preceding calendar year;
- The total number of unsecured loans as of December 31st of the preceding calendar year;
- The total number of loans separated by principal amount in the following ranges as of December 31st of the preceding calendar year:
  - From $0 to $5,000
  - From $5,001 to $10,000
  - From $10,001 to $15,000
  - From $15,001 to $20,000
  - From $20,001 to $25,000;
- The total number and dollar amount of loans charged off as of December 31st of the preceding calendar year; and
- The total number and dollar amount of loans with delinquency status listed as:
  - Current or less than 30 days past due.
  - From 30 to 59 days past due.
  - From 60 to 89 days past due.
  - At least 90 days past due.

The bill requires a licensee claiming that information contained in the report contains a trade secret to submit to OFR an accompanying affidavit designating the information claimed to be a trade secret. The bill allows OFR to publish a report of the information submitted if all the data published in the report are anonymized aggregate data from all licensees.

B. SECTION DIRECTORY:

Section 1. Amends s. 516.01, F.S., relating to definitions.

Section 2. Amends s. 516.02, F.S., relating to loans; lines of credit; rates of interest; license.

Section 3. Amends s. 516.03, F.S., relating to application for license; fees; etc.

Section 4. Amends s. 516.031, F.S., relating to finance charge; maximum rates.

Section 5. Amends 516.15, F.S., relating to duties of licensee.

Section 6. Creates s. 516.38, F.S., relating to annual reports by licensees.

Section 7. Creates s. 516.39, F.S., relating to suspension of penalties and remedial measures after federal disaster declaration.

Section 8. Reenacts s. 516.19, F.S., relating to penalties.

Section 9. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

OFR estimates its revenues may decrease by as much as $5,000 per fiscal year if it no longer receives the background investigation fee of $200 required for each additional location once replaced by a branch office license requirement.[9] OFR considers this to be a negligible amount which would not impact its operations.[10] Additionally, according to OFR, the reduction in staff time no longer needed to review a full license application for each additional location when replaced with a branch office license would likely offset any loss in revenues.[11]

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate fiscal impact on the private sector.[12] Applicants will no longer be required to pay a $200 background investigation fee for each additional location with the implementation of a branch office license.[13] This may save applicants up to $5,000 per fiscal year in reduced fees.[14]

Consumers may benefit from increased opportunities to receive loans if consumer finance lenders issue more credit under the terms allowed by the bill, but they may also see an increase in interest payable on consumer finance loans, to the extent that lenders utilize higher interest rates permitted by the bill.

D. FISCAL COMMENTS:

The bill proposes to create a branch license in lieu of a full license for each additional location of a licensee.[15] The branch licenses will not include the $200 background investigation fee and thus result in a fee reduction.[16]

Additionally, the bill would require OFR to make technology changes to its internal licensing system to create a branch office license and annual reporting functionality.[17] The cost of these changes would be negligible and could be covered within OFR's existing budget.[18]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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[9] Office of Financial Regulation, *supra* note 1.
[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.* at 5.
[16] *Id.*
[17] *Id.* at 6.
[18] *Id.*

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Article VII, sec. 19(e), of the Florida Constitution requires any bill that imposes, authorizes, or raises a state tax or fee must be contained in a separate bill that contains no other subject. Current law requires each location of a consumer finance company to pay a $625 application fee and a $200 investigation fee. The bill requires the designation of a principal location. The principal location and each branch location will be subject to the current application fee, but only the principal location will be subject to the investigation fee. Arguably, this is merely a change in status of a location from an applicant location to an applicant principal location; retaining the same fee for that application. Also, other applicant locations will become applicant branch locations; also retaining the same fee. There is no case law to guide this analysis. It is unclear whether a fee bill is required.

B. RULE-MAKING AUTHORITY:

The bill creates a new section of statute that will require a licensee to file an annual report with OFR "in a form and manner prescribed by commission rule." This section will require and sufficiently authorizes rulemaking. Rules 69V-160.111, 69V-160.039, and 69V-160.036, F.A.C., which adopts Disciplinary Guidelines for Consumer Finance Companies, will also require an update.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 238-240: As currently written, the bill requires that the annual report filed by licensees must be filed by March 15, 2024, and each March 15 thereafter. The effective date of the bill, however, is July 1, 2024. The reference to "March 15, 2024" appears to be a scrivener's error. An amendment that corrects the reference to read "March 15, 2025" would resolve the issue.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to consumer finance loans; amending s.
3 516.01, F.S.; defining the term "branch"; amending s.
4 516.02, F.S.; prohibiting a person from operating a
5 branch of a business making consumer finance loans
6 before obtaining a license from the Office of
7 Financial Regulation; amending s. 516.03, F.S.;
8 specifying application fees for branch licenses;
9 revising the applicability of investigation fees;
10 making a technical change; amending s. 516.031, F.S.;
11 revising the maximum interest rates and the
12 calculation of interest rates on consumer finance
13 loans; revising the minimum amount of time before
14 which a delinquency charge for each payment in default
15 may be imposed; amending s. 516.15, F.S.; requiring
16 licensees offering an assistance program to borrowers
17 after a federally declared major disaster to send a
18 specified notice to the office within a certain
19 timeframe; providing construction; creating s. 516.38,
20 F.S.; requiring licensees to file annual reports with
21 the office; providing for rulemaking by the Financial
22 Services Commission; specifying requirements for the
23 reports; providing requirements for a licensee
24 claiming that submitted information contains a trade
25 secret; authorizing the office to publish a report in

26 a certain manner; creating s. 516.39, F.S.; requiring
27 certain licensees to suspend specified actions for a
28 certain timeframe after a federally declared disaster;
29 reenacting s. 516.19, F.S., relating to penalties, to
30 incorporate the amendments made to ss. 516.02 and
31 516.031, F.S., in references thereto; providing an
32 effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Section 516.01, Florida Statutes, is amended to
37 read:
38 516.01 Definitions.—As used in this chapter, the term:
39 (1) "Branch" means any location, other than a licensee's
40 principal place of business, at which a licensee operates or
41 conducts business under this chapter or which the licensee owns
42 or controls for the purpose of conducting business under this
43 chapter.
44 (2) ~~(3)~~ "Commission" means the Financial Services
45 Commission.
46 (3) ~~(1)~~ "Consumer finance borrower" or "borrower" means a
47 person who has incurred either direct or contingent liability to
48 repay a consumer finance loan.
49 (4) ~~(2)~~ "Consumer finance loan" means a loan of money,
50 credit, goods, or choses in action, including, except as

51 otherwise specifically indicated, provision of a line of credit,
52 in an amount or to a value of $25,000 or less for which the
53 lender charges, contracts for, collects, or receives interest at
54 a rate greater than 18 percent per annum.
55 (5) ~~(8)~~ "Control person" means an individual, partnership,
56 corporation, trust, or other organization that possesses the
57 power, directly or indirectly, to direct the management or
58 policies of a company, whether through ownership of securities,
59 by contract, or otherwise. A person is presumed to control a
60 company if, with respect to a particular company, that person:
61 (a) Is a director, general partner, or officer exercising
62 executive responsibility or having similar status or functions;
63 (b) Directly or indirectly may vote 10 percent or more of
64 a class of a voting security or sell or direct the sale of 10
65 percent or more of a class of voting securities; or
66 (c) In the case of a partnership, may receive upon
67 dissolution or has contributed 10 percent or more of the
68 capital.
69 (6) ~~(5)~~ "Interest" means the cost of obtaining a consumer
70 finance loan and includes any profit or advantage of any kind
71 whatsoever that a lender may charge, contract for, collect,
72 receive, or in anywise obtain, including by means of any
73 collateral sale, purchase, or agreement, as a condition for a
74 consumer finance loan. Charges specifically permitted by this
75 chapter, including commissions received for insurance written as

76 permitted by this chapter, shall not be deemed interest.
77 (7) ~~(6)~~ "License" means a permit issued under this chapter
78 to make and collect loans in accordance with this chapter at a
79 single place of business.
80 (8) ~~(7)~~ "Licensee" means a person to whom a license is
81 issued.
82 (9) ~~(4)~~ "Office" means the Office of Financial Regulation
83 of the commission.
84 Section 2. Subsection (1) of section 516.02, Florida
85 Statutes, is amended to read:
86 516.02 Loans; lines of credit; rate of interest; license.—
87 (1) A person must not engage in the business of making
88 consumer finance loans or operate a branch of such business
89 unless she or he is authorized to do so under this chapter or
90 other statutes and unless the person first obtains a license
91 from the office.
92 Section 3. Subsection (1) of section 516.03, Florida
93 Statutes, is amended to read:
94 516.03 Application for license; fees; etc.—
95 (1) APPLICATION.—Application for a license to make loans
96 under this chapter shall be in the form prescribed by rule of
97 the commission. The commission may require each applicant to
98 provide any information reasonably necessary to determine the
99 applicant's eligibility for licensure. The applicant shall also
100 provide information that the office requires concerning any

101 officer, director, control person, member, partner, or joint
102 venturer of the applicant or any person having the same or
103 substantially similar status or performing substantially similar
104 functions or concerning any individual who is the ultimate
105 equitable owner of a 10-percent or greater interest in the
106 applicant. The office may require information concerning any
107 such applicant or person, including, but not limited to, his or
108 her full name and any other names by which he or she may have
109 been known, age, social security number, residential history,
110 qualifications, educational and business history, and
111 disciplinary and criminal history. The applicant must provide
112 evidence of liquid assets of at least $25,000 or documents
113 satisfying the requirements of s. 516.05(10). At the time of
114 making such application, the applicant shall pay to the office a
115 nonrefundable biennial license fee of $625 for the principal
116 place of business and for each branch application filed.
117 Applications for a license for the principal place of business~~,~~
118 ~~except for applications to renew or reactivate a license,~~ must
119 also be accompanied by a nonrefundable investigation fee of
120 $200. An application is considered received for purposes of s.
121 120.60 upon receipt of a completed application form as
122 prescribed by commission rule, a nonrefundable application fee
123 of $625, and any other fee prescribed by law. The commission may
124 adopt rules requiring electronic submission of any form,
125 document, or fee required by this chapter ~~act~~ if such rules

126 reasonably accommodate technological or financial hardship. The
127 commission may prescribe by rule requirements and procedures for
128 obtaining an exemption due to a technological or financial
129 hardship.
130 Section 4. Subsection (1) and paragraph (a) of subsection
131 (3) of section 516.031, Florida Statutes, are amended to read:
132 516.031 Finance charge; maximum rates.—
133 (1) INTEREST RATES.—A licensee may lend any sum of money
134 up to $25,000. A licensee may not take a security interest
135 secured by land on any loan less than $1,000. The licensee may
136 charge, contract for, and receive thereon interest charges as
137 provided and authorized by this section. The maximum interest
138 rate shall be 36 ~~30~~ percent per annum, computed on the first
139 $10,000 ~~$3,000~~ of the principal amount; 30 ~~24~~ percent per annum
140 on that part of the principal amount exceeding $10,000 ~~$3,000~~
141 and up to $20,000 ~~$4,000~~; and 24 ~~18~~ percent per annum on that
142 part of the principal amount exceeding $20,000 ~~$4,000~~ and up to
143 $25,000. The original principal amount as used in this section
144 is the same as the amount financed as defined by the federal
145 Truth in Lending Act and Regulation Z of the Board of Governors
146 of the Federal Reserve System. In determining compliance with
147 the statutory maximum interest and finance charges set forth
148 herein, the computations used shall be simple interest and not
149 add-on interest or any other computations. If two or more
150 interest rates are applied to the principal amount of a loan,

151 the licensee may charge, contract for, and receive interest at
152 that single annual percentage rate which, if applied according
153 to the actuarial method to each of the scheduled periodic
154 balances of principal, would produce at maturity the same total
155 amount of interest as would result from the application of the
156 two or more rates otherwise permitted, based upon the assumption
157 that all payments are made as agreed.
158 (3) OTHER CHARGES.—
159 (a) In addition to the interest, delinquency, and
160 insurance charges provided in this section, further or other
161 charges or amount for any examination, service, commission, or
162 other thing or otherwise may not be directly or indirectly
163 charged, contracted for, or received as a condition to the grant
164 of a loan, except:
165 1. An amount of up to $25 to reimburse a portion of the
166 costs for investigating the character and credit of the person
167 applying for the loan;
168 2. An annual fee of $25 on the anniversary date of each
169 line-of-credit account;
170 3. Charges paid for the brokerage fee on a loan or line of
171 credit of more than $10,000, title insurance, and the appraisal
172 of real property offered as security if paid to a third party
173 and supported by an actual expenditure;
174 4. Intangible personal property tax on the loan note or
175 obligation if secured by a lien on real property;

176 5. The documentary excise tax and lawful fees, if any,
177 actually and necessarily paid out by the licensee to any public
178 officer for filing, recording, or releasing in any public office
179 any instrument securing the loan, which may be collected when
180 the loan is made or at any time thereafter;
181 6. The premium payable for any insurance in lieu of
182 perfecting any security interest otherwise required by the
183 licensee in connection with the loan if the premium does not
184 exceed the fees which would otherwise be payable, which may be
185 collected when the loan is made or at any time thereafter;
186 7. Actual and reasonable attorney fees and court costs as
187 determined by the court in which suit is filed;
188 8. Actual and commercially reasonable expenses for
189 repossession, storing, repairing and placing in condition for
190 sale, and selling of any property pledged as security; or
191 9. A delinquency charge for each payment in default for at
192 least 12 ~~10~~ days if the charge is agreed upon, in writing,
193 between the parties before imposing the charge. Delinquency
194 charges may be imposed as follows:
195 a. For payments due monthly, the delinquency charge for a
196 payment in default may not exceed $15.
197 b. For payments due semimonthly, the delinquency charge
198 for a payment in default may not exceed $7.50.
199 c. For payments due every 2 weeks, the delinquency charge
200 for a payment in default may not exceed $7.50 if two payments

201 are due within the same calendar month, and may not exceed $5 if
202 three payments are due within the same calendar month.
203
204 Any charges, including interest, in excess of the combined total
205 of all charges authorized and permitted by this chapter
206 constitute a violation of chapter 687 governing interest and
207 usury, and the penalties of that chapter apply. In the event of
208 a bona fide error, the licensee shall refund or credit the
209 borrower with the amount of the overcharge immediately but
210 within 20 days after the discovery of such error.
211 Section 5. Subsection (5) is added to section 516.15,
212 Florida Statutes, to read:
213 516.15 Duties of licensee.—Every licensee shall:
214 (5) In the event of a Federal Emergency Management Agency
215 response to a Presidential Disaster Declaration in the state, if
216 the licensee offers any assistance program to borrowers impacted
217 by the disaster, within 10 days after the licensee's
218 establishment of the program, send written notice to the office
219 in either physical or electronic format and include the
220 following information, subject to change as any additional
221 declarations are issued or declarations are revoked:
222 (a) The licensed locations affected by the disaster
223 declaration, including physical addresses, if applicable;
224 (b) The telephone number, e-mail address, or other contact
225 information for the licensee;

226 (c) A brief description of the assistance program
227 available to borrowers in the affected areas; and
228 (d) The start date, and end date if known, of the
229 assistance program.
230
231 For purposes of this subsection, assistance programs may
232 include, but are not limited to, deferments, forbearance, waiver
233 of late fees, payment modification, or changing payment due
234 dates.
235 Section 6. Section 516.38, Florida Statutes, is created to
236 read:
237 516.38 Annual reports by licensees.—
238 (1) By March 15, 2024, and each March 15 thereafter, a
239 licensee shall file a report with the office in a form and
240 manner prescribed by commission rule. The report must include
241 each of the items specified in subsection (2) for the preceding
242 calendar year using aggregated and anonymized data and without
243 reference to any borrower's nonpublic personal information.
244 (2) The report must include the following information for
245 the preceding calendar year:
246 (a) The number of locations held by the licensee under
247 this chapter as of December 31 of the preceding calendar year.
248 (b) The number of loan originations by the licensee from
249 all licenses held under this chapter during the preceding
250 calendar year.

251 (c) The total dollar amount of loans and the number of
252 loans outstanding with the licensee from all licenses held under
253 this chapter as of December 31 of the preceding calendar year.
254 (d) The total dollar amount of loans and the number of
255 loans in which the licensee holds a security interest in
256 collateral as of December 31 of the preceding calendar year.
257 (e) The total dollar amount of loans and the number of
258 unsecured loans as of December 31 of the preceding calendar
259 year.
260 (f) The total number of loans, separated by principal
261 amount, in the following ranges as of December 31 of the
262 preceding calendar year:
263 1. Up to and including $5,000.
264 2. Five thousand and one dollars to $10,000.
265 3. Ten thousand and one dollars to $15,000.
266 4. Fifteen thousand and one dollars to $20,000.
267 5. Twenty thousand and one dollars to $25,000.
268 (g) The total dollar amount of loans and the number of
269 loans charged off as of December 31 of the preceding calendar
270 year.
271 (h) The total dollar amount of loans and the number of
272 loans with delinquency status listed as:
273 1. Current or less than 30 days past due.
274 2. From 30 to 59 days past due.
275 3. From 60 to 89 days past due.

276 4. At least 90 days past due.
277 (3) A licensee claiming that any information submitted in
278 the report contains a trade secret must submit to the office an
279 accompanying affidavit in accordance with s. 655.0591 and
280 designate the information claimed to be a trade secret pursuant
281 to s. 655.0591.
282 (4) The office may publish a report of information
283 submitted pursuant to this section, provided that all data
284 published in the report is anonymized and aggregated from all
285 licensees.
286 Section 7. Section 516.39, Florida Statutes, is created to
287 read:
288 516.39 Suspension of penalties and remedial measures after
289 federal disaster declaration.—In the event of a Federal
290 Emergency Management Agency response to a Presidential Disaster
291 Declaration in the state, a licensee operating in a county
292 designated in the declaration must suspend for a period of 90
293 days after the date of the initial declaration the following:
294 (1) The application of delinquency charges under s.
295 516.031(3)(a)9.
296 (2) Repossessions of collateral pledged to loans made
297 under this chapter.
298 (3) The filing of civil actions for the collection of
299 amounts owed for loans made under this chapter.
300 Section 8. For the purpose of incorporating the amendments

301 made by this act to sections 516.02 and 516.031, Florida
302 Statutes, in references thereto, section 516.19, Florida
303 Statutes, is reenacted to read:
304 516.19 Penalties.—Any person who violates any of the
305 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
306 or s. 516.07(1)(e) commits a misdemeanor of the first degree,
307 punishable as provided in s. 775.082 or s. 775.083.
308 Section 9. This act shall take effect July 1, 2024.

COMMERCE COMMITTEE

HB 1347 by Rep. Brackett
Consumer Finance Loans

AMENDMENT SUMMARY
February 15, 2024

Amendment 1 by Rep. Brackett (Line 211): The amendment:

- Requires licensees to offer a borrower, at the time a loan is made, a credit education program addressing certain specified topics; and
- Changes the date that annual reports filed by licensees are first due to March 15, 2025, rather than March 15, 2024.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ____ (Y/N)
ADOPTED AS AMENDED ____ (Y/N)
ADOPTED W/O OBJECTION ____ (Y/N)
FAILED TO ADOPT ____ (Y/N)
WITHDRAWN ____ (Y/N)
OTHER

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Brackett offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 211-238 and insert:
6 Section 5. Subsections (5) and (6) are added to section
7 516.15, Florida Statutes, to read:
8 516.15 Duties of licensee.—Every licensee shall:
9 (5) In the event of a Federal Emergency Management Agency
10 response to a Presidential Disaster Declaration in the state, if
11 the licensee offers any assistance program to borrowers impacted
12 by the disaster, within 10 days after the licensee's
13 establishment of the program, send written notice to the office
14 in either physical or electronic format and include the
15 following information, subject to change as any additional
16 declarations are issued or declarations are revoked:

17 (a) The licensed locations affected by the disaster
18 declaration, including physical addresses, if applicable;
19 (b) The telephone number, e-mail address, or other contact
20 information for the licensee;
21 (c) A brief description of the assistance program
22 available to borrowers in the affected areas; and
23 (d) The start date, and end date if known, of the
24 assistance program.
25
26 For purposes of this subsection, assistance programs may
27 include, but are not limited to, deferments, forbearance, waiver
28 of late fees, payment modification, or changing payment due
29 dates.
30 (6) Offer the borrower at the time a loan is made a credit
31 education program or seminar provided by the licensee or a
32 third-party provider, either in writing or electronically. The
33 credit education program or seminar may address, but need not be
34 limited to, any of the following topics:
35 (a) The importance and methodology of establishing a
36 household budget.
37 (b) The impact, value of, and ways to improve a credit
38 score.
39 (c) The importance and methodology of establishing
40 household savings.
41 (d) Ways to obtain a free copy of a credit report.

42 (e) Ways to dispute an error in a credit report.
43 (f) Ways to manage and prevent identity theft.
44
45 A credit education program or seminar offered under this
46 subsection must be offered at no cost to the borrower. A
47 licensee may not require a borrower to participate in a credit
48 education program or seminar as a condition of receiving a loan.
49 Section 6. Section 516.38, Florida Statutes, is created to
50 read:
51 516.38 Annual reports by licensees.—
52 (1) By March 15, 2025, and each March 15 thereafter, a
53
54 ---
55 **T I T L E A M E N D M E N T**
56 Remove line 19 and insert:
57 timeframe; providing construction; requiring licensees to offer
58 borrowers a certain education program or seminar; specifying the
59 topics that such program or seminar may address; requiring that
60 such program or seminar be offered at no cost to borrowers;
61 prohibiting licensees from requiring borrowers to participate in
62 such education program or seminar as a condition of a loan;
63 creating s. 516.38,

CS/HB 1465

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1465 Pet Insurance and Wellness Programs
SPONSOR(S): Insurance & Banking Subcommittee, Tuck
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1338

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	17 Y, 0 N, As CS	Herrera	Lloyd
2) Commerce Committee		Herrera	Hamon

SUMMARY ANALYSIS

Pet insurance offers coverage for accidents and illnesses primarily for household pets, notably dogs and cats. While classified and regulated as Property and Casualty (P/C) insurance, it parallels human health insurance in providing annual coverage subject to predetermined rates and conditions.

In response to the growing significance of pet insurance and the need for standardized regulations, the National Association of Insurance Commissioners (NAIC) introduced the Pet Insurance Model Act during its Summer 2022 National Meeting. This model act addresses key aspects of the rapidly expanding pet insurance industry, which, as of 2017, saw only approximately 1.5 million dogs and 300,000 cats insured in the U.S., representing less than 2 percent of dogs and less than 0.5 percent of cats owned nationwide. Despite these relatively low rates of coverage, the total premium volume for pet insurance policies in the U.S. reached approximately $3.2 billion by the end of 2022. The model act encompasses provisions related to pet wellness programs, preexisting conditions, consumer protections, and training requirements for insurance producers.

Pet insurance policies typically cover various veterinary expenses, including:

- Accidents: coverage for injuries resulting from accidents, such as broken bones or ingesting foreign objects.
- Illnesses: coverage for treatments related to illnesses such as cancer, diabetes, or infections.
- Routine Care: some policies offer optional coverage for routine care, including vaccinations, wellness exams, and dental cleanings.
- Hereditary and Congenital Conditions: certain policies may cover hereditary and congenital conditions, although these often have specific limitations and waiting periods.

Currently, several companies offer pet insurance in Florida; however, Florida law does not separately regulate pet insurance.

The bill creates necessary regulatory statutes to facilitate the production of pet insurance policies for sale within the state, encompassing various aspects such as defining pet insurance, establishing disclosure requirements, and regulating the marketing and sales practices of wellness programs. It expands the definition of property insurance to include coverage for pets, covering accidents and illnesses explicitly. Additionally, the bill imposes training requirements for agents and brokers involved in selling pet insurance policies and outlines enforcement measures, including penalties for violations under the Florida Insurance Code.

The bill may have an indeterminate fiscal impact on the private sector and state government expenditures. The bill has no fiscal impact on local government or state government revenues.

The bill provides an effective date of January 1, 2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

National Association of Insurance Commissioners

The National Association of Insurance Commissioners (NAIC) serves as the insurance standard-setting and regulatory support body in the United States.[1] Comprised of insurance regulators from all 50 states, the District of Columbia, and five U.S. territories, the NAIC aids state regulators in fulfilling their public service mandate.[2] It achieves this by setting standards and regulatory best practices, facilitating the exchange of information, offering regulatory support services, and educating consumers, industry professionals, and government stakeholders on the state-based insurance regulatory framework of the United States.[3]

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) regulates specified insurance products, insurers, and other risk bearing entities in Florida.[4] The Financial Services Commission (FSC), composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the OIR for purposes of rulemaking. Further, the FSC appoints the OIR commissioner.

As part of their regulatory oversight, the OIR may suspend or revoke an insurer's certificate of authority under certain conditions.[5] The OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.[6] As part of the examination process, all persons being examined must make available to the OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.[7] The OIR is also authorized to conduct market conduct examinations to determine compliance with applicable provisions of the Insurance Code.[8]

Current Situation - Pet Insurance

Pet insurance offers coverage for accidents and illnesses primarily for household pets, notably dogs and cats.[9] While classified and regulated as Property and Casualty (P/C) insurance[10], it parallels human health insurance in providing annual coverage subject to predetermined rates and conditions.[11] Originating in the U.S. in 1980, pet insurance has experienced significant expansion since its inception.[12]

The North American Pet Health Insurance Association (NAPHIA) serves as the leading advocacy group, representing over 99 percent of the U.S. and Canada pet health insurance industry.[13] Notably, in 2017, NAPHIA members witnessed growth, with total premium volume reaching approximately $1.03

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[1] NAIC, *Our Story*, https://content.naic.org/about (last visited Jan. 27, 2024).
[2] *Id.*
[3] *Id.*
[4] S. 20.121(3)(a), F.S.
[5] S. 624.418, F.S
[6] S. 624, 316(1)(a), F.S.
[7] S. 624.318(2), F.S.
[8] The Code is comprised of chs. 624-632, 634-636, 641, 642, 648, and 651, F.S. *See* S. 624.3161, F.S.
[9] National Association of Insurance Commissioners, *A Regulator's Guide to Pet Insurance*, p. 1 https://content.naic.org/sites/default/files/publication-pin-op-pet-insurance.pdf (last visited Jan. 27, 2024).
[10] Casualty insurance is a broad category of insurance coverage for individuals, employers, and businesses against loss of property, damage, or other liabilities. Casualty insurance includes vehicle insurance, liability insurance, and theft insurance. Liability losses are losses that occur as a result of the insured's interactions with others or their property. *See* Investopedia, *Casualty Insurance: Definition, Types, and Examples,* https://www.investopedia.com/terms/c/casualtyinsurance.asp (last visited Jan. 27, 2024).
[11] *Id.*
[12] *Id.*
[13] *Id.*

billion in the U.S., marking a substantial 23.2 percent increase from the previous year.[14] In the U.S. and its territories, direct written premiums amounted to roughly $640 billion.[15] Despite the rapid growth, pet insurance still represents a small percentage of the total P/C market.[16]

Pet insurance policies typically cover various veterinary expenses, including[17]:

- Accidents: coverage for injuries resulting from accidents, such as broken bones or ingesting foreign objects.
- Illnesses: coverage for treatments related to illnesses such as cancer, diabetes, or infections.
- Routine Care: some policies offer optional coverage for routine care, including vaccinations, wellness exams, and dental cleanings.
- Hereditary and Congenital Conditions: certain policies may cover hereditary and congenital conditions, although these often have specific limitations and waiting periods.

In 2017, a survey by the American Pet Products Association revealed that approximately 68 percent of U.S. households, totaling around 84.65 million families, had at least one pet, including dogs, cats, or other animals.[18] Of these households, about 60 million owned at least one dog, and 47 million had at least one cat.[19] Despite this large number of pet owners, there's considerable room for growth in the pet insurance sector.[20] However, only about 1.5 million dogs and 300,000 cats were insured in 2017, representing less than 2 percent of dogs and less than 0.5 percent of cats owned in the country.[21] In the U.S., there are roughly 90 million household dogs and 95 million household cats, indicating a substantial potential market for pet insurance coverage.[22]

Pet insurance coverage in the U.S. has seen consistent annual growth rates of 15 percent to 20 percent over the past five years.[23] The distribution of pet insurance is notably concentrated in larger urban areas, with California and New York emerging as the primary markets.[24] For a visual representation of the distribution of pets and Gross Written Premiums (GWP) by state, please refer to the chart below.[25] According to data from NAPHIA members, the total premium volume in the U.S. reached approximately $3.2 billion by the end of 2022, with a slight slowdown in growth observed in 2022, marking the lowest growth rate in recent periods.[26]

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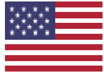
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] Forbes, *What Does Pet Insurance Cover?*, https://www.forbes.com/advisor/pet-insurance/what-does-pet-insurance-cover/ (last visited Jan. 27, 2024).
[18] National Association of Insurance Commissioners, *A Regulator's Guide to Pet Insurance*, p. 2 https://content.naic.org/sites/default/files/publication-pin-op-pet-insurance.pdf (last visited Jan. 27, 2024).
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *Id.* at 5.
[24] *Id.*
[25] NAPHIA, *State of the Industry Report 2023 Highlights*, p. 24, https://naphia.org/wp-content/uploads/2023/05/NAPHIA-SOI2023-Report-Highlights_Public-May9.pdf (last visited Jan. 27, 2024).
[26] *Id.* at 10.



U.S. Market (Full) Pets and GWP Distribution by State (2022)

STATE	PETS	GWP	STATE	PETS	GWP	STATE	PETS	GWP
California	18.6%	21.0%	Arizona	1.6%	1.6%	Rhode Island	0.6%	0.5%
New York	7.0%	8.4%	Indiana	1.3%	1.0%	Alabama	0.5%	0.4%
Florida	6.2%	6.3%	Minnesota	1.2%	1.0%	Kentucky	0.5%	0.4%
Texas	5.7%	4.9%	Nevada	1.2%	1.2%	Arkansas	0.5%	0.4%
New Jersey	4.6%	4.9%	South Carolina	1.1%	0.9%	West Virginia	0.4%	0.3%
Pennsylvania	4.5%	4.3%	North Dakota	1.1%	1.0%	District of Columbia	0.4%	0.4%
Massachusetts	4.1%	4.5%	Tennessee	1.1%	0.9%	Kansas	0.4%	0.3%
Washington	4.0%	4.1%	Maine	1.1%	1.0%	Oklahoma	0.4%	0.3%
Colorado	3.0%	3.0%	New Mexico	1.0%	0.9%	Idaho	0.4%	0.3%
Illinois	2.9%	3.1%	Wisconsin	0.9%	0.8%	Delaware	0.4%	0.3%
Virginia	2.7%	2.9%	Missouri	0.8%	0.6%	Alaska	0.3%	0.3%
North Carolina	2.4%	2.1%	New Hampshire	0.8%	0.8%	Mississippi	0.3%	0.2%
Maryland	2.2%	2.3%	Utah	0.7%	0.5%	Montana	0.2%	0.2%
Ohio	2.1%	1.9%	Nebraska	0.6%	0.5%	Wyoming	0.1%	0.1%
Georgia	2.1%	1.7%	Vermont	0.6%	0.6%	Other: Puerto Rico	0.1%	0.1%
Connecticut	2.0%	2.2%	Louisiana	0.6%	0.5%	South Dakota	0.1%	0.1%
Michigan	1.8%	1.5%	Hawaii	0.6%	0.6%			
Oregon	1.7%	1.6%	Iowa	0.6%	0.4%			

As the lifespans of companion animals increase, veterinary care costs are expected to rise for consumers, leading them to seek out pet insurance to help manage the expenses associated with preventive care, acute and chronic illnesses, and emergency medical treatments for their pets.[27] Data from NAPHIA indicates that consumers generally prefer "comprehensive" insurance plans for their pets.[28] In the U.S., the majority (92.8 percent) of pets are covered by Accident & Illness plans or Embedded Wellness plans, while 7 percent have Endorsements (riders such as wellness or cancer treatments), and the remaining 0.2 percent have Accident Only plans.[29]

Development of Regulatory Standards for the Pet Insurance Industry

In April 2019, the Pet Insurance Working Group was tasked with reviewing NAIC's "A Regulator's Guide to Pet Insurance" to determine if a model law or guideline was necessary to establish appropriate regulatory standards for the pet insurance industry.[30] Subsequently, a request for Model Law development related to pet insurance was adopted during the NAIC 2019 Spring National Meeting, addressing various aspects such as definitions, disclosures, violations, producer licensing, preexisting conditions, reimbursement benefits, and regulations.[31] During the NAIC's Summer 2022 National Meeting in members voted to adopt the Pet Insurance Model Act, which includes key provisions concerning pet wellness programs, preexisting conditions, consumer protections, and training for insurance producers.[32] Currently, only Maine has adopted a substantially similar version of the NAIC model.[33]

Current Situation – Florida

[27] NAIC, *Pet Insurance*, https://content.naic.org/cipr-topics/pet-insurance (last visited Jan. 27, 2024).
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] NAIC, *Pet Insurance Model Act*, https://content.naic.org/sites/default/files/model-law-state-page-633.pdf (last visited Jan. 27, 2024).

Currently, several companies offer pet insurance in Florida; however, Florida law does not separately regulate pet insurance. Below are companies that provide pet insurance:[34]

Companies	Average Monthly Cost	Waiting Periods	Maximum Annual Coverage
Pets Best	• $30 for dogs • $20 for cats	14 days for illnesses, two days for injuries, six months for orthopedic conditions	$5,000 - $100,000
Spot Pet Insurance	• $78 for dogs • $34 for cats	14 days for illnesses, two days for injuries	$2,500 - Unlimited
Embrace	• $63 for dogs • $37 for cats	48 hours for accidents, 14 days for illnesses, six months for orthopedic conditions	$5,000 - $100,000
ASPCA Pet Health Insurance	• $47 for dogs • $19 for cats	14 days for illnesses	$3,000 - $10,000

Effect of the bill

Expansion of Property Insurance Definition to Include Pet Coverage

This bill amends the definition of "property insurance" to explicitly include pet insurance coverage for accidents and for illnesses or diseases of pets. It clarifies that property insurance may contain a provision for accidental death or injury as part of a multiple peril homeowner's policy, which is considered incidental to the property insurance and is not subject to the provisions of the code applicable to life or health insurance.

Regulation of Sales Practices for Pet Wellness Programs

The bill defines unfair methods of competition and unfair or deceptive acts or practices related to the sales practices for pet wellness programs. It prohibits pet insurance agents from marketing a wellness program as pet insurance. If a wellness program is sold by a pet insurance agent, several conditions must be met, including:

- The purchase of the wellness program cannot be a prerequisite to the purchase of pet insurance.
- The costs of the wellness program must be separate and identifiable from any pet insurance policy sold by the agent.
- The terms and conditions of the wellness program must be distinct from any pet insurance policy sold by the agent.
- The products or coverages available through the wellness program cannot duplicate those available through the pet insurance policy.
- The advertising of the wellness program must not be misleading.

Pet Insurance Definitions and Usage

[34] Market Watch, *The Best Pet Insurance Companies in Florida (2024)*, https://www.marketwatch.com/guides/pet-insurance/pet-insurance-florida/ (last visited Jan. 27, 2024).

The bill creates necessary regulatory statutes to facilitate the production of pet insurance policies for sale within the state. The bill applies to policies issued to residents of the state, those sold or offered within the state's boundaries, as well as policies delivered or issued for delivery in the state.

The bill defines pet insurance as coverage designed for accidents and illnesses or diseases of pets, facilitating reimbursement for expenses linked to veterinary medical advice, diagnosis, care, or treatment, encompassing prescribed medications. Additionally, it introduces definitions for various terms, including chronic condition, congenital anomaly or disorder, hereditary disorder, orthopedic condition, pet insurance policy, preexisting condition, renewal, veterinarian, waiting period, and wellness program.

The bill mandates that if pet insurers incorporate the defined terms within a pet insurance policy, they must adhere to the provided definition verbatim. Additionally, the pet insurer is required to ensure accessibility of these definitions to policyholders.

Disclosure Requirements for Pet Insurance Policies

The bill requires pet insurers to disclose coverage exclusions for chronic conditions, congenital anomalies, hereditary disorders, and preexisting conditions, along with any other applicable exclusions. Additionally, they must disclose policy provisions limiting coverage, changes in coverage or premiums, and differentiate between the underwriting company and the marketed brand.

Pet insurers must allow a 30-day review period for policyholders to return policies for a refund if unsatisfied, provided no claims have been filed. They must also disclose the basis for determining claim payments, including benefit schedules and fee limitations, and any required medical examinations before policy purchase.

Further, the bill requires pet insurers to clearly disclose waiting periods and their requirements to applicants. Pet insurers must provide a summary of policy provisions and written disclosures including contact details for regulatory offices and the insurer or agent. These disclosures are in addition to any other disclosures required by law or regulation.

Preexisting Conditions, Waiting Periods, and Policy Renewals

The bill allows pet insurers to issue policies excluding coverage for preexisting conditions, provided that appropriate disclosure is made to the applicant or policyholder, with the burden of proving the applicability of the exclusion resting on the insurer. Additionally, pet insurers are permitted to impose waiting periods before the effective date of a new policy, not exceeding 30 days for certain conditions,[35] with provisions for waiving the waiting period upon completion of a medical examination, the costs of which are typically paid by the policyholder. These waiting periods and their requirements must be clearly disclosed to applicants before policy purchase.

The bill prohibits pet insurers from requiring medical examinations for policy renewals and mandates compliance with the Florida Insurance Code for additional benefits included in policies. Furthermore, it ensures that an applicant's eligibility for pet insurance is not tied to participation in a wellness program.

Marketing and Sales of Wellness Programs

The bill prohibits pet insurers and their agents from misrepresenting wellness programs as pet insurance. It mandates that if wellness programs are offered alongside pet insurance, they must be separate and not required for pet insurance purchase. Additionally, the costs, terms, and products of wellness programs must be distinct from pet insurance. Clear disclosures must be provided to

[35] "Certain conditions" referenced in this sentence include illnesses, diseases, or orthopedic conditions not resulting from an accident, as specified within the context of the bill

applicants and policyholders regarding the nature of wellness programs, and wellness benefits within pet insurance policies are recognized as insurance.

Agent and Broker Training Requirements

The bill requires specific training for agents and brokers involved in selling pet insurance policies. Agents and brokers must obtain appropriate licensing and complete specified training before engaging in the sale, solicitation, or negotiation of pet insurance policies. Pet insurers are responsible for ensuring that their agents and brokers receive training on preexisting conditions, waiting periods, and the distinctions between pet insurance and wellness programs. Additionally, training must cover chronic conditions, congenital anomalies, hereditary disorders, and administrative aspects of pet insurance policies. Satisfaction of training requirements from other states with substantially similar provisions is recognized as meeting the training standards in the state.

Enforcement, Applicability, and Rulemaking Authority

A violation of the bill's requirements will be a violation of the Florida Insurance Code. Additionally, it clarifies that while all other relevant insurance laws apply to pet insurance, the specific regulations outlined in this bill take precedence over any conflicting general provisions. The bill does not restrict the types of exclusions pet insurers can employ in their policies nor does it mandate the inclusion of any specific limitations or exclusions. Furthermore, the bill grants the commission the authority to adopt rules and regulations essential for the effective administration of this section.

The bill provides an effective date of January 1, 2025.

B. SECTION DIRECTORY:

Section 1: Amends s. 624.604, F.S., relating to "property insurance" defined.

Section 2: Amends s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts or practices defined.

Section 3: Creates s. 627.71545, F.S., relating to pet insurance; noninsurance wellness programs.

Section 4: Providing an effective date of January 1, 2025.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill necessitates the incorporation of pet insurance into the information technology systems of OIR, resulting in a one-time impact. However, OIR existing resources have the capacity to absorb this impact.[36]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

[36] Email from Kevin James, Deputy Legislative Affairs Director, Department of Management Services, HB 1465 Bill Analysis (Jan. 25, 2024).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may positively impact the private sector if the regulatory efficiency it establishes results in lower production costs for pet insurance providers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Sufficient rulemaking authority for the FSC and OIR to administer the bill's provisions is provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Insurance & Banking Subcommittee considered the bill, adopted a strike-all amendment, and reported the bill favorably as a committee substitute. The amendment revised the bill to better integrate its provisions within the framework of the Florida Insurance Code.

The analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

1 A bill to be entitled
2 An act relating to pet insurance and wellness
3 programs; amending s. 624.604, F.S.; revising the
4 definition of the term "property insurance"; amending
5 s. 626.9541, F.S.; providing that certain practices
6 related to pet wellness programs are unfair methods of
7 competition and unfair or deceptive acts or practices;
8 creating s. 627.71545, F.S.; providing a short title;
9 providing purpose; providing applicability; providing
10 construction; defining terms; requiring pet insurers
11 that use such defined terms in their pet insurance
12 policies to use and include the statutory definitions
13 in their policies; requiring pet insurers to also make
14 such definitions available on their websites or their
15 program administrators' websites; requiring pet
16 insurers to make certain disclosures to pet insurance
17 applicants and policyholders; requiring pet insurers
18 to provide a summary of their bases or formulas for
19 determination of claim payments under a pet insurance
20 policy on their websites or their program
21 administrators' websites; requiring pet insurers to
22 disclose certain requirements for required medical
23 examinations of a pet by a veterinarian; requiring pet
24 insurers to create a document with a summary of
25 certain disclosures, to post such document on their

26 websites or their program administrators' websites,
27 and, upon issuance or delivery of a policy to a
28 policyholder, to provide the disclosure document to
29 the policyholder; requiring additional written
30 disclosures; providing that certain required
31 disclosures are in addition to disclosures required by
32 the Florida Insurance Code or the Financial Services
33 Commission rules; authorizing pet insurance applicants
34 and policyholders to examine and return insurance
35 policies and riders under certain circumstances;
36 requiring that premiums be refunded under certain
37 circumstances; requiring that pet insurance policies
38 and riders have a specified notice printed on or
39 attached to the first page; authorizing pet insurers
40 to issue policies that exclude coverage on the basis
41 of preexisting conditions with appropriate written
42 disclosure to the applicant or policyholder; providing
43 that the pet insurer has a specified burden of proof
44 with regard to such exclusions; authorizing pet
45 insurers to issue policies that impose a waiting
46 period of up to a specified period of time for
47 specified illnesses, diseases, or conditions;
48 prohibiting pet insurers from issuing policies
49 imposing a waiting period for accidents; requiring pet
50 insurers who issue a policy that imposes a waiting

51 period to include a provision allowing for waiver of
52 the waiting period upon completion of a medical
53 examination of the covered pet by a veterinarian;
54 authorizing pet insurers to require an examination to
55 be conducted by a veterinarian after the purchase of
56 the policy; providing requirements and authorizations
57 relating to such examination; prohibiting a pet
58 insurer from requiring a medical examination of the
59 covered pet to renew a policy; requiring that certain
60 benefits comply with certain provisions of the Florida
61 Insurance Code; prohibiting insurance applicants'
62 eligibility from being based on participation or lack
63 of participation in wellness programs; requiring pet
64 insurers to ensure that its agents are trained on
65 specified topics; providing rulemaking authority;
66 providing an effective date.
67
68 Be It Enacted by the Legislature of the State of Florida:
69
70 Section 1. Section 624.604, Florida Statutes, is amended
71 to read:
72 624.604 "Property insurance" defined.—"Property insurance"
73 is insurance on real or personal property of every kind and of
74 every interest therein, whether on land, water, or in the air,
75 against loss or damage from any and all hazard or cause, and

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76 against loss consequential upon such loss or damage, other than
77 noncontractual legal liability for any such loss or damage.
78 Property insurance may include pet insurance that provides
79 coverage for accidents and for illnesses or diseases of pets.
80 Property insurance may contain a provision for accidental death
81 or injury as part of a multiple peril homeowner's policy. Such
82 insurance, which is incidental to the property insurance, is not
83 subject to the provisions of this code applicable to life or
84 health insurance. Property insurance does not include title
85 insurance, as defined in s. 624.608.
86 Section 2. Paragraph (hh) is added to subsection (1) of
87 section 626.9541, Florida Statutes, to read:
88 626.9541 Unfair methods of competition and unfair or
89 deceptive acts or practices defined.—
90 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
91 ACTS.—The following are defined as unfair methods of competition
92 and unfair or deceptive acts or practices:
93 (hh) Sales practices for pet wellness programs.—
94 1. A pet insurance agent may not market a wellness program
95 as pet insurance.
96 2. If a wellness program is sold by a pet insurance agent:
97 a. The purchase of the wellness program may not be a
98 prerequisite to the purchase of pet insurance;
99 b. The costs of the wellness program must be separate and
100 identifiable from any pet insurance policy sold by the pet

101 insurance agent;
102 c. The terms and conditions of the wellness program must
103 be separate from any pet insurance policy sold by the agent;
104 d. The products or coverages available through the
105 wellness program may not duplicate the products or coverages
106 available through the pet insurance policy; and
107 e. The advertising of the wellness program must not be
108 misleading.
109 Section 3. Section 627.71545, Florida Statutes, is created
110 to read:
111 627.71545 Pet insurance; noninsurance wellness programs.—
112 (1) This section may be cited as the "Pet Insurance Act."
113 (2) The purpose of this section is to promote the public
114 welfare by creating a comprehensive regulatory framework within
115 which pet insurance may be sold in this state.
116 (3) This section applies to all of the following:
117 (a) Pet insurance policies that are issued to any resident
118 of this state or that are sold, solicited, negotiated, or
119 offered in this state.
120 (b) Pet insurance policies or certificates that are
121 delivered or issued for delivery in this state.
122 (4)(a) This section may not be construed to prohibit or
123 limit the types of exclusions pet insurers may use in their
124 policies or to require pet insurers to include in such policies
125 any of the limitations or exclusions specified in subsection

126 (9).
127 (b) All other applicable provisions of the Florida
128 Insurance Code apply to pet insurance, except that this section
129 supersedes any general provisions of the Florida Insurance Code
130 which otherwise apply to pet insurance.
131 (5)(a) As used in this section, the term:
132 1. "Chronic condition" means a condition that can be
133 treated or managed, but not cured.
134 2. "Congenital anomaly or disorder" means a condition that
135 is present from birth, whether inherited or caused by the
136 environment, and that may cause or contribute to illness or
137 disease.
138 3. "Hereditary disorder" means an abnormality that is
139 genetically transmitted from parent to offspring and may cause
140 illness or disease.
141 4. "Orthopedic" refers to a condition that affects the
142 bones, skeletal muscle, cartilage, tendons, ligaments, or
143 joints. Orthopedic conditions include, but are not limited to,
144 elbow dysplasia, hip dysplasia, intervertebral disc
145 degeneration, patellar luxation, and cranial cruciate ligament
146 rupture but do not include any cancer or any metabolic,
147 hematopoietic, or autoimmune disease.
148 5. "Pet insurance" means an insurance policy that provides
149 coverage for accidents and for illnesses and diseases of pets.
150 Such insurance reimburses a policyholder for expenses associated

151 with medical advice, diagnosis, care, or treatment provided by a
152 veterinarian, including, but not limited to, the cost of drugs
153 prescribed by the veterinarian.
154 6. "Pet insurance policy" or "policy" includes pet
155 insurance certificates.
156 7. "Preexisting condition" means a condition for which any
157 of the following is true before the effective date of or during
158 a waiting period applicable to a pet insurance policy:
159 a. A veterinarian provided medical advice.
160 b. The pet received previous treatment.
161 c. Based on information from verifiable sources, the pet
162 had signs or symptoms directly related to the condition for
163 which a claim is being made.
164
165 A condition for which coverage is afforded on a policy is not
166 deemed to be a preexisting condition on any renewal of the
167 policy.
168 8. "Renewal" means the issuance and delivery at the end of
169 an insurance policy period of a policy that supersedes the
170 policy previously issued and delivered by the same pet insurer
171 or affiliated pet insurer and that provides types and limits of
172 coverage substantially similar to those contained in the policy
173 being superseded.
174 9. "Veterinarian" means a health care practitioner who is
175 licensed to engage in the practice of veterinary medicine in

176 this state under chapter 474.
177 10. "Waiting period" means the period of time specified in
178 a pet insurance policy which is required to run before some or
179 all of the coverage in the policy may begin. This period may not
180 be applied to renewals of existing coverage.
181 11. "Wellness program" means a subscription or
182 reimbursement-based program that is separate from an insurance
183 policy and that provides goods and services to promote the
184 general health, safety, or well-being of the covered pet. If the
185 subscription or program includes language such as "undertakes to
186 indemnify another," "pays a specified amount upon determinable
187 contingencies," or "provides coverage for a fortuitous event,"
188 the subscription or program is transacting in the business of
189 insurance and is subject to the Florida Insurance Code. This
190 definition is not intended to classify a contract directly
191 between a service provider and a pet owner which involves only
192 the two parties as being the business of insurance, unless other
193 indications of insurance also exist.
194 (b) If a pet insurer uses any of the terms defined in
195 paragraph (a) in a pet insurance policy, the pet insurer must
196 use the definition of each term as provided in paragraph (a) and
197 must include each such definition in the policy. The pet insurer
198 must also make such definitions available through a clear and
199 conspicuous link on the main page of the website of the pet
200 insurer or the pet insurer's program administrator.

201 (6)(a) A pet insurer transacting pet insurance must
202 disclose the following to pet insurance applicants and
203 policyholders:
204 1. Whether the policy excludes coverage due to any of the
205 following:
206 a. A chronic condition;
207 b. A congenital anomaly or disorder;
208 c. A hereditary disorder; or
209 d. A preexisting condition.
210 2. If the policy includes any other exclusions not listed
211 in subparagraph 1., the pet insurer must state the following in
212 the disclosure: "Other exclusions may apply. Please refer to the
213 exclusions section of the policy for more information."
214 3. Any policy provision that limits coverage through a
215 waiting period, a deductible, a coinsurance payment, or an
216 annual or lifetime policy limit. Waiting periods and applicable
217 requirements must be clearly and prominently disclosed to
218 applicants before the policy purchase.
219 4. Whether the pet insurer reduces coverage or increases
220 premium based on the policyholder's claims history, the age of
221 the covered pet, or a change in the geographic location of the
222 policyholder.
223 5. Whether the underwriting company differs from the brand
224 name used to market and sell the pet insurance.
225 (b) Before issuing a pet insurance policy, a pet insurer

226 shall, through a clear and conspicuous link on the main page of
227 the pet insurer's or the pet insurer's program administrator's
228 website, provide a summary description of the basis or formula
229 for the pet insurer's determination of claim payments under the
230 policy.
231 1. A pet insurer that uses a benefit schedule to determine
232 claim payments under a pet insurance policy must clearly
233 disclose both of the following:
234 a. The applicable benefit schedule in the policy.
235 b. All benefit schedules used by the pet insurer under its
236 pet insurance policies through a clear and conspicuous link on
237 the main page of the pet insurer's or pet insurer's program
238 administrator's website.
239 2. A pet insurer that determines claim payments under a
240 pet insurance policy based on usual and customary fees, or any
241 other reimbursement limitation based on prevailing veterinary
242 service provider charges, shall do both of the following:
243 a. Include a usual and customary fee limitation provision
244 in the policy which clearly describes the pet insurer's basis or
245 formula for determining usual and customary fees and the manner
246 in which that basis or formula is applied in calculating claim
247 payments.
248 b. Disclose the pet insurer's basis for determining usual
249 and customary fees through a clear and conspicuous link on the
250 main page of the pet insurer's or pet insurer's program

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251 administrator's website.
252 (c) If any medical examination of the pet by a
253 veterinarian is required to effectuate coverage, the pet insurer
254 must clearly and conspicuously disclose any requirement for the
255 examination before the policy is purchased and must disclose
256 that examination documentation may result in a preexisting
257 condition exclusion.
258 (d) A pet insurer shall create a summary of all policy
259 disclosures required in paragraphs (a), (b), and (c) in a
260 separate document titled "Insurer Disclosure of Important Policy
261 Provisions." The pet insurer shall post the document through a
262 clear and conspicuous link on the main page of the pet insurer's
263 or pet insurer's program administrator's website.
264 (e) At the time a pet insurance policy is issued or
265 delivered to a policyholder, the pet insurer shall provide the
266 policyholder with a copy of the Insurer Disclosure of Important
267 Policy Provisions document required under paragraph (d), in at
268 least 12-point type. At such time, the pet insurer shall also
269 include a written disclosure with all of the following:
270 1. Contact information for the Division of Consumer
271 Services of the department, including a link and toll-free
272 telephone number, for consumers to submit inquiries and
273 complaints relating to pet insurance products regulated by the
274 department or office.
275 2. The address and customer service telephone number of

276 the pet insurance agent.
277 (f) The disclosures required in this subsection are in
278 addition to any other disclosures required by the insurance code
279 or rules prescribed by the commission.
280 (7) Unless the policyholder has filed a claim under the
281 pet insurance policy, a pet insurance applicant or policyholder
282 may examine and return the policy or rider to the pet insurer or
283 pet insurance agent or broker within 30 days after the applicant
284 or policyholder obtains the receipt and is entitled to the
285 premium refunded if, after examining the policy or rider, he or
286 she is not satisfied for any reason.
287 (8) A pet insurance policy and rider must have a notice
288 prominently printed on or attached to the first page which
289 includes specific instructions to accomplish a return, in type
290 at least as large as any type appearing on the policy or rider
291 contract and in substantially the following language:
292
293 You have 30 days after the date you receive this
294 policy, certificate, or rider to review and return it
295 to the company if you decide not to keep it. You do
296 not have to tell the company why you are returning it.
297 If you decide not to keep policy, certificate, or
298 rider, simply return it to the company at the
299 company's administrative office, or to the insurance
300 agent or broker from whom you bought it, as long as

301 you have not filed a claim. You must return the
302 policy, certificate, or rider within 30 days after the
303 day you first receive it in order to receive a refund.
304 The company must refund the full amount of any premium
305 paid within 30 days after it receives the returned
306 policy, certificate, or rider. The premium refund will
307 be sent directly to the person who paid it. The
308 policy, certificate, or rider will be void as if it
309 had never been issued.
310
311 (9)(a) A pet insurer may issue a policy that excludes
312 coverage on the basis of one or more preexisting conditions with
313 appropriate written disclosure to the applicant or policyholder.
314 The pet insurer has the burden of proving that the preexisting
315 condition exclusion applies to the condition for which a claim
316 is being made.
317 (b)1. A pet insurer may issue a policy imposing a waiting
318 period before the effective date of a new policy which does not
319 exceed 30 days for illnesses or diseases or for orthopedic
320 conditions not resulting from an accident. A pet insurer may not
321 issue a policy imposing a waiting period for accidents.
322 2. A pet insurer issuing a policy that imposes a waiting
323 period must include a provision in its contract which allows the
324 waiting period to be waived upon completion of a medical
325 examination of the pet by a veterinarian. The pet insurer may

326 require the examination to be conducted by a veterinarian after
327 the purchase of the policy.
328 a. A medical examination required under this subparagraph
329 must be paid for by the policyholder, unless the policy
330 specifies that the pet insurer will pay for the examination.
331 b. A pet insurer may specify requirements for the
332 examination and require documentation that the requirements have
333 been satisfied, provided that the specifications do not
334 unreasonably restrict the ability of the applicant or
335 policyholder to waive the waiting period.
336 (c) A pet insurer may not require a medical examination of
337 the covered pet for the policyholder to renew a policy.
338 (d) If a pet insurer includes any prescriptive, wellness,
339 or noninsurance benefit in the policy form, the benefit is made
340 part of the policy contract and must comply with all of the
341 applicable provisions of the Florida Insurance Code.
342 (e) An applicant's eligibility to purchase a pet insurance
343 policy may not be based on his or her participation, or lack of
344 participation, in a separate wellness program.
345 (10)(a) A pet insurer must ensure that its agents are
346 trained on the topics specified in paragraph (b) and that its
347 agents have been appropriately trained on the coverages and
348 conditions of its pet insurance products.
349 (b) The training required under this subsection must
350 include information on all of the following topics:

351 1. Preexisting conditions and waiting periods.
352 2. The differences between pet insurance and noninsurance
353 wellness programs.
354 3. Chronic conditions, congenital anomalies or disorders,
355 and hereditary disorders and the way pet insurance policies
356 address those conditions or disorders.
357 4. Rating, underwriting, renewal, and other related
358 administrative topics.
359 (11) The commission may adopt rules necessary to
360 administer this section.
361 Section 4. This act shall take effect January 1, 2025.

COMMERCE COMMITTEE

CS/HB 1465 by Rep. Tuck
Pet Insurance and Wellness Programs

AMENDMENT SUMMARY
February 15, 2024

Amendment 1 by Rep. Tuck (Line 79): The amendment makes technical and grammatical changes.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	______	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Tuck offered the following:
3
4 **Amendment**
5 Remove lines 79-321 and insert:
6 coverage for accidents and for illnesses of pets. Property
7 insurance may contain a provision for accidental death or injury
8 as part of a multiple peril homeowner's policy. Such insurance,
9 which is incidental to the property insurance, is not subject to
10 the provisions of this code applicable to life or health
11 insurance. Property insurance does not include title insurance,
12 as defined in s. 624.608.
13 Section 2. Paragraph (hh) is added to subsection (1) of
14 section 626.9541, Florida Statutes, to read:
15 626.9541 Unfair methods of competition and unfair or
16 deceptive acts or practices defined.—

17 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
18 ACTS.—The following are defined as unfair methods of competition
19 and unfair or deceptive acts or practices:
20 (hh) Sales practices for pet wellness programs.—
21 1. A pet insurance agent may not market a wellness program
22 as pet insurance.
23 2. If a wellness program is sold by a pet insurance agent:
24 a. The purchase of the wellness program may not be a
25 prerequisite to the purchase of pet insurance;
26 b. The costs of the wellness program must be separate and
27 identifiable from any pet insurance policy sold by the pet
28 insurance agent;
29 c. The terms and conditions of the wellness program must
30 be separate from any pet insurance policy sold by the agent;
31 d. The products or coverages available through the
32 wellness program may not duplicate the products or coverages
33 available through the pet insurance policy; and
34 e. The advertising of the wellness program must not be
35 misleading.
36 Section 3. Section 627.71545, Florida Statutes, is created
37 to read:
38 627.71545 Pet insurance; noninsurance wellness programs.—
39 (1) This section may be cited as the "Pet Insurance Act."

40 (2) The purpose of this section is to promote the public
41 welfare by creating a comprehensive regulatory framework within
42 which pet insurance may be sold in this state.
43 (3) This section applies to all of the following:
44 (a) Pet insurance policies that are issued to any resident
45 of this state or that are sold, solicited, negotiated, or
46 offered in this state.
47 (b) Pet insurance policies or certificates that are
48 delivered or issued for delivery in this state.
49 (4)(a) This section may not be construed to prohibit or
50 limit the types of exclusions pet insurers may use in their
51 policies or to require pet insurers to include in such policies
52 any of the limitations or exclusions specified in subsection
53 (9).
54 (b) All other applicable provisions of the Florida
55 Insurance Code apply to pet insurance, except that this section
56 supersedes any general provisions of the Florida Insurance Code
57 which otherwise apply to pet insurance.
58 (5)(a) As used in this section, the term:
59 1. "Chronic condition" means a condition that can be
60 treated or managed, but not cured.
61 2. "Congenital anomaly or disorder" means a condition that
62 is present from birth, whether inherited or caused by the
63 environment, and that may cause or contribute to illness or
64 disease.

65 3. "Hereditary disorder" means an abnormality that is
66 genetically transmitted from parent to offspring and may cause
67 illness or disease.
68 4. "Orthopedic" refers to a condition that affects the
69 bones, skeletal muscle, cartilage, tendons, ligaments, or
70 joints. Orthopedic conditions include, but are not limited to,
71 elbow dysplasia, hip dysplasia, intervertebral disc
72 degeneration, patellar luxation, and cranial cruciate ligament
73 rupture but do not include any cancer or any metabolic,
74 hematopoietic, or autoimmune disease.
75 5. "Pet insurance" means an insurance policy that provides
76 coverage for accidents and for illnesses and diseases of pets.
77 Such insurance reimburses a policyholder for expenses associated
78 with medical advice, diagnosis, care, or treatment provided by a
79 veterinarian, including, but not limited to, the cost of drugs
80 prescribed by the veterinarian.
81 6. "Pet insurance policy" or "policy" includes pet
82 insurance certificates.
83 7. "Preexisting condition" means a condition for which any
84 of the following is true before the effective date of or during
85 a waiting period applicable to a pet insurance policy:
86 a. A veterinarian provided medical advice.
87 b. The pet received previous treatment.

88 c. Based on information from verifiable sources, the pet
89 had signs or symptoms directly related to the condition for
90 which a claim is being made.
91
92 A condition for which coverage is afforded on a policy is not
93 deemed to be a preexisting condition on any renewal of the
94 policy.
95 8. "Renewal" means the issuance and delivery at the end of
96 an insurance policy period of a policy that supersedes the
97 policy previously issued and delivered by the same pet insurer
98 or affiliated pet insurer and that provides types and limits of
99 coverage substantially similar to those contained in the policy
100 being superseded.
101 9. "Veterinarian" means a health care practitioner who is
102 licensed to engage in the practice of veterinary medicine in
103 this state under chapter 474.
104 10. "Waiting period" means the period of time specified in
105 a pet insurance policy which is required to run before some or
106 all of the coverage in the policy may begin. This period may not
107 be applied to renewals of existing coverage.
108 11. "Wellness program" means a subscription or
109 reimbursement-based program that is separate from an insurance
110 policy and that provides goods and services to promote the
111 general health, safety, or well-being of the covered pet. If the
112 subscription or program includes language such as "undertakes to

113 indemnify another," "pays a specified amount upon determinable
114 contingencies," or "provides coverage for a fortuitous event,"
115 the subscription or program is transacting in the business of
116 insurance and is subject to the Florida Insurance Code. This
117 definition is not intended to classify a contract directly
118 between a service provider and a pet owner which involves only
119 the two parties as being the business of insurance, unless other
120 indications of insurance also exist.
121 (b) If a pet insurer uses any of the terms defined in
122 paragraph (a) in a pet insurance policy, the pet insurer must
123 use the definition of each term as provided in paragraph (a) and
124 must include each such definition in the policy. The pet insurer
125 must also make such definitions available through a clear and
126 conspicuous link on the main page of the website of the pet
127 insurer or the pet insurer's program administrator.
128 (6)(a) A pet insurer transacting pet insurance must
129 disclose the following to pet insurance applicants and
130 policyholders:
131 1. Whether the policy excludes coverage due to any of the
132 following:
133 a. A chronic condition;
134 b. A congenital anomaly or disorder;
135 c. A hereditary disorder; or
136 d. A preexisting condition.

137 2. If the policy includes any other exclusions not listed
138 in subparagraph 1., the pet insurer must state the following in
139 the disclosure: "Other exclusions may apply. Please refer to the
140 exclusions section of the policy for more information."
141 3. Any policy provision that limits coverage through a
142 waiting period, a deductible, a coinsurance payment, or an
143 annual or lifetime policy limit. Waiting periods and applicable
144 requirements must be clearly and prominently disclosed to
145 applicants before the policy purchase.
146 4. Whether the pet insurer reduces coverage or increases
147 premium based on the policyholder's claims history, the age of
148 the covered pet, or a change in the geographic location of the
149 policyholder.
150 5. Whether the underwriting company differs from the brand
151 name used to market and sell the pet insurance.
152 (b) Before issuing a pet insurance policy, a pet insurer
153 shall, through a clear and conspicuous link on the main page of
154 the pet insurer's or the pet insurer's program administrator's
155 website, provide a summary description of the basis or formula
156 for the pet insurer's determination of claim payments under the
157 policy.
158 1. A pet insurer that uses a benefit schedule to determine
159 claim payments under a pet insurance policy must clearly
160 disclose both of the following:
161 a. The applicable benefit schedule in the policy.

162 b. All benefit schedules used by the pet insurer under its
163 pet insurance policies through a clear and conspicuous link on
164 the main page of the pet insurer's or pet insurer's program
165 administrator's website.
166 2. A pet insurer that determines claim payments under a
167 pet insurance policy based on usual and customary fees, or any
168 other reimbursement limitation based on prevailing veterinary
169 service provider charges, shall do both of the following:
170 a. Include a usual and customary fee limitation provision
171 in the policy which clearly describes the pet insurer's basis or
172 formula for determining usual and customary fees and the manner
173 in which that basis or formula is applied in calculating claim
174 payments.
175 b. Disclose the pet insurer's basis for determining usual
176 and customary fees through a clear and conspicuous link on the
177 main page of the pet insurer's or pet insurer's program
178 administrator's website.
179 (c) If any medical examination of the pet by a
180 veterinarian is required to effectuate coverage, the pet insurer
181 must clearly and conspicuously disclose any requirement for the
182 examination before the policy is purchased and must disclose
183 that examination documentation may result in a preexisting
184 condition exclusion.
185 (d) A pet insurer shall create a summary of all policy
186 disclosures required in paragraphs (a), (b), and (c) in a

187 separate document titled "Insurer Disclosure of Important Policy
188 Provisions." The pet insurer shall post the document through a
189 clear and conspicuous link on the main page of the pet insurer's
190 or pet insurer's program administrator's website.
191 (e) At the time a pet insurance policy is issued or
192 delivered to a policyholder, the pet insurer shall provide the
193 policyholder with a copy of the Insurer Disclosure of Important
194 Policy Provisions document required under paragraph (d), in at
195 least 12-point type. At such time, the pet insurer shall also
196 include a written disclosure with all of the following:
197 1. Contact information for the Division of Consumer
198 Services of the department, including a link and toll-free
199 telephone number, for consumers to submit inquiries and
200 complaints relating to pet insurance products regulated by the
201 department or office.
202 2. The address and customer service telephone number of
203 the pet insurance agent.
204 (f) The disclosures required in this subsection are in
205 addition to any other disclosures required by the insurance code
206 or rules prescribed by the commission.
207 (7) Unless the policyholder has filed a claim under the
208 pet insurance policy, a pet insurance applicant or policyholder
209 may examine and return the policy or rider to the pet insurer or
210 pet insurance agent or broker within 30 days after the applicant
211 or policyholder obtains the receipt and is entitled to the

212 premium refunded if, after examining the policy or rider, he or
213 she is not satisfied for any reason.
214 (8) A pet insurance policy and rider must have a notice
215 prominently printed on or attached to the first page which
216 includes specific instructions to accomplish a return, in type
217 at least as large as any type appearing on the policy or rider
218 contract and in substantially the following language:
219
220 You have 30 days after the date you receive this
221 policy, certificate, or rider to review and return it
222 to the company if you decide not to keep it. You do
223 not have to tell the company why you are returning it.
224 If you decide not to keep policy, certificate, or
225 rider, simply return it to the company at the
226 company's administrative office, or to the insurance
227 agent or broker from whom you bought it, as long as
228 you have not filed a claim. You must return the
229 policy, certificate, or rider within 30 days after the
230 day you first receive it in order to receive a refund.
231 The company must refund the full amount of any premium
232 paid within 30 days after it receives the returned
233 policy, certificate, or rider. The premium refund will
234 be sent directly to the person who paid it. The
235 policy, certificate, or rider will be void as if it
236 had never been issued.

237
238 (9)(a) A pet insurer may issue a policy that excludes
239 coverage on the basis of one or more preexisting conditions with
240 appropriate written disclosure to the applicant or policyholder.
241 The pet insurer has the burden of proving that the preexisting
242 condition exclusion applies to the condition for which a claim
243 is being made.
244 (b)1. A pet insurer may issue a new policy imposing a
245 waiting period, which does not exceed 30 days from effectuation
246 of coverage, for illnesses or diseases or for orthopedic
247 conditions not resulting from an accident. A pet insurer may not
248 issue a policy imposing a waiting period for accidents.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1579 Occupational Licensing
SPONSOR(S): State Administration & Technology Appropriations Subcommittee, Mooney
TIED BILLS: **IDEN./SIM. BILLS:** SB 1142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	14 Y, 0 N	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee	12 Y, 0 N, As CS	Helpling	Topp
3) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

Part I of Chapter 489, F.S., addresses the licensure and regulation of construction contractors. Construction contractors are either certified for statewide practice or registered as a locally licensed contractor by the Construction Industry Licensing Board (CILB), housed within the Department of Business and Professional Regulation (DBPR). The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.

In 2021, HB 735 was enacted, relating to preempting occupational licensing to the state, and specifically preempted local licensing that is outside the scope of state contractor licensing provisions. Specifically, it provided that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a statutory or specialty contractor category licensed by the CILB.

In 2023, HB 1383 was enacted, as a follow-up to HB 735 in 2021. The law extended the expiration date for local licensing and established new specialty license categories. Recently, some local governments have stopped performing certain local licensing functions related to specialty contractors.

The bill requires the CILB to issue a registration to an eligible applicant to engage in the business of contracting in a specified local jurisdiction, provided each of the following conditions are satisfied:

- The applicant held, in any local jurisdiction in Florida during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a statutory category of contractor licensed by the CILB.
- The applicant submits all of the following to the CILB:
  - Evidence of the certificate of registration or local license held by the applicant.
  - Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license.
  - Evidence that the applicant has submitted the required fee.
  - Evidence of compliance with certain insurance and financial responsibility requirements.

The bill provides that an examination is not required for an applicant seeking such a registration.

The bill provides that the CILB is responsible for disciplining licensees issued such a registration. The CILB must make such licensure and disciplinary information available through the automated information system.

The bill does not appear to have a fiscal impact on local governments, and may have an indeterminate positive fiscal impact on state government. *See* Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Building Code

In response to the destruction of Hurricane Andrew, in 1998, the Legislature approved a single state building code and enhanced the oversight role of the state over local code enforcement. In 2000, the Legislature authorized the implementation of the Building Code (Code), and that first edition replaced all local codes on March 1, 2002, making it the first statewide building code in the United States.[1]

The “Florida Building Codes Act” was created to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state Code. The Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[2]

The Florida Building Commission (Building Commission) was statutorily created to implement the Code. The Building Commission, which is housed within DBPR, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Code. The Building Commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes (model codes) to determine if the Code needs to be updated and adopts an updated Code every three years.[3]

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public’s health, safety, and welfare.[4] Every local government must enforce the Building Code and issue building permits.[5] It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.[6]

Construction Licenses

Chapter 489, F.S., relates to “contracting,” with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR. The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.[7]

"Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of

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[1] *Id.*
[2] *See* s. 553.72(1), F.S.
[3] Ss. 553.73 and 553.74, F.S.
[4] S. 553.72, F.S.
[5] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[6] Ss. 125.56(4)(a) and 553.79(1), F.S.
[7] S. 489.107, F.S.

competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.[8]

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.

“Registered contractors” are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.[9]

The CILB licenses the following types of contractors:[10]

Statutory Licenses	Specialty Licenses
• Air Conditioning- Classes A, B, and C • Building • General • Internal Pollutant Storage Tank Lining Applicator • Mechanical • Plumbing • Pollutant Storage Systems • Pool/Spa- Classes A, B, and C • Precision Tank Tester • Residential • Roofing • Sheet Metal • Solar • Underground Excavation	• Drywall • Demolition • Gas Line • Glass and Glazing • Industrial Facilities • Irrigation • Marine • Residential Pool/Spa Servicing • Solar Water Heating • Structure • Swimming Pool Decking • Swimming Pool Excavation • Swimming Pool Finishes • Swimming Pool Layout • Swimming Pool Piping • Swimming Pool Structural • Swimming Pool Trim • Tower

HB 735 (2021 Regular Session)

In 2021, HB 735[11] was enacted, relating to preempting occupational licensing to the state. The law defines the following terms:

- “Local government” means a county, municipality, special district, or political subdivision of the state.
- “Occupation” means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.
- "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.

The law expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless:

- The licensing of occupations by local governments is authorized by general law; or
- The local licensing scheme for an occupation was imposed before July 1, 2021. However, any such local licensing scheme expires on July 1, 2023.

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[8] S. 489.105, F.S.
[9] S. 489.103, F.S.
[10] S. 489.105(a)-(q), F.S.; R. 61G4-15.015-.040, F.A.C.
[11] Ch. 2021-214, L.O.F.

The law provides that any local licensing of an occupation not authorized under the provisions of the bill or otherwise authorized by general law does not apply and may not be enforced.

Also, HB 735 specifically preempted local licensing that is outside the scope of state contractor licensing provisions. Specifically, it provided that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB after July 1, 2023.

The law precluded counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

HB 1383 (2023 Regular Session)

In 2023, HB 1383[12] was enacted, relating to local construction licensing, as a follow-up to HB 735 in 2021.

The law extended the expiration date for local licensing without general law authority to July 1, 2024, from July 1, 2023.

The law requires the CILB, by July 1, 2024, to, by rule, establish certified specialty contractor categories for voluntary licensure for all of the following:

- Structural aluminum or screen enclosures.
- Marine seawall work.
- Marine bulkhead work.
- Marine dock work.
- Marine pile driving.
- Structural masonry.
- Structural prestressed, precast concrete work.
- Rooftop solar heating installation.
- Structural steel.
- Window and door installation, including garage door installation and hurricane or windstorm protection.
- Plaster and lath.
- Structural carpentry.

The law also prohibits local governments from requiring a license to obtain a permit for a job scope outside of the practice of contracting, including, but not limited to, painting, flooring, cabinetry, interior remodeling when the scope of the project does not include a task for which a state license is required, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, pressure washing, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

The law allows a local government to continue to offer a license for veneer work, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories; and fence installation and erection, if the local government imposed such a licensing requirement before January 1, 2021.

Since the passage of HB 1383 in 2023, some local governments have stopped performing certain local licensing functions for contractors.[13]

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[12] Ch. 2023-271, L.O.F.

[13] For example, Lee County is no longer issuing new licenses. Lee County, Contractor Licensing, https://www.leegov.com/dcd/ContLic (last visited Jan. 27, 2024).

Automated Information System

Section 455.2286, F.S., requires DBPR to implement an automated information system for all building code enforcement, professional engineer, architects, interior designers, landscape architects, and **contractor licensees.** The system must provide instant notification to local building departments and other interested parties regarding the status of the license. The provision of such information must consist, at a minimum, of an indication of:

- Whether the license is active,
- Any current failure to meet the terms of any final action by a licensing authority,
- Any ongoing disciplinary cases that are subject to public disclosure,
- Whether there are any outstanding fines, and
- The reporting of any material violations of the Building Code.[14]

The system must also retain information developed by DBPR and local governments on individuals found to be practicing or contracting without holding the applicable license, certification, or registration required by law.[15]

Effect of the Bill

The bill requires the CILB to issue a registration to an eligible applicant to engage in the "business of a contractor" in a specified local jurisdiction, provided each of the following conditions are satisfied:

- The applicant held, in any local jurisdiction in Florida during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a statutory category of contractor licensed by the CILB.
- The applicant submits all of the following to the CILB:
  - Evidence of the certificate of registration or local license held by the applicant.
  - Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an email or letter from the office of the local building official or local building department stating that such licensing is not required or available in that local jurisdiction.
  - Evidence that the applicant has submitted the required fee.
  - Evidence of compliance with certain insurance and financial responsibility requirements.

The provides that an examination is not required for an applicant seeking such a registration.

The bill provides that the CILB is responsible for disciplining licensees issued such a registration. The CILB must make such licensure and disciplinary information available through the automated information system.

The bill provides that the fees for an applicant seeking such a registration and renewal of such registration every 2 years are the same as the fees established by the CILB for applications, registration and renewal, and record making and recordkeeping. The bill specifies that DBPR must provide license, renewal, and cancelation notices pursuant to ss. 455.273 and 455.275, F.S.[16]

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 489.117, F.S.; requiring issuance of a local license under certain circumstances.
Section 2: Provides an effective date.

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[14] S. 455.2286, F.S.
[15] *Id.*
[16] Ss. 455.273 and 455.275, F.S., require certain license notices and documents to be sent to a licensee's address of record or email address of record.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill may have an indeterminate positive fiscal impact on revenues, as an unknown number of applicants will seek a registration from DBPR based on a local license.

2. Expenditures:

   DBPR can absorb any additional complaint and investigative responsibilities without requiring additional resources.[17]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may assist those contractors who chose local licensure rather than statewide licensure to remain in the workforce if the local jurisdiction stops issuing local licenses.

D. FISCAL COMMENTS:

None.

[17] DBPR, Agency Analysis of 2024 Senate Bill 1142, p.6 (Jan. 16, 2024).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DBPR will need to adopt rules related to new registration applications.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 6, 2024, the State Administration & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Makes a technical change regarding evidence that must be submitted by an applicant.
- Authorizes DBPR to provide license, renewal and cancellation notices pursuant to statute, including email, in lieu of only mail.

This analysis is drafted to the committee substitute as passed by the State Administration & Technology Appropriations Subcommittee.

A bill to be entitled

An act relating to occupational licensing; amending s. 489.117, F.S.; requiring the Construction Industry Licensing Board within the Department of Business and Professional Regulation to issue registrations to eligible persons under certain circumstances; providing that the board is responsible for disciplining such licensees; requiring the board to make licensure and disciplinary information available through the automated information system; providing for the fees for the issuance of the registrations and renewal registrations; requiring the department to provide certain license, renewal, and cancellation notices; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1) and subsection (2) of section 489.117, Florida Statutes, are amended to read:

489.117 Registration; specialty contractors.—

(1)(a) A ~~Any~~ person engaged in the business of a contractor as defined in s. 489.105(3)(a)-(o) must be registered before engaging in business as a contractor in this state,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 unless he or she is certified. Except as provided in paragraph
27 (2)(b), to be initially registered, the applicant must ~~shall~~
28 submit the required fee and file evidence of successful
29 compliance with the local examination and licensing
30 requirements, if any, in the area for which registration is
31 desired. An examination is not required for registration.
32 (b) Registration allows the registrant to engage in
33 contracting only in the counties, municipalities, or development
34 districts where he or she has complied with all local licensing
35 requirements, if any, and only for the type of work covered by
36 the registration.
37 (2)(a) Except as provided in paragraph (b), the board may
38 not issue a ~~No~~ new registration ~~may be issued by the board~~ after
39 July 1, 1993, based on any certificate of competency or license
40 for a category of contractor defined in s. 489.105(3)(a)-(o)
41 which is issued by a municipal or county government that does
42 not exercise disciplinary control and oversight over such
43 locally licensed contractors, including forwarding a recommended
44 order in each action to the board as provided in s. 489.131(7).
45 For purposes of this subsection and s. 489.131(10), the board
46 shall determine the adequacy of such disciplinary control by
47 reviewing the local government's ability to process and
48 investigate complaints and to take disciplinary action against
49 locally licensed contractors.
50 (b) The board shall issue a registration to an eligible

51 applicant to engage in the business of a contractor in a
52 specified local jurisdiction, provided each of the following
53 conditions are satisfied:
54 1. The applicant held, in any local jurisdiction in this
55 state during 2021, 2022, or 2023, a certificate of registration
56 issued by the state or a local license issued by a local
57 jurisdiction to perform work in a category of contractor defined
58 in s. 489.105(3)(a)-(o).
59 2. The applicant submits all of the following to the
60 board:
61 a. Evidence of the certificate of registration or local
62 license held by the applicant as required by subparagraph 1.
63 b. Evidence that the specified local jurisdiction does not
64 have a license type available for the category of work for which
65 the applicant was issued a certification of registration or
66 local license during 2021, 2022, or 2023, such as a notification
67 on the website of the local jurisdiction or an email or letter
68 from the office of the local building official or local building
69 department stating that such license type is not available in
70 that local jurisdiction.
71 c. Evidence that the applicant has submitted the required
72 fee.
73 d. Evidence of compliance with the insurance and financial
74 responsibility requirements of s. 489.115(5).
75

76 An examination is not required for an applicant seeking a
77 registration under this paragraph.
78 (c) The board is responsible for disciplining licensees
79 issued a registration under paragraph (b). The board shall make
80 such licensure and disciplinary information available through
81 the automated information system provided pursuant to s.
82 455.2286.
83 (d) The fees for an applicant seeking a registration under
84 paragraph (b) and renewal of such registration every 2 years are
85 the same as the fees established by the board for applications,
86 registration and renewal, and record making and recordkeeping,
87 as set forth in s. 489.109. The department shall provide
88 license, renewal, and cancelation notices pursuant to ss.
89 455.273 and 455.275.
90 Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1645 Energy Resources
SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee, Payne
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1624

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	16 Y, 0 N, As CS	Bauldree	Keating
2) Appropriations Committee	20 Y, 6 N	Pigott	Pridgeon
3) Commerce Committee		Bauldree	Hamon

SUMMARY ANALYSIS

The bill updates Florida's energy policies and amends specific energy-related laws. Specifically, the bill:

- Provides an updated statement of legislative intent concerning the state's energy policy and establishes a list of specific, fundamental policy goals to guide the state's energy policy.
- Updates energy policy statements in current law and the duties of the Department of Agriculture and Consumer Services (DACS) to be consistent with the energy policy goals established in the bill.
- Increases the minimum length of an intrastate natural gas pipeline that requires certification under the Natural Gas Transmission Pipeline Siting Act from 15 miles to 100 miles.
- Provides that certain "resiliency facilities" owned and operated by a public utility that deploy natural gas reserves for temporary use during a system outage or natural disaster are a permitted use in all commercial, industrial, and manufacturing land use categories and districts, subject to setback and landscape criteria for other similar uses.
- Provides for the recovery of certain facility relocation costs incurred by a natural gas utility through a charge separate from the utility's base rates.
- Requires the PSC to conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats and to submit a report.
- Prohibits the PSC, without specific legislative authority, from authorizing a public utility to make direct sales of energy to a consumer solely for the consumer's use in powering a means of transportation.
- Authorizes the PSC to approve a utility program for residential, customer-specific electric vehicle (EV) charging if the program will not adversely impact the utility's general body of ratepayers.
- Requires the Department of Management Services (DMS) to develop the Florida Humane Preferred Energy Products List to identify certain products that appear to be largely made free from forced labor.
- Repeals the Renewable Energy and Energy-Efficient Technologies Grant Program, Florida Green Government Grants, the Energy Economic Zone Pilot Program, and Qualified Energy Conservation Bonds provisions.
- Prohibits community development districts and homeowners' associations from prohibiting certain types or fuel sources of energy production and appliances that use such fuels.
- Requires the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies and to submit a report of its findings and recommendations.
- Requires DOT to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system.

The bill does not appear to have a fiscal impact on state or local government revenues but may have an indeterminate negative fiscal impact on expenditures. See fiscal comments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Energy Profile

Florida is the third most populous state and the fourth largest energy-consuming state in the nation. However, Florida uses less energy per capita than all but six other states, in part because of its large population, moderate winter weather, and relatively low industrial sector energy use.[1] Florida's energy consumption can be broken down by end-use sector as follows:[2]

- Transportation – 39%
- Residential – 28%
- Commercial – 22%
- Industrial – 11%

In the electric power industry, natural gas is the dominant fuel in Florida and since 2011 has generated more electric power than all other fuels combined. Natural gas fueled approximately 70 percent of electric energy consumed in Florida in 2022. This number is anticipated to decline over the next ten years, reaching 56 percent by 2032.[3] Florida has very little natural gas production and limited gas storage capacity, thus the state is reliant upon out-of-state production and storage to satisfy its demand.[4] Supply from out-of-state is provided by five interstate natural gas pipelines, with the majority of peninsular Florida's supply provided by three interstate pipelines: Florida Gas Transmission Pipeline, Gulf Stream Natural Gas System, and Sabal Trail Transmission.[5]

In 2021, renewable energy resources were used to generate approximately 6 percent of the electric energy consumed in Florida. This number is anticipated to increase over the next ten years, reaching 28 percent by 2032, primarily from the addition of new solar generation. Solar generation in Florida is expected to exceed all non-natural gas energy sources combined (primarily nuclear and coal) by 2029.[6]

Of the current renewable generation capacity in Florida, approximately 37 percent is considered a "firm" resource that can be relied upon to serve customers and defer the need for traditional power plants. Because of the coincidence of solar generation and the peak demand for electrical energy, about 40 percent of installed solar generation is considered a firm resource. For utility-scale solar projects, that number increases to 52 percent. As the amount of solar increases in the state, the difference in how it operates compared to traditional generation will have an increasing importance to the grid. Solar generation cannot be dispatched as needed, but is produced based upon the conditions at the plant site, influenced by variations in daylight hours, cloud cover, and other environmental factors. Generally, the peak hours for production of a solar facility are closer to noon, whereas the peak in system demand tends to be in the early evening in summer and early morning in winter. Still, Florida is projected to meet its electricity demand and carry a reserve margin of between 16.4 and 30.1 percent on a statewide basis over the next 10 years.[7]

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[1] U.S. Energy Information Administration (EIA), *Florida, State Profile and Energy Estimates, Analysis*, https://www.eia.gov/state/analysis.php?sid=FL#:~:text=Renewable%20resources%20fueled%20about%206,generation%20came%20from%20solar%20energy (last visited Jan. 12, 2024).
[2] EIA, *Florida, State Profile and Energy Estimates, Data,* https://www.eia.gov/state/data.php?sid=FL (last visited Jan. 12, 2024). These figures reflect consumption in 2021, the most recent period reported by EIA for the state.
[3] Florida Public Service Commission (FPSC), *Review of the 2023 Ten-Year Site Plans of Florida's Electric Utilities*, available at https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2023/Review.pdf (last visited Jan. 12, 2024).
[4] *Id.* at 42.
[5] FPSC, *Facts and Figures of the Florida Utility Industry, 2023*, at 17, https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf (last visited Jan. 15, 2024).
[6] FPSC, *supra* note 3, at 3.
[7] *Id.*

Since 2001, utility-scale electric generation from renewable resources in Florida had grown only 28 percent through 2016, but had grown over 300 percent by 2022.[8] Customer-owned renewable generation connected to the electric grid in Florida has also grown dramatically in recent years, increasing 460 percent from 2018 to 2022. This growth appears to correlate with decreasing prices for both utility-scale and customer-owned solar generation systems.[9]

In the transportation sector, the market for electric vehicles (EV) in Florida has grown significantly in recent years and is expected to continue growing.[10] Including both full battery electric vehicles and plug-in hybrid electric vehicles, only 21,700 EVs were registered in Florida in 2016; that number increased to 213,800 in 2022, second only to California.[11] Florida's generating electric utilities anticipate that annual EV energy consumption in their service territories will increase at a rate of almost 20% per year through 2032 and will comprise 3.9 percent of their net energy for load and 4 percent of summer peak demand in 2032.[12] This growth is accounted for in utility planning.[13] Registrations for compressed natural gas vehicles in Florida have declined from 18,000 in 2016 to 400 in 2022, and there is no data for registration of hydrogen-fueled vehicles in Florida for 2022.[14] Gasoline powered vehicles still account for the overwhelming majority of vehicle registrations in Florida, with almost 16 million registered in Florida.[15]

The United States Environmental Protection Agency (EPA) maintains an inventory of greenhouse gas (GHG) emissions by state, end-use sector, and type of gas, with the most recent inventory data for 2021.[16] According to this inventory, Florida's net GHG emissions for all sectors peaked in 2005 and were slightly lower (0.7 percent) in 2021 as compared to 2008.[17] GHGs reported to the EPA by large facilities[18] in Florida have declined from 147 million metric tons in 2010 to 113 million metric tons in 2022.[19] In 2021, the transportation sector accounted for 41 percent of Florida's GHG emissions, the electric power industry accounted for 35 percent, and the remaining 24 percent was associated with the industrial, commercial, agricultural, and residential sectors.[20]

State Energy Policy and Governance (Sections 7-9)

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[8] EIA, *Electricity Data Browser,* https://www.eia.gov/electricity/data/browser/#/topic/0?agg=2,0,1&fuel=02fh&geo=g000001&sec=g&linechart=ELEC.GEN.AOR-US-99.A~ELEC.GEN.AOR-FL-99.A&columnchart=ELEC.GEN.AOR-US-99.A&map=ELEC.GEN.AOR-US-99.A&freq=A&start=2001&end=2022&chartindexed=1&ctype=linechart<ype=pin&rtype=s&maptype=0&rse=0&pin= (last visited Jan. 12, 2024).

[9] *See, e.g.,* NREL, *Documenting a Decade of Cost Declines for PV Systems*, Feb. 10, 2021, https://www.nrel.gov/news/program/2021/documenting-a-decade-of-cost-declines-for-pv-systems.html (last visited Jan. 12, 2024) (stating that, from 2010 to 2020, there had been a 64%, 69%, and 82% reduction in the cost of residential, commercial-rooftop, and utility-scale PV systems, respectively and that a significant portion of the cost declines over that decade can be attributed to an 85% cost decline in module price).

[10] Florida Department of Transportation (FDOT), *Florida's Electric Vehicle Infrastructure Deployment Plan, August 2023*, at 17, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/2023_florida's-evidp_update_092923.pdf?sfvrsn=1e4aee0_1 (last visited Jan. 15, 2024).

[11] U.S Department of Energy (DOE), *Alternative Fuels Data Center*, https://afdc.energy.gov/transatlas/#/?state=FL&view=vehicle_count (last visited Jan. 15, 2024).

[12] FPSC, *supra* note 3, at 5-6, 19.

[13] *Id.* at 17-20/.

[14] DOE, *supra* note 11.

[15] *Id.*

[16] For purposes of the EPA's inventory, GHGs include carbon dioxide, methane, fluorinated gases, and nitrous oxide. The inventory also accounts for changes associated with land use and forestry that affect the land's ability to serve as a sink for GHG emissions. EPA*, Greenhouse Gas Inventory Data Explorer,* https://cfpub.epa.gov/ghgdata/inventoryexplorer/#iallsectors/allsectors/allgas/gas/all (last visited Jan, 15, 2024).

[17] *Id.*

[18] Facilities that emit 25,000 metric tons or more per year of GHGs are required to annually report their GHG emissions to the EPA. Roughly half of total U.S. GHG emissions are reported by direct emitters. EPA, *Facility Level Information on Greenhouse Gases Tool,* https://ghgdata.epa.gov/ghgp/main.do?site_preference=normal (last visited Jan. 12, 2024).

[19] *Id.*

[20] EPA, *supra* note 16.

Present Situation

In 1974, in response to the 1973-1974 oil embargo,[21] the Legislature, upon finding that a lack of accurate and relevant information was hampering its ability to develop energy policy to address the energy resource shortages facing the state, created an "energy data center" to collect data on production, refinement, transportation, storage, and sale of energy resources in Florida, including all types of fossil fuels, nuclear energy, and renewables.[22] Three years later, the Legislature developed an energy policy statement with a focus on energy conservation, alternative energy resources, and public education about energy use.[23] This energy policy statement is still mostly intact in Florida law.[24]

In 1978, the Legislature transferred the duties of the energy data center to the former Department of Administration and expanded those duties to include additional data analysis and forecasting, public education, promoting conservation, and coordinating state energy-related programs.[25] This list of duties is now reflected in the duties established in current law for the Department of Agriculture and Consumer Services (DACS).[26]

Florida's current energy policies are largely established through various provisions of law related to specific aspects of energy production, distribution, sales, and use. The Legislature last addressed energy policy at a holistic level in 2008,[27] when it adopted the following statement of intent with regard to energy resource planning and development, which is unchanged in current law:[28]

> The Legislature finds that the state's energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global climate change. Human and economic costs of those impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida's communities more resilient and less vulnerable to these impacts. In focusing the government's policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further, the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in Florida's energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.

In 2008, the Legislature also adopted the following energy policy statements, which are unchanged in current law:[29]

It is the policy of the State of Florida to:

- Develop and promote the effective use of energy in the state, discourage all forms of energy waste, and recognize and address the potential of global climate change wherever possible.
- Play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions.

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[21] *See, generally,* U.S Department of State, Office of the Historian, *Oil Embargo, 1973-1974*, https://history.state.gov/milestones/1969-1976/oil-embargo (last visited Jan. 12, 2024).
[22] Ch. 74-186, L.O.F.
[23] Ch. 77-334, L.O.F.
[24] *See* s. 377.601(2), F.S.
[25] Ch. 78-25, L.O.F.
[26] *See* ss. 377.603 and 377.703, F.S.
[27] Ch. 2008-227, L.O.F.
[28] S. 377.601(1), F.S.
[29] S. 377.601(2), F.S.

- Include energy considerations in all state, regional, and local planning.
- Utilize and manage effectively energy resources used within state agencies.
- Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs.
- Include the full participation of citizens in the development and implementation of energy programs.
- Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible.
- Promote energy education and the public dissemination of information on energy and its environmental, economic, and social impact.
- Encourage the research, development, demonstration, and application of alternative energy resources, particularly renewable energy resources.
- Consider, in its decision making, the social, economic, and environmental impacts of energy-related activities, including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized.
- Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within Florida.

Under current law,[30] DACS is required to perform the following functions, consistent with the development of a state energy policy:

- Perform or coordinate the functions of any federal energy programs delegated to the state, including energy supply, demand, conservation, or allocation.
- Analyze present and proposed federal energy programs and make recommendations regarding those programs to the Governor and the Legislature.
- Coordinate efforts to seek federal support or other support for state energy activities, including energy conservation, research, or development, and is responsible for the coordination of multiagency energy conservation programs and plans.
- Analyze energy data collected and prepare long-range forecasts of energy supply and demand in coordination with the Public Service Commission (PSC), which is responsible for electricity and natural gas forecasts, which must contain:
    - An analysis of the relationship of state economic growth and development to energy supply and demand.
    - Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and an analysis of the extent to which renewable energy sources are being utilized in the state.
    - Consideration of alternative scenarios of statewide energy supply and demand for 5, 10, and 20 years to identify strategies for long-range action, including identification of potential social, economic, and environmental effects.
    - An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated effects on the state's environment and social services resulting from energy resource development activities or from energy supply constraints, or both.
- Submit an annual report to the Governor and the Legislature reflecting its activities and making recommendations for policies for improvement of the state's response to energy supply and demand and its effect on the health, safety, and welfare of the residents of this state, including a report from the PSC on electricity and natural gas and information on energy conservation programs, with recommendations for energy efficiency and conservation programs for the state.
- Promote the development and use of renewable energy resources, consistent with the state comprehensive plan and the policy statements made in 2008.
- Promote energy efficiency and conservation in all energy use sectors in the state, including consultation with the Department of Management Services to coordinate energy conservation programs of state agencies.

[30] S. 377.703, F.S.

- Serve as the state clearinghouse for indexing and gathering all information related to energy programs in state universities, in private universities, in federal, state, and local government agencies, and in private industry and prepare and distribute this information in any manner necessary to inform and advise the public.
- Coordinate energy-related programs of state government.
- Promote a comprehensive research plan for state programs, which must be consistent with state energy policy and be updated on a biennial basis.
- Prepare an assessment of the state's renewable energy production credit.

DACS is also responsible for administering the Florida Renewable Energy Technologies and Energy Efficiency Act,[31] which consists of the Renewable Energy and Energy-Efficient Technologies Grant Program, and the Florida Green Government Grants Act.[32] Both programs are discussed in further detail in this analysis under *Energy Grant Programs*, below.

<u>Effect of the Bill</u>

The bill replaces the current statement of legislative intent concerning the state's energy policy with a more streamlined statement of intent that expresses the purpose of the state's energy policy. The new statement of intent provides:

> The purpose of the state's energy policy is to ensure an adequate, reliable, and cost-effective supply of energy for the state in a manner that promotes the health and welfare of the public and economic growth. The Legislature intends that governance of the state's energy policy be efficiently directed toward achieving this purpose.

For purposes of achieving this new statement of intent, the bill provides a list of specific, fundamental policy goals to guide the state's energy policy. These goals are:

- Ensuring a cost-effective and affordable energy supply;
- Ensuring adequate supply and capacity;
- Ensuring a secure, resilient, and reliable energy supply, with an emphasis on a diverse supply of domestic energy resources;
- Protecting public safety;
- Protecting the state's natural resources, including its coastlines, tributaries, and waterways; and
- Supporting economic growth.

The bill's revised statement of intent removes current legislative findings related to global climate change, and the bill's list of energy policy goals does not specifically address global climate change.

Consistent with the bill's revised statement of legislative intent and its list of energy policy goals, the bill revises the energy policy statements in current law. These changes:

- Specify that it is the state's policy to promote the "cost-effective development and use of a diverse supply of domestic energy resources in the state," rather than the "effective use of energy in the state."
- Remove a provision that provides for recognizing and addressing "the potential of global climate change" as a state energy policy.
- Add that promotion of "the cost-effective development and maintenance of energy infrastructure that is resilient to natural and manmade threats to the security and reliability of the state's energy supply" is a state energy policy.
- Remove a provision that provides for the state to "play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions."
- Add that reduction of "reliance on foreign energy resources" is a state energy policy.

[31] Ss. 377.801-377.804, F.S.
[32] S. 377.808, F.S.

- Provide that it is the state's policy to promote energy education and dissemination of public information on energy and its impacts in relation to the list of energy policy goals established by the bill.
- Provide that it is the state's energy policy to consider, in its decision-making, the impacts of energy-related activities on the energy policy goals established in the bill.
- Provide that it is the state's energy policy to encourage the research, development, demonstration, and application of domestic energy resources, including the use of renewable resources.

The bill also revises DACS' energy-related duties to be consistent with these changes. First, the bill requires that DACS advocate for energy issues consistent with the bill's list of energy policy goals. Next, the bill provides that DACS' energy data analyses must address potential impacts in relation to the bill's list of energy policy goals. The bill removes a provision that requires these analyses to include plans for development of renewable energy resources and reduction in dependence on depletable energy resources.

Reliability and Resilience of Energy Infrastructure and Supply (Sections 1, 15, 17)

Present Situation

Florida's Electrical Power Grid

The electric power grid primarily consists of a network of transmission lines, substations, distribution lines, transformers, and meters that deliver electricity from electrical power plants to homes and businesses. Since 1974, the PSC has had jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes and to avoid uneconomic duplication of facilities.[33] The PSC exercises this jurisdiction, in part, through its review of electric utilities' ten-year plans regarding power generating needs and proposed electrical power plant sites[34] and through its review of applications for certain electrical power plant additions and expansions and certain intrastate transmission line additions and expansions.

Natural Gas Infrastructure

Natural gas is transported to Florida consumers via three major interstate pipelines: Florida Gas Transmission Company (3.2 billion cubic feet, or bcf, per day), Gulfstream Natural Gas System (1.4 bcf per day), and Sabal Trail Interstate Pipeline (1.1 bcf per day). Florida also receive natural gas from two minor interstate pipelines: Gulf South Pipeline Company reaches into northwest Florida, and Southern Natural Gas reaches into north Florida.[35] Companies seeking to build interstate natural gas pipelines must obtain certificates of public convenience and necessity issued by the Federal Energy Regulatory Commission (FERC). FERC considers both economic and environmental factors in its review.[36]

Construction and operation of intrastate natural gas pipelines generally require approval through a process similar to the PPSA and TLSA processes. The Natural Gas Transmission Pipeline Siting Act (NGTPSA)[37] is the state's process for licensing the construction and operation of such pipelines within Florida.[38] The NGTPSA provides a centralized and coordinated permitting process for the location of natural gas transmission pipeline corridors and the construction and maintenance of natural gas transmission pipelines in Florida.[39]

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[33] Ch. 74-196, L.O.F., codified at s. 366.04(5), F.S.
[34] S. 186.801, F.S.
[35] FPSC, *supra* note 5, at 13 and 17.
[36] *See* Congressional Research Service, *Interstate Natural Gas Pipeline Siting: FERC Policy and Issues for Congress*, Jun. 9, 2024, available at https://crsreports.congress.gov/product/pdf/R/R45239 (last visited Jan. 23, 2024).
[37] Ss. 403.9401-403.9425, F.S.
[38] Florida Department of Environmental Protection, *Natural Gas Pipeline Siting Act* (July 27, 2022), https://floridadep.gov/water/siting-coordination-office/content/natural-gas-pipeline-siting-act (last visited Jan. 18, 2024).
[39] S. 403.9402, F.S.

An intrastate natural gas pipeline does not require certification if the pipeline:

- Is less than 15 miles long or does not cross a county line;[40]
- Has been issued a certificate of public convenience and necessity by FERC under s. 7 of the Natural Gas Act;[41]
- Has been certified as an associated facility to an electrical power plant pursuant to the Florida Electrical Power Plant Siting Act;[42] or
- Is owned or operated by a municipality or an agency thereof, by any person primarily for the local distribution of natural gas, or by a special district created by special act to distribute natural gas.[43]

These exceptions do not preclude an applicant from applying for certification under the NGTPSA.[44]

The U.S. Department of Transportation/Pipeline and Hazardous Materials Safety Administration (PHMSA) implements federal pipeline safety standards for interstate and intrastate gas pipelines, hazardous liquid pipelines, and underground natural gas storage under the Pipeline Safety Act.[45] The Pipeline Safety Act authorizes state assumption of the intrastate regulatory, inspection, and enforcement responsibilities subject to an annual certification with PHMSA.[46] State agencies must adopt standards that comply with the Pipeline Safety Act to qualify for certification.

In Florida, The Gas Safety Law of 1967 authorizes the PSC to regulate the safe transmission and distribution of natural gas in Florida.[47] The Gas Safety Law grants the PSC exclusive jurisdiction over "all persons, corporations, partnerships, associations, public agencies, municipalities, or other legal entities engaged in the operation of gas transmission or distribution facilities with respect to their compliance with the rules and regulations governing safety standards."[48] Under this authority, the PSC promulgates rules covering the design, improvement, fabrication, installation, inspection, repair, reporting, testing, and safety standards of gas transmission and gas distribution systems.[49] The PSC is currently the state agency certified by PHMSA to inspect and enforce intrastate gas pipelines.[50]

Land Development Regulations and Comprehensive Plans

Under the Community Planning Act, local governments manage local growth through comprehensive plans enforced by local land use ordinances.[51] The Act prescribes certain principles, guidelines, standards, and strategies to allow for an orderly and balanced future land development[52] and outlines the required and optional elements of a comprehensive plan.[53] Local governments are directed to create and adopt comprehensive plans which are sensitive to private property rights, have no undue restrictions, and leave property owners free from government action that would harm their property or constitute an inordinate burden on their property rights.[54]

<u>Effect of the Bill</u>

Intrastate Natural Gas Pipeline Permitting

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[40] S. 403.9405(2)(a), F.S.
[41] S. 403.9405(2)(b), F.S.
[42] S. 403.9405(2)(b), F.S.
[43] S. 403.9405(2)(c), F.S.
[44] S. 403.9405(2)(a)-(c), F.S.
[45] *See* 49 U.S.C. §§ 60102-60143.
[46] 49 U.S.C. §§ 60105(e), 60106(d).
[47] S. 368.01-061, F.S.
[48] S. 368.05(1), F.S.; *see also* S. 368.021, F.S. (providing more entities subject to PSC jurisdiction).
[49] *See* ch. 25-12, F.A.C.
[50] Florida Public Service Commission, Agency Analysis of 2023 House Bill 81, p. 2 (October 26, 2023).
[51] S. 163.3167(1)(b), F.S.
[52] S. 163.3167(2), F.S.
[53] S. 163.3177, F.S.
[54] S. 163.3161(10), F.S. Specifically, such plans

The bill increases the minimum length of an intrastate natural gas pipeline that requires certification under the NGTPSA from 15 miles to 100 miles. A natural gas transmission pipeline company may still obtain certification under the NGTPSA if it chooses to do so.

Land Development Regulations and Comprehensive Plans for Certain Natural Gas Facilities

The bill defines the term "resiliency facility" as a facility owned and operated by a public utility for the purposes of assembling, creating, holding, securing, or deploying natural gas reserves for temporary use during a system outage or natural disaster. Under the bill, "natural gas reserve" means a facility that is capable of storing and transporting and, when operational, actively stores and transports a supply of natural gas.

The bills states that a resiliency facility is a permitted use in all commercial, industrial, and manufacturing land use categories in a local government comprehensive plan and in all commercial, industrial, and manufacturing districts.

Under the bill, a resiliency facility must comply with the setback and landscape criteria for other similar uses. As long as buffer and landscaping requirements do not exceed the requirements for similar uses in commercial, industrial, and manufacturing land use categories and zoning districts, a local government may adopt an ordinance specifying such requirements for resiliency facilities.

The bill provides that after July 1, 2024, a local government may not amend its comprehensive plan, land use map, zoning districts, or land development regulations in a way that would conflict with a resiliency facility's classification as a permitted and allowable use, including, but not limited to, a nonconforming use, structure, or development.

Security and Resiliency Assessment of Electric and Natural Gas Infrastructure

The bill requires the PSC to conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats. The bill requires the PSC to consult with the Division of Emergency Management and, in its assessment of cyber threats, with the Florida Digital Service. The bill provides that all electric utilities, natural gas utilities, and natural gas pipelines operating in this state, regardless of ownership structure, shall cooperate with the PSC to provide access to all information necessary to conduct the assessment.

The bill requires the PSC, by July 1, 2025, to submit a report of its assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must also contain any recommendations for potential legislative or administrative actions that may enhance the physical security or cyber security of the state's electric grid or natural gas facilities.

Provision of Transportation Fuels by Public Utilities (Sections 4-5)

Present Situation

Under Florida law, the term "public utility" includes providers of electricity or natural gas, with the exception of rural cooperatives, municipal utilities, special districts, and wholesale-only pipeline companies.[55] With the growing use of EVs, most public electric utilities in the state have begun to offer EV charging services through their own public charging equipment, charging equipment at customer premises, or both. These services are typically provided under pilot programs and at rates approved by the PSC. Some public natural gas utilities in Florida support natural gas vehicle fueling under specific rate schedules approved by the PSC, either through publicly accessible compressed natural gas fueling facilities or through delivery of such gas to customer premises for use by the customer to fuel vehicles (typically for fleet fueling).

[55] S. 366.02(8), F.S.

Effect of the Bill

The bill provides that the PSC, without specific legislative authority, may not authorize a public utility to expand the scope of its regulated business activity to include direct sales of energy to a consumer solely for the consumer's use in powering means of transportation owned by the consumer. The bill provides that it does not apply to limited or pilot programs approved by the PSC before January 1, 2024.

The bill provides specific authority for the PSC to approve public utility programs for residential, customer-specific EV charging if the PSC determines that the rates and rate structure of the program will not adversely impact the public utility's general body of ratepayers. The bill requires that all revenues received from the program must be credited to the utility's retail ratepayers. The bill provides that it does not preclude cost recovery for EV charging programs approved by the PSC before January 1, 2024.

Relocation of Utility Facilities (Section 6)

Present Situation

Under current law, utilities bear the cost of relocating utility facilities placed upon, under, over, or within the right-of-way limits of any public road or publicly owned rail corridor which is found by the authority[56] to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor. Utility owners, upon 30 days' notice, must eliminate the unreasonable interference within a reasonable time or an agreed time, at their own expense.[57] These requirements apply even if the utility facility is within a public utility easement and the utility has a franchise agreement with the authority, absent some other agreement to the contrary regarding costs of relocation.[58] These costs are recovered by public utilities through base rates approved by the PSC.

Effect of the Bill

The bill authorizes natural gas public utilities to petition the PSC to annually recover prudently incurred costs to relocate natural gas facilities[59] to accommodate requirements imposed by DOT and local government entities.[60] The bill allows each utility to recover such costs through a charge separate and apart from base rates, referred to in the bill as the natural gas facilities relocation cost recovery clause. Such costs may not include any costs that the utility recovers through its base rates.

The bill requires the PSC to establish an annual proceeding to review these petitions. This review is limited to:

- Determining the prudence of the utility's actual incurred natural gas facilities relocation costs;
- Determining the reasonableness of the utility's projected natural gas facilities relocation costs for the next calendar year; and
- Providing for a true-up of the costs with the projections on which past cost recovery charges were set.

Any refund or collection made pursuant to the true-up process must include applicable interest.

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[56] As used in ss. 337.401-337.404, F.S., "the authority" means DOT and local government entities. S. 337.401(1)(a), F.S

[57] S. 337.403(1)(a)-(j), F.S., provides exceptions.

[58] *Lee County Electric Coop., Inc. v. City of Cape Coral*, 159 So. 3d 126, 130 (Fla. 2d DCA 2014).

[59] The bill defines natural gas facilities as gas mains, laterals, and service lines used to distribute natural gas to customers. The term also includes all ancillary equipment needed for safe operations, including, but not limited to, regulating stations, meters, other measuring devices, regulators, and pressure monitoring equipment.

[60] The bill defines these costs as the costs to relocate or reconstruct facilities as required by a mandate, a statute, a law, an ordinance, or an agreement between the utility and an authority, including, but not limited to, costs associated with reviewing plans provided by an authority.

The bill requires that all costs approved pursuant to this clause be allocated to customer classes pursuant to the rate design most recently approved by the PSC. If a capital expenditure is recoverable as a natural gas facilities relocation cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs at the public utility's weighted average cost of capital using the last approved return on equity.

The bill requires the PSC to adopt implementing rules as soon as practicable.

Energy Guidelines for Public Business (Section 2)

Present Situation

Current law requires state agencies to follow specified guidelines to promote energy efficiency and other environmental benefits when conducting public business.[61] Such guidelines require state agencies to:

- Consult the Florida Climate-Friendly Preferred Products List[62,63] when procuring products from state term contracts[64] and procuring such products if the price is comparable;[65]
- Contract for meeting and conference space only with facilities that have received the "Green Lodging" designation from DEP for best practices in water, energy, and wastewater efficiency standards, absent a determination from the agency head that no other viable alternative exists;[66]
- Ensure all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption and reporting compliance to the Department of Management Services (DMS);[67] and
- Use ethanol and biodiesel blended fuels when available. State agencies administering central fueling operations for state-owned vehicles must procure biofuels for fleet needs to the greatest extent practicable.[68]

Additionally, when procuring new vehicles, state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan must first define the intended purpose for the vehicle and determine which statutorily listed use class[69] the vehicle is being procured for. These vehicles must be selected based on the greatest fuel efficiency available for the appropriate use class when fuel economy data is available. Exceptions may be made for emergency response vehicles in certain circumstances.[70]

Goods Produced by Child and Forced Labor

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[61] S. 286.29, F.S.

[62] The Florida Climate-Friendly Preferred Products List is developed by the Department of Management Services (DMS), which works with the Department of Environmental Protection to continually assess the list. The list identifies specific products and vendors that offer energy efficiency or other environmental benefits over competing products. *See* s. 286.29(1), F.S.

[63] The Florida Climate-Friendly Preferred Products List was last updated in January of 2021 and contains 12 recommended products, which all are categorized as either hand sanitizer or cleaning supplies. *See* Florida Climate-Friendly Preferred Products List, Department of Management Services (Jan. 2021), https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate-friendly_preferred_products_list (last visited Jan. 12, 2024).

[64] A state term contract is a contract for commodities or contractual services that is competitively procured by DMS and is used by agencies and other eligible users. *See* ss. 287.012(28), F.S. and 287.042(2)(a), F.S

[65] S. 286.29(1), F.S.

[66] S. 286.29(2), F.S.

[67] S. 286.29(3), F.S.

[68] S. 286.29(5), F.S.

[69] Vehicle use classes include: state business travel, designated operator; state business travel, pool operators; construction, agricultural, or maintenance work; conveyance of passengers; conveyance of building or maintenance materials and supplies; off-road vehicle, motorcycle, or all-terrain vehicle; emergency response; or other. S. 286.29(4), F.S.

[70] S. 286.29(4), F.S.

The Bureau of International Labor Affairs (ILAB) in the United States Department of Labor maintains a list of goods and the countries which they are sourced from which ILAB has reason to believe are produced by child labor or forced labor. ILAB maintains this list to raise awareness about these issues in an effort to combat them. This list also provides information to consumers by highlighting product categories that may be at risk of being produced with child labor or forced labor.[71]

Effect of the Bill

Under the bill, DMS is no longer required to maintain the Florida Climate-Friendly Preferred Products List, and state agencies are no longer required to consult the list when procuring products from state term contracts.

The bill repeals the requirement that state agencies contract for meeting and conference space only with hotels or conference facilities that have received the “Green Lodging” designation.

Under the bill, state agencies, local governments, state universities, and community colleges procuring a new vehicle no longer have to select each vehicle based on the greatest fuel efficiency available for the use class.

The bill requires DMS, in consultation with the Department of Commerce (COM) and DACS, to develop the Florida Humane Preferred Energy Products List. In developing the list, DMS must assess products currently available for purchase under state term contracts and identify specific products that appear to be largely made free from forced labor if the products contain or consist of:
- An energy storage device with a capacity of greater that one kilowatt, or
- An energy generation device with a capacity of greater than 500 kilowatts.

Under the bill, the term “forced labor” means any work performed or service rendered that is:
- Obtained by intimidation, fraud, or coercion, including by threat of serious bodily harm to, or physical restraint against, a person, by means of a scheme intended to cause the person to believe that if he or she does not perform such labor or render such service, the person will suffer serious bodily harm or physical restraint, or by means of the abuse or threatened abuse of law or the legal process;
- Imposed on the basis of a characteristic that has been held by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability;
- Not performed or rendered voluntarily by a person; or
- In violation of the Child Labor Law or otherwise performed or rendered through oppressive child labor.

When procuring the specified energy storage and generation devices, state agencies and political subdivisions must consult the Florida Humane Preferred Energy Products List and only purchase products from the list.

Energy Grant Programs (Sections 10-14)

Present Situation

Renewable Energy and Energy-Efficient Technologies Grant Program

The Renewable Energy and Energy-Efficient Technologies (REET) Grant Program is established within DACS to provide matching grants for demonstration, commercialization, research, and development projects relating to renewable energy technologies and innovative technologies that significantly

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[71] U.S. Department of Labor, Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods (last visited Jan. 12, 2024).

increase energy efficiency for vehicles and commercial buildings.[72] The REET program is no longer active.[73]

Florida Green Government Grants Act

DACS also administers the Florida Green Government Grants Act.[74] DACS is directed to adopt rules and come up with green government standards that provide for cost-efficient solutions, reducing greenhouse gas emissions, improving quality of life, and strengthening the state's economy.[75] DACS must administer the program to assist local governments, including municipalities, counties, and school districts in the development and implementation of programs that achieve green standards.[76] The Florida Green Government Grants program is no longer active.[77]

Energy Economic Zone Pilot Program

In 2009, the Legislature authorized the creation of the Energy Economic Zone Pilot Program for the purpose of developing a model area that incorporates energy-efficient land-use patterns, cultivates green economic development, encourages the generation of renewable electric energy, and promotes the manufacturing of "green" products and jobs.[78] Florida law directs the Department of Commerce,[79] in consultation with the Department of Transportation to implement the program.[80] The local governing body over each designated pilot energy economic zone is responsible for allocating state credits, refunds, and exemptions up to a maximum of $300,000 per a fiscal year.[81] The last of the program's credits were given to a taxpayer in 2015, and there are no outstanding taxpayer carryovers of unused credits.[82]

Qualified Energy Conservation Bond Allocation

Qualified Energy Conservation Bonds (QECBs) are taxable bonds that are issued by state or local governments to finance one or more qualified energy conservation purpose. QCEBs are federally funded, with Congress first authorizing the program in 2008. Examples of qualified projects include energy efficiency capital expenditures in public buildings, green communities, renewable energy production, and energy efficiency education campaigns.[83] Current law authorizes DACS to establish an allocation program for Florida's QCEB allocation in accordance with federal law.[84]

Effect of the Bill

The bill repeals the REET Grant Program, the Florida Green Government Grants Act, the Energy Economic Zone Pilot Program, and all provisions related to Qualified Energy Conservation Bonds.

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[72] S. 377.804, F.S.
[73] Email from Isabelle Garbarino, Director of Legislative Affairs, Florida Department of Agriculture and Consumer Services, RE: [External]RE: Question about grants programs (Jan. 22, 2024).
[74] S. 377.808, F.S.
[75] S. 377.808(2), F.S.
[76] *Id.*
[77] Email from Isabelle Garbarino, Director of Legislative Affairs, Florida Department of Agriculture and Consumer Services, RE: [External]RE: Question about grants programs (Jan. 22, 2024).
[78] S. 377.809(1), F.S.
[79] In 2023, the Department of Economic Opportunity was renamed as the Department of Commerce. *See* Chapter 2023-173, Laws of Fla.
[80] S. 377.809(1), F.S.
[81] Department of Revenue, Agency Analysis of 2024 House Bill 1645, p. 2 (Jan. 31, 2024).
[82] *Id.*
[83] Kelly Smith Burk, Florida Department of Agriculture and Consumer Services, *Qualified Energy Efficiency Conservation Bonds (QCEB) Formula Allocations to Large Local Jurisdiction* (Apr. 23, 2015), https://ccmedia.fdacs.gov/content/download/60128/file/FDACS%27_Memorandum_regarding_Qualified_Energy_Conservation_Bond_Formula_Allocations_to_Large_Local_Governments.pdf (last visited Jan. 25, 2024).
[84] S. 377.816, F.S.

Under the bill, no new applications, certifications, or allocations may be approved; no new letters of certification may be issued; no new contracts or agreements may be executed; and no new awards may be made for the repealed programs. All certifications or allocations issued under such programs are rescinded except for the certifications of, or allocations to, those certified applicants or projects that continue to meet the applicable criteria in effect before July 1, 2024. Any existing contract or agreement authorized under any of these programs shall continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified. However, further modifications, extensions, or waivers may not be made or granted relating to such contracts or agreements, except computations by the Department of Revenue of the income generated by or arising out of the qualifying project.

Consumer Choice of Energy Resources (Sections 3, 16)

Present Situation

Community Development Districts

Community development districts (CDDs) are a type of independent special district intended to provide urban community services in a cost-effective manner by managing and financing the delivery of basic services and capital infrastructure to developing communities without overburdening other governments and their taxpayers.[85] As of January 18, 2024, there were 961 active CDDs in Florida.[86]

Each CDD is governed by a five-member board elected by the landowners of the district on a one-acre, one-vote basis.[87] Board members serve four-year terms, except some initial board members serve a two-year term for the purpose of creating staggered terms.[88] After the sixth year (for districts of up to 5,000 acres) or the 10th year (for districts exceeding 5,000 acres or for a compact, urban, mixed-use district[89]) following the CDD's creation, each member of the board is subject to election by the electors of the district at the conclusion of their term. However, this transition does not occur if the district has fewer than 250 qualified electors (for districts of up to 5,000 acres) or 500 qualified electors (for districts exceeding 5,000 acres or for a compact, urban, mixed-use district).[90]

Homeowners' Associations

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs are authorized to impose assessments that, if unpaid, may become a lien on the parcel.[91]

Only HOAs whose covenants and restrictions include mandatory assessments are regulated under chapter 720, F.S., the Homeowners' Association Act (HOA Act). An HOA is administered by an elected board of directors (board). The powers and duties of an HOA include the powers and duties provided in the HOA Act and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents.[92]

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[85] S. 190.002(1)(a), F.S.
[86] Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at https://specialdistrictreports.floridajobs.org/OfficialList/CustomList (last visited Jan. 26, 2024).
[87] S. 190.006(2), F.S.
[88] S. 190.006(1), F.S.
[89] S. 190.006(3)(a)2.a., F.S. A "compact, urban, mixed-use district" is a district located within a municipality and a CRA that consists of a maximum of 75 acres, and has development entitlements of at least 400,000 square feet of retail development and 500 residential units. S, 190.003(7), F.S.
[90] S. 190.006(3)(a)2.b., F.S.
[91] S. 720.301(9), F.S.
[92] *See generally* ch. 720, F.S.

An HOA must be a Florida corporation, and the initial governing documents must be recorded in the official records of the county in which the community is located. The powers and duties of an association include those set forth in the HOA Act and in the governing documents, except as expressly limited or restricted in the HOA Act.

HOA governing documents may not:
- Prohibit a homeowner from displaying up to two portable, removable flags in a respectful manner, consistent with the requirements for the United States flag.[93]
- Prohibit any property owner from implementing Florida-friendly landscaping[94] on his or her land or create any requirement or limitation in conflict with any provision of part II of Chapter 373, F.S., regarding consumptive uses of water or a water shortages order.[95]
- Prohibit solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement.[96]

Additionally, HOAs may not restrict the installation, display, and storage of any items on a parcel that are not visible from the parcel's frontage or an adjacent parcel, unless the item is prohibited by general law or local ordinance. Such items include, but are not limited to:[97]
- Artificial turf.
- Boats.
- Flags.
- Recreational vehicles.

<u>Effect of the Bill</u>

Prohibition of CDD Energy Use Restrictions

The bill provides that development district resolutions, ordinances, rules, codes, or policies, may not take any action that restricts or prohibits, or has the effect of restricting or prohibiting, certain types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that these entities are authorized to serve:
- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Certain propane dealers, dispensers, and gas cylinder exchange operators.

The bill also provides that development district resolutions, ordinances, rules, codes, or policies, may not take any action that restricts or prohibits, or have the effect of restricting or prohibiting, the use of

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[93] S. 720.3075(3), F.S.
[94] Section 373.185, F.S., defines "Florida-friendly landscaping" as quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance.
[95] S. 720.3075(4), F.S.
[96] S. 163.04(2), F.S.
[97] S. 720.3045, F.S.

any appliance,[98] including a stove or grill, which uses the types or fuel source of energy production which may be used, delivered, converted, or supplied by the entities listed above.

Prohibition of HOA Energy Use Restrictions

The bill provides that HOA documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to customer within the HOA that these entities are authorized to serve:

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Certain propane dealers, dispensers, and gas cylinder exchange operators.

The bill also provides that HOA declarations of covenants, articles of incorporation, or bylaws may not preclude, the use of any appliance,[99] including a stove or grill, which uses the types or fuel source of energy production which may be used, delivered, converted, or supplied by the entities listed above.

Developing Energy Technologies (Sections 18, 19)

Present Situation

Nuclear Technologies

Historically, nuclear power generation in the United States has relied on large light water reactors (LWRs) which were first commercialized in the 1950s.[100] Following the passage of the 2005 Energy Policy Act, federal loan guarantees along with state financing mechanisms began to spur activity in nuclear reactor development throughout states.[101] This activity slowed after public sentiment turned against nuclear power due to safety concerns related to the 2011 disaster at the Fukushima Daiichi nuclear plant in Japan and after the economics of power generation changed due to falling natural gas prices.[102] However, there has been increasing interest in "advanced nuclear reactors"[103] and "small modular reactors"[104] recently.[105] Advanced nuclear reactors are believed to improve upon earlier generations of reactors in areas of: cost, safety, security, waste management, and versatility.[106]

Nuclear energy is "carbon-free" as it does not directly produce carbon dioxide or other greenhouse

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[98] The bill defines the term "appliance" as a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.
[99] The bill defines the term "appliance" as a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.
[100] MARK HOLT, CONG. RSCH. SERV., R45706, ADVANCED NUCLEAR REACTORS: TECHNOLOGY OVERVIEW AND CURRENT ISSUES (2023) [hereinafter CRS Report, Advanced Nuclear Reactors].
[101] Daniel Shea, *Nuclear Policy in the States: A National Review*, Journal of Critical Infrastructure Policy, Fall/Winter 2023, at 14-15 [hereinafter Shea, Nuclear Policy in the States].
[102] *Id*. at 15.
[103] An advanced nuclear reactor is a fission reactor "with significant improvements compared to reactors operating on the date of enactment" or a reactor using nuclear fusion. 42 U.S.C § 16271(b)(1).
[104] Small modular reactors are a form of advanced nuclear reactor with an electric generating capacity of 300 MW. Advanced nuclear reactors can be configured into small modular reactors. CRS Report, Advanced Nuclear Reactors, *supra* note 98, at 3-4.
[105] *Id*. at *Introduction*.
[106] CRS Report, Advanced Nuclear Reactors, *supra* note 98, at 3.

gases.[107] Nuclear power provides more than half of the carbon-free electricity produced in the U.S.[108] Nuclear energy currently constitutes 8% of electric generating capacity in the United States, yet generates 18% of the total electricity in the country.[109] Nuclear energy generates about 13% of total electricity generation in Florida.[110] This is because most nuclear plants operate around the clock and generate at maximum capacity around 93% of the time – nearly twice the capacity factor of resources like coal and natural gas, and triple that of wind and solar.[111]

State legislation related to nuclear energy has increased over the past decades.[112] These policies address different vantage points; some states have enacted policies to insulate their existing fleet of reactors from premature closure, while others have enacted policies to develop new nuclear capacity.[113] Many states have directed the conduct of studies on advanced nuclear reactors.[114]

Hydrogen for Transportation

Hydrogen powered vehicles use hydrogen as a fuel source and produce no harmful tailpipe emissions as they only emit water vapor and warm air.[115] Currently, hydrogen powered vehicles are only available in select markets like southern and northern California.[116] This is because California is the only state which has a hydrogen fueling infrastructure, with over 60 public stations.[117]

California implemented its hydrogen fueling infrastructure with its "Hydrogen Highway Network" (Network) in 2004, which was later implemented by the legislature in 2005. The Network was designed with the desire to expand zero-emission hydrogen fuel cell electric cars by expanding California's network of hydrogen refueling stations.[118] While hydrogen powered vehicles are environmentally beneficial, issues arise from the fueling infrastructure. Such issues, made apparent by the Network, include[119]:

- Vehicles becoming stranded because of lack of fueling stations;
- Frequent station malfunctions/shortages; and
- High state subsidies per fueling station.

In October 2023, the U.S. Department of Energy announced $7 billion in federal funding under the Bipartisan Infrastructure Law to fund seven Regional Clean Hydrogen Hubs. The purpose of these investments is to "accelerate the commercial-scale deployment of clean hydrogen helping to generate clean, dispatchable power, create a new form of energy storage, and decarbonize heavy industry and transportation."[120]

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[107] Anne White & Aaron Krol, *Nuclear Energy*, Climate Portal (Oct. 14, 2020), https://climate.mit.edu/explainers/nuclear-energy (last visited Jan. 13, 2024).
[108] *Id.*
[109] U.S. Energy Information Administration, *U.S. energy facts explained*, https://www.eia.gov/energyexplained/us-energy-facts/data-and-statistics.php (last visited Jan. 12, 2024).
[110] U.S. Energy Information Administration, *Florida's electricity generation mix is changing*, (Aug. 24, 2023), https://www.eia.gov/todayinenergy/detail.php?id=60221 (last visited Jan. 19, 2024).
[111] Shea, *Nuclear Policy in the States*, *supra* note 99, at 16.
[112] Daniel Shea, *Nuclear Power and the Clean Energy Transition* (Apr. 6, 2023), https://www.ncsl.org/energy/nuclear-power-and-the-clean-energy-transition (last visited Jan. 13, 2024) (noting an increase from 74 bills considered in 2016 to more than 160 bills considered in 2022 in relation to nuclear energy).
[113] *Id.*
[114] *See e.g.*, MICH. COMP. LAWS § 460.10hh (2022); Montana Senate Joint Resolution 3 (2021); Penn. HR 238 (2022).
[115] United States Department of Energy, *Fuel Cell Electric Vehicles*, https://afdc.energy.gov/vehicles/fuel_cell.html (last visited Jan. 13, 2024).
[116] United States Department of Energy, *Hydrogen Fuel Cell Electric Vehicle Availability*, https://afdc.energy.gov/vehicles/fuel_cell_availability.html (last visited Jan. 13, 2024).
[117] United States Department of Energy, *Hydrogen Fueling Station Locations by State*, https://afdc.energy.gov/data/10370 (last visited Jan. 13, 2024).
[118] California Energy Commission, *Hydrogen Vehicles & Refueling Infrastructure*, https://www.energy.ca.gov/programs-and-topics/programs/clean-transportation-program/clean-transportation-funding-areas-1 (last visited Jan. 13, 2014).
[119] Evan Halper, *Is California's 'Hydrogen Highway' a road to nowhere?*, L.A. Times, Aug. 10, 2021.
[120] U.S. DOE, Office of Clean Energy Demonstrations, *Regional Clean Hydrogen Hubs Selections for Award Negotiations*, https://www.energy.gov/oced/regional-clean-hydrogen-hubs-selections-award-negotiations (last visited Jan. 26, 2024).

Effect of the Bill

Evaluation of Advanced Nuclear Technologies

The bill requires the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including SMRs, to meet the electrical power needs of the state. The bill also requires the PSC to research means to encourage installation and use of nuclear technologies at military installations in the state in partnership with public utilities. In conducting this study, the PSC must consult with the Department of Environmental Protection and the Division of Emergency Management.

By April 1, 2025, the PSC must prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing its findings and recommendations for potential legislative or administrative actions that may enhance the use of advanced nuclear technologies in a manner consistent with the state energy policy goals established by the bill.

Evaluation of Hydrogen Fueling Infrastructure

The bill requires DOT, in consultation with DACS, to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system.

By April 1, 2025, DOT must prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing its findings and any recommendations for potential legislative or administrative actions concerning the development of hydrogen fueling infrastructure in manner consistent with the state energy policy goals established by the bill.

B. SECTION DIRECTORY:

Section 1. Creates s. 163.3210, F.S., relating to natural gas resiliency and reliability infrastructure.

Section 2. Amends s. 286.29, F.S., relating to energy guidelines for public business.

Section 3. Amends s. 366.032, F.S., relating to preemptions over utility service restrictions.

Section 4. Amends s. 366.04, F.S., relating to jurisdiction of the Public Service Commission.

Section 5. Amends s. 366.94, F.S., relating to electric vehicle charging.

Section 6. Creates s. 366.99, F.S.; relating to natural gas facilities relocation costs.

Section 7. Amends s. 377.601, F.S., relating to legislative intent.

Section 8. Amends s. 377.6015, F.S., relating to the Department of Agriculture and Consumer Services; powers and duties.

Section 9. Amends s. 377.703, F.S., relating to additional functions of the Department of Agriculture and Consumer Services.

Section 10. Repeals energy-related incentive programs.

Section 11. Provides application relating to existing agreements under certain programs

Section 12. Amends s. 220.193, F.S., relating to Florida renewable energy production credit.

Section 13. Amends s. 288.9606, F.S., relating to issue of revenue bonds.

Section 14. Amends s. 380.0651, F.S., relating to statewide guidelines, standards, and exemptions.

Section 15. Amends s. 403.9405, F.S. relating to applicability; certification; exemption; notice of intent under the Natural Gas Transmission Pipeline Siting Act.

Section 16. Amends s. 720.3075, F.S., relating to prohibited clauses in association documents.

Section 17. Directs the Public Service Commission to conduct a security and resiliency assessment.

Section 18. Directs the Public Service Commission to study and evaluate advanced nuclear technologies.

Section 19. Directs the Department of Transportation to study and evaluate hydrogen fueling infrastructure.

Section 20. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have a negative impact on state government expenditures because it imposes the following new requirements for specified state agencies, which may require the expenditure of resources:
   - PSC assessment of the security and resiliency of the state's electric grid and natural gas facilities;
   - DMS development of a Florida Humane Preferred Energy Products List;
   - PSC study and evaluation of advanced nuclear power technologies; and
   - DOT study and evaluation of the potential development of hydrogen fueling infrastructure.

   Affected agencies may be able to satisfy all or some of these requirements with existing resources. Further, affected agencies may see expenditures offset to some degree by potential savings, and other agencies may see reduced expenditures, related to:
   - Elimination of certain state purchasing requirements; and
   - Expansion of the types of intrastate natural gas pipelines that are exempt from siting under the Natural Gas Transmission Pipeline Siting Act.

   The impact of requiring state agencies to purchase certain energy-related items from a new Florida Humane Preferred Energy Products List, as required by the bill, is indeterminate, but likely not significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The impact of requiring political subdivisions of the state to purchase certain energy-related items from a new Florida Humane Preferred Energy Products List, as required by the bill, is indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill refocuses state energy policy on promoting and ensuring a cost-effective, reliable, resilient, safe, diverse, and U.S. sourced energy supply and makes specific changes in law to meet these policy goals. The bill also attempts to streamline certain regulatory requirements to strengthen energy infrastructure, prepare Florida to respond to changing market forces, and increase market-based policies within Florida's various energy sectors. To the extent these changes succeed, there will be direct positive impacts on the economic well-being of Florida's businesses and consumers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides that the PSC must adopt rules to implement the provisions of the bill that allow for the recovery of natural gas utility relocation costs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 30, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted a strike-all amendment to the bill and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed provisions that:
  - Require public utilities to obtain approval from the Public Service Commission (PSC) to retire certain electrical power plants and require the PSC to inform and provide technical support to the Attorney General if a plant retirement is required or induced by federal regulation and is inconsistent with the state's energy policy goals.
  - Require the PSC to develop certain smart grid policies to be submitted for consideration by the Legislature.
  - Require the Department of Transportation (DOT) to offer potential access to vendors of certain alternative motor vehicle fuels and repowering stations along the turnpike system.
  - Create an Electric Vehicle Battery Deposit Program within the Department of Highway Safety and Motor Vehicles.
- Provided for the recovery of certain facility relocation costs incurred by a natural gas utility through a charge separate from the utility's base rates.
- Extended due dates for certain reports that the bill requires the PSC and DOT to submit.
- Corrected drafting errors.

This analysis is drafted to the committee substitute as passed by the Energy, Communications & Cybersecurity Subcommittee.

1 A bill to be entitled
2 An act relating to energy resources; creating s.
3 163.3210, F.S.; providing legislative intent;
4 providing definitions; allowing resiliency facilities
5 in certain land use categories in local government
6 comprehensive plans and specified districts if certain
7 criteria are met; allowing local governments to adopt
8 ordinances for resiliency facilities if certain
9 requirements are met; prohibiting amendments to a
10 local government's comprehensive plan, land use map,
11 zoning districts, or land development regulations in a
12 manner that would conflict with resiliency facility
13 classification after a specified date; amending s.
14 286.29, F.S.; revising energy guidelines for public
15 businesses; eliminating the requirement that the
16 Department of Management Services develop and maintain
17 the Florida Climate-Friendly Preferred Products List;
18 eliminating the requirement that state agencies
19 contract for meeting and conference space only with
20 facilities that have a Green Lodging designations;
21 eliminating the requirement that state agencies, state
22 universities, community colleges, and local
23 governments that procure new vehicles under a state
24 purchasing plan select certain vehicles under a
25 specified circumstance; requiring the Department of

26 Management Services to develop a Florida Humane
27 Preferred Energy Products List in consultation with
28 the Department of Commerce and the Department of
29 Agriculture and Consumer Services; providing for
30 assessment considerations in developing the list;
31 defining the term "forced labor"; requiring state
32 agencies and political subdivisions that procure
33 energy products from state term contracts to consult
34 the list and purchase or procure such products;
35 prohibiting state agencies and political subdivisions
36 from purchasing or procuring products not included in
37 the list; amending s. 366.032, F.S.; including
38 development districts as a type of political
39 subdivision for purposes of preemption over utility
40 service restrictions; amending s. 366.04, F.S.;
41 revising the jurisdiction of the Florida Public
42 Service Commission; amending s. 366.94, F.S.; removing
43 terminology; conforming provisions to changes made by
44 the act; authorizing the commission upon a specified
45 date to approve voluntary public utility programs for
46 electric vehicle charging if certain requirements are
47 met; requiring that all revenues received from such
48 program be credited to the public utility's general
49 body of ratepayers; providing applicability; creating
50 s. 366.99, F.S.; providing definitions; authorizing

51 public utilities to submit to the commission a
52 petition for a proposed cost recovery for certain
53 natural gas facilities relocation costs; requiring the
54 commission to conduct annual proceedings to determine
55 each utility's prudently incurred natural gas
56 facilities relocation costs and to allow for the
57 recovery of such costs; providing requirements for the
58 commission's review; providing requirements for the
59 allocation of such recovered costs; requiring the
60 commission to adopt rules; providing a timeframe for
61 such rulemaking; amending s. 377.601, F.S.; revising
62 legislative intent; amending s. 377.6015, F.S.;
63 revising the powers and duties of the department;
64 conforming provisions to changes made by the act;
65 amending s. 377.703, F.S.; revising additional
66 functions of the department relating to energy
67 resources; conforming provisions to changes made by
68 the act; repealing s. 377.801, F.S., relating to the
69 Florida Energy and Climate Protection Act; repealing
70 s. 377.802, F.S., relating to the purpose of the act;
71 repealing s. 377.803, F.S., relating to definitions
72 under the act; repealing s. 377.804, F.S., relating to
73 the Renewable Energy and Energy-Efficient Technologies
74 Grants Program; repealing s. 377.808, F.S., relating
75 to the Florida Green Government Grants Act; repealing

76 s. 377.809, F.S., relating to the Energy Economic Zone
77 Pilot Program; repealing s. 377.816, F.S., relating to
78 the Qualified Energy Conservation Bond Allocation
79 Program; prohibiting the approval of new or additional
80 applications, certifications, or allocations under
81 such programs; prohibiting new contracts, agreements,
82 and awards under such programs; rescinding all
83 certifications or allocations issued under such
84 programs; providing an exception; providing
85 application relating to existing contracts or
86 agreements under such programs; amending ss. 220.193,
87 288.9606, and 380.0651, F.S.; conforming provisions to
88 changes made by the act; amending s. 403.9405, F.S.;
89 revising the applicability of the Natural Gas
90 Transmission Pipeline Siting Act; amending s.
91 720.3075, F.S.; prohibiting certain homeowners'
92 association documents from precluding certain types or
93 fuel sources of energy production and the use of
94 certain appliances; requiring the commission to
95 conduct an assessment of the security and resiliency
96 of the state's electric grid and natural gas
97 facilities against physical threats and cyber threats;
98 requiring the commission to consult with the Division
99 of Emergency Management and the Florida Digital
100 Service; requiring cooperation from all operating

101 facilities in the state relating to such assessment;
102 requiring the commission to submit by a specified date
103 a report of such assessment to the Governor and the
104 Legislature; providing additional content requirements
105 for such report; requiring the commission to study and
106 evaluate the technical and economic feasibility of
107 using advanced nuclear power technologies to meet the
108 electrical power needs of the state; requiring the
109 commission to research means to encourage and foster
110 the installation and use of such technologies at
111 military installations in partnership with public
112 utilities; requiring the commission to consult with
113 the Department of Environmental Protection and the
114 Division of Emergency Management; requiring the
115 commission to submit by a specified date a report to
116 the Governor and the Legislature that contains its
117 findings and any additional recommendations for
118 potential legislative or administrative actions;
119 requiring the Department of Transportation, in
120 consultation with the Office of Energy within the
121 Department of Agriculture and Consumer Services, to
122 study and evaluate the potential development of
123 hydrogen fueling infrastructure to support hydrogen-
124 powered vehicles; requiring the department to submit
125 by a specified date a report to the Governor and the

126 Legislature that contains its findings and
127 recommendations for specified actions that may
128 accommodate the future development of hydrogen fueling
129 infrastructure; providing effective dates.
130
131 Be It Enacted by the Legislature of the State of Florida:
132
133 Section 1. Section 163.3210, Florida Statutes, is created
134 to read:
135 163.3210 Natural gas resiliency and reliability
136 infrastructure.-
137 (1) It is the intent of the Legislature to maintain,
138 encourage, and ensure adequate and reliable fuel sources for
139 public utilities. The resiliency and reliability of fuel sources
140 for public utilities is critical to the state's economy; the
141 ability of the state to recover from natural disasters; and the
142 health, safety, welfare, and quality of life of the residents of
143 the state.
144 (2) As used in this section, the term:
145 (a) "Natural gas" means all forms of fuel commonly or
146 commercially known or sold as natural gas, including compressed
147 natural gas and liquefied natural gas.
148 (b) "Natural gas reserve" means a facility that is capable
149 of storing and transporting and, when operational, actively
150 stores and transports a supply of natural gas.

151 (c) "Public utility" has the same meaning as defined in s.
152 366.02.
153 (d) "Resiliency facility" means a facility owned and
154 operated by a public utility for the purposes of assembling,
155 creating, holding, securing, or deploying natural gas reserves
156 for temporary use during a system outage or natural disaster.
157 (3) A resiliency facility is a permitted use in all
158 commercial, industrial, and manufacturing land use categories in
159 a local government comprehensive plan and all commercial,
160 industrial, and manufacturing districts. A resiliency facility
161 must comply with the setback and landscape criteria for other
162 similar uses. A local government may adopt an ordinance
163 specifying buffer and landscaping requirements for resiliency
164 facilities, provided such requirements do not exceed the
165 requirements for similar uses involving the construction of
166 other facilities that are permitted uses in commercial,
167 industrial, and manufacturing land use categories and zoning
168 districts.
169 (4) After July 1, 2024, a local government may not amend
170 its comprehensive plan, land use map, zoning districts, or land
171 development regulations in a manner that would conflict with a
172 resiliency facility's classification as a permitted and
173 allowable use, including, but not limited to, an amendment that
174 causes a resiliency facility to be a nonconforming use,
175 structure, or development.

176 Section 2. Section 286.29, Florida Statutes, is amended to
177 read:
178 286.29 <u>Energy guidelines for</u> ~~Climate-friendly~~ public
179 business.—~~The Legislature recognizes the importance of~~
180 ~~leadership by state government in the area of energy efficiency~~
181 ~~and in reducing the greenhouse gas emissions of state government~~
182 ~~operations. The following shall pertain to all state agencies~~
183 ~~when conducting public business:~~
184 ~~(1) The Department of Management Services shall develop~~
185 ~~the "Florida Climate-Friendly Preferred Products List." In~~
186 ~~maintaining that list, the department, in consultation with the~~
187 ~~Department of Environmental Protection, shall continually assess~~
188 ~~products currently available for purchase under state term~~
189 ~~contracts to identify specific products and vendors that offer~~
190 ~~clear energy efficiency or other environmental benefits over~~
191 ~~competing products. When procuring products from state term~~
192 ~~contracts, state agencies shall first consult the Florida~~
193 ~~Climate-Friendly Preferred Products List and procure such~~
194 ~~products if the price is comparable.~~
195 ~~(2) State agencies shall contract for meeting and~~
196 ~~conference space only with hotels or conference facilities that~~
197 ~~have received the "Green Lodging" designation from the~~
198 ~~Department of Environmental Protection for best practices in~~
199 ~~water, energy, and waste efficiency standards, unless the~~
200 ~~responsible state agency head makes a determination that no~~

201 ~~other viable alternative exists.~~
202 (1)~~(3)~~ Each state agency shall ensure that all maintained
203 vehicles meet minimum maintenance schedules shown to reduce fuel
204 consumption, which include:
205 (a) Ensuring appropriate tire pressures and tread depth.~~;~~
206 (b) Replacing fuel filters and emission filters at
207 recommended intervals.~~;~~
208 (c) Using proper motor oils.~~; and~~
209 (d) Performing timely motor maintenance.
210
211 Each state agency shall measure and report compliance to the
212 Department of Management Services through the Equipment
213 Management Information System database.
214 ~~(4) When procuring new vehicles, all state agencies, state~~
215 ~~universities, community colleges, and local governments that~~
216 ~~purchase vehicles under a state purchasing plan shall first~~
217 ~~define the intended purpose for the vehicle and determine which~~
218 ~~of the following use classes for which the vehicle is being~~
219 ~~procured:~~
220 ~~(a) State business travel, designated operator;~~
221 ~~(b) State business travel, pool operators;~~
222 ~~(c) Construction, agricultural, or maintenance work;~~
223 ~~(d) Conveyance of passengers;~~
224 ~~(e) Conveyance of building or maintenance materials and~~
225 ~~supplies;~~

226 ~~(f) Off-road vehicle, motorcycle, or all-terrain vehicle;~~
227 ~~(g) Emergency response; or~~
228 ~~(h) Other.~~
229
230 ~~Vehicles described in paragraphs (a) through (h), when being~~
231 ~~processed for purchase or leasing agreements, must be selected~~
232 ~~for the greatest fuel efficiency available for a given use class~~
233 ~~when fuel economy data are available. Exceptions may be made for~~
234 ~~individual vehicles in paragraph (g) when accompanied, during~~
235 ~~the procurement process, by documentation indicating that the~~
236 ~~operator or operators will exclusively be emergency first~~
237 ~~responders or have special documented need for exceptional~~
238 ~~vehicle performance characteristics. Any request for an~~
239 ~~exception must be approved by the purchasing agency head and any~~
240 ~~exceptional performance characteristics denoted as a part of the~~
241 ~~procurement process prior to purchase.~~
242 (2)~~(5)~~ All state agencies shall use ethanol and biodiesel
243 blended fuels when available. State agencies administering
244 central fueling operations for state-owned vehicles shall
245 procure biofuels for fleet needs to the greatest extent
246 practicable.
247 (3)(a) The Department of Management Services shall, in
248 consultation with the Department of Commerce and the Department
249 of Agriculture and Consumer Services, develop a Florida Humane
250 Preferred Energy Products List. In developing the list, the

251 department must assess products currently available for purchase
252 under state term contracts that contain or consist of an energy
253 storage device with a capacity of greater than one kilowatt-hour
254 or that contain or consist of an energy generation device with a
255 capacity of greater than 500 watts and identify specific
256 products that appear to be largely made free from forced labor,
257 irrespective of the age of the worker. For purposes of this
258 subsection, the term "forced labor" means any work performed or
259 service rendered that is:
260 1. Obtained by intimidation, fraud, or coercion, including
261 by threat of serious bodily harm to, or physical restraint
262 against, a person, by means of a scheme intended to cause the
263 person to believe that if he or she does not perform such labor
264 or render such service, the person will suffer serious bodily
265 harm or physical restraint, or by means of the abuse or
266 threatened abuse of law or the legal process;
267 2. Imposed on the basis of a characteristic that has been
268 held by the United States Supreme Court or the Florida Supreme
269 Court to be protected against discrimination under the
270 Fourteenth Amendment to the United States Constitution or under
271 s. 2, Art. I of the State Constitution, including race, color,
272 national origin, religion, gender, or physical disability;
273 3. Not performed or rendered voluntarily by a person; or
274 4. In violation of the Child Labor Law or otherwise
275 performed or rendered through oppressive child labor.

276 (b) When procuring the types of energy products described
277 in paragraph (a) from state term contracts, state agencies and
278 political subdivisions shall first consult the Florida Humane
279 Preferred Energy Products List and may not purchase or procure
280 products not included in the list.
281 Section 3. Subsections (1), (2), and (5) of section
282 366.032, Florida Statutes, are amended to read:
283 366.032 Preemption over utility service restrictions.—
284 (1) A municipality, county, special district, development
285 district, or other political subdivision of the state may not
286 enact or enforce a resolution, ordinance, rule, code, or policy
287 or take any action that restricts or prohibits or has the effect
288 of restricting or prohibiting the types or fuel sources of
289 energy production which may be used, delivered, converted, or
290 supplied by the following entities to serve customers that such
291 entities are authorized to serve:
292 (a) A public utility or an electric utility as defined in
293 this chapter;
294 (b) An entity formed under s. 163.01 that generates,
295 sells, or transmits electrical energy;
296 (c) A natural gas utility as defined in s. 366.04(3)(c);
297 (d) A natural gas transmission company as defined in s.
298 368.103; or
299 (e) A Category I liquefied petroleum gas dealer or
300 Category II liquefied petroleum gas dispenser or Category III

301 liquefied petroleum gas cylinder exchange operator as defined in
302 s. 527.01.
303 (2) Except to the extent necessary to enforce the Florida
304 Building Code adopted pursuant to s. 553.73 or the Florida Fire
305 Prevention Code adopted pursuant to s. 633.202, a municipality,
306 county, special district, development district, or other
307 political subdivision of the state may not enact or enforce a
308 resolution, an ordinance, a rule, a code, or a policy or take
309 any action that restricts or prohibits or has the effect of
310 restricting or prohibiting the use of an appliance, including a
311 stove or grill, which uses the types or fuel sources of energy
312 production which may be used, delivered, converted, or supplied
313 by the entities listed in subsection (1). As used in this
314 subsection, the term "appliance" means a device or apparatus
315 manufactured and designed to use energy and for which the
316 Florida Building Code or the Florida Fire Prevention Code
317 provides specific requirements.
318 (5) Any municipality, county, special district,
319 development district, or political subdivision charter,
320 resolution, ordinance, rule, code, policy, or action that is
321 preempted by this act that existed before or on July 1, 2021, is
322 void.
323 Section 4. Subsection (10) is added to section 366.04,
324 Florida Statutes, to read:
325 366.04 Jurisdiction of commission.—

326 (10) In the exercise of its jurisdiction, the commission,
327 without specific legislative authority, may not authorize a
328 public utility to expand the scope of its regulated business
329 activity to include direct sales of energy to a consumer solely
330 for the consumer's use in powering means of transportation owned
331 by the consumer. This provision does not apply to limited or
332 pilot programs approved by the commission before January 1,
333 2024.
334 Section 5. Section 366.94, Florida Statutes, is amended to
335 read:
336 366.94 Electric vehicle charging ~~stations~~.—
337 (1) The provision of electric vehicle charging to the
338 public by a nonutility is not the retail sale of electricity for
339 the purposes of this chapter. The rates, terms, and conditions
340 of electric vehicle charging services by a nonutility are not
341 subject to regulation under this chapter. This section does not
342 affect the ability of individuals, businesses, or governmental
343 entities to acquire, install, or use an electric vehicle charger
344 for their own vehicles.
345 (2) The Department of Agriculture and Consumer Services
346 shall adopt rules to provide definitions, methods of sale,
347 labeling requirements, and price-posting requirements for
348 electric vehicle charging ~~stations~~ to allow for consistency for
349 consumers and the industry.
350 (3)(a) It is unlawful for a person to stop, stand, or park

351 a vehicle that is not capable of using an electrical recharging
352 station within any parking space specifically designated for
353 charging an electric vehicle.
354 (b) If a law enforcement officer finds a motor vehicle in
355 violation of this subsection, the officer or specialist shall
356 charge the operator or other person in charge of the vehicle in
357 violation with a noncriminal traffic infraction, punishable as
358 provided in s. 316.008(4) or s. 318.18.
359 (4) The commission may approve voluntary public utility
360 programs to become effective on or after January 1, 2025, for
361 residential, customer-specific electric vehicle charging if the
362 commission determines that the rates and rate structure of the
363 program will not adversely impact the public utility's general
364 body of ratepayers. All revenues received from the program must
365 be credited to the public utility's retail ratepayers. This
366 provision does not preclude cost recovery for electric vehicle
367 charging programs approved by the commission before January 1,
368 2024.
369 Section 6. Section 366.99, Florida Statutes, is created to
370 read:
371 366.99 Natural gas facilities relocation costs.—
372 (1) As used in this section, the term:
373 (a) "Authority" has the same meaning as in s.
374 337.401(1)(a).
375 (b) "Facilities relocation" means the physical moving,

376 modification, or reconstruction of public utility facilities to
377 accommodate the requirements imposed by an authority.
378 (c) "Natural gas facilities" or "facilities" means gas
379 mains, laterals, and service lines used to distribute natural
380 gas to customers. The term includes all ancillary equipment
381 needed for safe operations, including, but not limited to,
382 regulating stations, meters, other measuring devices,
383 regulators, and pressure monitoring equipment.
384 (d) "Natural gas facilities relocation costs" means the
385 costs to relocate or reconstruct facilities as required by a
386 mandate, a statute, a law, an ordinance, or an agreement between
387 the utility and an authority, including, but not limited to,
388 costs associated with reviewing plans provided by an authority.
389 The term does not include any costs recovered through the public
390 utility's base rates.
391 (e) "Public utility" or "utility" has the same meaning as
392 in s. 366.02, except that the term does not include an electric
393 utility.
394 (2) A utility may submit to the commission, pursuant to
395 commission rule, a petition describing the utility's projected
396 natural gas facilities relocation costs for the next calendar
397 year, actual natural gas facilities relocation costs for the
398 prior calendar year, and proposed cost-recovery factors designed
399 to recover such costs. A utility's decision to proceed with
400 implementing a plan before filing such a petition does not

401 constitute imprudence.
402 (3) The commission shall conduct an annual proceeding to
403 determine each utility's prudently incurred natural gas
404 facilities relocation costs and to allow each utility to recover
405 such costs through a charge separate and apart from base rates,
406 to be referred to as the natural gas facilities relocation cost
407 recovery clause. The commission's review in the proceeding is
408 limited to determining the prudence of the utility's actual
409 incurred natural gas facilities relocation costs and the
410 reasonableness of the utility's projected natural gas facilities
411 relocation costs for the following calendar year; and providing
412 for a true-up of the costs with the projections on which past
413 factors were set. The commission shall require that any refund
414 or collection made as a part of the true-up process includes
415 interest.
416 (4) All costs approved for recovery through the natural
417 gas facilities relocation cost recovery clause must be allocated
418 to customer classes pursuant to the rate design most recently
419 approved by the commission.
420 (5) If a capital expenditure is recoverable as a natural
421 gas facilities relocation cost, the public utility may recover
422 the annual depreciation on the cost, calculated at the public
423 utility's current approved depreciation rates, and a return on
424 the undepreciated balance of the costs at the public utility's
425 weighted average cost of capital using the last approved return

426 on equity.
427 (6) The commission shall adopt rules to implement and
428 administer this section and shall propose a rule for adoption as
429 soon as practicable after July 1, 2024.
430 Section 7. Section 377.601, Florida Statutes, is amended
431 to read:
432 377.601 Legislative intent.—
433 (1) The purpose of the state's energy policy is to ensure
434 an adequate, reliable, and cost-effective supply of energy for
435 the state in a manner that promotes the health and welfare of
436 the public and economic growth. The Legislature intends that
437 governance of the state's energy policy be efficiently directed
438 toward achieving this purpose. The Legislature finds that the
439 state's energy security can be increased by lessening dependence
440 on foreign oil; that the impacts of global climate change can be
441 reduced through the reduction of greenhouse gas emissions; and
442 that the implementation of alternative energy technologies can
443 be a source of new jobs and employment opportunities for many
444 Floridians. The Legislature further finds that the state is
445 positioned at the front line against potential impacts of global
446 climate change. Human and economic costs of those impacts can be
447 averted by global actions and, where necessary, adapted to by a
448 concerted effort to make Florida's communities more resilient
449 and less vulnerable to these impacts. In focusing the
450 government's policy and efforts to benefit and protect our

CODING: Words stricken are deletions; words underlined are additions.

451 ~~state, its citizens, and its resources, the Legislature believes~~
452 ~~that a single government entity with a specific focus on energy~~
453 ~~and climate change is both desirable and advantageous. Further,~~
454 ~~the Legislature finds that energy infrastructure provides the~~
455 ~~foundation for secure and reliable access to the energy supplies~~
456 ~~and services on which Florida depends. Therefore, there is~~
457 ~~significant value to Florida consumers that comes from~~
458 ~~investment in Florida's energy infrastructure that increases~~
459 ~~system reliability, enhances energy independence and~~
460 ~~diversification, stabilizes energy costs, and reduces greenhouse~~
461 ~~gas emissions.~~
462 (2) For the purposes of subsection (1), the state's energy
463 policy must be guided by the following goals:
464 (a) Ensuring a cost-effective and affordable energy
465 supply.
466 (b) Ensuring adequate supply and capacity.
467 (c) Ensuring a secure, resilient, and reliable energy
468 supply, with an emphasis on a diverse supply of domestic energy
469 resources.
470 (d) Protecting public safety.
471 (e) Protecting the state's natural resources, including
472 its coastlines, tributaries, and waterways.
473 (f) Supporting economic growth.
474 (3) ~~(2)~~ In furtherance of the goals in subsection (2), it
475 is the policy of the state ~~of Florida~~ to:

476 (a) ~~Develop and~~ Promote the cost-effective development and
477 ~~effective~~ use of a diverse supply of domestic energy resources
478 in the state and~~,~~ discourage ~~all forms of~~ energy waste~~, and~~
479 ~~recognize and address the potential of global climate change~~
480 ~~wherever possible~~.
481 (b) Promote the cost-effective development and maintenance
482 of energy infrastructure that is resilient to natural and
483 manmade threats to the security and reliability of the state's
484 energy supply. ~~Play a leading role in developing and instituting~~
485 ~~energy management programs aimed at promoting energy~~
486 ~~conservation, energy security, and the reduction of greenhouse~~
487 ~~gas emissions.~~
488 (c) Reduce reliance on foreign energy resources.
489 (d)~~(c)~~ Include energy reliability and security
490 considerations in all state, regional, and local planning.
491 (e)~~(d)~~ Utilize and manage effectively energy resources
492 used within state agencies.
493 (f)~~(e)~~ Encourage local governments to include energy
494 considerations in all planning and to support their work in
495 promoting energy management programs.
496 (g)~~(f)~~ Include the full participation of citizens in the
497 development and implementation of energy programs.
498 (h)~~(g)~~ Consider in its decisions the energy needs of each
499 economic sector, including residential, industrial, commercial,
500 agricultural, and governmental uses, and reduce those needs

501 whenever possible.
502 (i)(h) Promote energy education and the public
503 dissemination of information on energy and its impacts in
504 relation to the goals in subsection (2) environmental, economic,
505 and social impact.
506 (j)(i) Encourage the research, development, demonstration,
507 and application of domestic energy resources, including the use
508 of alternative energy resources, particularly renewable energy
509 resources.
510 (k)(j) Consider, in its decisionmaking, the impacts of
511 energy-related activities on the goals in subsection (2) social,
512 economic, and environmental impacts of energy-related
513 activities, including the whole-life-cycle impacts of any
514 potential energy use choices, so that detrimental effects of
515 these activities are understood and minimized.
516 (l)(k) Develop and maintain energy emergency preparedness
517 plans to minimize the effects of an energy shortage within this
518 state Florida.
519 Section 8. Subsection (2) of section 377.6015, Florida
520 Statutes, is amended to read:
521 377.6015 Department of Agriculture and Consumer Services;
522 powers and duties.—
523 (2) The department shall:
524 (a) Administer the Florida Renewable Energy and Energy-
525 Efficient Technologies Grants Program pursuant to s. 377.804 to

526 ~~assure a robust grant portfolio.~~
527 (a)~~(b)~~ Develop policy for requiring grantees to provide
528 royalty-sharing or licensing agreements with state government
529 for commercialized products developed under a state grant.
530 ~~(c) Administer the Florida Green Government Grants Act~~
531 ~~pursuant to s. 377.808 and set annual priorities for grants.~~
532 (b)~~(d)~~ Administer the information gathering and reporting
533 functions pursuant to ss. 377.601-377.608.
534 ~~(e) Administer the provisions of the Florida Energy and~~
535 ~~Climate Protection Act pursuant to ss. 377.801-377.804~~.
536 (c)~~(f)~~ Advocate for energy ~~and climate change~~ issues
537 consistent with the goals in s. 377.601(2) and provide
538 educational outreach and technical assistance in cooperation
539 with the state's academic institutions.
540 (d)~~(g)~~ Be a party in the proceedings to adopt goals and
541 submit comments to the Public Service Commission pursuant to s.
542 366.82.
543 (e)~~(h)~~ Adopt rules pursuant to chapter 120 in order to
544 implement all powers and duties described in this section.
545 Section 9. Subsection (1) and paragraphs (e), (f), and (m)
546 of subsection (2) of section 377.703, Florida Statutes, are
547 amended to read:
548 377.703 Additional functions of the Department of
549 Agriculture and Consumer Services.—
550 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and

551 demand questions have become a major area of concern to the
552 state which must be dealt with by effective and well-coordinated
553 state action, it is the intent of the Legislature to promote the
554 efficient, effective, and economical management of energy
555 problems, centralize energy coordination responsibilities,
556 pinpoint responsibility for conducting energy programs, and
557 ensure the accountability of state agencies for the
558 implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy
559 policy. It is the specific intent of the Legislature that
560 nothing in this act shall in any way change the powers, duties,
561 and responsibilities assigned by the Florida Electrical Power
562 Plant Siting Act, part II of chapter 403, or the powers, duties,
563 and responsibilities of the Florida Public Service Commission.
564 (2) DUTIES.—The department shall perform the following
565 functions, unless as otherwise provided, consistent with the
566 development of a state energy policy:
567 (e) The department shall analyze energy data collected and
568 prepare long-range forecasts of energy supply and demand in
569 coordination with the Florida Public Service Commission, which
570 is responsible for electricity and natural gas forecasts. To
571 this end, the forecasts shall contain:
572 1. An analysis of the relationship of state economic
573 growth and development to energy supply and demand, including
574 the constraints to economic growth resulting from energy supply
575 constraints.

576 2. ~~Plans for the development of renewable energy resources~~
577 ~~and reduction in dependence on depletable energy resources,~~
578 ~~particularly oil and natural gas, and~~ An analysis of the extent
579 to which domestic energy resources, including renewable energy
580 sources, are being utilized in this ~~the~~ state.
581 3. Consideration of alternative scenarios of statewide
582 energy supply and demand for 5, 10, and 20 years to identify
583 strategies for long-range action, including identification of
584 potential impacts in relation to the goals in s. 377.601(2)
585 ~~social, economic, and environmental effects~~.
586 4. An assessment of the state's energy resources,
587 including examination of the availability of commercially
588 developable and imported fuels, and an analysis of anticipated
589 impacts in relation to the goals in s. 377.601(2) ~~effects on the~~
590 ~~state's environment and social services~~ resulting from energy
591 resource development activities or from energy supply
592 constraints, or both.
593 (f) The department shall submit an annual report to the
594 Governor and the Legislature reflecting its activities and
595 making recommendations for policies for improvement of the
596 state's response to energy supply and demand and its effect on
597 the health, safety, and welfare of the residents of this state.
598 The report must include a report from the Florida Public Service
599 Commission on electricity and natural gas and information on
600 energy conservation programs conducted and underway in the past

601 year and include recommendations for energy efficiency and
602 conservation programs for the state, including:
603 1. Formulation of specific recommendations for improvement
604 in the efficiency of energy utilization in governmental,
605 residential, commercial, industrial, and transportation sectors.
606 2. Collection and dissemination of information relating to
607 energy efficiency and conservation.
608 3. Development and conduct of educational and training
609 programs relating to energy efficiency and conservation.
610 4. An analysis of the ways in which state agencies are
611 seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy
612 policy, and recommendations for better fulfilling this policy.
613 (m) In recognition of the devastation to the economy of
614 this state and the dangers to the health and welfare of
615 residents of this state caused by severe hurricanes, and the
616 potential for such impacts caused by other natural disasters,
617 the Division of Emergency Management shall include in its energy
618 emergency contingency plan and provide to the Florida Building
619 Commission for inclusion in the Florida Energy Efficiency Code
620 for Building Construction specific provisions to facilitate the
621 use of cost-effective ~~solar~~ energy technologies as emergency
622 remedial and preventive measures for providing electric power,
623 street lighting, and water heating service in the event of
624 electric power outages.
625 Section 10. Sections 377.801, 377.802, 377.803, 377.804,

626 377.808, 377.809, and 377.816, Florida Statutes, are repealed.
627 Section 11. (1) For programs established pursuant to s.
628 377.804, s. 377.808, s. 377.809, or s. 377.816, Florida
629 Statutes, there may not be:
630 (a) New or additional applications, certifications, or
631 allocations approved.
632 (b) New letters of certification issued.
633 (c) New contracts or agreements executed.
634 (d) New awards made.
635 (2) All certifications or allocations issued under such
636 programs are rescinded except for the certifications of, or
637 allocations to, those certified applicants or projects that
638 continue to meet the applicable criteria in effect before July
639 1, 2024. Any existing contract or agreement authorized under any
640 of these programs shall continue in full force and effect in
641 accordance with the statutory requirements in effect when the
642 contract or agreement was executed or last modified. However,
643 further modifications, extensions, or waivers may not be made or
644 granted relating to such contracts or agreements, except
645 computations by the Department of Revenue of the income
646 generated by or arising out of the qualifying project.
647 Section 12. Paragraph (d) of subsection (2) of section
648 220.193, Florida Statutes, is amended to read:
649 220.193 Florida renewable energy production credit.—
650 (2) As used in this section, the term:

651 (d) "Florida renewable energy facility" means a facility
652 in the state that produces electricity for sale from renewable
653 energy~~, as defined in s. 377.803~~.
654 Section 13. Subsection (7) of section 288.9606, Florida
655 Statutes, is amended to read:
656 288.9606 Issue of revenue bonds.—
657 (7) Notwithstanding any provision of this section, the
658 corporation in its corporate capacity may, without authorization
659 from a public agency under s. 163.01(7), issue revenue bonds or
660 other evidence of indebtedness under this section to:
661 (a) Finance the undertaking of any project within the
662 state that promotes renewable energy as defined in s. 366.91 ~~or~~
663 ~~s. 377.803~~;
664 (b) Finance the undertaking of any project within the
665 state that is a project contemplated or allowed under s. 406 of
666 the American Recovery and Reinvestment Act of 2009; ~~or~~
667 (c) If permitted by federal law, finance qualifying
668 improvement projects within the state under s. 163.08<u>; or</u>~~.~~
669 (d) Finance the costs of acquisition or construction of a
670 transportation facility by a private entity or consortium of
671 private entities under a public-private partnership agreement
672 authorized by s. 334.30.
673 Section 14. Paragraph (w) of subsection (2) of section
674 380.0651, Florida Statutes, is amended to read:
675 380.0651 Statewide guidelines, standards, and exemptions.—

676 (2) STATUTORY EXEMPTIONS.—The following developments are
677 exempt from s. 380.06:
678 ~~(w) Any development in an energy economic zone designated~~
679 ~~pursuant to s. 377.809 upon approval by its local governing~~
680 ~~body.~~
681
682 If a use is exempt from review pursuant to paragraphs (a)-(u),
683 but will be part of a larger project that is subject to review
684 pursuant to s. 380.06(12), the impact of the exempt use must be
685 included in the review of the larger project, unless such exempt
686 use involves a development that includes a landowner, tenant, or
687 user that has entered into a funding agreement with the state
688 land planning agency under the Innovation Incentive Program and
689 the agreement contemplates a state award of at least $50
690 million.
691 Section 15. Subsection (2) of section 403.9405, Florida
692 Statutes, is amended to read:
693 403.9405 Applicability; certification; exemption; notice
694 of intent.—
695 (2) ~~No construction of~~ A natural gas transmission pipeline
696 may <u>not be constructed</u> ~~be undertaken after October 1, 1992,~~
697 without first obtaining certification under ss. 403.9401-
698 403.9425, but these sections do not apply to:
699 (a) Natural gas transmission pipelines which are less than
700 <u>100</u> ~~15~~ miles in length or which do not cross a county line,

701 unless the applicant has elected to apply for certification
702 under ss. 403.9401-403.9425.
703 (b) Natural gas transmission pipelines for which a
704 certificate of public convenience and necessity has been issued
705 under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a
706 natural gas transmission pipeline certified as an associated
707 facility to an electrical power plant pursuant to the Florida
708 Electrical Power Plant Siting Act, ss. 403.501-403.518, unless
709 the applicant elects to apply for certification of that pipeline
710 under ss. 403.9401-403.9425.
711 (c) Natural gas transmission pipelines that are owned or
712 operated by a municipality or any agency thereof, by any person
713 primarily for the local distribution of natural gas, or by a
714 special district created by special act to distribute natural
715 gas, unless the applicant elects to apply for certification of
716 that pipeline under ss. 403.9401-403.9425.
717 Section 16. Subsection (3) of section 720.3075, Florida
718 Statutes, is amended to read:
719 720.3075 Prohibited clauses in association documents.—
720 (3) Homeowners' association documents, including
721 declarations of covenants, articles of incorporation, or bylaws,
722 may not preclude:
723 (a) The display of up to two portable, removable flags as
724 described in s. 720.304(2)(a) by property owners. However, all
725 flags must be displayed in a respectful manner consistent with

726 the requirements for the United States flag under 36 U.S.C.
727 chapter 10.
728 (b) Types or fuel sources of energy production which may
729 be used, delivered, converted, or supplied by the following
730 entities to serve customers within the association that such
731 entities are authorized to serve:
732 1. A public utility or an electric utility as defined in
733 this chapter;
734 2. An entity formed under s. 163.01 that generates, sells,
735 or transmits electrical energy;
736 3. A natural gas utility as defined in s. 366.04(3)(c);
737 4. A natural gas transmission company as defined in s.
738 368.103; or
739 5. A Category I liquefied petroleum gas dealer, a Category
740 II liquefied petroleum gas dispenser, or a Category III
741 liquefied petroleum gas cylinder exchange operator as defined in
742 s. 527.01.
743 (c) The use of an appliance, including a stove or grill,
744 which uses the types or fuel sources of energy production which
745 may be used, delivered, converted, or supplied by the entities
746 listed in paragraph (b). As used in this paragraph, the term
747 "appliance" means a device or apparatus manufactured and
748 designed to use energy and for which the Florida Building Code
749 or the Florida Fire Prevention Code provides specific
750 requirements.

751 Section 17. (1) The Public Service Commission shall
752 conduct an assessment of the security and resiliency of the
753 state's electric grid and natural gas facilities against both
754 physical threats and cyber threats. In conducting this
755 assessment, the commission shall consult with the Division of
756 Emergency Management and, in its assessment of cyber threats,
757 shall consult with the Florida Digital Service. All electric
758 utilities, natural gas utilities, and natural gas pipelines
759 operating in this state, regardless of ownership structure,
760 shall cooperate with the commission to provide access to all
761 information necessary to conduct the assessment.
762 (2) By July 1, 2025, the commission shall submit a report
763 of its assessment to the Governor, the President of the Senate,
764 and the Speaker of the House of Representatives. The report must
765 also contain any recommendations for potential legislative or
766 administrative actions that may enhance the physical security or
767 cyber security of the state's electric grid or natural gas
768 facilities.
769 Section 18. (1) Recognizing the evolution and advances
770 that have occurred and continue to occur in nuclear power
771 technologies, the Public Service Commission shall study and
772 evaluate the technical and economic feasibility of using
773 advanced nuclear power technologies, including small modular
774 reactors, to meet the electrical power needs of the state, and
775 research means to encourage and foster the installation and use

776 of such technologies at military installations in the state in
777 partnership with public utilities. In conducting this study, the
778 commission shall consult with the Department of Environmental
779 Protection and the Division of Emergency Management.
780 (2) By April 1, 2025, the commission shall prepare and
781 submit a report to the Governor, the President of the Senate,
782 and the Speaker of the House of Representatives, containing its
783 findings and any recommendations for potential legislative or
784 administrative actions that may enhance the use of advanced
785 nuclear technologies in a manner consistent with the energy
786 policy goals in s. 377.601(2), Florida Statutes.
787 Section 19. (1) Recognizing the continued development of
788 technologies that support the use of hydrogen as a
789 transportation fuel and the potential for such use to help meet
790 the state's energy policy goals in s. 377.601(2), Florida
791 Statutes, the Department of Transportation, in consultation with
792 the Office of Energy within the Department of Agriculture and
793 Consumer Services, shall study and evaluate the potential
794 development of hydrogen fueling infrastructure, including
795 fueling stations, to support hydrogen-powered vehicles that use
796 the state highway system.
797 (2) By April 1, 2025, the Department of Transportation
798 shall prepare and submit a report to the Governor, the President
799 of the Senate, and the Speaker of the House of Representatives,
800 containing its findings and any recommendations for potential

801 legislative or administrative actions that may accommodate the
802 future development of hydrogen fueling infrastructure in a
803 manner consistent with the energy policy goals in s. 377.601(2),
804 Florida Statutes.
805 Section 20. This act shall take effect July 1, 2024.

Commerce Committee
CS/HB 1645 by Rep. Payne
Energy Resources

AMENDMENT SUMMARY
February 15, 2024

Amendment 1 by Payne (lines 323-368 with title amendment):

- Requires each electric cooperative and municipal electric utility to maintain at least one mutual aid agreement with another electric utility or a pre-event agreement with a private contractor for purposes of restoring power following a natural disaster.
  - Requires electric cooperatives and municipal electric utilities to provide, by May 15 of each year, attestations of compliance to the Public Service Commission (PSC) to be compiled and submitted to the Division of Emergency Management.
  - Provides that eligibility to receive state financial assistance for power restoration efforts after a natural disaster is conditioned on submission of the required attestation.
- Requires public utilities to provide notice of certain off-schedule power plant retirements to the PSC for a determination as to whether the retirement is prudent and consistent with the state's energy policy goals established in the bill.
- Removes language from the bill that prohibits public utilities from making direct sales of energy for transportation purposes absent specific authority.
- Authorizes the PSC to approve voluntary electric vehicle charging programs for public utilities under specified conditions.

Amendment 2 by Payne (lines 545-624 with title amendment):

- Amends the duties of the Department of Agriculture and Consumer Services by removing the duty to establish goals for increasing use of renewable energy.
- Prohibits the construction, operation, or expansion of offshore wind energy facilities in the state and prohibits the construction or expansion of a wind turbine on real property within 1 mile of the coastline.
  - Permits the Department of Environmental Protection (DEP) to bring an action for injunctive relief against anyone who violates these prohibitions.
  - Requires DEP to review applications for certain federal wind energy leases to signify its approval or objection.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)

ADOPTED AS AMENDED ___ (Y/N)

ADOPTED W/O OBJECTION ___ (Y/N)

FAILED TO ADOPT ___ (Y/N)

WITHDRAWN ___ (Y/N)

OTHER ______

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Payne offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 323-368 and insert:
6 Section 4. Section 366.042, Florida Statutes, is created
7 to read:
8 366.042 Mutual Aid Agreements of Electric Cooperatives and
9 Municipal Electric Utilities.-
10 (1) For the purposes of restoring power following a natural
11 disaster subject to a state of emergency declared by the
12 Governor, all electric cooperatives and municipal electric
13 utilities shall enter into and maintain, at a minimum, one of
14 the following:
15 (a) A mutual aid agreement with a municipal electric
16 utility;

17 (b) A mutual aid agreement with an electric cooperative;
18 (c) A mutual aid agreement with a public utility; or
19 (d) A pre-event agreement with a private contractor.
20 (2) All electric cooperatives and municipal electric
21 utilities operating in this state shall annually submit to the
22 commission an attestation, in conformity with s. 92.525, stating
23 that the organization has complied with the requirements of this
24 section on or before May 15. Nothing in this section shall be
25 construed to give the commission jurisdiction over the terms and
26 conditions of a mutual aid agreement or agreement with a private
27 contractor entered into by an electric cooperative or a
28 municipal electric utility.
29 (3) The commission shall compile the attestations and
30 annually submit a copy to the Division of Emergency Management
31 no later than May 30.
32 (4) Electric cooperatives and municipal electric utilities
33 that submit the attestation required by this section shall be
34 eligible to receive state financial assistance, if such funding
35 is available, for power restoration efforts following a natural
36 disaster subject to a state of emergency declared by the
37 Governor.
38 (5) Electric cooperatives and municipal electric utilities
39 that do not submit the attestation required by this section
40 shall be ineligible to receive state financial assistance for
41 power restoration efforts following a natural disaster subject

42 to a state of emergency declared by the Governor until such time
43 as the attestation is submitted by the electric cooperative or
44 municipal electric utility.
45 (6) Nothing in this section shall be construed to
46 prohibit, limit, or disqualify any electric cooperative or
47 municipal electric utility from receiving funding under The
48 Stafford Act, 42 U.S.C. 5121 et seq., or any other federal
49 program, including programs administered by the State of Florida
50 (7) This section does not expand or alter the jurisdiction
51 of the commission over public utilities or electric utilities.
52 Section 5. Section 366.057, Florida Statutes, is created
53 to read:
54 366.057 Retirement of Electrical Power Plant.-
55 A public utility shall provide notice to the commission at
56 least 90 days before the full retirement of an electrical power
57 plant if such date does not coincide with the retirement date in
58 the public utility's most recently approved depreciation study.
59 No later than 90 days after such notice, the commission may
60 schedule a hearing to determine whether retirement of the plant
61 is prudent and consistent with the state's energy policy goals
62 in s. 377.601(2). At a hearing scheduled under this section, the
63 utility shall present its proposed retirement date for the
64 plant, remaining depreciation expense on the plant, any other
65 costs to be recovered in relation to the plant, and any planned
66 replacement capacity.

67 Section 6. Section 366.94, Florida Statutes, is amended to
68 read:
69 366.94 Electric vehicle charging ~~stations~~.—
70 (1) The provision of electric vehicle charging to the
71 public by a nonutility is not the retail sale of electricity for
72 the purposes of this chapter. The rates, terms, and conditions
73 of electric vehicle charging services by a nonutility are not
74 subject to regulation under this chapter. This section does not
75 affect the ability of individuals, businesses, or governmental
76 entities to acquire, install, or use an electric vehicle charger
77 for their own vehicles.
78 (2) The Department of Agriculture and Consumer Services
79 shall adopt rules to provide definitions, methods of sale,
80 labeling requirements, and price-posting requirements for
81 electric vehicle charging stations to allow for consistency for
82 consumers and the industry.
83 (3)(a) It is unlawful for a person to stop, stand, or park
84 a vehicle that is not capable of using an electrical recharging
85 station within any parking space specifically designated for
86 charging an electric vehicle.
87 (b) If a law enforcement officer finds a motor vehicle in
88 violation of this subsection, the officer or specialist shall
89 charge the operator or other person in charge of the vehicle in
90 violation with a noncriminal traffic infraction, punishable as
91 provided in s. 316.008(4) or s. 318.18.

92 (4) Upon petition of a public utility, the commission may
93 approve voluntary electric vehicle charging programs to become
94 effective on or after January 1, 2025, to include, but not be
95 limited to, residential, fleet, and public electric vehicle
96 charging, upon a determination by the commission that the
97 utility's general body of ratepayers, as a whole, will not pay
98 to support recovery of its electric vehicle charging investment
99 by the end of the useful life of the assets dedicated to the
100 electric vehicle charging service. This provision does not
101 preclude cost recovery for electric vehicle charging programs
102 approved by the commission before January 1, 2024.
103
104
105 ---
106 **T I T L E A M E N D M E N T**
107 Remove lines 40-49 and insert:
108 service restrictions; creating s. 366.042, F.S.; requiring
109 electric cooperatives and municipal electric utilities to enter
110 into and maintain at least one mutual aid agreement or pre-event
111 agreement with certain entities for purposes of restoring power
112 after a natural disaster; requiring electric cooperatives and
113 municipal electric utilities to submit attestations of
114 compliance to the Public Service Commission; providing that such
115 attestations are condition of receiving certain state financial
116 assistance; providing construction; creating s. 366.057, F.S.;

117 requiring public utilities to provide notice to the Public
118 Service Commission of certain power plant retirements;
119 authorizing the commission to conduct hearings to make specified
120 determinations on such plant retirements; specifying information
121 to be provided at hearing by utilities; amending s. 366.94,
122 F.S.; removing terminology; authorizing the commission to
123 approve voluntary public utility programs, to become effective
124 on or after a specified date, for electric vehicle charging if
125 certain requirements are met; providing applicability; creating

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	______	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Payne offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 545-624 and insert:
6 Section 9. Subsection (1) and paragraphs (e), (f), (h),
7 and (m) of subsection (2) of section 377.703, Florida Statutes,
8 are amended to read:
9 377.703 Additional functions of the Department of
10 Agriculture and Consumer Services.—
11 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and
12 demand questions have become a major area of concern to the
13 state which must be dealt with by effective and well-coordinated
14 state action, it is the intent of the Legislature to promote the
15 efficient, effective, and economical management of energy
16 problems, centralize energy coordination responsibilities,

17 pinpoint responsibility for conducting energy programs, and
18 ensure the accountability of state agencies for the
19 implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy
20 policy. It is the specific intent of the Legislature that
21 nothing in this act shall in any way change the powers, duties,
22 and responsibilities assigned by the Florida Electrical Power
23 Plant Siting Act, part II of chapter 403, or the powers, duties,
24 and responsibilities of the Florida Public Service Commission.
25 (2) DUTIES.—The department shall perform the following
26 functions, unless as otherwise provided, consistent with the
27 development of a state energy policy:
28 (e) The department shall analyze energy data collected and
29 prepare long-range forecasts of energy supply and demand in
30 coordination with the Florida Public Service Commission, which
31 is responsible for electricity and natural gas forecasts. To
32 this end, the forecasts shall contain:
33 1. An analysis of the relationship of state economic
34 growth and development to energy supply and demand, including
35 the constraints to economic growth resulting from energy supply
36 constraints.
37 2. ~~Plans for the development of renewable energy resources~~
38 ~~and reduction in dependence on depletable energy resources,~~
39 ~~particularly oil and natural gas, and~~ An analysis of the extent
40 to which domestic energy resources, including renewable energy
41 sources, are being utilized in this ~~the~~ state.

42 3. Consideration of alternative scenarios of statewide
43 energy supply and demand for 5, 10, and 20 years to identify
44 strategies for long-range action, including identification of
45 potential impacts in relation to the goals in s. 377.601(2)
46 ~~social, economic, and environmental effects~~.
47 4. An assessment of the state's energy resources,
48 including examination of the availability of commercially
49 developable and imported fuels, and an analysis of anticipated
50 impacts in relation to the goals in s. 377.601(2) ~~effects on the~~
51 ~~state's environment and social services~~ resulting from energy
52 resource development activities or from energy supply
53 constraints, or both.
54 (f) The department shall submit an annual report to the
55 Governor and the Legislature reflecting its activities and
56 making recommendations for policies for improvement of the
57 state's response to energy supply and demand and its effect on
58 the health, safety, and welfare of the residents of this state.
59 The report must include a report from the Florida Public Service
60 Commission on electricity and natural gas and information on
61 energy conservation programs conducted and underway in the past
62 year and include recommendations for energy efficiency and
63 conservation programs for the state, including:
64 1. Formulation of specific recommendations for improvement
65 in the efficiency of energy utilization in governmental,
66 residential, commercial, industrial, and transportation sectors.

67 2. Collection and dissemination of information relating to
68 energy efficiency and conservation.
69 3. Development and conduct of educational and training
70 programs relating to energy efficiency and conservation.
71 4. An analysis of the ways in which state agencies are
72 seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy
73 policy, and recommendations for better fulfilling this policy.
74 (h) The department shall promote the development and use
75 of renewable energy resources, in conformance with chapter 187
76 and s. 377.601, by:
77 1. ~~Establishing goals and strategies for increasing the~~
78 ~~use of renewable energy in this state.~~
79 ~~2.~~ Aiding and promoting the commercialization of renewable
80 energy resources, in cooperation with the Florida Energy Systems
81 Consortium; the Florida Solar Energy Center; and any other
82 federal, state, or local governmental agency that may seek to
83 promote research, development, and the demonstration of
84 renewable energy equipment and technology.
85 2~~3~~. Identifying barriers to greater use of renewable
86 energy resources in this state, and developing specific
87 recommendations for overcoming identified barriers, with
88 findings and recommendations to be submitted annually in the
89 report to the Governor and Legislature required under paragraph
90 (f).

91 3~~4~~. In cooperation with the Department of Environmental
92 Protection, the Department of Transportation, the Department of
93 Commerce, the Florida Energy Systems Consortium, the Florida
94 Solar Energy Center, and the Florida Solar Energy Industries
95 Association, investigating opportunities, pursuant to the
96 national Energy Policy Act of 1992, the Housing and Community
97 Development Act of 1992, and any subsequent federal legislation,
98 for renewable energy resources, electric vehicles, and other
99 renewable energy manufacturing, distribution, installation, and
100 financing efforts that enhance this state's position as the
101 leader in renewable energy research, development, and use.
102 4~~5~~. Undertaking other initiatives to advance the
103 development and use of renewable energy resources in this state.
104
105 In the exercise of its responsibilities under this paragraph,
106 the department shall seek the assistance of the renewable energy
107 industry in this state and other interested parties and may
108 enter into contracts, retain professional consulting services,
109 and expend funds appropriated by the Legislature for such
110 purposes.
111 (m) In recognition of the devastation to the economy of
112 this state and the dangers to the health and welfare of
113 residents of this state caused by severe hurricanes, and the
114 potential for such impacts caused by other natural disasters,
115 the Division of Emergency Management shall include in its energy

116 emergency contingency plan and provide to the Florida Building
117 Commission for inclusion in the Florida Energy Efficiency Code
118 for Building Construction specific provisions to facilitate the
119 use of cost-effective ~~solar~~ energy technologies as emergency
120 remedial and preventive measures for providing electric power,
121 street lighting, and water heating service in the event of
122 electric power outages.
123 Section 10. Section 377.708, Florida Statutes, is created
124 to read:
125 377.708 Wind energy.—
126 (1) DEFINITIONS.- As used in this section, the term:
127 (a) "Coastline" means the established line of mean high
128 water.
129 (b) "Department" means the Department of Environmental
130 Protection.
131 (c) "Offshore wind energy facility" means any wind energy
132 facility located on waters of this state, including other
133 buildings, structures, vessels, or electrical transmission
134 cabling to be sited on waters of this state, or connected to
135 corresponding onshore substations that are used to support the
136 operation of one or more wind turbines sited or constructed on
137 any waters of this state and any submerged lands or territorial
138 waters that are not under the jurisdiction of the state.
139 (d) "Real property" has the same meaning as provided in s.
140 192.001.

141 (e) "Waters of this state" has the same meaning as s.
142 327.02 except the term also includes all state submerged lands.
143 (f) "Wind energy facility" means an electrical wind
144 generation facility or expansion thereof having at least a 400-
145 watt rated capacity, including substations; meteorological data
146 towers; aboveground, underground, and electrical transmission
147 lines; and transformers, control systems, and other buildings or
148 structures under common ownership or operating control used to
149 support the operation of the facility the primary purpose of
150 which is to offer electricity supply for sale.
151 (g) "Wind turbine" means a device or apparatus that has the
152 capability to convert kinetic wind energy into rotational energy
153 that drives an electrical generator consisting of a tower body
154 and rotator with two or more blades. The term includes both
155 horizontal and vertical axis turbines. The term does not include
156 devices used to measure wind speed and direction, such as an
157 anemometer.
158 (2) PROHIBITED ACTIVITIES.-
159 (a) The construction, operation, or expansion of an
160 offshore wind energy facility in this state is prohibited.
161 (b) The construction or operation of a wind turbine on real
162 property within 1 mile of coastline in this state is prohibited.
163 (c) The construction or operation of a wind turbine on
164 waters of this state and any submerged lands is prohibited.

165 (3) The department shall review all applications for
166 federal wind energy leases in the territorial waters of the
167 United States adjacent to waters of this state and shall signify
168 its approval or objection to each application.
169 (4) INJUNCTIVE RELIEF.-The department may bring an action
170 for injunctive relief against any person who owns, constructs,
171 or operates an offshore wind energy facility or a wind turbine
172 in this state in violation of this section.
173
174
175 ---
176 **T I T L E A M E N D M E N T**
177 Remove line 68 and insert:
178 the act; creating s. 377.708, F.S.; providing definitions;
179 prohibiting the construction, operation, or expansion of certain
180 wind energy facilities and wind turbines in the state;
181 authorizing the Department of Environmental Protection to seek
182 injunctive relief for violations; repealing s. 377.801, F.S.,
183 relating to the

PCS for CS/HB 1203

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 1203 Homeowners' Associations
SPONSOR(S): Commerce Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Commerce Committee		Larkin	Hamon

SUMMARY ANALYSIS

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners, membership is a mandatory condition of parcel ownership, and the association is authorized to impose assessments that, if unpaid, may become a lien on the parcel. HOAs may levy fines against or suspend certain access rights of a parcel owner for failing to comply with the HOA's governing documents.

The bill:

- Provides educational requirements for community association managers (CAMs) and HOA directors.
- Requires every HOA, by January 1, 2025, to post a current digital copy of the official records on its website or make such documents available through an application.
- Allows HOA members to make a written request for a detailed accounting of any amounts owed to the HOA, and the HOA must provide such information or else the board forfeits any outstanding fine.
- Requires that an HOA or its architectural, construction improvement, or other similar committee (ARC) to allow homeowners to appeal a decision of the HOA or ARC.
- Provides criminal penalties if an HOA officer, director, or manager accepts a kickback.
- Prohibits an HOA from levying fines or imposing suspensions if a violation has been timely cured.
- Prohibits certain fines from becoming a lien on a parcel such as: lawn, landscaping, grass maintenance, and traffic violations.
- Prohibits fines from being aggregated to create a lien against a parcel; and only allows a fine or an assessment of less than 1 percent of a parcel's just value determined by the property appraiser at the time the fine was levied to become a lien against the parcel if approved by 75 percent of the total membership of parcel owners;
- Prohibits HOAs from issuing fines:
    - to parcel owners based on traffic infractions that were not committed by the parcel owner,
    - based on leaving garbage receptacles on the street for a certain time period, and
    - based on leaving holiday decorations or lights up under certain circumstances.
- Prohibits an HOA from preventing a homeowner from installing or displaying vegetable gardens and clotheslines in areas not visible from the frontage or adjacent parcels.
- Provides that without the approval of 75% of the voting members at a member meeting, the HOA may not impose:
    - A regular assessment that is more than 10 percent greater than the regular assessment for the HOA's preceding fiscal year unless it can be shown that a higher increase is necessary for property protection and public safety, or
    - Special assessments that in the aggregate exceed 5 percent of the budgeted gross expenses of the HOA for that fiscal year.
- Provides that the lien of the association is subordinate to that of any mortgage that was recorded prior to the filing of a notice of HOA lien, not just a first mortgage as provided in current law.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Community Association Managers- Current Situation

Community association managers (CAMs) are licensed and regulated by the Department of Business and Professional Regulation (DBPR) pursuant to part VIII of ch. 468, F.S. Community association managers are regulated by the seven-member Regulatory Council of Community Association Managers at DBPR.[1]

Section 468.431(2), F.S., defines "community association management" to mean:

> any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of $100,000: controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, and coordinating maintenance for the residential development and other day-to-day services involved with the operation of a community association.

A license is not required for a person who:
- Performs clerical or ministerial functions under the direct supervision and control of a licensed manager, or
- Performs only the maintenance of a community association and does not assist in any of the management services.[2]

To become licensed as a CAM, a license applicant must:
- Submit to a background check to determine good moral character,
- Attend a DBPR-approved in-person training prior to taking the examination, and
- Pass the licensure examination.[3]

CAMs must also complete not more than 10 hours of continuing education hours as approved by the council to renew and maintain their licenses.[4]

Section 468.4334, F.S., outlines the professional practice standards for CAMs and CAM firms, including the duty to "discharge the duties performed on behalf of the association as authorized by [ch. 468, F.S.], loyally, skillfully, and diligently; dealing honestly and fairly; in good faith; with care and full disclosure to the community association; accounting for all funds; and not charging unreasonable or excessive fees."

The license of a CAM or CAM firm may be disciplined, including a suspension or revocation of their license, or denial of a license renewal, for the grounds specified in s. 468.436, F.S., including:
- Committing acts of gross misconduct or gross negligence in connection with the profession.
- Contracting, on behalf of an association, with any entity in which the CAM has a financial interest that is not disclosed.
- Violating any provision of chapter 718 (relating to condominiums), chapter 719 (relating to cooperatives), or chapter 720 (relating to homeowners' associations) during the course of

[1] S. 468.4315(1), F.S.
[2] S. 468.431(2), F.S.
[3] S. 468.433, F.S.
[4] S. 468.4336 and 468.4337, F.S.

performing community association management services pursuant to a contract with a community association.[5]

Community Association Managers- Effect of the Bill

The bill requires CAMs and CAM firms authorized by a contract to provide community association management to an HOA to:

- Attend in person at least one member meeting or board meeting of the homeowners' association annually;
- Provide HOA members:
  - The name and contact information for each CAM or representative of the CAM firm assigned to the HOA.
  - The CAM's or representative's hours of availability.
  - A summary of the duties for which the CAM or representative is responsible.

The bill requires that the HOA post this information on the HOA website or application. The bill requires that a CAM or CAM firm must update the HOA and its members within 14 business days after any change to such information.

A CAM or CAM firm is required to provide the contract between the HOA and the CAM, and the HOA governing documents, upon an HOA member's request.

The bill clarifies that the council may not require more than 10 hours of continuing education annually for the renewal of a license.

The bill mandates that every two years, a CAM that provides services to an HOA must complete at least 5 hours of continuing education that pertains specifically to HOAs, 3 hours of which must relate to recordkeeping.

Homeowners' Association Background

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners, membership is a mandatory condition of parcel ownership, the association is authorized to impose assessments that, if unpaid, may become a lien on the parcel.[6] In Florida, approximately 45 percent of homes are part of an HOA.[7]

Only HOAs whose covenants and restrictions include mandatory assessments are regulated by ch. 720, F.S., the Homeowners' Association Act (HOA Act). Like a condominium, an HOA is administered by an elected board of directors. The powers and duties of an HOA include the powers and duties provided in the HOA Act, and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents.[8]

An HOA must be a Florida corporation and the initial governing documents must be recorded in the official records of the county in which the community is located.

After control of the HOA is obtained by members other than the developer, the HOA may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members. The HOA may defend actions in eminent domain or bring inverse condemnation actions. Any individual member or class of members may bring any action without

[5] S. 468.436(2)(b)5.-7., F.S.
[6] S. 720.301(9), F.S.
[7] Patrick Regan, "45% of Florida Homes Are Part of an HOA, the Highest Percentage in the Nation." *South Florida Agent Magazine*, Apr. 21, 2023, https://southfloridaagentmagazine.com/2023/04/20/45-of-florida-homes-are-part-of-an-hoa-the-highest-percentage-in-the-nation/ (last visited Feb. 1, 2024).
[8] *See generally* ch. 720, F.S.

participation by the HOA, but a member does not have authority to act for the HOA by virtue of being a member.[9]

No state agency has direct oversight over HOAs. However, Florida law provides for a limited mandatory binding arbitration program, administered by the Division of Condominiums, Timeshares and Mobile Homes, within the Department of Business and Professional Regulation, for certain election and recall disputes.[10]

HOA Governing Documents

An HOA's governing documents include the:
- Recorded declaration of covenants for a community and all duly adopted amendments thereto;
- HOA's articles of incorporation and bylaws and any duly adopted amendments thereto; and
- Rules and regulations adopted under the authority of the recorded declaration, articles of incorporation, or bylaws and any duly adopted amendments thereto.[11]

The declaration of covenants, much like a constitution, establishes the community's basic covenants and restrictions.[12] The articles of incorporation establish the HOA's existence, basic structure, and governance.[13] The bylaws govern the HOA's operation and administration, while the rules and regulations typically supplement the other documents, addressing matters of everyday policy.[14]

Unless otherwise provided in the governing documents or required by law, an HOA's governing documents may be amended by the affirmative vote of two-thirds of the HOA's voting interests.[15] Within 30 days after recording a governing document amendment, the HOA must give its members copies thereof unless a copy was provided to the members before the vote on the amendment, in which case the HOA must only provide the members with notice of the amendment's adoption.[16]

Official Records- Current Situation

An HOA must maintain each of the following items, when applicable, which constitute the official records of the HOA:[17]
- A copy of the HOA's governing documents:
  - declaration of covenants and each amendment,
  - bylaws and each amendment,
  - articles of incorporation and each amendment, and
  - current rules.
- Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the HOA is obligated to maintain, repair, or replace.
- The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.
- A current roster of all members and their designated mailing addresses and parcel identifications. A member's designated mailing address is the member's property address, unless the member has sent written notice to the association requesting that a different mailing address be used for all required notices.
  - The association shall also maintain the e-mail addresses and the facsimile numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. A member's e-mail

[9] S. 720.303(1), F.S.
[10] S. 720.311, F.S.
[11] S. 720.301(8), F.S.
[12] Joseph Adams, *HOA Governing Documents Explained* (July 1, 2018), https://www.floridacondohoalawblog.com/2018/07/01/hoa-governing-documents-explained/ (last visited Feb. 1, 2024).
[13] *Id.*
[14] *Id.*
[15] S. 720.306(1), F.S.
[16] *Id.*
[17] S. 720.303(4), F.S.

address is the e-mail address the member provided when consenting in writing to receiving notice by electronic transmission, unless the member has sent written notice to the association requesting that a different e-mail address be used for all required notices. The e-mail addresses and facsimile numbers provided by members to receive notice by electronic transmission must be removed from association records when the member revokes consent to receive notice by electronic transmission.

- All of the HOA's insurance policies, which must be retained for at least 7 years.
- A current copy of all contracts to which the HOA is a party, including, without limitation, any management agreement, lease, or other contract under which the HOA has any obligation or responsibility.
  - Bids received by the HOA for work to be performed must also be considered official records and must be kept for a period of 1 year.
- The financial and accounting records of the HOA, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:
  - Accurate, itemized, and detailed records of all receipts and expenditures.
  - A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.
  - All tax returns, financial statements, and financial reports of the HOA.
  - Any other records that identify, measure, record, or communicate financial information.
- A copy of the disclosure summary.
- Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners, which must be maintained for at least 1 year after the date of the election, vote, or meeting.
- All affirmative acknowledgments made pursuant to s. 720.3085(3)(c)3, F.S.
- All other written records of the HOA which are related to the operation of the HOA.

The HOA bylaws must require the HOA to post all notices of board meetings in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency.[18]

Access to Official Records

The official records must be maintained within the state for at least 7 years and be made available to a parcel owner for inspection or photocopying within 45 miles of the community or within the county in which the HOA is located within 10 business days after receipt by the board or its designee of a written request.

An HOA may comply with these requirements by having a copy of the official records available for inspection or copying in the community or, at the option of the HOA, by making the records available to a parcel owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request.

If the HOA has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages. However, an HOA may impose fees to cover the costs of providing copies of the official records.[19] An association must allow a member or authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of providing the member or

[18] S. 720.303(2)(c), F.S.

[19] The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed $20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. S. 720.303(5)(c), F.S.

authorized representative with a copy of such records. The association may not charge a fee to a member or his or her authorized representative for the use of a portable device.[20]

The failure of an association to provide access to the records within 10 business days after receipt of a written request submitted by certified mail, return receipt requested, creates a rebuttable presumption that the association willfully failed to comply with this requirement.[21]

A member who is denied access to official records is entitled to the actual damages or minimum damages for the HOA's willful failure to comply with this requirement. The minimum damages are to be $50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.[22]

The HOA may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month.[23]

The following records are not accessible to members or parcel owners:[24]

- Any record protected by the lawyer-client privilege as described in s. 90.502, F.S., and any record protected by the work-product privilege.
- Information obtained in connection with the approval of the lease, sale, or other transfer of a parcel.
- Information obtained in a gated community in connection with guests' visits to parcel owners or community residents.
- Personnel records of HOA or management company employees.
- Medical records of parcel owners or community residents.
- Personal identifying information of a parcel owner other than as provided for HOA notice requirements, excluding the person's name, parcel designation, mailing address, and property address.
- Any electronic security measure that is used to safeguard data, including passwords.
- The software and operating system which allows the manipulation of data; however, the data is part of the official records.
- All affirmative acknowledgments made pursuant to s. 720.3085(3)(c)3, F.S.

Official Records- Effect of the Bill

The bill mandates that the HOA adopt written rules governing the method of retaining official records and length of such retention.

The bill requires every HOA, by January 1, 2025, to:

- Post a current digital copy of the official records on its website accessible on the Internet, or
- Make such documents available through an application that can be downloaded on a mobile device.
- Such application or website must have a subpage or portal inaccessible to the general public, and that is accessible only to HOA parcel owners and employees, and
- Must provide a username and password, upon request.

The bill provides that if an HOA receives a subpoena for records from a law enforcement agency, the HOA must provide a copy of such records or otherwise make the records available to a law enforcement agency within 5 business days after receipt of the subpoena. The bill requires that an HOA must assist a law enforcement agency in its investigation to the extent permissible by law.

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[20] S. 720.303(5), F.S.
[21] S. 720.303(5)(a), F.S.
[22] S. 720.303(5)(b), F.S.
[23] S. 720.303(5)(c), F.S.
[24] S. 720.303(5)(c)1.-9., F.S.

Budget- Current Situation

Every HOA is required to prepare an annual budget that sets out the annual operating expenses. The budget must:[25]

- Reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year.
- Set out separately all fees or charges paid for by the association for recreational amenities, whether owned by the association, the developer, or another person.

The HOA must provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. In addition to annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance for which the HOA is responsible.[26] Depending on the HOA's governing documents, an HOA's budget may not provide for reserve accounts.[27] Upon approval by the HOA membership, the board of directors must include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter.[28]

Budget- Effect of the Bill

The bill requires an HOA that has 2,500 members or more to:

- Use an independent certified public accountant (CPA) to prepare the HOA's annual budget.
- Retain an attorney to advise the HOA and its members on procedural matters relating to the annual budget and to foster communications between the board and the HOA members.

The bill provides that such CPA and attorney may not be the CAM or an employee of the CAM firm providing community association management services to the HOA.

Powers and Duties of Officers and Directors – Current Situation

The officers and directors of an HOA have a fiduciary relationship to the members who are served by the HOA.[29]

Within 90 days after being elected or appointed to the board, each director shall certify in writing to the secretary of the HOA that:

- he or she has read the association's declaration of covenants, articles of incorporation, bylaws, and current written rules and policies;
- he or she will work to uphold such documents and policies to the best of his or her ability; and
- he or she will faithfully discharge his or her fiduciary responsibility to the HOA members.

Within 90 days after being elected or appointed to the board, in lieu of such written certification, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved education provider within 1 year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid for the uninterrupted tenure of the director on the board. A director who does not timely file the written certification or educational certificate shall be suspended from the board until he or she complies with the requirement. The board may temporarily fill the vacancy during the period of suspension.

The HOA must retain each director's written certification or educational certificate for inspection by the members for 5 years after the director's election. However, the failure to have the written certification or educational certificate on file does not affect the validity of any board action.[30]

[25] S. 720.303(6)(a), F.S.
[26] S. 720.303(6)(b), F.S.
[27] S. 720.303(6)(d), F.S.
[28] S. 720.303(6)(c)(1), F.S.
[29] S. 720.303(1), F.S.

An officer, a director, or a manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family from any person providing or proposing to provide goods or services to the association is subject to monetary damages. If the board finds that an officer or director has violated this condition, the board must immediately remove the officer or director from office. The vacancy must be filled according to law until the end of the director's term of office. However, an officer, director, or manager may accept food to be consumed at a business meeting with a value of less than $25 per individual or a service or good received in connection with trade fairs or education programs.[31]

If the HOA enters into a contract or other transaction with any of its directors or a corporation, firm, association that is not an affiliated HOA, or other entity in which a director is also a director or officer or is financially interested, the board must:[32]

- Comply with the requirements for conflicts of interest in a corporation not for profit.[33]
- Enter certain disclosure requirements into the written minutes of the meeting.
- Approve the contract or other transaction by an affirmative vote of two-thirds of the directors present.
- At the next regular or special meeting of the members, disclose the existence of the contract or other transaction to the members. Upon motion of any member, the contract or transaction must be brought up for a vote and may be canceled by a majority vote of the members present. If the members cancel the contract, the HOA is only liable for the reasonable value of goods and services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages, or other penalty for such cancellation.

The directors and officers of an HOA who are appointed by the developer to disclose to the HOA their relationship to the developer each calendar year in which they serve as a director or an officer. [34]A developer's appointment of an officer or director does not create a presumption that the officer or director has a conflict of interest with regard to the performance of his or her official duties.

Directors and officers of an HOA are required to disclose to the HOA any activity that may reasonably be construed to be a conflict of interest at least 14 days prior to voting on the subject of such conflict or entering into such contract. A rebuttable presumption of a conflict of interest exists if any of the following occurs without prior disclosure to the HOA:[35]

- A director or an officer, or a relative of a director or an officer, enters into a contract for goods or services with the HOA.
- A director or an officer, or a relative of a director or an officer, holds an interest in a corporation, limited liability company, partnership, limited liability partnership, or other business entity that conducts business with the HOA or proposes to enter into a contract or other transaction with the HOA.

Powers and Duties of Officers and Directors – Effect of the Bill

<u>Standards for Directors and Officers</u>

The bill clarifies that the officers and directors of an HOA are subject to the general standards for directors outlined in s. 617.0830, F.S., of the Florida Not for Profit Corporation Act. HOA directors were likely obligated to comply with these standards under current law as long as they were not inconsistent with the provisions of the HOA governing documents, but the bill would expand the standards to HOA

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[30] S. 720.3033(1)(a)-(c),F.S.
[31] S. 720.3033(3), F.S.
[32] S. 720.3033(2), F.S.
[33] A contract or transaction with a conflict of interest is not voidable if the relationship or interest is disclosed or known to the board; the board authorized, approved, or ratified it by vote or written consent; or the contract or transaction is fair and reasonable at the time it is authorized. Such contract or transaction must be authorized, approved, or ratified by a majority of the directors on the board who have no relationship or interest in such transaction. S. 617.0832, F.S.
[34] S. 720.3033(6)(a), F.S.
[35] S. 720.3033(6)(b), F.S.

officers and require HOA governing provisions to be consistent with these standards. Under the bill, officers and directors would be required to discharge their duties:

- In good faith[36];
- With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- In a manner he or she reasonably believes to be in the best interests of the corporation.

The bill also provides that in discharging his or her duties, officers and directors would be permitted to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- One or more officers or employees of the corporation whom the officer or director reasonably believes to be reliable and competent in the matters presented;
- Legal counsel, public accountants, or other persons as to matters the officer or director reasonably believes are within the persons' professional or expert competence; or
- A committee of the board of directors of which he or she is not a member if the officer or director reasonably believes the committee merits confidence.

The bill also provides that officers and directors are not liable for any action taken as an officer or director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with standards outlined in s. 617.0830, F.S., of the Florida Not for Profit Corporation Act.

Director Education Requirements

The bill:

- Requires a new elected or appointed director, within 90 days after being elected or appointed, to the board, to complete and submit a certificate of having satisfactorily completed the educational curriculum administered by a DBPR-approved education provider.
- Provides that such educational curriculum, specific to newly elected or appointed directors, must include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.
- Provides that the certification of completion for education specific to newly elected or appointed directors is valid up to four years.
- Requires a director to retake the DBPR-approved initial education every 4 years.

In addition to the educational curriculum specific to newly elected or appointed directors, the bill requires a director of an association that:

- Has **fewer than 2,500** members to complete at least **4 hours** of continuing education annually.
- Has **2,500 members or more** must complete at least **8 hours** of continuing education annually.

Prohibition of Kickbacks

The bill prohibits an HOA officer, director, or manager from accepting kickbacks:

- If a kickback is valued at least $25 but not more than $1,000, it is a first-degree misdemeanor.
- If a kickback is valued at $1,000 or more, it is a third-degree felony.

Accounting of Balance Due- Current Situation

The HOA's financial and accounting records are considered official records and must be maintained by the HOA as discussed above.[37] More specifically, the HOA is required to maintain the current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or

[36] S. 617.0830(3), F.S. provides an example of when a director or officer is not acting in good faith. A director or officer is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by s. 617.0830 (2), F.S. unwarranted.
[37] S. 720.303(4), F.S.

other charge against the member, the date and amount of each payment on the account, and the balance due. These records are available upon written request for the requester to inspect and copy. Currently, Florida Law does not require an HOA to give a detailed accounting to an individual of any amounts he or she owes to the HOA.

Accounting of Balance Due- Effect of the Bill

The bill provides that a parcel owner or any occupant, licensee, or invitee of the parcel owner may, at any time, make a written request to the board for a detailed accounting of any amounts he or she owes to the HOA and the board shall provide such information within 10 business days after receipt of the written request. After a person makes a written request for a detailed accounting, he or she may not ask for another detailed accounting for 90 calendar days. Failure by the board to timely respond to a written request for a detailed accounting constitutes a complete waiver of any outstanding fines of the person who requested such accounting.

HOA Architectural and Construction Improvement Covenants and Rules - Current Situation

If the governing documents allow, an HOA or its architectural review, construction improvement, or other similar committee (ARC) may:[38]

- Require a review and approval of plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel before a parcel owner makes such improvement.
- Enforce standards for the external appearance of any structure or improvement located on a parcel.

The HOA or ARC may not restrict the right of a parcel owner to select from any options given in the governing documents for the use of material, the size of the structure or improvement, the design of the structure or improvement, or the location of the structure or improvement on the parcel.[39]

Each parcel owner is entitled to the rights and privileges set forth in the governing documents concerning the architectural use of the parcel, and the construction of permitted structures and improvements on the parcel and such rights and privileges may not be unreasonably infringed upon or impaired by the HOA or ARC. If the an HOA or ARC unreasonably, knowingly, and willfully infringes upon or impairs such rights and privileges, the adversely affected parcel owner may recover damages, including any costs and reasonable attorney's fees.[40]

An HOA or ARC may not enforce any policy or restriction that is inconsistent with the rights and privileges of a parcel owner set forth in the governing documents, whether uniformly applied or not.[41]

Hurricane Hardening

Generally, hurricane hardening involves improvements to a building structure and its openings to make it less susceptible to damage from extreme wind, flooding, or flying debris. Hardening improves the durability and stability of a structure, making it better able to withstand the impacts of hurricanes and weather events without sustaining major damage.[42]

Hurricane hardening includes installing hurricane impact-rated doors, windows with impact-resistant glass, reinforced roof and wall structures that meet or exceed high-velocity impact codes, independent

[38] S. 720.3035(1), F.S.
[39] S. 720. 3035(2), F.S.
[40] S. 720.3035(4), F.S.
[41] S. 720.3035(5), F.S.
[42] *Hurricane Hardening*, WGI, (June 14, 2018), https://wginc.com/hurricane-hardening/ (last visited Dec. 8, 2023); *Hardening and Resiliency U.S. Energy Industry Response to Recent Hurricane Seasons*, U.S. Department of Energy, Aug. 2010, p.8, https://www.oe.netl.doe.gov/docs/HR-Report-final-081710.pdf (last visited Dec. 8, 2023).

emergency power systems, potable water storage, fuel stores, and other supplies and systems that will sustain those within the building for a certain time period after a storm.[43]

Most hurricane hardening must be installed in compliance with applicable codes, including the Florida Building Code, and by a licensed construction contractor.[44]

Condominium Hurricane Protection Specifications

Each residential condominium must adopt hurricane shutter specifications for each building of the condominium, which must include color, style, and other factors deemed relevant by the condominium. All such specifications must comply with the applicable building code.[45] A condominium is not required to adopt other hurricane protection specifications.

A condominium may not refuse to approve the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by a condominium unit owner conforming to the condominium's specifications.[46]

HOA Architectural and Construction Improvement Covenants and Rules – Effect of the Bill

The bill requires an HOA or ARC to uniformly apply and enforce the architectural and construction improvement standards against all parcel owners authorized by the HOA governing documents.

The bill **prohibits** an HOA or ARC from enforcing or adopting a covenant, rule, or guideline that:

- Limits or places requirements on the interior of a structure that is not visible from the parcel's frontage or an adjacent parcel.
- Requires the review and approval of plans and specifications for a central air-conditioning, refrigeration, heating, or ventilating system by the HOA or any architectural, construction improvement, or other such similar committee of an HOA, if such system is not visible from the parcel's frontage and is substantially similar to a system that is approved or recommended by the HOA or a committee thereof.

The bill provides that the HOA or ARC denies a parcel owner's request or application for the construction of a structure or other improvement on a parcel, the HOA or ARC must provide written notice to the parcel owner stating with specificity the rule or covenant on which the HOA or ARC relied when denying the request or application.

The bill provides that if a parcel owner's rights and privileges have been unreasonably infringed upon or impaired by a decision concerning the architectural use of his or her parcel or the construction of permitted structures and improvements on such parcel by the HOA or ARC, the HOA must provide the parcel owner with the ability to appeal such decision to an appeals committee that consists of at least three members appointed by the board. The members of the appeals committee cannot be:

- An officer,
- Director, or
- An employee of the HOA, or
- Members of the ARC.

Furthermore, the bill provides that the appeals committee has the right to reverse, modify, or affirm the decision being appealed. A parcel owner may appeal a decision of the HOA or ARC within 90 days after the owner receives written notification of the initial decision. The bill requires that the appeals committee must decide on the issue under appeal within 60 days after receiving a parcel owner's request for appeal.

[43] *Id.*
[44] *See* s. 553.72(1), F.S.; s. 489.105, F.S.
[45] S. 718.113(5), F.S.
[46] S. 718.113(5)(d), F.S.

HOA or ARC Hurricane Protection Specifications

The bill requires an HOA or any ARC to adopt **hurricane protection** specifications for each structure or other improvement on a parcel governed by the HOA. The specifications may include the color and style of hurricane protection products and any other factor deemed relevant by the board. All specifications adopted by the HOA must comply with the applicable building code.

The bill allows the HOA or ARC to require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.

The bill provides that, regardless of any other provision in the HOA's governing documents, the HOA or ARC may not deny an application for the installation, enhancement, or replacement of hurricane protection by a parcel owner which conforms to the specifications adopted by the HOA or ARC.

The bill provides that "hurricane protection" includes, but is not limited to:

- Roof systems recognized by the Florida Building Code that meet ASCE 7-22 standards,
- Permanent fixed storm shutters,
- Roll-down track storm shutters,
- Impact-resistant windows and doors,
- Polycarbonate panels,
- Reinforced garage doors,
- Erosion controls,
- Exterior fixed generators,
- Fuel storage tanks, and
- Other hurricane protection products used to preserve and protect the structures or improvements on a parcel governed by the HOA.

The bill provides that in order to protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by parcel owners, the bill applies to all HOAs in the state, regardless of when the community was created.

Prohibited Clauses in Governing Documents- Current Situation

Under current Florida law, HOAs may not restrict the installation, display and storage of any items on a parcel that are not visible from the parcel's frontage or an adjacent parcel, unless the item is prohibited by general law or local ordinance. Such items include, but are not limited to:[47]

- Artificial turf;
- Boats;
- Flags; and
- Recreational vehicles.

HOA governing documents may not prohibit:

- A homeowner from displaying up to two portable, removable flags in a respectful manner. However, all flags must be displayed in a respectful manner consistent with the requirements for the United States flag.[48]
- Any property owner from implementing Florida-friendly landscaping[49] on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373, F.S., regarding the permitting of consumptive uses of water or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373, F.S.

Furthermore, HOAs are prohibited from preventing a law enforcement officer[50] who is a parcel owner, or who is a tenant, guest, or invitee of a parcel owner, from parking his or her assigned law

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[47] S. 720.3045, F.S.
[48] S. 720.3075(3), F.S.
[49] Defined in s. 373.185, F.S.
[50] A law enforcement officer is defined in s. 943.10(1), F.S.

enforcement vehicle where the parcel owner, or the tenant, guest, or invitee of the parcel owner, has a right to park.

Prohibited Clauses in Governing Documents - Effect of the Bill

The bill expands the list of items that an HOA is prohibited from preventing a homeowner from installing, displaying, or storing on their property to include vegetable gardens and clotheslines in areas not visible from the frontage or adjacent parcels.

The bill provides that HOA governing documents cannot prohibit:

- A property owner, or a guest, tenant, or invitee, from parking his or her personal vehicle, including a pickup truck:
    - in the property owner's driveway,
    - in common parking lots,
    - on public roads and rights-of-way, or
    - in any other area at which the property owner or the property owner's tenant, guest, or invitee has a right to park which is governed by state, county, and municipal regulations.
- Regardless of any official insignia or visible designation, property owner, or a guest, tenant, or invitee, from parking his or her work vehicle, which is not a commercial motor vehicle[51], in the property owner's driveway.
- A property owner from inviting, hiring, or allowing entry to a contractor or worker on the owner's parcel solely because the contractor or worker is not on a preferred vendor list of the HOA.
- Operating a vehicle that is not a commercial motor vehicle in conformance with state traffic laws on public roads or rights-of-way or the property owner's parcel.
- A property owner from inviting, hiring, or allowing entry to a contractor or worker on his or her parcel solely because the contractor or worker does not have a professional or an occupational license. The HOA may not require a contractor or worker to present or prove possession of a professional or an occupational license to be allowed entry onto a property owner's parcel.
- A property owner from installing code-compliant hurricane protection or home hardening, such as hurricane shutters, impact glass, code-compliant windows or doors, or other similar protection that complies with or exceeds the applicable building code.
- A property owner from installing a roof system recognized by the Florida Building Code that meet ASCE 7-22 standards, artificial turf, vegetable garden, or clotheslines or other energy-efficient device.[52]

The bill provides that HOA documents may not limit landscaping to grass-only or grass-majority lawns, or require mandatory watering for property owners. However, the HOA's documents may generally require that a property owner keep any lawn, landscaping, and grass on the property owner's parcel well-maintained.

The bill provides that a first responder[53], instead of a law enforcement officer, that is a homeowner, or the tenant, guest, or invitee thereof, may park his or her assigned first responder vehicle on public roads or rights-of-way within the HOA if this is an area where the homeowner, or the tenant, guest, or invitee thereof, otherwise has a right to park. A first responder includes:

- A law enforcement officer;
- A firefighter;
- An emergency medical technician or paramedic; or
- Volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic.

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[51] "Commercial motor vehicle" means any vehicle which is not owned or operated by a governmental entity, which uses special fuel or motor fuel on the public highways, and which has a gross vehicle weight of 26,001 pounds or more, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,001 pounds gross vehicle wei ght. S. 320.0, F.S.

[52] Similar to s. 163.04(2), F.S regarding local governments.

[53] A first responder is defined in s. 112.1815 (1), F.S.

The bill also states that an HOA is prohibited from enforcing a new rule or covenant against a parcel owner for an action that took place before the new rule or covenant was enacted.

Fines and Suspension- Current Situation

Owners, tenants, and guests must comply with an HOA's declaration, bylaws, and rules. HOAs may levy fines against or suspend the right of a parcel owner, or an occupant or guest of an owner or occupant, to use the common areas[54] or any other association property for failing to comply with any provision in the HOA's governing documents. A suspension for failing to comply with an HOA's declaration, bylaws, or rules may not be for an unreasonable amount of time.[55]

An HOA may levy reasonable fines for violations of the declaration, bylaws, or reasonable rules of the HOA. No fine may exceed $100 per violation, although a fine may be levied on the basis of each day of a continuing violation provided that fine does not exceed $1,000 in the aggregate. However, a fine may exceed $1,000 if the HOA's governing documents authorize it. Fines may not become a lien on the property unless the fines exceed $1,000.[56]

Before an HOA levies a fine or a suspension, it must give the person receiving the fine or suspension at least 14 days' notice of an opportunity for a hearing. Notice must be provided at the designated mailing or e-mail address in the HOA's official records. A hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee, must be provided. The notice must include a description of the alleged violation, the specific action required to cure such violation, and the date and location of the hearing. A parcel owner has the right to attend a hearing by telephone or other electronic means.

A fine and suspension committee of at least three members selected by the board must hold a hearing to reject or approve the fine or suspension. Board directors, officers, and employees of the HOA and family of such people may not serve on the committee. The committee must approve the fine or suspension by majority vote; otherwise, the proposed fine or suspension may not be imposed.[57] After the hearing, the committee shall provide written notice to the parcel owner at his or her designated mailing or e-mail address in the HOA's official records of the parcel owner, of the committee's findings related to the violation, including any applicable fines or suspensions that the committee approved or rejected, and how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation, if applicable.[58]

If the proposed fine or suspension levied by the board is approved by the committee by a majority vote, the fine payment is due 5 days after notice of the approved fine is provided to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner. Written notice of the fine or suspension must be provided to the person by mail or hand delivery.[59]

If a member is more than 90 days delinquent in paying any fee, fine, or other monetary obligation due to the HOA, the HOA may suspend the rights of the member, or the member's tenant, guest, or invitee, to use common areas and facilities[60] until it is paid in full.

An HOA may suspend the voting rights of a parcel or member for the nonpayment of any fee, fine, or other monetary obligation due to the HOA that is more than 90 days delinquent. The suspension ends upon full payment of all obligations currently due or overdue to the HOA.[61]

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[54] This does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. S. 720.305(2)(a), F.S.
[55] S. 720.305(2), F.S.
[56] S. 720.305(2), F.S.
[57] *Id.*
[58] *Id.*
[59] *Id.*
[60] A suspension may not prohibit an owner or tenant of a parcel from having access a portion of common areas used to provide access or utility services to the parcel, or from having vehicular and pedestrian ingress to and egress from the parcel. S. 720.305(4), F.S.

The notice and hearing requirements for levying fines do not apply to a suspension imposed for delinquent payment.[62]

All suspensions imposed for delinquent payment of any fee, fine, or other monetary obligation due to the HOA must be approved at a properly noticed board meeting. Upon approval, the HOA must send written notice to the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery to the parcel owner's designated mailing or e-mail address in the HOA's official records.[63]

Fines and Suspension- Effect of the Bill

Levying Fines

The bill requires that a fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' **written** notice **of the parcel owner's right to a hearing.** Furthermore, the bill requires that the hearing must be held within 30 days after issuance of the notice. The bill provides that the committee is authorized to hold the hearing by telephone or other electronic means. If the hearing is held by telephone or other electronic means, the notice must include the access information required to attend the telephonic conference or appear through the electronic medium.

The bill provides that the committee must provide a written notice of the committee's findings related to the violation to the applicable person described in the statute within **7 days** after the hearing. If applicable, the written notice of the committee's findings is required to provide instructions on how the parcel owner or any occupant, licensee, or invitee of the parcel owner needs to **fulfill a suspension, or the date by which a fine must be paid.**

The bill provides new procedures for imposing a fine:

- If a violation is found by the committee, but has been cured before the hearing or as specified in the applicable written notice, a fine or suspension may not be imposed. Attorney fees and costs may not be awarded against the parcel owner.
- The HOA must indicate on the notice of fine the date it is due, which date must be at least 30 days after the notice is delivered. Attorney fees and costs may not be awarded against the parcel owner.
- If a violation is found by the committee, and the proposed fine or suspension levied by the board is approved by the committee and the violation is not cured or the fine is not paid, reasonable attorney fees and costs may be awarded to the HOA. However, attorney fees and costs may not begin to accrue until after the due date for the fine and time for an appeal has expired.
- Upon receipt of a payment for any outstanding fines, the HOA must apply the payment first to the fine before satisfying any other amounts due to the HOA. Attorney fees and costs may not continue to accrue after the fine is paid.
- A parcel owner or any occupant, licensee, or invitee may request a hearing before the board to dispute the reasonableness of the attorney fees and costs awarded to the HOA.

The bill provides that If the HOA fails to comply with the requirements for levying fines and suspensions, the HOA waives all fines or suspensions imposed or proposed for such violation.

Limitations on Fines

The bill limits when an HOA may impose a fine or suspension. The bill provides that:

- A fine may not be imposed against a parcel owner for a speeding violation committed by his or her occupant, licensee, guest, or invitee.

[61] S. 720.305(4), F.S.
[62] S. 720.305(3), (4), F.S.
[63] S. 720.305(5), F.S.

- If an HOA allows a fine to be levied or a suspension to be imposed against a parcel owner or an occupant, licensee, guest, or invitee for a traffic infraction[64], such infraction must be determined and issued by a board-approved nonaffiliated third party specializing in traffic infractions.
- HOAs may not issue a fine or suspension for:
  - Leaving garbage receptacles at the curb or end of the driveway less than 24 hours before or after the designated garbage collection day or time.
  - Leaving holiday decorations or lights up longer than indicated in the governing documents, unless such decorations or lights are left up for longer than 1 week after the association provides written notice of the violation to the parcel owner.

The bill restricts when an HOA fine can become a lien:

- A fine that amounts to less than 1 percent of the parcel's just value[65] as determined by the Property Appraiser at the time the fine was levied may only become a lien against the parcel with the approval by 75 percent of the total membership of parcel owners, and fines may not be aggregated to create a lien against a parcel.
- If an HOA allows a fine to be levied for an infraction relating to lawn, landscaping, or grass maintenance, such fine may not become a lien on a parcel.

Assessments and Charges- Current Situation

Overview

Current law gives HOAs the ability to levy and collect assessments[66] from unit or parcel owners. This allows the HOA to carry out its responsibility for the HOA's management, operation, and maintenance.[67] In addition to levying assessments, HOAs also have the power to establish the time when each assessment is due, including when an assessment becomes delinquent.[68]

The most common assessments are those required to fund an HOA's common expenses identified in an HOA's annual budget. The amount to fund the common expenses and the assessments required to meet that amount are determined when an HOA's budget is adopted.[69] In contrast, a special assessment is an assessment levied against unit or parcel owners for unexpected expenses that are over and above those anticipated by the annual budget.[70]

When the amount of an assessment has been determined, the HOA must establish a payment schedule for the owners in accordance with the HOA's bylaws. The payments must be sufficient to provide the funds necessary to pay all the anticipated operating expenses and all unpaid expenses previously incurred.[71]

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[64] The term "traffic infraction" means a noncriminal violation of parking and traffic rules adopted by the state, county, municipality, or association.

[65] The Florida Supreme Court has held that "…the just valuation at which property must be assessed under the [Florida] [C]onstitution and section 193.011 is synonymous with fair market value, i.e., the amount a purchaser, willing but not obliged to buy, would pay a seller who is willing but not obliged to sell." *Valencia Ctr., Inc. v. Bystrom*, 543 So. 2d 214, 216 (Fla. 1989). Under s. 193.011, F.S., the Property Appraiser considers eight factors in arriving at a just valuation of a property:

1. The present cash value of the property,
2. The highest and best use of the property,
3. The location of said property,
4. The quantity or size of said property,
5. The cost of said property and the present replacement value of any improvements;
6. The condition of said property;
7. The income from said property; and
8. The net proceeds of the sale of the property.

[66] S. 720.301(1), F.S. provides that an "assessment" or "amenity fee" means a sum or sums of money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel.

[67] S. 720.301(1), and 720.308(1), F.S.

[68] *See generally*, ch. 720, F.S.

[69] S. 720.303(6)(a), F.S.

[70] S. 720.303(6), F.S.

[71] S.720.30851(1), F.S.

A parcel owner may not avoid paying assessments by waiving the use of common elements or services in the HOA. No parcel owner may be relieved from liability for all or part of an assessment.[72] Boards must keep account of the assessments levied against every parcel owner and the assessments paid by every owner. These records are part of the HOA's official records.[73]

Claim of Lien

An HOA may claim a lien for all unpaid assessments, but not for all unpaid fines.[74] An HOA may file a claim of lien for a delinquent assessment with the Clerk of Court in the county where the HOA is located. The claim of lien must state the legal description of the parcel, the owner of the parcel, the HOA's name and address, and the assessment amount owed and the due date. An officer or agent of the HOA must sign the claim of lien.[75] A filed claim of lien is valid for one year.[76]

Prior to filing a claim of lien, an HOA must give a parcel owner the opportunity to pay a delinquent assessment. At least 45 days before filing a claim of lien, an HOA must provide written notice of the HOA's intent to file a lien to the unit owner. The notice of intent to record a claim of lien must include the following information:[77]

- The amount owed on the owner's account;
- The interest rate for the amounts owed;
- A statement that the owner has 45 days after receipt of this notice to pay the amount owed or the HOA will file a claim of lien against the unit or parcel; and
- A breakdown of the amount owed including:
    - Maintenance costs due;
    - Late fee, if applicable;
    - Interest;
    - Certified mail charges;
    - Other costs; and
    - Total amount owed.

The notice must be sent by certified or registered mail, return receipt requested, and by first-class mail to the owner's address listed in the official records.[78] If the address is different than the parcel address, the notice must also be sent to the parcel. If the address is different than the parcel address and the address is outside the United States, the HOA may send the notice by first class mail, instead of first class and certified/registered mail.

A parcel owner may challenge a claim of lien by filing a notice of contest of lien with the Clerk of Court. After a parcel owner files a notice of contest, an HOA has 90 days to commence enforcement of the lien.[79]

An HOA may bring an action to foreclose on a parcel for unpaid assessments in circuit court in the same way that a mortgage on real estate is foreclosed. The homestead protections provided by Florida's Constitution do not prevent the foreclosure and sale of a parcel.[80] In addition to an action of foreclosure, an HOA may also bring a civil action to recover a money judgment for the unpaid assessments without waiving any claim of lien.[81]

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[72] S. 720.3085(2)(a), F.S.
[73] S. 720.303(4)-(5), F.S.
[74] An HOA has a lien on a parcel for a fine that is $1,000 or more. S. 720.305(2), F.S.
[75] Ss. 720.301(1), and (11), 720.305(2), and 720.3085(1), F.S.
[76] S. 713.22(1), F.S.
[77] S. 720.3085(4), F.S.
[78] S. 720.3085(4)(b), F.S.
[79] S. 720.3085(1), F.S.
[80] *Bessemer v. Gersten*, 381 So. 2d 1344, 1347 (Fla. 1980).
[81] S. 720.3085(1) F.S.

Prior to foreclosing on a lien, an HOA must provide written notice to the owner of its intent to foreclose on the lien. An HOA must give a parcel owner the written notice at least **45 days** before foreclosing on the lien. The notice must include the following information:[82]

- A claim of lien has been filed against the owner's property for failing to pay an assessment(s);
- The HOA intends to foreclose on the lien in 45 days;
- The total amount owed;
- The interest rate and the interest owed; and
- The contact information for the HOA's attorney or representative.

Maximum Level of Assessments

Assessments charged to a member must not exceed the maximum obligation of the member based on the total amount of the adopted budget and the member's proportionate share of the expenses as described in the governing documents.[83] Currently in Florida, there is not a cap on how much an HOA can raise assessments. However, the HOA's governing documents may have specific provisions about raising regular assessments or imposing special assessments.[84] California has placed a cap on how much an HOA can increase assessments.[85]

Assessments and Charges- Effect of Bill

The bill **prohibits** the board from imposing a regular assessment, excluding an assessment for the association's insurance policy premium, that is 10 percent greater than the regular assessment of the HOA's previous fiscal year or imposing special assessments that as a whole are valued more than 5 percent of the current fiscal year's gross expense budget without the approval of 75 percent of voting members at a member meeting.

The bill also provides a few exceptions to the cap on regular assessments and special assessments described above. The exceptions are:

1. The board has the right to increase regular assessments or special assessments by more than the caps if such increase is necessary for the immediate physical protection of property or public safety.
2. While the developer is control, the developer may increase regular assessments or special assessments beyond the limits of such caps.
3. If an HOA's insurance policy premium increases by more than 25 percent over the preceding fiscal year's premium, the HOA must solicit at least two additional insurance quotes from an insurer providing the initial quote.
    - The board must present such quotes to the members of the HOA at a member meeting for the consideration by the members.
    - The determination on whether to accept the initial quote, which was for more than 25 percent of the preceding fiscal year's premium, or accept another quote from another insurer must be voted on by the members and determined by majority vote.

The bill prohibits assessments below 1 percent of the just value [86]as determined by the Property Appraiser at the time of the assessment from becoming a lien on a property without the approval of 75 percent of voting members at a member meeting.

Priority of Association Lien- Current Situation

The priority of the lien of an HOA is contingent upon the language of the covenants that create the assessment obligation and the right to lien. Where the covenants are silent as to the priority, then the

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[82] Ss. 718.116(6)(a) and 720.3085(5), F.S.
[83] S. 720.308(3).
[84], Dania S. Fernandez, "How Much Can an HOA Raise Dues Each Year in Florida?", Dania Fernandez and Associates, P.A., Feb. 26, 2021, www.daniafernandez.com/2021/03/30/how-much-can-an-hoa-raise-dues-each-year-in-florida/ (last visited Feb. 1, 2024).
[85] California Civil Code § 5605.
[86] *See supra* note 65.

HOA's lien will be effective for the purposes of determining priority as of the date of the filing of a claim of lien. Only where the HOA documents specifically provide that a claim of lien shall be considered a lien effective as of the date of the recorded declaration will a claim of lien take priority over mortgages and other liens filed. [87] **However, the lien of the HOA is subordinate to that of a first mortgage that was recorded prior to the filing of a notice of lien.**

Priority of Association Lien- Effect of Bill

The bill provides that the lien of the association is subordinate to that of any mortgage, rather than only a first mortgage, that was recorded prior to the filing of a notice of association lien. Thus, when there is a mortgage of record, whichever lien was recorded first in the land records has a higher priority than later recorded liens.

B. SECTION DIRECTORY:

Section 1: Amends s. 468.4334, F.S. relating to community association manager requirements.
Section 2: Amends. 468.4337, F.S., relating to continuing education.
Section 3: Amends s. 720.303, F.S., relating to requirements for HOA officers and directors, an accounting, official records, and budgets.
Section 4: Amends s. 720.3033, F.S., relating to education of directors.
Section 5: Amends s. 720.3035, F.S., relating to architectural control covenants.
Section 6: Amends s. 720.3045, F.S., relating to installation, display, and storage of items.
Section 7: Amends s. 720.305, F.S., relating to HOA fines and appeals.
Section 8: Amends s. 720.3075, F.S., relating to prohibited clauses in association documents.
Section 9: Amends s. 720.308, F.S., relating to assessments and charges.
Section 10: Amends s. 720.3085, F.S., relating to lien claims.
Section 11: Amends s. 720.318, F.S., relating to first responder vehicles.
Section 12: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce fines and assessments paid by members to the HOA. Protections put in place preventing HOA board members from accepting kickbacks, and requiring large HOAs to employ a CPA

[87] *Holly Lake Association v. Federal National Mortgage Association*, 660 So. 2d 266 (Fla. 1995) (finding no relation back); *Association of Poinciana Villages v. Avatar Properties, Inc.*, 724 So. 2d 585 (Fla. 5th DCA 1998) (finding relation back).

may prevent unlawful behavior from occurring, and, thus, save HOAs money. However, some HOAs may have to spend money to develop a website and HOAs that have 2,500 members or more may have an increase in expenditures related to retaining a CPA and an attorney.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Impairment of Contracts and Due Process

Both the Florida and the United States Constitutions prohibit the state from passing a law impairing contractual obligations.[88] However, the Legislature may provide that a non-criminal law, including one that affects existing contractual obligations, applies retroactively in certain situations.[89] In determining whether a law may be applied retroactively, courts first determine whether the law is procedural, remedial, or substantive in nature.[90] A purely procedural or remedial law may apply retroactively without offending the Constitution, but a substantive law generally may not apply retroactively absent clear legislative intent to the contrary.[91] However, even where the Legislature has expressly stated that a law will have retroactive application, a court may reject that application if the law impairs a vested right, creates a new obligation, or imposes a new penalty.[92] Further, where a law is designed to serve a remedial purpose, a court may decide not to apply the law retroactively where doing so "would attach new legal consequences to events completed before its enactment."[93]

Both the Florida and United States Constitutions prohibit the taking of life, liberty, or property without due process of law.[94] The right to contract, as long as no fraud or deception is involved and the contract is otherwise legal, is both a liberty and a property right subject to due process protections, and the impairment of contracts may, in certain instances, be viewed as the taking of property without due process.[95]

Whether some of bill's language is procedural, remedial, or substantive, and whether such modification implicates the constitutional right to contract or the constitutional right to due process, is for the courts to decide.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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[88] U.S. Const. art. I, s. 10; Art. I, s. 10, Fla. Const.
[89] U.S. Const. art. I, ss. 9 and 10; Art. 1, s. 10, Fla. Const.
[90] A procedural law merely establishes the means and methods for applying or enforcing existing duties or rights. A remedial law confers or changes a remedy, i.e., the means employed in enforcing an existing right or in redressing an injury. A substantive law creates, alters, or impairs existing substantive rights. *Windom v. State*, 656 So. 2d 432 (Fla. 1995); *St. John's Village I, Ltd. v. Dept. of State*, 497 So. 2d 990 (Fla. 5th DCA 1986); *McMillen v. State Dept. of Revenue*, 74 So. 2d 1234 (Fla. 1st DCA 1999).
[91] *State Farm Mutual Automobile Ins. Co. v. Laforet*, 658 So. 2d 55 (Fla. 1995).
[92] *Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873 (Fla. 2010).
[93] *L. Ross, Inc. v. R.W. Roberts Const. Co.*, 481 So. 2d 484 (Fla. 1986).
[94] U.S. Const. amends. V and XIV; Art. I, s. 21, Fla. Const.
[95] *Miles v. City of Edgewater Police Dept.*, 190 So. 3d 171 (Fla. 1st DCA 2016); s*ee, e.g., Griffin v. Sharpe*, 65 So. 2d 751 (Fla. 1953) (finding that a statute removing a specific deed restriction's expiration date both impaired contracts and constituted a taking of private property without due process).

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to homeowners' associations; amending
3 s. 468.4334, F.S.; providing requirements for certain
4 community association managers and community
5 association management firms; amending s. 468.4337,
6 F.S.; requiring certain community association managers
7 to take a specific number of hours of continuing
8 education biennially; amending s. 720.303, F.S.;
9 requiring official records of a homeowners'
10 association to be maintained for a certain number of
11 years; requiring an association to post certain
12 documents on its website or make such documents
13 available through an application by a date certain;
14 providing requirements for an association's website or
15 application; requiring an association to provide
16 certain information to parcel owners upon request;
17 requiring an association to ensure certain information
18 and records are not accessible on the website or
19 application; providing that an association or its
20 agent is not liable for the disclosure of certain
21 information; requiring an association to adopt certain
22 rules; requiring an association to provide or make
23 available subpoenaed records within a certain
24 timeframe; requiring an association to assist in a law
25 enforcement investigation as allowed by law; requiring

26 that certain associations use an independent certified
27 public accountant to prepare its annual budget;
28 requiring certain associations to retain an attorney
29 for certain purposes; prohibiting certain persons from
30 acting as the accountant or attorney; providing that
31 officers and directors of a homeowners' association
32 are subject to certain standards; requiring a detailed
33 accounting of amounts due to the association be given
34 to certain persons within a certain timeframe upon
35 written request; limiting how often certain persons
36 may request from the board a detailed accounting;
37 providing for a complete waiver of outstanding fines
38 under certain circumstances; amending s. 720.3033,
39 F.S.; providing education requirements for newly
40 elected or appointed directors; providing requirements
41 for the educational curriculum; requiring certain
42 directors to complete a certain number of hours of
43 continuing education annually; requiring the
44 Department of Business and Professional Regulation to
45 adopt certain rules; providing criminal penalties for
46 certain actions by an officer, a director, or a
47 manager of an association; amending s. 720.3035, F.S.;
48 requiring an association or any architectural,
49 construction improvement, or other such similar
50 committee of an association to apply and enforce

51 certain standards reasonably and equitably; requiring
52 an association or any architectural, construction
53 improvement, or other such similar committee of an
54 association to provide certain written notice to a
55 parcel owner; prohibiting an association or certain
56 committees of the association from enforcing or
57 adopting certain covenants, rules, or guidelines;
58 authorizing a parcel owner to appeal certain decisions
59 of the association or certain committees of the
60 association to an appeals committee within a specified
61 time frame; providing for membership and authority of
62 the appeals committee; requiring the appeals committee
63 to make its decisions within a specified time frame;
64 amending s. 720.3045, F.S.; authorizing parcel owners
65 or their tenants to install, display, or store
66 clotheslines and vegetable gardens under certain
67 circumstances; amending s. 720.305, F.S.; prohibiting
68 certain fines from being aggregated and becoming a
69 lien on a parcel without a supermajority vote of a
70 certain percentage of the voting members; specifying
71 how fines, suspensions, attorney fees, and costs are
72 determined; requiring certain notices to be provided
73 to parcel owners and, if applicable, an occupant, a
74 licensee, or an invitee of the parcel owner; requiring
75 certain hearings to be held within a specified

76 timeframe and authorizing such hearings to be held by
77 telephone or other electronic means; prohibiting the
78 accrual of attorney fees and costs after a specified
79 time; specifying the priority of payments made by a
80 parcel owner to an association; authorizing certain
81 persons to request a hearing to dispute certain fees
82 and costs; providing that certain fines may not become
83 a lien on a parcel; requiring fines or suspensions
84 related to traffic infractions to be determined and
85 issued by a certain person; prohibiting a parcel owner
86 from being fined for certain traffic infractions;
87 defining the term "traffic infraction"; prohibiting an
88 association from levying a fine or imposing a
89 suspension for certain actions; prohibiting an
90 association from enforcing certain rules or covenants
91 under certain circumstances; amending s. 720.3075,
92 F.S.; prohibiting certain homeowners' association
93 documents from precluding property owners from taking
94 certain actions; prohibiting homeowners' association
95 documents from limiting or requiring certain actions;
96 amending s. 720.308, F.S.; prohibiting a board from
97 increasing assessments by more than specified
98 percentages without a supermajority vote of a certain
99 percentage of the voting members; providing an
100 exception; prohibiting certain assessments from

101 becoming a lien on a parcel without a supermajority
102 vote of a certain percentage of the voting members;
103 amending s. 720.3085, F.S.; specifying when a lien is
104 effective for mortgages of record; deleting provisions
105 relating to the priority of certain liens, mortgages,
106 or certified judgments; amending s. 720.318, F.S.;
107 authorizing a law enforcement officer to park his or
108 her assigned law enforcement vehicle on public roads
109 and rights-of-way; providing an effective date.
110
111 Be It Enacted by the Legislature of the State of Florida:
112
113 Section 1. Subsection (3) is added to section 468.4334,
114 Florida Statutes, to read:
115 468.4334 Professional practice standards; liability;
116 community association manager requirements.—
117 (3) A community association manager or community
118 association management firm that is authorized by contract to
119 provide community association management services to a
120 homeowners' association must do all of the following:
121 (a) Attend in person at least one member meeting or board
122 meeting of the homeowners' association annually.
123 (b) Provide to the members of the homeowners' association
124 the name and contact information for each community association
125 manager or representative of a community association management

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126 firm assigned to the homeowners' association, the manager's or
127 representative's hours of availability, and a summary of the
128 duties for which the manager or representative is responsible.
129 The homeowners' association must also post this information on
130 the association's website or application required under s.
131 720.303(4)(b). The community association manager or community
132 association management firm must update the homeowners'
133 association and its members within 14 business days after any
134 change to such information.
135 (c) Provide to any member upon request a copy of the
136 contract between the community association manager or community
137 association management firm and the homeowners' association and
138 include such contract with association's governing documents.
139 Section 2. Section 468.4337, Florida Statutes, is amended
140 to read:
141 468.4337 Continuing education.—The department may not
142 renew a license until the licensee submits proof that the
143 licensee has completed the requisite hours of continuing
144 education. ~~No more than 10 hours of continuing education~~
145 ~~annually shall be required for renewal of a license.~~ The number
146 of continuing education hours, criteria, and course content
147 shall be approved by the council by rule. The council may not
148 require more than 10 hours of continuing education annually for
149 renewal of a license. A community association manager who
150 provides community association management services to a

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151 homeowners' association must biennially complete at least 5
152 hours of continuing education that pertains specifically to
153 homeowners' associations, 3 hours of which must relate to
154 recordkeeping.
155 Section 3. Subsections (1), (4), and (5), and paragraphs
156 (a), (d), and (f) of subsection (6) of section 720.303, Florida
157 Statutes, is amended, and subsection (13) is added to that
158 section, to read:
159 720.303 Association powers and duties; meetings of board;
160 official records; budgets; financial reporting; association
161 funds; recalls.—
162 (1) POWERS AND DUTIES.—An association that ~~which~~ operates
163 a community as defined in s. 720.301, must be operated by an
164 association that is a Florida corporation. After October 1,
165 1995, the association must be incorporated and the initial
166 governing documents must be recorded in the official records of
167 the county in which the community is located. An association may
168 operate more than one community. The officers and directors of
169 an association are subject to s. 617.0830 and have a fiduciary
170 relationship to the members who are served by the association.
171 The powers and duties of an association include those set forth
172 in this chapter and, except as expressly limited or restricted
173 in this chapter, those set forth in the governing documents.
174 After control of the association is obtained by members other
175 than the developer, the association may institute, maintain,

176 settle, or appeal actions or hearings in its name on behalf of
177 all members concerning matters of common interest to the
178 members, including, but not limited to, the common areas; roof
179 or structural components of a building, or other improvements
180 for which the association is responsible; mechanical,
181 electrical, or plumbing elements serving an improvement or
182 building for which the association is responsible;
183 representations of the developer pertaining to any existing or
184 proposed commonly used facility; and protesting ad valorem taxes
185 on commonly used facilities. The association may defend actions
186 in eminent domain or bring inverse condemnation actions. Before
187 commencing litigation against any party in the name of the
188 association involving amounts in controversy in excess of
189 $100,000, the association must obtain the affirmative approval
190 of a majority of the voting interests at a meeting of the
191 membership at which a quorum has been attained. This subsection
192 does not limit any statutory or common-law right of any
193 individual member or class of members to bring any action
194 without participation by the association. A member does not have
195 authority to act for the association by virtue of being a
196 member. An association may have more than one class of members
197 and may issue membership certificates. An association of 15 or
198 fewer parcel owners may enforce only the requirements of those
199 deed restrictions established prior to the purchase of each
200 parcel upon an affected parcel owner or owners.

201 (4) OFFICIAL RECORDS.—
202 (a) The association shall maintain each of the following
203 items, when applicable, for at least 7 years, unless the
204 governing documents of the association require a longer period
205 of time, which constitute the official records of the
206 association:
207 1.(a) Copies of any plans, specifications, permits, and
208 warranties related to improvements constructed on the common
209 areas or other property that the association is obligated to
210 maintain, repair, or replace.
211 2.(b) A copy of the bylaws of the association and of each
212 amendment to the bylaws.
213 3.(c) A copy of the articles of incorporation of the
214 association and of each amendment thereto.
215 4.(d) A copy of the declaration of covenants and a copy of
216 each amendment thereto.
217 5.(e) A copy of the current rules of the homeowners'
218 association.
219 6.(f) The minutes of all meetings of the board of
220 directors and of the members, which minutes must be retained for
221 at least 7 years.
222 7.(g) A current roster of all members and their designated
223 mailing addresses and parcel identifications. A member's
224 designated mailing address is the member's property address,
225 unless the member has sent written notice to the association

226 requesting that a different mailing address be used for all
227 required notices. The association shall also maintain the e-mail
228 addresses and the facsimile numbers designated by members for
229 receiving notice sent by electronic transmission of those
230 members consenting to receive notice by electronic transmission.
231 A member's e-mail address is the e-mail address the member
232 provided when consenting in writing to receiving notice by
233 electronic transmission, unless the member has sent written
234 notice to the association requesting that a different e-mail
235 address be used for all required notices. The e-mail addresses
236 and facsimile numbers provided by members to receive notice by
237 electronic transmission must be removed from association records
238 when the member revokes consent to receive notice by electronic
239 transmission. However, the association is not liable for an
240 erroneous disclosure of the e-mail address or the facsimile
241 number for receiving electronic transmission of notices.
242 8.(h) All of the association's insurance policies or a
243 copy thereof, which policies must be retained for at least 7
244 years.
245 9.(i) A current copy of all contracts to which the
246 association is a party, including, without limitation, any
247 management agreement, lease, or other contract under which the
248 association has any obligation or responsibility. Bids received
249 by the association for work to be performed are must also be
250 considered official records and must be kept for a period of 1

251 year.
252 10.~~(j)~~ The financial and accounting records of the
253 association, kept according to good accounting practices. ~~All~~
254 ~~financial and accounting records must be maintained for a period~~
255 ~~of at least 7 years.~~ The financial and accounting records must
256 include:
257 a.~~1.~~ Accurate, itemized, and detailed records of all
258 receipts and expenditures.
259 b.~~2~~. A current account and a periodic statement of the
260 account for each member, designating the name and current
261 address of each member who is obligated to pay assessments, the
262 due date and amount of each assessment or other charge against
263 the member, the date and amount of each payment on the account,
264 and the balance due.
265 c.~~3.~~ All tax returns, financial statements, and financial
266 reports of the association.
267 d.~~4.~~ Any other records that identify, measure, record, or
268 communicate financial information.
269 11.~~(k)~~ A copy of the disclosure summary described in s.
270 720.401(1).
271 12.~~(l)~~ Ballots, sign-in sheets, voting proxies, and all
272 other papers and electronic records relating to voting by parcel
273 owners, which must be maintained for at least 1 year after the
274 date of the election, vote, or meeting.
275 13.~~(m)~~ All affirmative acknowledgments made pursuant to s.

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276 720.3085(3)(c)3.
277 14.~~(n)~~ All other written records of the association not
278 specifically included in this subsection which are related to
279 the operation of the association.
280 (b)1. By January 1, 2025, an association shall post a
281 current digital copy of the documents specified in paragraph (a)
282 on its website or make such documents available through an
283 application that can be downloaded on a mobile device.
284 2. The association's website or application must be
285 accessible through the Internet and must contain a subpage, web
286 portal, or other protected electronic location that is
287 inaccessible to the general public and accessible only to parcel
288 owners and employees of the association.
289 3. Upon written request by a parcel owner, the association
290 must provide the parcel owner with a username and password and
291 access to the protected sections of the association's website or
292 application which contains the official documents of the
293 association.
294 4. The association shall ensure that the information and
295 records described in paragraph (5)(d), which are not allowed to
296 be accessible to parcel owners, are not posted on the
297 association's website or application. If protected information
298 or information restricted from being accessible to parcel owners
299 is included in documents that are required to be posted on the
300 association's website or application, the association must

301 ensure the information is redacted before posting the documents.
302 Notwithstanding the foregoing, the association or its authorized
303 agent is not liable for disclosing information that is protected
304 or restricted under paragraph (5)(d) unless such disclosure was
305 made with a knowing or intentional disregard of the protected or
306 restricted nature of such information.
307 (c) The association shall adopt written rules governing
308 the method or policy by which the official records of the
309 association are to be retained and for how long such records
310 must be retained. Such information must be made available to the
311 parcel owners through the association's website or application.
312 (5) INSPECTION AND COPYING OF RECORDS.—Unless otherwise
313 provided by law or the governing documents of the association,
314 the official records must ~~shall~~ be maintained within the state
315 for at least 7 years and ~~shall~~ be made available to a parcel
316 owner for inspection or photocopying within 45 miles of the
317 community or within the county in which the association is
318 located within 10 business days after receipt by the board or
319 its designee of a written request from the parcel owner. This
320 subsection may be complied with by having a copy of the official
321 records available for inspection or copying in the community or~~,~~
322 ~~at the option of the association,~~ by making the records
323 available to a parcel owner electronically via the association's
324 website or application ~~Internet~~ or by allowing the records to be
325 viewed in electronic format on a computer screen and printed

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326 upon request. If the association has a photocopy machine
327 available where the records are maintained, it must provide
328 parcel owners with copies on request during the inspection if
329 the entire request is limited to no more than 25 pages. An
330 association shall allow a member or his or her authorized
331 representative to use a portable device, including a smartphone,
332 tablet, portable scanner, or any other technology capable of
333 scanning or taking photographs, to make an electronic copy of
334 the official records in lieu of the association's providing the
335 member or his or her authorized representative with a copy of
336 such records. The association may not charge a fee to a member
337 or his or her authorized representative for the use of a
338 portable device.
339 (a) The failure of an association to provide access to the
340 records within 10 business days after receipt of a written
341 request submitted by certified mail, return receipt requested,
342 creates a rebuttable presumption that the association willfully
343 failed to comply with this subsection.
344 (b) A member who is denied access to official records is
345 entitled to the actual damages or minimum damages for the
346 association's willful failure to comply with this subsection.
347 The minimum damages are to be $50 per calendar day up to 10
348 days, the calculation to begin on the 11th business day after
349 receipt of the written request.
350 (c) The association may adopt reasonable written rules

351 governing the frequency, time, location, notice, records to be
352 inspected, and manner of inspections, but may not require a
353 parcel owner to demonstrate any proper purpose for the
354 inspection, state any reason for the inspection, or limit a
355 parcel owner's right to inspect records to less than one 8-hour
356 business day per month. The association may impose fees to cover
357 the costs of providing copies of the official records, including
358 the costs of copying and the costs required for personnel to
359 retrieve and copy the records if the time spent retrieving and
360 copying the records exceeds one-half hour and if the personnel
361 costs do not exceed $20 per hour. Personnel costs may not be
362 charged for records requests that result in the copying of 25 or
363 fewer pages. The association may charge up to 25 cents per page
364 for copies made on the association's photocopier. If the
365 association does not have a photocopy machine available where
366 the records are kept, or if the records requested to be copied
367 exceed 25 pages in length, the association may have copies made
368 by an outside duplicating service and may charge the actual cost
369 of copying, as supported by the vendor invoice. The association
370 shall maintain an adequate number of copies of the recorded
371 governing documents, to ensure their availability to members and
372 prospective members.
373 (d) Notwithstanding this subsection ~~paragraph~~, the
374 following records are not accessible to members or parcel
375 owners:

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376 1. Any record protected by the lawyer-client privilege as
377 described in s. 90.502 and any record protected by the work-
378 product privilege, including, but not limited to, a record
379 prepared by an association attorney or prepared at the
380 attorney's express direction which reflects a mental impression,
381 conclusion, litigation strategy, or legal theory of the attorney
382 or the association and which was prepared exclusively for civil
383 or criminal litigation or for adversarial administrative
384 proceedings or which was prepared in anticipation of such
385 litigation or proceedings until the conclusion of the litigation
386 or proceedings.
387 2. Information obtained by an association in connection
388 with the approval of the lease, sale, or other transfer of a
389 parcel.
390 3. Information an association obtains in a gated community
391 in connection with guests' visits to parcel owners or community
392 residents.
393 4. Personnel records of association or management company
394 employees, including, but not limited to, disciplinary, payroll,
395 health, and insurance records. For purposes of this
396 subparagraph, the term "personnel records" does not include
397 written employment agreements with an association or management
398 company employee or budgetary or financial records that indicate
399 the compensation paid to an association or management company
400 employee.

401 5. Medical records of parcel owners or community
402 residents.
403 6. Social security numbers, driver license numbers, credit
404 card numbers, electronic mailing addresses, telephone numbers,
405 facsimile numbers, emergency contact information, any addresses
406 for a parcel owner other than as provided for association notice
407 requirements, and other personal identifying information of any
408 person, excluding the person's name, parcel designation, mailing
409 address, and property address. Notwithstanding the restrictions
410 in this subparagraph, an association may print and distribute to
411 parcel owners a directory containing the name, parcel address,
412 and all telephone numbers of each parcel owner. However, an
413 owner may exclude his or her telephone numbers from the
414 directory by so requesting in writing to the association. An
415 owner may consent in writing to the disclosure of other contact
416 information described in this subparagraph. The association is
417 not liable for the disclosure of information that is protected
418 under this subparagraph if the information is included in an
419 official record of the association and is voluntarily provided
420 by an owner and not requested by the association.
421 7. Any electronic security measure that is used by the
422 association to safeguard data, including passwords.
423 8. The software and operating system used by the
424 association which allows the manipulation of data, even if the
425 owner owns a copy of the same software used by the association.

426 The data is part of the official records of the association.
427 9. All affirmative acknowledgments made pursuant to s.
428 720.3085(3)(c)3.
429 (e) ~~(d)~~ The association or its authorized agent is not
430 required to provide a prospective purchaser or lienholder with
431 information about the residential subdivision or the association
432 other than information or documents required by this chapter to
433 be made available or disclosed. The association or its
434 authorized agent may charge a reasonable fee to the prospective
435 purchaser or lienholder or the current parcel owner or member
436 for providing good faith responses to requests for information
437 by or on behalf of a prospective purchaser or lienholder, other
438 than that required by law, if the fee does not exceed $150 plus
439 the reasonable cost of photocopying and any attorney fees
440 incurred by the association in connection with the response.
441 (f) If an association receives a subpoena for records from
442 a law enforcement agency, the association must provide a copy of
443 such records or otherwise make the records available for
444 inspection and copying to a law enforcement agency within 5
445 business days after receipt of the subpoena, unless otherwise
446 specified by the law enforcement agency or subpoena. An
447 association must assist a law enforcement agency in its
448 investigation to the extent permissible by law.
449 (6) BUDGETS.—
450 (a)1. The association shall prepare an annual budget that

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451 sets out the annual operating expenses. The budget must reflect
452 the estimated revenues and expenses for that year and the
453 estimated surplus or deficit as of the end of the current year.
454 The budget must set out separately all fees or charges paid for
455 by the association for recreational amenities, whether owned by
456 the association, the developer, or another person. The
457 association shall provide each member with a copy of the annual
458 budget or a written notice that a copy of the budget is
459 available upon request at no charge to the member. The copy must
460 be provided to the member within the time limits set forth in
461 subsection (5).
462 2. An association that has 2,500 members or more must use
463 an independent certified public accountant to prepare the
464 association's annual budget. Such association must also retain
465 an attorney to advise the association and its members on
466 procedural matters relating to the annual budget and to foster
467 communications between the board and the members of the
468 association. The independent certified public accountant or
469 attorney required under this subparagraph may not be:
470 a. The community association manager or an employee of the
471 community association management firm providing community
472 association management services to the association; or
473 b. An officer or a director of the association or an
474 immediate family member of an officer or a director.
475 (d) An association is deemed to have provided for reserve

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476 accounts upon the affirmative approval of a majority of the
477 total voting interests of the association. Such approval may be
478 obtained by vote of the members at a duly called meeting of the
479 membership or by the written consent of a majority of the total
480 voting interests of the association. The approval action of the
481 membership must state that reserve accounts shall be provided
482 for in the budget and must designate the components for which
483 the reserve accounts are to be established. Upon approval by the
484 membership, the board of directors or the independent certified
485 public accountant, if required under paragraph (a), shall
486 include the required reserve accounts in the budget in the next
487 fiscal year following the approval and each year thereafter.
488 Once established as provided in this subsection, the reserve
489 accounts must be funded or maintained or have their funding
490 waived in the manner provided in paragraph (f).
491 (f) After one or more reserve accounts are established,
492 the membership of the association, upon a majority vote at a
493 meeting at which a quorum is present, may provide for no
494 reserves or less reserves than required by this section. If a
495 meeting of the parcel ~~unit~~ owners has been called to determine
496 whether to waive or reduce the funding of reserves and such
497 result is not achieved or a quorum is not present, the reserves
498 as included in the budget go into effect. After the turnover,
499 the developer may vote its voting interest to waive or reduce
500 the funding of reserves. Any vote taken pursuant to this

501 subsection to waive or reduce reserves is applicable only to one
502 budget year.
503 (13) REQUIREMENT TO PROVIDE AN ACCOUNTING.—A parcel owner
504 or any occupant, licensee, or invitee of the parcel owner may
505 make a written request to the board for a detailed accounting of
506 any amounts he or she owes to the association and the board
507 shall provide such information within 10 business days after
508 receipt of the written request. After the parcel owner or any
509 occupant, licensee, or invitee of the parcel owner makes such
510 written request to the board, he or she may not ask for another
511 detailed accounting for at least 90 calendar days. Failure by
512 the board to respond within 10 business days to a written
513 request for a detailed accounting constitutes a complete waiver
514 of any outstanding fines of the person who requested such
515 accounting.
516 Section 4. Subsections (1) and (3) of section 720.3033,
517 Florida Statutes, are amended to read:
518 720.3033 Officers and directors.—
519 (1)(a) Within 90 days after being elected or appointed to
520 the board, each ~~director shall certify in writing to the~~
521 ~~secretary of the association that he or she has read the~~
522 ~~association's declaration of covenants, articles of~~
523 ~~incorporation, bylaws, and current written rules and policies;~~
524 ~~that he or she will work to uphold such documents and policies~~
525 ~~to the best of his or her ability; and that he or she will~~

526 ~~faithfully discharge his or her fiduciary responsibility to the~~
527 ~~association's members. Within 90 days after being elected or~~
528 ~~appointed to the board, in lieu of such written certification,~~
529 ~~the newly elected or appointed~~ director must ~~may~~ submit a
530 certificate of having satisfactorily completed the educational
531 curriculum administered by a department-approved ~~division-~~
532 ~~approved~~ education provider.
533 1. The newly elected or appointed director must complete
534 the department-approved education for newly elected or appointed
535 directors within 90 days after being elected or appointed.
536 2. The certificate of completion is valid for a maximum of
537 4 years.
538 3. A director must complete the education specific to
539 newly elected or appointed directors at least every 4 years.
540 4. The department-approved educational curriculum specific
541 to newly elected or appointed directors must include training
542 relating to financial literacy and transparency, recordkeeping,
543 levying of fines, and notice and meeting requirements.
544 5. In addition to the educational curriculum specific to
545 newly elected or appointed directors:
546 a. A director of an association that has fewer than 2,500
547 members must complete at least 4 hours of continuing education
548 annually.
549 b. A director of an association that has 2,500 members or
550 more must complete at least 8 hours of continuing education

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551 annually ~~within 1 year before or 90 days after the date of~~
552 ~~election or appointment~~.
553 (b) ~~The written certification or educational certificate~~
554 ~~is valid for the uninterrupted tenure of the director on the~~
555 ~~board.~~ A director who does not timely file the ~~written~~
556 ~~certification or~~ educational certificate is ~~shall be~~ suspended
557 from the board until he or she complies with the requirement.
558 The board may temporarily fill the vacancy during the period of
559 suspension.
560 (c) The association shall retain each director's ~~written~~
561 ~~certification or~~ educational certificate for inspection by the
562 members for 5 years after the director's election. However, the
563 failure to have the written certification or educational
564 certificate on file does not affect the validity of any board
565 action.
566 (d) The department shall adopt rules to implement and
567 administer the educational curriculum and continuing education
568 requirements under this subsection.
569 (3) An officer, a director, or a manager may not solicit,
570 offer to accept, ~~or~~ accept, or receive any thing or service of
571 value for which consideration has not been provided for his or
572 her benefit or for the benefit of a member of his or her
573 immediate family from any person providing or proposing to
574 provide goods or services to the association. An officer, a
575 director, or a manager who knowingly solicits, offers to accept,

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576 ~~or~~ accepts, or receives any thing or service of value or
577 kickback that is at least $25 but not more than $1,000 for which
578 consideration has not been provided for his or her own benefit
579 or that of his or her immediate family from any person providing
580 or proposing to provide goods or services to the association
581 commits a misdemeanor of the first degree, punishable as
582 provided in s. 775.082 or s. 775.083 and is subject to monetary
583 damages under s. 617.0834. If such thing or kickback is valued
584 at $1,000 or more, the officer, director, or manager commits a
585 felony of the third degree, punishable as provided in s.
586 775.082, s. 775.083, or s. 775.084 and is subject to monetary
587 damages under s. 617.0834. If the board finds that an officer or
588 a director has violated this subsection, the board shall
589 immediately remove the officer or director from office. The
590 vacancy shall be filled according to law until the end of the
591 officer's or director's term of office. However, an officer, a
592 director, or a manager may accept food to be consumed at a
593 business meeting with a value of less than $25 per individual or
594 a service or good received in connection with trade fairs or
595 education programs.
596 Section 5. Subsections (1) and (4) of section 720.3035,
597 Florida Statutes, are amended; and subsection (6) is added to
598 section 720.3035 to read:
599 720.3035 Architectural control covenants; parcel owner
600 improvements; rights and privileges.—

601 (1)(a) The authority of an association or any
602 architectural, construction improvement, or other such similar
603 committee of an association to review and approve plans and
604 specifications for the location, size, type, or appearance of
605 any structure or other improvement on a parcel, or to enforce
606 standards for the external appearance of any structure or
607 improvement located on a parcel, shall be permitted only to the
608 extent that the authority is specifically stated or reasonably
609 inferred as to such location, size, type, or appearance in the
610 declaration of covenants or other published guidelines and
611 standards authorized by the declaration of covenants. An
612 association or any architectural, construction improvement, or
613 similar committee of an association must reasonably and
614 equitably apply and enforce on all parcel owners the
615 architectural and construction improvement standards authorized
616 by the declaration of covenants or other published guidelines
617 and standards authorized by the declaration of covenants.
618 (b) An association or any architectural, construction
619 improvement, or other such similar committee of an association
620 may not enforce or adopt a covenant, rule, or guideline that:
621 1. Limits or places requirements on the interior of a
622 structure that is not visible from the parcel's frontage or an
623 adjacent parcel.
624 2. Requires the review and approval of plans and
625 specifications for a central air-conditioning, refrigeration,

626 heating, or ventilating system by the association or any
627 architectural, construction improvement, or other such similar
628 committee of an association, if such system is not visible from
629 the parcel's frontage and is substantially similar to a system
630 that is approved or recommended by the association or a
631 committee thereof.
632 (4)(a) Each parcel owner is ~~shall be~~ entitled to the
633 rights and privileges set forth in the declaration of covenants
634 or other published guidelines and standards authorized by the
635 declaration of covenants concerning the architectural use of the
636 parcel, and the construction of permitted structures and
637 improvements on the parcel. ~~and~~ Such rights and privileges may
638 ~~shall~~ not be unreasonably infringed upon or impaired by the
639 association or any architectural, construction improvement, or
640 other such similar committee of the association. If the
641 association or any architectural, construction improvement, or
642 other such similar committee of the association denies a parcel
643 owner's request or application for the construction of a
644 structure or other improvement on a parcel, the association or
645 committee must provide written notice to the parcel owner
646 stating with specificity the rule or covenant on which the
647 association or committee relied when denying the request or
648 application and the specific aspect or part of the proposed
649 improvement that does not conform to such rule or covenant.
650 (b) If a parcel owner's rights and privileges have been

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651 unreasonably infringed upon or impaired by a decision concerning
652 the architectural use of his or her parcel or the construction
653 of permitted structures and improvements on such parcel by the
654 association or any architectural, construction improvement, or
655 other such similar committee of the association, the association
656 must provide the parcel owner with the ability to appeal such
657 decision to an appeals committee that consists of at least three
658 members appointed by the board who are not officers, directors,
659 or employees of the association or members of the architectural,
660 construction improvement, or other similar committee of the
661 association. The appeals committee has the right to reverse,
662 modify, or affirm the decision being appealed. A parcel owner
663 may appeal a decision of the association or any architectural,
664 construction improvement, or other such similar committee of the
665 association within 90 days after the owner receives written
666 notification of the initial decision. The appeals committee must
667 make a decision on the issue under appeal within 60 days after
668 receiving a parcel owner's request for an appeal.
669 (c) If the association or any architectural, construction
670 improvement, or other such similar committee of the association
671 should unreasonably, knowingly, and willfully infringe upon or
672 impair the rights and privileges set forth in the declaration of
673 covenants or other published guidelines and standards authorized
674 by the declaration of covenants, the adversely affected parcel
675 owner is ~~shall be~~ entitled to recover damages caused by such

676 infringement or impairment, including any costs and reasonable
677 attorney ~~attorney's~~ fees incurred in preserving or restoring the
678 rights and privileges of the parcel owner set forth in the
679 declaration of covenants or other published guidelines and
680 standards authorized by the declaration of covenants.
681 (6)(a) To protect the health, safety, and welfare of the
682 people of the state and to ensure uniformity and consistency in
683 the hurricane protection installed by parcel owners, this
684 subsection applies to all homeowners' associations in the state,
685 regardless of when the community was created. The board or any
686 architectural, construction improvement, or other such similar
687 committee of an association must adopt hurricane protection
688 specifications for each structure or other improvement on a
689 parcel governed by the association. The specifications may
690 include the color and style of hurricane protection products and
691 any other factor deemed relevant by the board. All
692 specifications adopted by the board must comply with the
693 applicable building code.
694 (b) Notwithstanding any other provision in the governing
695 documents of the association, the board or any architectural,
696 construction improvement, or other such similar committee may
697 not deny an application for the installation, enhancement, or
698 replacement of hurricane protection by a parcel owner which
699 conforms to the specifications adopted by the board or
700 committee. The board or committee may require a parcel owner to

701 adhere to an existing unified building scheme regarding the
702 external appearance of the structure or other improvement on the
703 parcel.
704 (c) For purposes of this subsection, the term "hurricane
705 protection" includes, but is not limited to, roof systems
706 recognized by the Florida Building Code that meet ASCE 7-22
707 standards, permanent fixed storm shutters, roll-down track storm
708 shutters, impact-resistant windows and doors, polycarbonate
709 panels, reinforced garage doors, erosion controls, exterior
710 fixed generators, fuel storage tanks, and other hurricane
711 protection products used to preserve and protect the structures
712 or improvements on a parcel governed by the association.
713 Section 6. Section 720.3045, Florida Statutes, is amended
714 to read:
715 720.3045 Installation, display, and storage of items.—
716 Regardless of any covenants, restrictions, bylaws, rules, or
717 requirements of an association, and unless prohibited by general
718 law or local ordinance, an association may not restrict parcel
719 owners or their tenants from installing, displaying, or storing
720 any items on a parcel which are not visible from the parcel's
721 frontage or an adjacent parcel, including, but not limited to,
722 artificial turf, boats, flags, vegetable gardens, clotheslines,
723 and recreational vehicles.
724 Section 7. Subsection (2) of section 720.305, Florida
725 Statutes, is amended, and subsections (7) through (10) are added

726 to that section, to read:
727 720.305 Obligations of members; remedies at law or in
728 equity; levy of fines and suspension of use rights.—
729 (2) An association may levy reasonable fines for
730 violations of the declaration, association bylaws, or reasonable
731 rules of the association. A fine may not exceed $100 per
732 violation against any member or any member's tenant, guest, or
733 invitee for the failure of the owner of the parcel or its
734 occupant, licensee, or invitee to comply with any provision of
735 the declaration, the association bylaws, or reasonable rules of
736 the association unless otherwise provided in the governing
737 documents. A fine may be levied by the board for each day of a
738 continuing violation, with a single notice and opportunity for
739 hearing, except that the fine may not exceed $1,000 in the
740 aggregate unless otherwise provided in the governing documents.
741 A fine of less than $1,000 may not become a lien against a
742 parcel. A fine that amounts to less than 1 percent of the
743 parcel's just value as determined by the Property Appraiser in
744 accordance with ch. 193 at the time the fine was levied may only
745 become a lien against the parcel with approval by 75 percent of
746 the total membership of parcel owners, and fines may not be
747 aggregated to create a lien against a parcel. In any action to
748 recover a fine, the prevailing party is entitled to reasonable
749 attorney fees and costs from the nonprevailing party as
750 determined by the court.

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751 (a) An association may suspend, for a reasonable period of
752 time, the right of a member, or a member's tenant, guest, or
753 invitee, to use common areas and facilities for the failure of
754 the owner of the parcel or its occupant, licensee, or invitee to
755 comply with any provision of the declaration, the association
756 bylaws, or reasonable rules of the association. This paragraph
757 does not apply to that portion of common areas used to provide
758 access or utility services to the parcel. A suspension may not
759 prohibit an owner or tenant of a parcel from having vehicular
760 and pedestrian ingress to and egress from the parcel, including,
761 but not limited to, the right to park.
762 (b) A fine or suspension levied by the board of
763 administration may not be imposed unless the board first
764 provides at least 14 days' written notice of the parcel owner's
765 right to a hearing to the parcel owner at his or her designated
766 mailing or e-mail address in the association's official records
767 and, if applicable, to any occupant, licensee, or invitee of the
768 parcel owner, sought to be fined or suspended. Such ~~and a~~
769 hearing must be held within 30 days after issuance of the notice
770 before a committee of at least three members appointed by the
771 board who are not officers, directors, or employees of the
772 association, or the spouse, parent, child, brother, or sister of
773 an officer, director, or employee. The committee may hold the
774 hearing by telephone or other electronic means. The notice must
775 include a description of the alleged violation; the specific

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776 action required to cure such violation, if applicable; and the
777 hearing date, ~~and~~ location, and access information if held by
778 telephone or other electronic means ~~of the hearing~~. A parcel
779 owner has the right to attend a hearing by telephone or other
780 electronic means.
781 (c) If the committee, by majority vote, does not approve a
782 proposed fine or suspension, the proposed fine or suspension may
783 not be imposed. The role of the committee is limited to
784 determining whether to confirm or reject the fine or suspension
785 levied by the board. If the committee, by majority vote,
786 determines that a violation does not exist, no other action may
787 be taken related to the alleged violation.
788 (d) Within 7 days after the hearing, the committee shall
789 provide written notice to the parcel owner at his or her
790 designated mailing or e-mail address in the association's
791 official records and, if applicable, any occupant, licensee, or
792 invitee of the parcel owner, of the committee's findings related
793 to the violation, including any applicable fines or suspensions
794 that the committee approved or rejected, and how the parcel
795 owner or any occupant, licensee, or invitee of the parcel owner
796 may cure the violation, if applicable, or fulfill a suspension,
797 or the date by which a fine must be paid.
798 (e) If a violation is found by the committee, but has been
799 cured before the hearing or in the manner specified in the
800 written notice required in paragraph (b) or paragraph (d), a

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801 fine or suspension may not be imposed. Attorney fees and costs
802 may not be awarded against the parcel owner.
803 (f)~~(e)~~ If a violation found by the committee is not cured
804 and the proposed fine or suspension levied by the board is
805 approved by the committee by a majority vote, the committee must
806 set a date by which the fine must be paid, which date must be at
807 least 30 days after delivery of the written notice required in
808 paragraph (d). Attorney fees and costs may not be awarded
809 against the parcel owner based on actions taken by the board
810 prior to the date set for the fine to be paid.
811 (g) If a violation is found by the committee and the
812 proposed fine or suspension levied by the board is approved by
813 the committee and the violation is not cured or the fine is not
814 paid per the written notice required in paragraph (d),
815 reasonable attorney fees and costs may be awarded to the
816 association. Attorney fees and costs may not begin to accrue
817 until after the date noticed for payment under paragraph (d) and
818 the time for an appeal has expired.
819 (h) Upon receipt of a payment for any outstanding fines
820 from a parcel owner or any occupant, licensee, or invitee of the
821 parcel owner, the board must apply the payment first to the fine
822 before satisfying any other amounts due to the association.
823 Attorney fees and costs may not continue to accrue after a
824 parcel owner or any occupant, licensee, or invitee of the parcel
825 owner pays the fine.

826 (i) A parcel owner or any occupant, licensee, or invitee
827 of the parcel owner may request a hearing before the board to
828 dispute the reasonableness of the attorney fees and costs
829 awarded to the association.
830 (j) The failure of the association to comply with
831 subsection (2) constitutes a waiver of all fines or suspensions
832 imposed or proposed for a violation.
833 (7) If an association allows a fine to be levied for an
834 infraction relating to lawn, landscaping, or grass maintenance,
835 such fine may not become a lien on a parcel.
836 (8) If an association allows a fine to be levied or a
837 suspension to be imposed against a parcel owner or an occupant,
838 a licensee, a guest, or an invitee of the parcel owner for a
839 traffic infraction, such infraction must be determined and
840 issued by a board-approved nonaffiliated third party
841 specializing in traffic infractions before such fine may be
842 levied or suspension imposed. A fine for a traffic infraction
843 may not become a lien on a parcel. However, a fine may not be
844 imposed against a parcel owner for a speeding violation
845 committed by his or her occupant, licensee, guest, or invitee.
846 For purposes of this paragraph, the term "traffic infraction"
847 means a noncriminal violation of parking and traffic rules
848 adopted by the state, county, municipality, or association.
849 (9) Notwithstanding any provision to the contrary in an
850 association's governing documents, an association may not levy a

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851 fine or impose a suspension for any of the following:
852 (a) Leaving garbage receptacles at the curb or end of the
853 driveway within 24 hours before or after the designated garbage
854 collection day or time.
855 (b) Leaving holiday decorations or lights on a structure
856 or other improvement on a parcel longer than indicated in the
857 governing documents, unless such decorations or lights are left
858 up for longer than 1 week after the association provides written
859 notice of the violation to the parcel owner.
860 (10) An association may not enforce a new rule or covenant
861 against a parcel owner for an action that took place before the
862 new rule or covenant was enacted ~~fine payment is due 5 days~~
863 ~~after notice of the approved fine required under paragraph (d)~~
864 ~~is provided to the parcel owner and, if applicable, to any~~
865 ~~occupant, licensee, or invitee of the parcel owner. The~~
866 ~~association must provide written notice of such fine or~~
867 ~~suspension by mail or hand delivery to the parcel owner and, if~~
868 ~~applicable, to any occupant, licensee, or invitee of the parcel~~
869 ~~owner~~.
870 Section 8. Subsection (3) of section 720.3075, Florida
871 Statutes, is amended, and paragraph (c) is added to subsection
872 (4) of that section, to read:
873 720.3075 Prohibited clauses in association documents.—
874 (3) Homeowners' association documents, including
875 declarations of covenants, articles of incorporation, or bylaws,

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876 may not preclude:
877 (a) The display of up to two portable, removable flags as
878 described in s. 720.304(2)(a) by property owners. However, all
879 flags must be displayed in a respectful manner consistent with
880 the requirements for the United States flag under 36 U.S.C.
881 chapter 10.
882 (b) A property owner or a tenant, a guest, or an invitee
883 of the property owner from parking his or her personal vehicle,
884 including a pickup truck, in the property owner's driveway, in
885 common parking lots, on public roads and rights-of-way, or in
886 any other area at which the property owner or the property
887 owner's tenant, guest, or invitee has a right to park which is
888 governed by state, county, and municipal regulations; regardless
889 of any official insignia or visible designation, a property
890 owner or a tenant, a guest, or an invitee of the property owner
891 from parking his or her work vehicle, which is not a commercial
892 motor vehicle as defined in s. 320.01(25), in the property
893 owner's driveway.
894 (c) A property owner from inviting, hiring, or allowing
895 entry to a contractor or worker on the owner's parcel solely
896 because the contractor or worker is not on a preferred vendor
897 list of the association. Additionally, homeowners' association
898 documents may not preclude a property owner from inviting,
899 hiring, or allowing entry to a contractor or worker on his or
900 her parcel solely because the contractor or worker does not have

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901 a professional or an occupational license. The association may
902 not require a contractor or worker to present or prove
903 possession of a professional or an occupational license to be
904 allowed entry onto a property owner's parcel.
905 (d) Operating a vehicle that is not a commercial motor
906 vehicle as defined in s. 320.01(25) in conformance with state
907 traffic laws, on public roads or rights-of-way or the property
908 owner's parcel.
909 (e) A property owner from installing code-compliant
910 hurricane protection or home hardening, such as hurricane
911 shutters, impact glass, code-compliant windows or doors, or
912 other similar protection that complies with or exceeds the
913 applicable building code.
914 (f) A property owner from installing a roof system
915 recognized by the Florida Building Code that meet ASCE 7-22
916 standards, artificial turf, vegetable garden, or clotheslines or
917 other energy-efficient device.
918 (4)
919 (c) Homeowners' association documents, including
920 declarations of covenants, articles of incorporation, or bylaws,
921 may not limit landscaping to grass-only or grass-majority lawns,
922 or require mandatory watering for property owners and, if the
923 homeowner choses to water, require watering during the
924 association’s designated timeframes. However, the association's
925 documents may generally require that a property owner keep any

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926 lawn, landscaping, and grass on the property owner's parcel
927 well-maintained.
928 Section 9. Subsection (3) of section 720.308, Florida
929 Statutes, is amended, and subsection (7) is added to that
930 section, to read:
931 720.308 Assessments and charges.—
932 (3) MAXIMUM LEVEL OF ASSESSMENTS.—
933 (a) The stated dollar amount of the guarantee must ~~shall~~
934 be an exact dollar amount for each parcel identified in the
935 declaration. Regardless of the stated dollar amount of the
936 guarantee, assessments charged to a member may ~~shall~~ not exceed
937 the maximum obligation of the member based on the total amount
938 of the adopted budget and the member's proportionate share of
939 the expenses as described in the governing documents.
940 (b) Notwithstanding more restrictive limitations placed on
941 the board by the governing documents and paragraph (c), the
942 board may not impose a regular assessment, excluding an
943 assessment for the association's insurance policy premium, that
944 is more than 10 percent greater than the regular assessment for
945 the association's preceding fiscal year or impose special
946 assessments that in the aggregate exceed 5 percent of the
947 budgeted gross expenses of the association for that fiscal year
948 without the approval of 75 percent of voting members at a member
949 meeting.
950 (c) The board may increase regular assessments or special

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951 assessments beyond the limits in paragraph (b) if such increase
952 is necessary for the immediate physical protection of property
953 or public safety.
954 (d) While the developer is in control, the developer may
955 increase regular assessments or special assessments beyond the
956 limits in paragraph (b).
957 (e) If an association's insurance policy premium increases
958 by more than 25 percent over the preceding fiscal year's
959 premium, the association must solicit at least two additional
960 insurance quotes from an insurer other than the insurer
961 providing the initial quote. The board must present such quotes
962 to the members of the association at a member meeting for the
963 consideration by the members. The determination on whether to
964 accept the initial quote, which was for more than 25 percent of
965 the preceding fiscal year's premium, or accept another quote
966 from another insurer must be voted on by the members and
967 determined by majority vote.
968 (7) LIENS.—An assessment that amounts to less than 1
969 percent of the parcel's just value as determined by the Property
970 Appraiser in accordance with ch. 193 at the time of the
971 assessment may not become a lien against the parcel or the basis
972 of a claim of lien against a parcel without the approval of 75
973 percent of voting members at a member meeting.
974 Section 10. Subsection (1) and paragraph (c) of subsection
975 (3) of section 720.3085, Florida Statutes, are amended to read:

976 720.3085 Payment for assessments; lien claims.—
977 (1) When authorized by the governing documents, the
978 association has a lien on each parcel to secure the payment of
979 assessments and other amounts provided for by this section.
980 Except as otherwise set forth in this section, the lien is
981 effective from and shall relate back to the date on which the
982 original declaration of the community was recorded. However, as
983 to ~~first~~ mortgages of record, the lien is effective from and
984 after recording of a claim of lien in the public records of the
985 county in which the parcel is located. ~~This subsection does not~~
986 ~~bestow upon any lien, mortgage, or certified judgment of record~~
987 ~~on July 1, 2008, including the lien for unpaid assessments~~
988 ~~created in this section, a priority that, by law, the lien,~~
989 ~~mortgage, or judgment did not have before July 1, 2008.~~
990 (a) To be valid, a claim of lien must state the
991 description of the parcel, the name of the record owner, the
992 name and address of the association, the assessment amount due,
993 and the due date. The claim of lien secures all unpaid
994 assessments that are due and that may accrue subsequent to the
995 recording of the claim of lien and before entry of a certificate
996 of title, as well as interest, late charges, and reasonable
997 costs and attorney fees incurred by the association incident to
998 the collection process. The person making payment is entitled to
999 a satisfaction of the lien upon payment in full.
1000 (b) By recording a notice in substantially the following

1001 form, a parcel owner or the parcel owner's agent or attorney may
1002 require the association to enforce a recorded claim of lien
1003 against his or her parcel:
1004
1005 NOTICE OF CONTEST OF LIEN
1006 TO: ...(Name and address of association)...
1007 You are notified that the undersigned contests the
1008 claim of lien filed by you on ...., ...(year)..., and
1009 recorded in Official Records Book .... at page ....,
1010 of the public records of .... County, Florida, and
1011 that the time within which you may file suit to
1012 enforce your lien is limited to 90 days following the
1013 date of service of this notice. Executed this .... day
1014 of ...., ...(year)....
1015 Signed: ...(Owner or Attorney)...
1016
1017 After the notice of a contest of lien has been recorded, the
1018 clerk of the circuit court shall mail a copy of the recorded
1019 notice to the association by certified mail, return receipt
1020 requested, at the address shown in the claim of lien or the most
1021 recent amendment to it and shall certify to the service on the
1022 face of the notice. Service is complete upon mailing. After
1023 service, the association has 90 days in which to file an action
1024 to enforce the lien and, if the action is not filed within the
1025 90-day period, the lien is void. However, the 90-day period

1026 shall be extended for any length of time that the association is
1027 prevented from filing its action because of an automatic stay
1028 resulting from the filing of a bankruptcy petition by the parcel
1029 owner or by any other person claiming an interest in the parcel.
1030 (c) The association may bring an action in its name to
1031 foreclose a lien for assessments in the same manner in which a
1032 mortgage of real property is foreclosed and may also bring an
1033 action to recover a money judgment for the unpaid assessments
1034 without waiving any claim of lien. The association is entitled
1035 to recover its reasonable attorney's fees incurred in an action
1036 to foreclose a lien or an action to recover a money judgment for
1037 unpaid assessments.
1038 (d) A release of lien must be in substantially the
1039 following form:
1040
1041 RELEASE OF LIEN
1042 The undersigned lienor, in consideration of the final
1043 payment in the amount of $...., hereby waives and
1044 releases its lien and right to claim a lien for unpaid
1045 assessments through ...., ...(year)..., recorded in
1046 the Official Records Book .... at Page ...., of the
1047 public records of .... County, Florida, for the
1048 following described real property:
1049 (PARCEL NO. .... OR LOT AND BLOCK) OF ...(subdivision
1050 name)... SUBDIVISION AS SHOWN IN THE PLAT THEREOF,

1051 RECORDED AT PLAT BOOK ...., PAGE ...., OF THE OFFICIAL
1052 RECORDS OF .... COUNTY, FLORIDA.
1053 ...(or insert appropriate metes and bounds description
1054 here)...
1055 ...(Signature of Authorized Agent)... ...(Signature of
1056 Witness)...
1057 ...(Print Name)... ...(Print Name)...
1058 ...(Signature of Witness)...
1059 ...(Print Name)...
1060 Sworn to (or affirmed) and subscribed before me this
1061 .... day of ...., ...(year)..., by ...(name of person
1062 making statement)....
1063 ...(Signature of Notary Public)...
1064 ...(Print, type, or stamp commissioned name of Notary
1065 Public)...
1066 Personally Known .... OR Produced .... as
1067 identification.
1068
1069 (e) If the parcel owner remains in possession of the
1070 parcel after a foreclosure judgment has been entered, the court
1071 may require the parcel owner to pay a reasonable rent for the
1072 parcel. If the parcel is rented or leased during the pendency of
1073 the foreclosure action, the association is entitled to the
1074 appointment of a receiver to collect the rent. The expenses of
1075 the receiver must be paid by the party who does not prevail in

1076 the foreclosure action.

1077 (f) The association may purchase the parcel at the
1078 foreclosure sale and hold, lease, mortgage, or convey the
1079 parcel.

1080 (3) Assessments and installments on assessments that are
1081 not paid when due bear interest from the due date until paid at
1082 the rate provided in the declaration of covenants or the bylaws
1083 of the association, which rate may not exceed the rate allowed
1084 by law. If no rate is provided in the declaration or bylaws,
1085 interest accrues at the rate of 18 percent per year.

1086 (c)1. If an association sends out an invoice for
1087 assessments or a parcel's statement of the account described in
1088 s. 720.303(4)(a)10.b. ~~s. 720.303(4)(j)2.~~, the invoice for
1089 assessments or the parcel's statement of account must be
1090 delivered to the parcel owner by first-class United States mail
1091 or by electronic transmission to the parcel owner's e-mail
1092 address maintained in the association's official records.

1093 2. Before changing the method of delivery for an invoice
1094 for assessments or the statement of the account, the association
1095 must deliver a written notice of such change to each parcel
1096 owner. The written notice must be delivered to the parcel owner
1097 at least 30 days before the association sends the invoice for
1098 assessments or the statement of the account by the new delivery
1099 method. The notice must be sent by first-class United States
1100 mail to the owner at his or her last address as reflected in the

1101 association's records and, if such address is not the parcel
1102 address, must be sent by first-class United States mail to the
1103 parcel address. Notice is deemed to have been delivered upon
1104 mailing as required by this subparagraph.
1105 3. A parcel owner must affirmatively acknowledge his or
1106 her understanding that the association will change its method of
1107 delivery of the invoice for assessments or the statement of the
1108 account before the association may change the method of
1109 delivering an invoice for assessments or the statement of
1110 account. The parcel owner may make the affirmative
1111 acknowledgment electronically or in writing.
1112 Section 11. Section 720.318, Florida Statutes, is amended
1113 to read:
1114 720.318 ~~Law enforcement~~ First responder vehicles.—An
1115 association may not prohibit a first responder ~~law enforcement~~
1116 ~~officer~~, as defined in s. 112.1815(1) ~~943.10(1)~~, who is a parcel
1117 owner, or who is a tenant, guest, or invitee of a parcel owner,
1118 from parking his or her assigned first responder ~~law enforcement~~
1119 vehicle in an area where the parcel owner, or the tenant, guest,
1120 or invitee of the parcel owner, otherwise has a right to park,
1121 including on public roads or rights-of-way.
1122 Section 12. This act shall take effect July 1, 2024.

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COMMERCE COMMITTEE

PCS FOR CS/HB 1203 by Rep. Esposito

AMENDMENT SUMMARY
February 15, 2024

Amendment 1 by Rep. Esposito (Lines 280-502):

- Provides that an association with **100 parcels or more** is required to post a current digital copy of their official records on their respective websites or applications, and the types of official records that must be so posted, by January 1, 2025.
- Creates the following criminal offenses connected with the production, retention, inspection, or tampering of official records:
  - Second-degree misdemeanor for a director, board member, the HOA, or a community association manager who knowingly, willfully, and repeatedly violates the inspection and copying of official records provisions, with the intent of causing harm to the association or one or more of its members.
  - First-degree misdemeanor for any person who knowingly and intentionally defaces or destroys accounting records during the period in which such records are required to be retained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or retained, with the intent of causing harm to the association or one or more of its members.
  - Third-degree felony for any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.
- Removes the requirement that an association with 2,500 members or more:
  - Use an independent certified public accountant to prepare the association's annual budget.
  - Retain an attorney to:
    - Advise the association and its members on procedural matters relating to the annual budget; and
    - Foster communications between the board and the members of the association.
- Requires an association with 1,000 parcels or more to prepare audited financial statements regardless of the association's total annual revenue.
- Prohibits an association from waiving the annual financial reporting requirements and preparing a report of cash receipts and expenditures by approval of a majority of voting interests for consecutive fiscal years.
- Provides that a person using a debit card that is issued to the association or billed to the association for any expense that is not a lawful obligation of the association commits theft.

Amendment 2 by Rep. Esposito (Lines 516-595):

- Revises annual continuing education provisions for board members by changing the threshold that determines whether a board member must complete four or eight hours annually from "2,500 members" to "2,500 parcels."
- Makes it an automatic third-degree felony, instead of tying the degree of the criminal offense to the monetary value of the offense, when officers, directors, or managers accept kickbacks.
- Specifies that where a director or officer is charged by information or indictment with a specified criminal offense and must be removed from office as provided in current law, a vacancy must also be declared, and adds any criminal violation under the HOA Act as a criminal offense for which such removal and declaration is required.

Amendment 3 by Rep. Esposito (Between Lines 1111-1112):

- Allows HOA members to consent **electronically** to online voting, instead of only having the option to consent in writing.

Amendment 4 by Rep. Esposito (Between Lines 922-927):

- Clarifies that the association may provide designated watering timeframes for parcel owners for the purpose of watering the landscape if the parcel owners choose to water as long as watering is not mandatory.

Amendment 5 by Rep. Esposito (Lines 968-973):

- Prohibits assessments that amount to less than 1 percent of the parcel's property value at the time of the assessment from becoming a lien against the parcel or the basis of a claim of lien against a parcel without the approval of a **majority** of voting members at a member meeting, instead of 75 percent.

Amendment 6 by Rep. Esposito (Lines 503-511):

- Specifies that a homeowner can only request a detailed accounting of the amounts owed to the association related to the property.
- Allows an occupant, licensee, or invitee to request a detailed accounting if the homeowner provides the board with written authorization for such occupant, licensee, or invitee to make a request to the board.

Amendment 7 by Rep. Esposito (Lines 940-949):

- Provides that a regular assessment or special assessment that goes beyond a specific percentage from the previous fiscal year may be approved with 60 percent of the voting members at a meeting, instead of 75 percent.

Amendment 8 by Rep. Daniels (Lines 1080-1085):

- Provides that an assessment and installments for assessments that are unpaid may only accrue simple interest, and may not accrue compound interest despite what is in the governing documents.

Amendment 9 by Rep. Daniels (Between Lines 1111-1112):

- Requires the Department of Business and Professional Regulation to conduct binding arbitration of:
    - disputes between an association and a parcel owner regarding use of or changes to the parcel or the common areas and other covenant enforcement;
    - disputes regarding amendments to the association documents;
    - disputes regarding meetings of the board and committees appointed by the board; disputes regarding membership meetings not including election meetings, and
    - disputes regarding access to the official records of the association.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment**
5 Remove lines 280-502 and insert:
6 (b)1. By January 1, 2025, an association that has 100
7 parcels or more shall post the following documents on its
8 website or make such documents available through an application
9 that can be downloaded on a mobile device:
10 a. The articles of incorporation of the association and
11 each amendment thereto.
12 b. The recorded bylaws of the association and each
13 amendment thereto.
14 c. The declaration of covenants and a copy of each
15 amendment thereto.
16 d. The current rules of the association.

17 e. A list of all current executory contracts or documents
18 to which the association is a party or under which the
19 association or the parcel owners have an obligation or
20 responsibility and, after bidding for the related materials,
21 equipment, or services has closed, a list of bids received by
22 the association within the past year.
23 f. The annual budget required by subsection (6) and any
24 proposed budget to be considered at the annual meeting.
25 g. The financial report required by subsection (7) and any
26 monthly income or expense statement to be considered at a
27 meeting.
28 h. The association's current insurance policies.
29 i. The certification of each director as required by s.
30 720.3033(1)(a).
31 j. All contracts or transactions between the association
32 and any director, officer, corporation, firm, or association
33 that is not an affiliated homeowners' association or any other
34 entity in which a director of an association is also a director
35 or officer and has a financial interest.
36 k. Any contract or document regarding a conflict of
37 interest or possible conflict of interest as provided in ss.
38 468.436(2)(b)6. and 720.3033(2).
39 l. Notice of any scheduled meeting of members and the
40 agenda for the meeting, as required by s. 720.306, no later than
41 14 days before such meeting. The notice must be posted in plain

42 view on the homepage of the website or application, or on a
43 separate subpage of the website or application labeled "Notices"
44 which is conspicuously visible and linked from the homepage. The
45 association must also post on its website or application any
46 document to be considered and voted on by the members during the
47 meeting or any document listed on the meeting agenda at least 7
48 days before the meeting at which such document or information
49 within the document will be considered.
50 m. Notice of any board meeting, the agenda, and any other
51 document required for such meeting as required by subsection
52 (3), which must be posted on the website or application no later
53 than the date required for notice under subsection (3).
54 2. The association's website or application must be
55 accessible through the Internet and must contain a subpage, web
56 portal, or other protected electronic location that is
57 inaccessible to the general public and accessible only to parcel
58 owners and employees of the association.
59 3. Upon written request by a parcel owner, the association
60 must provide the parcel owner with a username and password and
61 access to the protected sections of the association's website or
62 application which contains the official documents of the
63 association.
64 4. The association shall ensure that the information and
65 records described in paragraph (5)(g), which are not allowed to
66 be accessible to parcel owners, are not posted on the

67 association's website or application. If protected information
68 or information restricted from being accessible to parcel owners
69 is included in documents that are required to be posted on the
70 association's website or application, the association must
71 ensure the information is redacted before posting the documents.
72 Notwithstanding the foregoing, the association or its authorized
73 agent is not liable for disclosing information that is protected
74 or restricted under paragraph (5)(g) unless such disclosure was
75 made with a knowing or intentional disregard of the protected or
76 restricted nature of such information.
77 (c) The association shall adopt written rules governing
78 the method or policy by which the official records of the
79 association are to be retained and for how long such records
80 must be retained pursuant to paragraph (a). Such information
81 must be made available to the parcel owners through the
82 association's website or application.
83 (5) INSPECTION AND COPYING OF RECORDS.—
84 (a) Unless otherwise provided by law or the governing
85 documents of the association, the official records must ~~shall~~ be
86 maintained within the state for at least 7 years and ~~shall~~ be
87 made available to a parcel owner for inspection or photocopying
88 within 45 miles of the community or within the county in which
89 the association is located within 10 business days after receipt
90 by the board or its designee of a written request from the
91 parcel owner. This subsection may be complied with by having a

92 copy of the official records available for inspection or copying
93 in the community or~~, at the option of the association,~~ by making
94 the records available to a parcel owner electronically via the
95 Internet or by allowing the records to be viewed in electronic
96 format on a computer screen and printed upon request. If the
97 association has a photocopy machine available where the records
98 are maintained, it must provide parcel owners with copies on
99 request during the inspection if the entire request is limited
100 to no more than 25 pages. An association shall allow a member or
101 his or her authorized representative to use a portable device,
102 including a smartphone, tablet, portable scanner, or any other
103 technology capable of scanning or taking photographs, to make an
104 electronic copy of the official records in lieu of the
105 association's providing the member or his or her authorized
106 representative with a copy of such records. The association may
107 not charge a fee to a member or his or her authorized
108 representative for the use of a portable device.
109 <u>(b)</u>~~(a)~~ The failure of an association to provide access to
110 the records within 10 business days after receipt of a written
111 request submitted by certified mail, return receipt requested,
112 creates a rebuttable presumption that the association willfully
113 failed to comply with this subsection.
114 <u>(c)</u>~~(b)~~ A member who is denied access to official records
115 is entitled to the actual damages or minimum damages for the
116 association's willful failure to comply with this subsection.

117 The minimum damages are to be $50 per calendar day up to 10
118 days, the calculation to begin on the 11th business day after
119 receipt of the written request.
120 (d) Any director or member of the board or association or
121 a community association manager who knowingly, willfully, and
122 repeatedly violates paragraph (a), with the intent of causing
123 harm to the association or one or more of its members, commits a
124 misdemeanor of the second degree, punishable as provided in s.
125 775.082 or s. 775.083. For purposes of this paragraph, the term
126 "repeatedly" means two or more violations within a 12-month
127 period.
128 (e) Any person who knowingly and intentionally defaces or
129 destroys accounting records during the period in which such
130 records are required to be maintained, or who knowingly or
131 intentionally fails to create or maintain accounting records
132 that are required to be created or maintained, with the intent
133 of causing harm to the association or one or more of its
134 members, commits a misdemeanor of the first degree, punishable
135 as provided in s. 775.082 or s. 775.083.
136 (f) Any person who willfully and knowingly refuses to
137 release or otherwise produce association records with the intent
138 to avoid or escape detection, arrest, trial, or punishment for
139 the commission of a crime, or to assist another person with such
140 avoidance or escape, commits a felony of the third degree,
141 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

142 (g)~~(c)~~ The association may adopt reasonable written rules
143 governing the frequency, time, location, notice, records to be
144 inspected, and manner of inspections, but may not require a
145 parcel owner to demonstrate any proper purpose for the
146 inspection, state any reason for the inspection, or limit a
147 parcel owner's right to inspect records to less than one 8-hour
148 business day per month. The association may impose fees to cover
149 the costs of providing copies of the official records, including
150 the costs of copying and the costs required for personnel to
151 retrieve and copy the records if the time spent retrieving and
152 copying the records exceeds one-half hour and if the personnel
153 costs do not exceed $20 per hour. Personnel costs may not be
154 charged for records requests that result in the copying of 25 or
155 fewer pages. The association may charge up to 25 cents per page
156 for copies made on the association's photocopier. If the
157 association does not have a photocopy machine available where
158 the records are kept, or if the records requested to be copied
159 exceed 25 pages in length, the association may have copies made
160 by an outside duplicating service and may charge the actual cost
161 of copying, as supported by the vendor invoice. The association
162 shall maintain an adequate number of copies of the recorded
163 governing documents, to ensure their availability to members and
164 prospective members. Notwithstanding this subsection ~~paragraph~~,
165 the following records are not accessible to members or parcel
166 owners:

167 1. Any record protected by the lawyer-client privilege as
168 described in s. 90.502 and any record protected by the work-
169 product privilege, including, but not limited to, a record
170 prepared by an association attorney or prepared at the
171 attorney's express direction which reflects a mental impression,
172 conclusion, litigation strategy, or legal theory of the attorney
173 or the association and which was prepared exclusively for civil
174 or criminal litigation or for adversarial administrative
175 proceedings or which was prepared in anticipation of such
176 litigation or proceedings until the conclusion of the litigation
177 or proceedings.
178 2. Information obtained by an association in connection
179 with the approval of the lease, sale, or other transfer of a
180 parcel.
181 3. Information an association obtains in a gated community
182 in connection with guests' visits to parcel owners or community
183 residents.
184 4. Personnel records of association or management company
185 employees, including, but not limited to, disciplinary, payroll,
186 health, and insurance records. For purposes of this
187 subparagraph, the term "personnel records" does not include
188 written employment agreements with an association or management
189 company employee or budgetary or financial records that indicate
190 the compensation paid to an association or management company
191 employee.

192 5. Medical records of parcel owners or community
193 residents.
194 6. Social security numbers, driver license numbers, credit
195 card numbers, electronic mailing addresses, telephone numbers,
196 facsimile numbers, emergency contact information, any addresses
197 for a parcel owner other than as provided for association notice
198 requirements, and other personal identifying information of any
199 person, excluding the person's name, parcel designation, mailing
200 address, and property address. Notwithstanding the restrictions
201 in this subparagraph, an association may print and distribute to
202 parcel owners a directory containing the name, parcel address,
203 and all telephone numbers of each parcel owner. However, an
204 owner may exclude his or her telephone numbers from the
205 directory by so requesting in writing to the association. An
206 owner may consent in writing to the disclosure of other contact
207 information described in this subparagraph. The association is
208 not liable for the disclosure of information that is protected
209 under this subparagraph if the information is included in an
210 official record of the association and is voluntarily provided
211 by an owner and not requested by the association.
212 7. Any electronic security measure that is used by the
213 association to safeguard data, including passwords.
214 8. The software and operating system used by the
215 association which allows the manipulation of data, even if the

216 owner owns a copy of the same software used by the association.
217 The data is part of the official records of the association.
218 9. All affirmative acknowledgments made pursuant to s.
219 720.3085(3)(c)3.
220 (h) ~~(d)~~ The association or its authorized agent is not
221 required to provide a prospective purchaser or lienholder with
222 information about the residential subdivision or the association
223 other than information or documents required by this chapter to
224 be made available or disclosed. The association or its
225 authorized agent may charge a reasonable fee to the prospective
226 purchaser or lienholder or the current parcel owner or member
227 for providing good faith responses to requests for information
228 by or on behalf of a prospective purchaser or lienholder, other
229 than that required by law, if the fee does not exceed $150 plus
230 the reasonable cost of photocopying and any attorney fees
231 incurred by the association in connection with the response.
232 (i) If an association receives a subpoena for records from
233 a law enforcement agency, the association must provide a copy of
234 such records or otherwise make the records available for
235 inspection and copying to a law enforcement agency within 5
236 business days after receipt of the subpoena, unless otherwise
237 specified by the law enforcement agency or subpoena. An
238 association must assist a law enforcement agency in its
239 investigation to the extent permissible by law.
240 (6) BUDGETS.—

241 (f) After one or more reserve accounts are established,
242 the membership of the association, upon a majority vote at a
243 meeting at which a quorum is present, may provide for no
244 reserves or less reserves than required by this section. If a
245 meeting of the parcel ~~unit~~ owners has been called to determine
246 whether to waive or reduce the funding of reserves and such
247 result is not achieved or a quorum is not present, the reserves
248 as included in the budget go into effect. After the turnover,
249 the developer may vote its voting interest to waive or reduce
250 the funding of reserves. Any vote taken pursuant to this
251 subsection to waive or reduce reserves is applicable only to one
252 budget year.
253 (7) FINANCIAL REPORTING.—Within 90 days after the end of
254 the fiscal year, or annually on the date provided in the bylaws,
255 the association shall prepare and complete, or contract with a
256 third party for the preparation and completion of, a financial
257 report for the preceding fiscal year. Within 21 days after the
258 final financial report is completed by the association or
259 received from the third party, but not later than 120 days after
260 the end of the fiscal year or other date as provided in the
261 bylaws, the association shall, within the time limits set forth
262 in subsection (5), provide each member with a copy of the annual
263 financial report or a written notice that a copy of the
264 financial report is available upon request at no charge to the
265 member. Financial reports shall be prepared as follows:

266 (a) An association that meets the criteria of this
267 paragraph shall prepare or cause to be prepared a complete set
268 of financial statements in accordance with generally accepted
269 accounting principles as adopted by the Board of Accountancy.
270 The financial statements shall be based upon the association's
271 total annual revenues, as follows:
272 1. An association with total annual revenues of $150,000
273 or more, but less than $300,000, shall prepare compiled
274 financial statements.
275 2. An association with total annual revenues of at least
276 $300,000, but less than $500,000, shall prepare reviewed
277 financial statements.
278 3. An association with total annual revenues of $500,000
279 or more shall prepare audited financial statements.
280 4. An association with 1,000 parcels or more shall prepare
281 audited financial statements, notwithstanding the association's
282 total annual revenues.
283 (d) If approved by a majority of the voting interests
284 present at a properly called meeting of the association, an
285 association may prepare or cause to be prepared:
286 1. A report of cash receipts and expenditures in lieu of a
287 compiled, reviewed, or audited financial statement;
288 2. A report of cash receipts and expenditures or a
289 compiled financial statement in lieu of a reviewed or audited
290 financial statement; or

291 3. A report of cash receipts and expenditures, a compiled
292 financial statement, or a reviewed financial statement in lieu
293 of an audited financial statement.
294
295 An association may not prepare a financial statement pursuant to
296 this paragraph for consecutive fiscal years.
297 (13) DEBIT CARDS.—
298 (a) An association and its officers, directors, employees,
299 and agents may not use a debit card issued in the name of the
300 association, or billed directly to the association, for the
301 payment of any association expenses.
302 (b) A person who uses a debit card issued in the name of
303 the association, or billed directly to the association, for any
304 expense that is not a lawful obligation of the association
305 commits theft as provided under s. 812.014.
306
307 For the purposes of this subsection, the term "lawful obligation
308 of the association" means an obligation that has been properly
309 preapproved by the board and is reflected in the meeting minutes
310 or the written budget.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)

ADOPTED AS AMENDED ___ (Y/N)

ADOPTED W/O OBJECTION ___ (Y/N)

FAILED TO ADOPT ___ (Y/N)

WITHDRAWN ___ (Y/N)

OTHER ______

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment**
5 Remove lines 516-595 and insert:
6 Section 4. Subsections (1) and (3) and paragraph (a) of
7 subsection (4) of section 720.3033, Florida Statutes, are
8 amended to read:
9 720.3033 Officers and directors.—
10 (1)(a) Within 90 days after being elected or appointed to
11 the board, each ~~director shall certify in writing to the~~
12 ~~secretary of the association that he or she has read the~~
13 ~~association's declaration of covenants, articles of~~
14 ~~incorporation, bylaws, and current written rules and policies;~~
15 ~~that he or she will work to uphold such documents and policies~~
16 ~~to the best of his or her ability; and that he or she will~~

17 ~~faithfully discharge his or her fiduciary responsibility to the~~
18 ~~association's members. Within 90 days after being elected or~~
19 ~~appointed to the board, in lieu of such written certification,~~
20 ~~the newly elected or appointed~~ director must ~~may~~ submit a
21 certificate of having satisfactorily completed the educational
22 curriculum administered by a department-approved ~~division-~~
23 ~~approved~~ education provider.
24 1. The newly elected or appointed director must complete
25 the department-approved education for newly elected or appointed
26 directors within 90 days after being elected or appointed.
27 2. The certificate of completion is valid for a maximum of
28 4 years.
29 3. At least every 4 years, a director must complete the
30 education specific to newly elected or appointed directors.
31 4. The department-approved educational curriculum specific
32 to newly elected or appointed directors must include training
33 relating to financial literacy and transparency, recordkeeping,
34 levying of fines, and notice and meeting requirements.
35 5. In addition to the educational curriculum specific to
36 newly elected or appointed directors:
37 a. A director of an association that has fewer than 2,500
38 parcels must complete at least 4 hours of continuing education
39 annually.
40 b. A director of an association that has 2,500 parcels or
41 more must complete at least 8 hours of continuing education

42 annually ~~within 1 year before or 90 days after the date of~~
43 ~~election or appointment~~.
44 (b) ~~The written certification or educational certificate~~
45 ~~is valid for the uninterrupted tenure of the director on the~~
46 ~~board.~~ A director who does not timely file the ~~written~~
47 ~~certification or~~ educational certificate is ~~shall be~~ suspended
48 from the board until he or she complies with the requirement.
49 The board may temporarily fill the vacancy during the period of
50 suspension.
51 (c) The association shall retain each director's ~~written~~
52 ~~certification or~~ educational certificate for inspection by the
53 members for 5 years after the director's election. However, the
54 failure to have the written certification or educational
55 certificate on file does not affect the validity of any board
56 action.
57 (d) The department shall adopt rules to implement and
58 administer the educational curriculum and continuing education
59 requirements under this subsection.
60 (3) An officer, a director, or a manager may not solicit,
61 offer to accept, or accept a kickback. As used in this
62 subsection, the term "kickback" means any thing or service of
63 value for which consideration has not been provided for an
64 officer's, a director's, or a manager's ~~his or her~~ benefit or
65 for the benefit of a member of his or her immediate family from
66 any person providing or proposing to provide goods or services

67 to the association. An officer, a director, or a manager who
68 knowingly solicits, offers to accept, or accepts a ~~any thing or~~
69 ~~service of value or~~ kickback commits a felony of the third
70 degree, punishable as provided in s. 775.082, s. 775.083, or s.
71 775.084, and ~~for which consideration has not been provided for~~
72 ~~his or her own benefit or that of his or her immediate family~~
73 ~~from any person providing or proposing to provide goods or~~
74 ~~services to the association~~ is subject to monetary damages under
75 s. 617.0834. If the board finds that an officer or a director
76 has violated this subsection, the board shall immediately remove
77 the officer or director from office. The vacancy shall be filled
78 according to law until the end of the officer's or director's
79 term of office. However, an officer, a director, or a manager
80 may accept food to be consumed at a business meeting with a
81 value of less than $25 per individual or a service or good
82 received in connection with trade fairs or education programs.
83 (4)(a) A director or an officer charged by information or
84 indictment with any of the following crimes must be removed from
85 office and a vacancy declared:
86 1. Forgery of a ballot envelope or voting certificate used
87 in a homeowners' association election as provided in s. 831.01.
88 2. Theft or embezzlement involving the association's funds
89 or property as provided in s. 812.014.
90 3. Destruction of or the refusal to allow inspection or
91 copying of an official record of a homeowners' association which

92 is accessible to parcel owners within the time periods required
93 by general law, in furtherance of any crime. Such act
94 constitutes tampering with physical evidence as provided in s.
95 918.13.
96 4. Obstruction of justice as provided in chapter 843.
97 5. Any criminal violation under this chapter.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	______	

Committee/Subcommittee hearing bill: Commerce Committee
Representative Esposito offered the following:

Amendment (with title amendment)

Between lines 1111 and 1112, insert:

Section 11. Section 720.317, Florida Statutes, is amended to read:

720.317 Electronic voting.—

(1) The association may conduct elections and other membership votes through an Internet-based online voting system if a member consents, electronically or in writing, to online voting and if the following requirements are met:

(a) ~~(1)~~ The association provides each member with:

1. ~~(a)~~ A method to authenticate the member's identity to the online voting system.

16 2.~~(b)~~ A method to confirm, at least 14 days before the
17 voting deadline, that the member's electronic device can
18 successfully communicate with the online voting system.
19 3.~~(c)~~ A method that is consistent with the election and
20 voting procedures in the association's bylaws.
21 (b)~~(2)~~ The association uses an online voting system that
22 is:
23 1.~~(a)~~ Able to authenticate the member's identity.
24 2.~~(b)~~ Able to authenticate the validity of each electronic
25 vote to ensure that the vote is not altered in transit.
26 3.~~(c)~~ Able to transmit a receipt from the online voting
27 system to each member who casts an electronic vote.
28 4.~~(d)~~ Able to permanently separate any authentication or
29 identifying information from the electronic election ballot,
30 rendering it impossible to tie an election ballot to a specific
31 member. This paragraph only applies if the association's bylaws
32 provide for secret ballots for the election of directors.
33 5.~~(e)~~ Able to store and keep electronic ballots accessible
34 to election officials for recount, inspection, and review
35 purposes.
36 (2)~~(3)~~ A member voting electronically pursuant to this
37 section shall be counted as being in attendance at the meeting
38 for purposes of determining a quorum.
39 (3)~~(4)~~ This section applies to an association that
40 provides for and authorizes an online voting system pursuant to

41 this section by a board resolution. The board resolution must
42 provide that members receive notice of the opportunity to vote
43 through an online voting system, must establish reasonable
44 procedures and deadlines for members to consent, electronically
45 or in writing, to online voting, and must establish reasonable
46 procedures and deadlines for members to opt out of online voting
47 after giving consent. Written notice of a meeting at which the
48 board resolution regarding online voting will be considered must
49 be mailed, delivered, or electronically transmitted to the unit
50 owners and posted conspicuously on the condominium property or
51 association property at least 14 days before the meeting.
52 Evidence of compliance with the 14-day notice requirement must
53 be made by an affidavit executed by the person providing the
54 notice and filed with the official records of the association.
55 (4)~~(5)~~ A member's consent to online voting is valid until
56 the member opts out of online voting pursuant to the procedures
57 established by the board of administration pursuant to
58 subsection (3) ~~(4)~~.
59 (5)~~(6)~~ This section may apply to any matter that requires
60 a vote of the members.
61
62 ---
63 **T I T L E A M E N D M E N T**
64 Remove lines 106-109 and insert:

65 or certified judgments; amending s. 720.317, F.S.; providing
66 that a homeowner may consent to online voting electronically, as
67 well as in writing, and that association boards must establish
68 reasonable procedures for giving such consent; amending s.
69 720.318, F.S.; authorizing a law enforcement officer to park his
70 or her assigned law enforcement vehicle on public roads and
71 rights-of-way; providing an effective date.

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment**
5 Remove lines 922-927 and insert:
6 or require mandatory watering for property owners. However, the
7 association documents may provide designated timeframes for the
8 parcel owners to follow related to the use of water for purposes
9 of watering landscaping if the parcel owners choose to water.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	___	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment**
5 Remove lines 968-973 and insert:
6 (7) LIENS.—An assessment that amounts to less than 1
7 percent of the parcel's just value as determined by the Property
8 Appraiser in accordance with ch. 193 at the time of the
9 assessment may not become a lien against the parcel or the basis
10 of a claim of lien against a parcel without the approval of a
11 majority of voting members at a member meeting.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment**
5 Remove lines 503-511 and insert:
6 (13) REQUIREMENT TO PROVIDE AN ACCOUNTING.—A parcel owner
7 may make a written request to the board for a detailed
8 accounting of any amounts owed to the association related to the
9 parcel and the board shall provide such information within 10
10 business days after receipt of the written request. The parcel
11 owner may provide to the board a written authorization for any
12 occupant, licensee, or invitee of the parcel owner to make a
13 written request to the board for a detailed accounting of any
14 amounts owed to the association related to the parcel. The board
15 shall provide such information to the occupant, licensee, or
16 invitee of such parcel, and provide a copy to the parcel owner,

17 within 10 business days after the receipt of the written
18 request. After the parcel owner, or an occupant, licensee, or
19 invitee makes such written request to the board, another
20 detailed accounting may not be requested for at least 90
21 calendar days. Failure by

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	___	

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Esposito offered the following:
3
4 **Amendment**
5 Remove lines 940-949 and insert:
6 (b) Notwithstanding more restrictive limitations placed on
7 the board by the governing documents and paragraph (c), the
8 board may not impose a regular assessment, excluding an
9 assessment for the association’s insurance policy premium, that
10 is more than 10 percent greater than the regular assessment for
11 the association's preceding fiscal year or impose special
12 assessments that in the aggregate exceed 5 percent of the
13 budgeted gross expenses of the association for that fiscal year
14 without the approval of 60 percent of voting members at a member
15 meeting.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	______	

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Daniels offered the following:
3
4 **Amendment**
5 Remove lines 1080-1085 and insert:
6 (3) Assessments and installments on assessments that are
7 not paid when due bear interest from the due date until paid at
8 the rate provided in the declaration of covenants or the bylaws
9 of the association, which rate may not exceed the rate allowed
10 by law. If no rate is provided in the declaration or bylaws,
11 simple interest accrues at the rate of 18 percent per year.
12 Regardless of the declaration or bylaws, the assessments and
13 installments on assessments that are not paid when due may not
14 accrue compound interest.
15

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER ______

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1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Daniels offered the following:
3
4 **Amendment**
5 Between lines 1111 and 1112, insert:
6 Section 11. Section 720.311, Florida Statutes, is amended
7 to read:
8 720.311 Dispute resolution.—
9 (1) The Legislature finds that alternative dispute
10 resolution has made progress in reducing court dockets and
11 trials and in offering a more efficient, cost-effective option
12 to litigation. The filing of any petition for arbitration or the
13 serving of a demand for presuit mediation as provided for in
14 this section shall toll the applicable statute of limitations.
15 Any recall dispute filed with the department under s.
16 720.303(10) shall be conducted by the department in accordance

17 with the provisions of ss. 718.112(2)(l) and 718.1255 and the
18 rules adopted by the division. In addition, the department shall
19 conduct binding arbitration of election disputes; disputes
20 between an association and a parcel owner regarding use of or
21 changes to the parcel or the common areas and other covenant
22 enforcement; disputes regarding amendments to the association
23 documents; disputes regarding meetings of the board and
24 committees appointed by the board; disputes regarding membership
25 meetings not including election meetings, and disputes regarding
26 access to the official records of the association between a
27 member and an association in accordance with s. 718.1255 and
28 rules adopted by the division. Election disputes and recall
29 disputes are not eligible for presuit mediation; these disputes
30 must be arbitrated by the department or filed in a court of
31 competent jurisdiction. At the conclusion of an arbitration
32 proceeding, the department shall charge the parties a fee in an
33 amount adequate to cover all costs and expenses incurred by the
34 department in conducting the proceeding. Initially, the
35 petitioner shall remit a filing fee of at least $200 to the
36 department. The fees paid to the department shall become a
37 recoverable cost in the arbitration proceeding, and the
38 prevailing party in an arbitration proceeding shall recover its
39 reasonable costs and attorney fees in an amount found reasonable
40 by the arbitrator. The department shall adopt rules to
41 effectuate the purposes of this section.

PCS for CS/HB 1273

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 1273 Reciprocity or Endorsement of Licensure
SPONSOR(S): Commerce Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

An occupational or professional license is a form of government regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain governmental authorization to work in a specific field. The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals, and the Department of Health (DOH) regulates health practitioners.

For DBPR, the bill:

- Allows an applicant to request that a finding by a licensing board that the license in another jurisdiction is insufficient for a Florida license be submitted to the secretary for review, who may issue the license in certain circumstances.
- Provides that when license endorsement based on years of licensure is not otherwise provided in the practice act for a profession, the board, or the DBPR if there is no board, must allow licensure by endorsement for any applicant who:
  - Has held a license to practice the profession in another state or territory of the United States for at least 5 years before application and is applying for the same or similar license in Florida;
  - Submits an application either when the license in another state or territory is active or within 2 years after such license was last active;
  - Has passed the recognized national licensing exam, if required;
  - Has no pending disciplinary actions;
  - Shows proof of compliance with any required federal regulation, training, or certification;
  - Completes any Florida-specific education courses or test if required by the practice act; and
  - Complies with any insurance or bonding requirements as required for the profession.

For DOH, the bill:

- Repeals existing licensure by endorsement statutes and establishes a single standardized process for licensure by endorsement for all health care professions regulated by DOH.
- Requires applicants seeking licensure by endorsement to submit an application and meet the following requirements:
  - Hold an active, unencumbered license with a similar scope of practice in a US jurisdiction;
  - Have passed any required national licensure examination or Florida-specific test;
  - Have actively practiced the profession for two of the last four years;
  - Make an attestation related to licensure discipline;
  - Meet certain financial responsibility requirements; and
  - Submit a set of fingerprints for a background screening, if required.

The bill will have a significant negative fiscal impact on state government and no impact on local governments. *See* Fiscal Comments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation – Department of Business and Professional Regulation

Occupational Licensing

An occupational or professional license is a form of government regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain governmental authorization to work in a specific field.[1]

An estimated 23.5 percent of the civilian labor force nationwide has an occupational license.[2] Various governmental entities and agencies in Florida license and regulate such individuals practicing in a wide range of professions.[3]

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR), through 11 divisions, regulates and licenses businesses and professionals in Florida.[4]

The Division of Professions (Professions) licenses and regulates more than 434,000 professionals through the following professional boards and programs:

- Board of Architecture and Interior Design,
- Asbestos Licensing Unit,
- Athlete Agents,
- Board of Auctioneers,
- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Regulatory Council of Community Association Managers,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Home Inspectors,
- Board of Landscape Architecture,
- Mold-Related Services,
- Board of Pilot Commissioners,
- Board of Professional Geologists,
- Talent Agencies,
- Board of Veterinary Medicine, and
- Florida Board of Professional Engineers.[5]

The Division of Regulation is the enforcement authority for the Florida Athletic Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.[6]

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[1] The White House, *Occupational Licensing: A Framework for Policymakers*, 6 (July 2015) https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf (last visited on Jan. 20, 2024).

[2] Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, 2021*, Certification and licensing status of the civilian noninstitutional population 16 years and over by employment status (bls.gov), (last visited on Jan. 20, 2024).

[3] Chs. 20, 25, F.S.

[4] S. 20.165, F.S.

[5] Florida Department of Business and Professional Regulation, *Division of Professions*, http://www.myfloridalicense.com/DBPR/division-of-professions/ (last visited Jan. 21, 2024).

[6] Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers.

To ensure compliance with applicable laws and rules by those professions and related businesses, the division investigates complaints, utilizes compliance mechanisms, and performs inspections.[7]

The Division of Certified Public Accounting is responsible for the regulation of certified public accountants and accounting firms in the state.[8]

The Division of Real Estate is responsible for the regulation of real estate sales associates, brokers, and appraisers, in conjunction with the Florida Real Estate Commission and the Florida Real Estate Appraisal Board.[9]

DBPR may regulate professions "only for the preservation of the health, safety, and welfare of the public under the police powers of the state."[10] Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.[11]

However, "neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention," or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.[12]

In Fiscal Year 2022-2023, there were 950,380 active licensees regulated by the DBPR or a board within the department, including 39,336 active licensees in the Division of Certified Public Accounting, 486,336 active licensees in the Division of Professions, and 67,827 active licensees under the Board of Professional Engineers.[13]

Chapter 455

Each profession is governed by an individual practice act and by Ch. 455, F.S., which provides the general powers of DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under DBPR.[14] Chapter 455, F.S., applies to the regulation of professions constituting "any activity, occupation, profession, or vocation regulated by DBPR in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation."[15]

License Portability

For professional licenses granted by DBPR, a license by endorsement means a license that may be granted to an applicant based on their license and qualifications in another jurisdiction.

Certain DBPR professional practice acts allow the applicable board to enter into reciprocal licensing agreements with other states under certain circumstances.[16] DBPR or a board thereunder must enter

[7] Florida Department of Business and Professional Regulation, *Division of Regulation*, http://www.myfloridalicense.com/DBPR/division-of-regulation/ (last visited Jan. 21, 2024).
[8] S. 473.3035, F.S.; Florida Department of Business and Professional Regulation, *Certified Public Accounting*, Certified Public Accounting – MyFloridaLicense.com (last visited Jan. 21, 2024).
[9] S. 475.021, F.S.
[10] S. 455.201(2), F.S.
[11] S. 455.201(2), F.S.
[12] S. 455.201(4)(b), F.S.
[13] *See* Department of Business and Professional Regulation, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, *Annual Report, Fiscal Year 2022-2023*, p. 18, available at http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2022-23.pdf (last visited Jan. 21, 2024).
[14] S. 455.203, F.S.
[15] S. 455.01(6), F.S.
[16] *See* Ss. 475.180 and 489.115(1)(c), F.S.

into a reciprocal licensing agreement with other states if the applicable practice act permits such agreement.[17]

If a reciprocal licensing agreement exists, or if DBPR or a board has determined another state's licensing requirements or examinations to be substantially equivalent or more stringent to those under the practice act, DBPR or the board must post on its website which jurisdictions have such reciprocal licensing agreements or substantially similar licenses for a license by endorsement.[18]

In 2023, 9,706 applications for a license by endorsement were approved, and 12 were denied. In 2022, 11,429 applications for a license by endorsement were approved, and 91 were denied. In 2021, 11,743 applications for a license by endorsement were approved, and 172 were denied.[19]

In 2020, an omnibus license deregulation bill[20] was enacted, which instituted greater license portability measures for the following DBPR licenses:

- Veterinarians,
- Construction contractors,
- Electrical contractors,
- Landscape architects,
- Geologists,
- Professional engineers,
- Certified public accountants,
- Home inspectors,
- Building code professionals,
- Cosmetologists, and
- Barbers.

Harbor Pilots

Chapter 310, F.S., regulates the piloting of vessels utilizing the navigable waters of Florida in order that such resources, the environment, life, and property may be protected to the fullest extent possible.[21] The Board of Pilot Commissioners is responsible for licensing and regulating pilots and determines the number of pilots in a port based on the supply and demand for piloting services and the public interest in maintaining efficient and safe piloting services.[22]

Administrative Procedure Act

Chapter 120, F.S., the Administrative Procedure Act, provides uniform procedures for state agencies, including DBPR, including the conduct of rulemaking, implementing disciplinary actions, and the granting and denial of license applications. Section 120.60, F.S., provides the process for the granting or denial of license applications upon receipt of a license application.

Related to determining if an application is complete:

- An agency must examine the application and, within 30 days after such receipt, notify the applicant of any apparent errors or omissions and request any additional information the agency is permitted by law to require.
- An agency may not deny a license because of an applicant's failure to correct an error or omission or to supply additional information unless the agency has timely notified the applicant within this 30-day period.

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[17] S. 455.213, F.S.
[18] *Id*.
[19] Email from Chris Kingry, Deputy Legislative Affairs Director, DBPR, RE: Out-of-state applicants (Jan. 11, 2024).
[20] Ch. 2020-125, L.O.F.
[21] S. 310.001, F.S.
[22] S. 310.061, F.S.

- A license application is complete upon receipt by the agency of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired.

Related to approving or denying an application:
- An agency must approve or deny a license application within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law.
  - The 90-day time period is tolled by the initiation of a proceeding under ss. 120.569 and 120.57, F.S.[23]
- Any application for a license is considered approved unless the agency approves or denies the license within whichever of the following timeframes is latest and applicable:
  - Within 90 day after receipt of a completed application,
  - Within 15 days after conclusion of a public hearing held on the application, or
  - Within 45 days after a recommended order is submitted to the agency and the parties.

An agency is required to give a written notice, personally or by mail, that the agency intends to grant or deny, or has granted or denied, the application for license.

The agency must follow the following process for issuing a notice of denial:[24]
- The notice must state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act.
- Unless waived by the applicant, a copy of the notice must be delivered or mailed to each party's attorney of record and to each person who has made a written request for notice of agency action.
- Each notice must inform the recipient of the basis for the agency decision, and inform the recipient of any administrative or judicial which may be available.
  - The notice must indicate the procedures that must be followed, and state the applicable time limits.
- The issuing agency must certify the date the notice was mailed or delivered, and the notice and the certification must be filed with the agency clerk.

Effect of the Bill – Department of Business and Professional Regulation

The bill amends Ch. 455, F.S., and therefore applies to licenses under the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

Secretary Review

The bill requires that, before the board, or DBPR if there is no board, may deny an application for licensure by reciprocity or by endorsement, the board, or DBPR is there is no board, to make a finding that the basis license in another jurisdiction is or is not substantially equivalent to or is otherwise insufficient for a license in Florida.

The bill provides that if the board, or DBPR is there is no board, finds that that the basis license in another jurisdiction is not substantially equivalent to or is otherwise insufficient for a license in Florida and there are no other grounds to deny the application for licensure, within 7 business days of being notified of such finding the applicant may request that the finding be submitted to the secretary for review. Within 7 business days of receiving such request, the secretary must review the finding, and either agree or disagree with the finding. If the secretary agrees with the finding, the application for licensure may be denied. If the secretary disagrees with the finding, the application for licensure must

[23] S. 120.569 F.S., provides the administrative process for all proceedings in which the substantial interests of a party are determined by an agency, unless the parties are proceeding under the mediation process in s. 120.573, F.S., or the summary hearing process in s. 120.574, F.S. Section 120.57, F.S., provides additional procedures for matters involving disputed issues of material fact before an administrative law judge assigned by the Division of Administrative Hearings.

[24] S. 120.60(3), F.S.

be approved unless other grounds for denial exist. The decision must be entered according to the secretary's finding, unless other grounds for denial exist.

The bill requires, if the secretary finds that the requirements of a basis license in another jurisdiction are substantially equivalent to or are otherwise sufficient for a license in Florida, the board, or DBPR if there is no board, to make the same finding for similar applicants from the same jurisdiction, unless the requirements of the basis license change.

The bill provides that the term "basis license" means the license or the licensure requirements of another jurisdiction which are used to meet the requirements for a license in Florida.

License by Endorsement

The bill provides that when endorsement based on years of licensure is not otherwise provided in the practice act for a profession, the board, or the DBPR if there is no board, must allow licensure by endorsement for any individual applying who:

- Has held a valid, current license to practice the profession issued by another state or territory of the United States for at least 5 years before the date of application and is applying for the same or similar license in Florida;
- Submits an application either when the license in another state or territory is active or within 2 years after such license was last active;
- Has passed the recognized national licensing exam, if such exam is established as a requirement for licensure in the profession;
- Has no pending disciplinary actions and all sanctions of any prior disciplinary actions have been satisfied;
- Shows proof of compliance with any federal regulation, training, or certification, if the applicant's profession requires such proof, regarding licensure in the profession;
- Completes Florida-specific continuing education courses or passes a jurisprudential examination specific to the state laws and rules for the applicable profession as established by the board or DBPR, if required by the practice act; and
- Complies with any insurance or bonding requirements as required for the profession.

The bill provides that if the applicant's profession requires, the applicant must submit a complete set of fingerprints to the Department of Law Enforcement (DLE) for a statewide criminal history check. The DLE must forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The DBPR must, and the board may, review the results of the criminal history checks according to the level 2 screening standards in s. 435.04 and determine whether the applicant meets the licensure requirements. The costs of fingerprint processing are borne by the applicant. If the applicant's fingerprints are submitted through an authorized agency or vendor, the agency or vendor must collect the required processing fees and remit the fees to DLE.

This provision does not apply to harbor pilots licensed under Ch. 310, F.S.

Current Situation – Department of Health

The term “health care workforce” means a health care professional working in health service settings. Physicians and nurses make up the largest segments of the health care workforce.[25] The United States has a health care professional shortage. As of December 3, 2023, there are 8,544 Primary Care HPSAs, 7,651 Dental HPSAs, and 6,822 Mental Health HPSAs nationwide. To eliminate the shortages, an additional 17,637 primary care practitioners, 13,354 dentists, and 8,504 psychiatrists are needed, respectively.[26]

[25] Spencer, Ph.D., M.PH., Emma, Division Director, Division of Public Health Statistics and Performance Management, The Department of Health, *Florida’s Physician and Nursing Workforce,* presented in Florida Senate Health Policy Committee meeting Nov. 14, 2023, published Nov. 15, 2023, (on file with the Select Committee on Health Innovation).
[26] U.S. Department of Health and Human Services, Health Resources and Services Administration, *Health Workforce Shortage Areas*, available at https://data.hrsa.gov/topics/health-workforce/shortage-areas (last visited January 8, 2024).

This shortage is predicted to continue into the foreseeable future and will likely worsen with the aging and the growth of the U.S. population[27] and the expanded access to health care under the federal Affordable Care Act.[28] Aging populations create a disproportionately higher health care demand due to seniors having a higher per capita consumption of health care services than younger populations.[29] Additionally, as more individuals qualify for health care benefits, there will necessarily be a greater demand for more health care professionals to provide these services.

Health Care Shortage Designations

The federal Health Resources and Services Administration (HRSA) designates health care shortage areas in the United States. The two main types of health care shortage areas designated by the HRSA are Health Professional Shortage Areas (HPSA) and Medically Underserved Areas (MUA).

Health Care Professional Shortage Areas

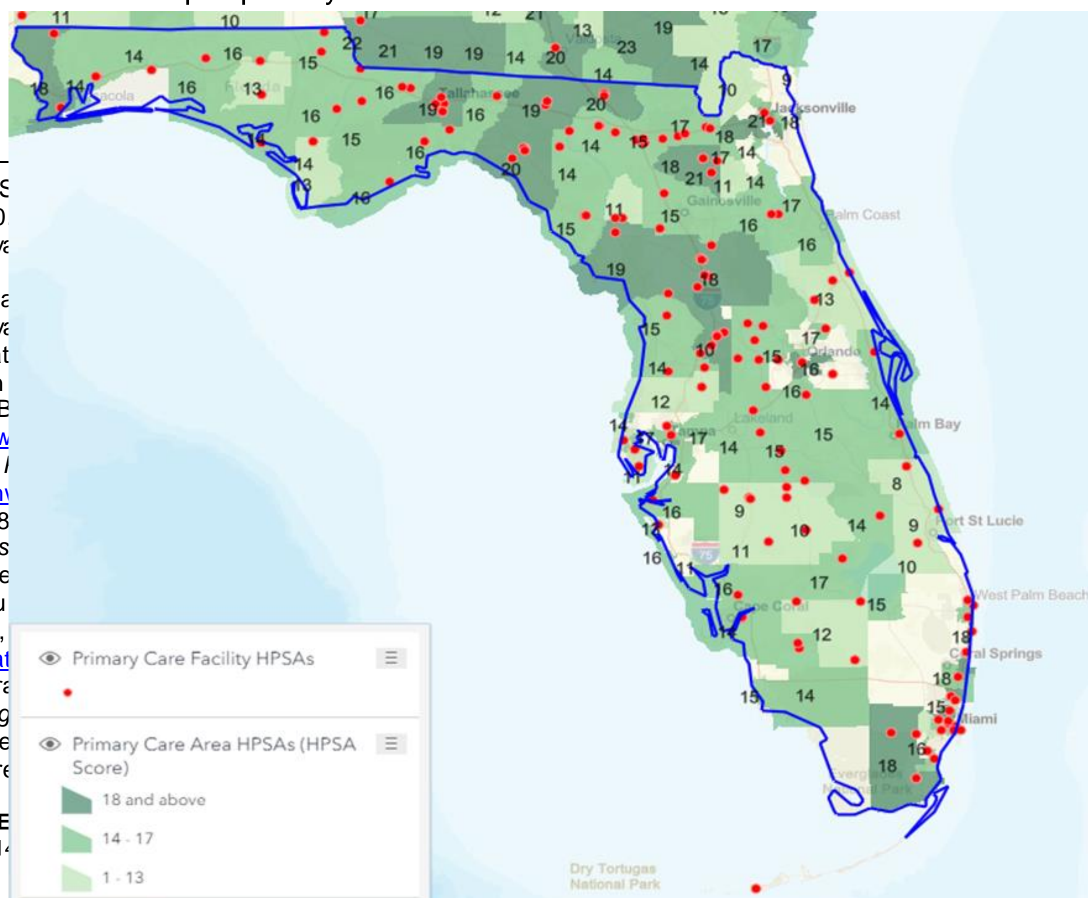
A HPSA is a geographic area, population group, or health care facility that has been designated by the HRSA as having a shortage of health professionals. There are three categories of HPSA: primary care, dental health, and mental health.[30]

HPSAs can be designated as geographic areas; areas with a specific group of people such as low-income populations, homeless populations, and migrant farmworker populations; or as a specific facility that serves a population or geographic area with a shortage of providers.[31] As of September 30, 2023, there are 304 primary care HPSAs, 266 dental HPSAs, and 228 mental health HPSAs designated within the state. It would take 1,803 primary care physicians, 1,317 dentists, and 587 psychiatrists to eliminate these shortage areas.[32]

Each HPSA is given a score by the HRSA indicating the severity of the shortage in that area, population, or facility. The scores for primary care and mental health HPSAs can be between 0 and 25 and between 0 and 26 for dental health HPSAs, with a higher score indicating a more severe shortage.[33]

Primary Care HPSAs

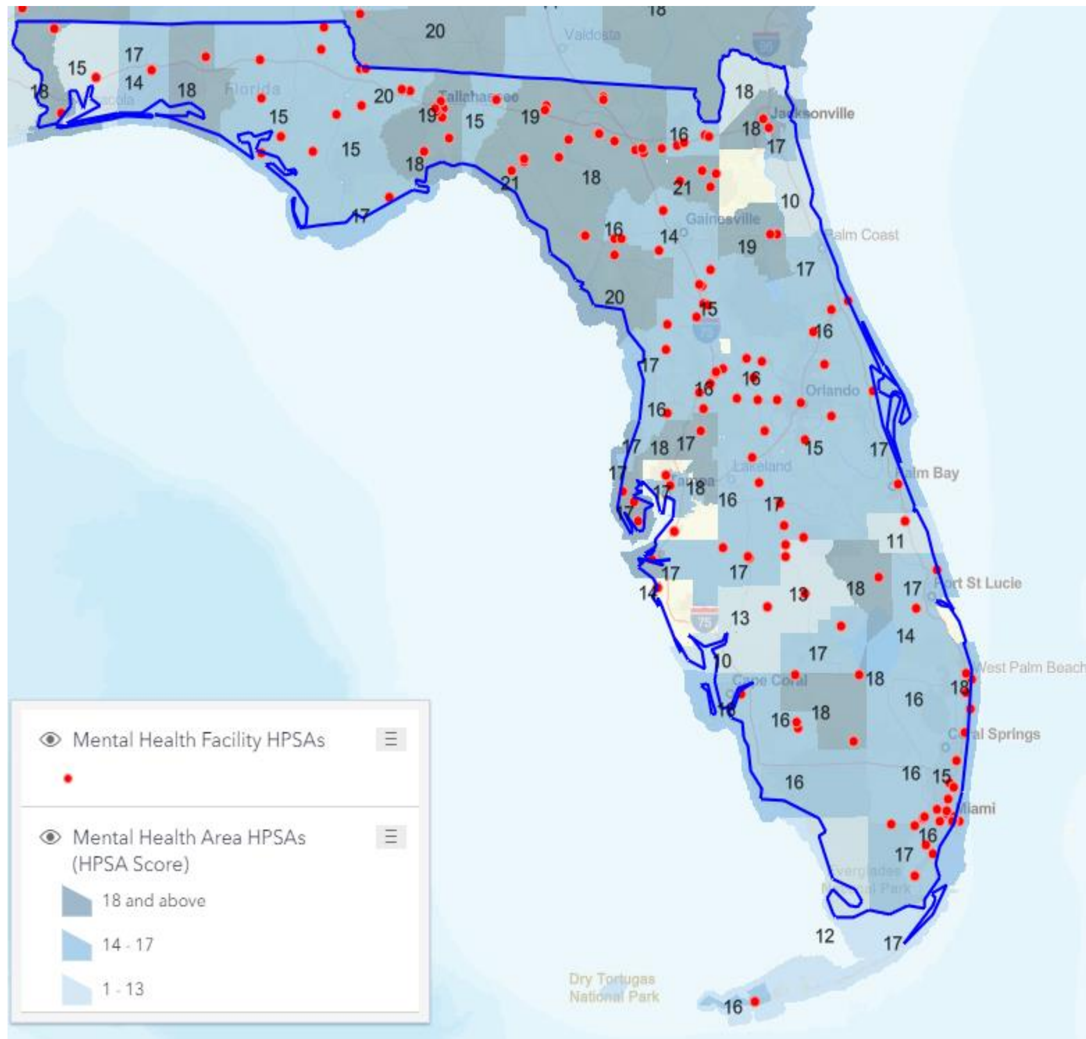
Below is a map of primary care HPSAs in Florida with their associated HPSA scores.[34]



[27] The U.S ... ach year between 2017 and 2060 ... 2060 (February 2020), ava... ast visited January 8, 2024).
[28] Associa... m 2019 to 2034, (June 2021), ava...
[29] The nat... 2016 to 95 million people in ... v/popclock/, and U.S. Census B... e at https://ww... ary 8, 2024).
[30] *Health I*... https://bhw... ites.pdf, (last visited January 8...
[31] *What is*... -designation#hpsas, (last visite...
[32] Bureau ... th and Human Services, ... 0, 2023), available at https://dat... sited January 8, 2024). To genera...
[33] *Scoring* ... esignation/scoring, (last visite...
[34] The thre... visited January 8, 2024).

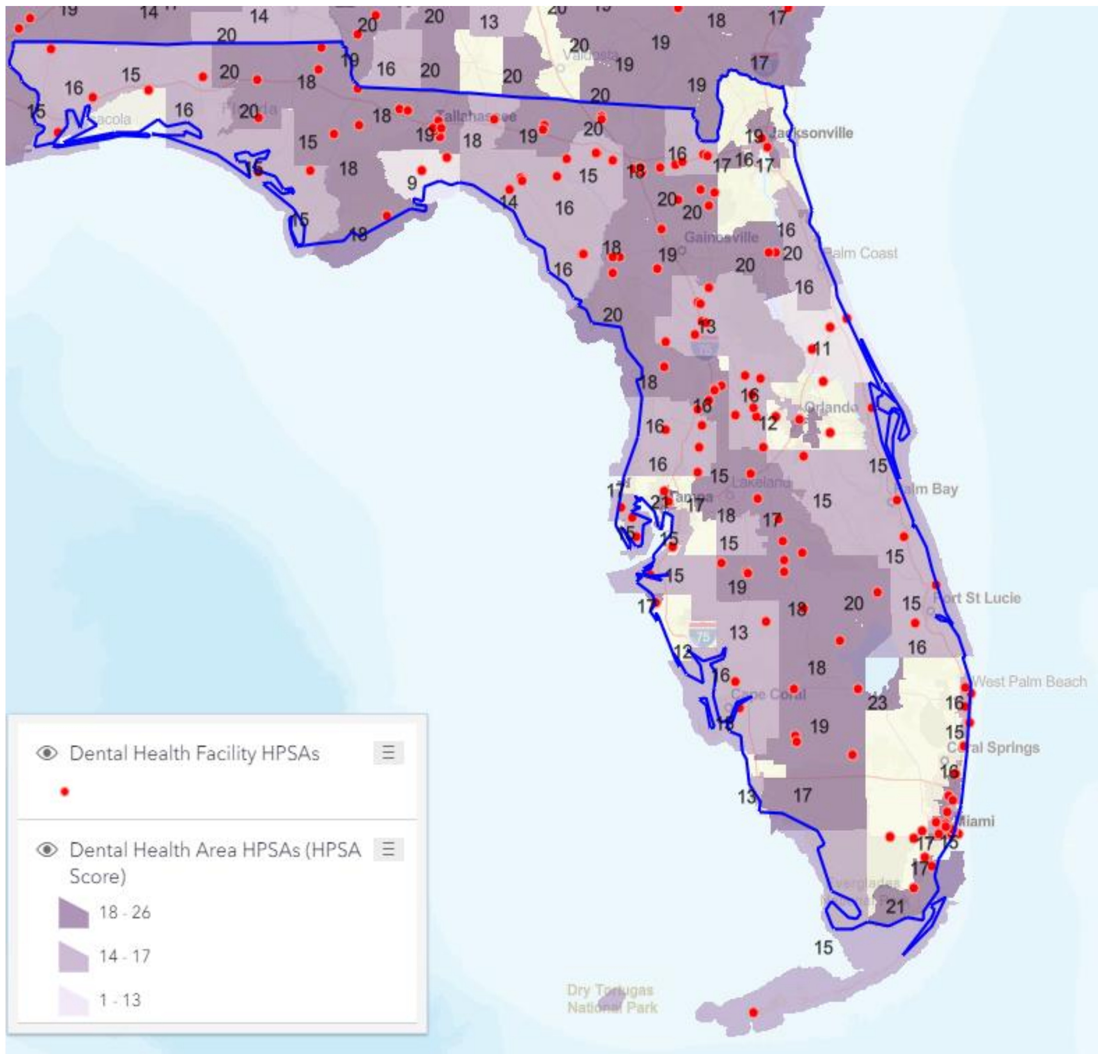
Mental Health HPSAs

Below is a map of mental health HPSAs in Florida with their associated HPSA scores.



Dental HPSAs

Below is a map of dental health HPSAs in Florida with their associated HPSA scores.

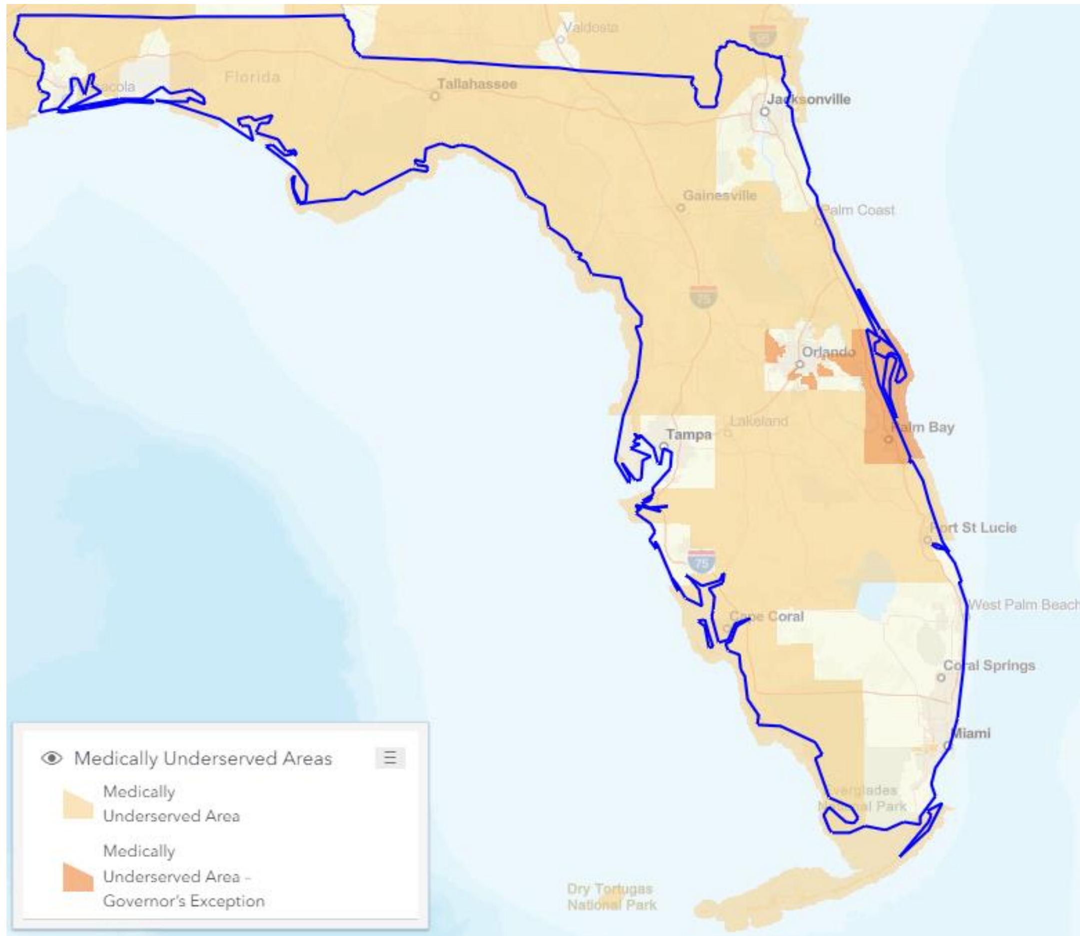

Dental Health Facility HPSAs
Dental Health Area HPSAs (HPSA Score)
18 - 26
14 - 17
1 - 13
Jacksonville
Gainesville
Palm Coast
Orlando
Palm Bay
Port St Lucie
West Palm Beach
Coral Springs
Miami
Cape Coral
Dry Tortugas National Park

Medically Underserved Areas

MUAs identify an area with a lack of primary care access. MUAs have a shortage of primary care health services within geographic areas such as:

- A whole county
- A group of neighboring counties
- A group of urban census tracts
- A group of county or civil divisions.[35]

Below is a map of the MUAs in Florida.



[35] *Health Professional Shortage Areas (HPSAs) and Your Site,* National Health Service Corps, available at https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/workforce-shortage-areas/nhsc-hpsas-practice-sites.pdf, (last visited January 8, 2024).

The Florida Physician Workforce

In 2020, there were 286.5 physicians actively practicing per 100,000 population in the United States.[36] There were 94,925 total allopathic and osteopathic physicians with an active license in Florida.[37] Of these active physicians, 79,045 or 83.27 percent renewed their medical licenses from July 1, 2021–June 30, 2023, and responded to the statutorily required workforce survey. The DOH used that survey in preparation of the 2023 Physician Workforce Annual Report, which made the following findings regarding the adequacy of Florida's physician work force providing direct patient care to Floridians:

- Of these physicians, there were 56,769 or 72 percent provide direct patient care. Those who renewed during this survey cycle and responded to the survey, were 87.97 percent allopathic physicians and 12.03 percent osteopathic physicians;
- Statewide, 35.82 percent of Florida's 67 counties have a per capita rate of 10 or fewer physicians per 10,000 population;
- The physician work force survey showed that 98.11 percent of physicians work in urban counties while 1.89 percent work in Florida's 31 rural counties. In all of the rural counties, at least 20 percent of physicians are primary care providers;
- Among physicians, 34.17 percent or 19,396 are age 60 and older;
- For physicians under age 40, the percentage of female physicians is 46.21 percent;

The top three specialty groups for physicians providing direct patient care in Florida are:

- Internal medicine (28.11 percent or 15,724);
- Family medicine (14.64 percent or 8,191); and
- Pediatrics (7.89 percent or 4,413);
- Primary care physicians account for 31.63 percent of physicians providing direct patient care;
- 77.45 percent or 40,132 of physicians practice in an office setting and 20.17 percent or 10,451 practice in a hospital;
- 75.28 percent of physicians report they accept patients with Medicare;
- 64.13 percent of physicians report they accept patients with Medicaid;
- A total of 9.56 percent or 5,429 of physicians providing direct patient care plan to retire in the next five years; and
- Just over 2 percent or 1,181 of physicians practice in Florida's rural counties.[38]

IHS Markit Report – Physician Supply and Demand Deficit

In 2021, HIS Markit prepared a report for the Safety Net Hospital Alliance of Florida and the Florida Hospital Association that examined Florida's statewide and regional physician workforce with projections on workforce changes out to 2035.[39] Between 2019 and 2035, the report estimates that while physician supply will increase by six percent overall and by three percent to four percent for primary care, the demand for physician services in Florida will grow by 27 percent.[40] While there is already supply and demand deficits for physician services (estimated by 2019 numbers to be at 1,977 for primary care and 1,650 for non-primary care), the significant growth in the demand for physician services that may outpace the growth in the physician workforce over the next decade is estimated to create a shortfall of 7,872 in primary care physicians by 2035 and an overall decline in the adequacy for all non-primary care specialties from 95 percent in 2019 to 77 percent in 2035.[41]

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[36] Association of American Medical Colleges, *The Complexities of Physician Supply and Demand: Projections from 2019 to 2034,* (June 2021), prepared for the AAMC by HIS, Ltd., p. viii, available at https://www.aamc.org/media/54681/download (last visited January 8, 2024). This includes both allopathic and osteopathic physicians.
[37] Department of Health, *2023 Florida Physician Workforce Annual Report*, Nov. 1, 2023, available at https://www.floridahealth.gov/provider-and-partner-resources/community-health-workers/HealthResourcesandAccess/physician-workforce-development-and-recruitment/2023DOHPhysicianWorkforceAnnualReport-FINAL.pdf (last visited January 8, 2024).
[38] *Id.*
[39] Florida Statewide and Regional Physician Workforce Analysis: 2019 to 2035: 2021 Update to Projections of Supply and Demand
[40] *Id.* at V.
[41] *Id.* at VI

The following chart details the estimated supply and demand deficits by physician specialty in 2035:[42]

Specialty	Supply	Demand [a]	Supply-Demand	% Adequacy [b]
Primary Care	**22,900**	**30,773**	**-7,872**	**74%**
Traditional Primary Care	**15,440**	**21,413**	**-5,974**	**72%**
Family Medicine	4,261	8,648	-4,387	49%
General Internal Medicine	6,917	7,797	-881	89%
Pediatric Medicine	3,824	3,870	-46	99%
Geriatric Medicine	437	1,097	-660	40%
Emergency Medicine	2,776	4,295	-1,519	65%
General Surgery	2,228	2,111	117	106%
Obstetrics & Gynecology	2,457	2,954	-497	83%
Non-Primary Care	**33,959**	**44,011**	**-10,052**	**77%**
Allergy & Immunology	276	284	-7	97%
Anesthesiology	3,164	3,818	-654	83%
Cardiology	2,644	3,276	-632	81%
Colorectal Surgery	164	234	-70	70%
Dermatology	1,111	1,044	67	106%
Endocrinology	587	834	-247	70%
Gastroenterology	1,284	1,486	-202	86%
Hematology & Oncology	1,654	2,091	-437	79%
Hospital Medicine	1,993	3,427	-1,434	58%
Infectious Diseases	429	1,167	-737	37%
Neonatology	367	454	-87	81%
Nephrology	758	1,272	-514	60%
Neurological Surgery	458	570	-112	80%
Neurology	1,485	1,314	170	113%
Ophthalmology	1,676	1,731	-55	97%
Orthopedic Surgery	1,751	1,961	-209	89%
Other Specialties	1,063	3,223	-2,160	33%
Otolaryngology	850	771	79	110%
Pathology	1,834	1,605	228	114%
Physical Medicine & Rehabilitation	832	1,313	-481	63%
Plastic Surgery	602	849	-247	71%
Psychiatry	2,037	3,267	-1,230	62%
Pulmonology & Critical Care	1,150	1,798	-648	64%
Radiation Oncology	511	715	-204	71%
Radiology	3,623	2,979	644	122%
Rheumatology	446	560	-114	80%
Thoracic Surgery	329	453	-124	73%
Urology	572	1,030	-459	55%
Vascular Surgery	308	485	-176	64%
Florida Total	**56,859**	**74,784**	**-17,924**	**76%**

Source: IHS Markit

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Note: [a] Demand is estimated based on national patterns of healthcare use and delivery applied to the population in Florida and controlling for differences in demographics, disease prevalence, health risk behavior, health insurance, and household income. [b] Adequacy is calculated as supply divided by demand, and indicates whether supply is sufficient to provide a level of care consistent with the national average in 2019.

The Florida Nursing Workforce

During the 2020-2021, license renewal cycle, Florida was home to 441,361 active nursing licenses made up of 69,511 LPN; 326,669 RN; and 45,181 APRN licenses. Licensees held either single-state or multi-state licenses. Multi-state licenses made up 19.6 percent of LPN licenses, 22.2 percent of RN licenses, and 16.9 percent of APRN licenses. There were 366,235 nurses in Florida (83 percent) that responded to the FCN Nursing Workforce Survey.[43]

The median ages of nurses was 46 for RNs, 48 for LPNs, and 45 for APRNs. The table below provides a comparison of the ages of the LPNs, RNs, and APRNs that make up Florida's nursing workforce to the U.S. nursing workforce and state and U.S. census data.[44]

Age	FL LPNs	FL RNs	FL APRNs	FL NURSES	U.S. NURSES	Florida	United States
29 or younger	12.5%	14.8%	5.2%	11.2%	10.9%	33.7%	38.3%
30 - 39	21.8%	24.3%	31.5%	24.6%	24.2%	12.9%	13.6%
40 - 49	22.2%	20.6%	27.8%	21.5%	21.8%	12.1%	12.4%
50 - 59	22.3%	20.3%	21.1%	21.1%	21.4%	13.3%	12.9%
60 or older	21.1%	20.1%	14.4%	21.6%	21.7%	27.9%	22.8%

[42] *Id.* at 10
[43] Florida Center
RN, E.D., availab
https://www.flcen
7&PortalId=0&Ta
[44] *Id.*

The Florida Department of Economic Opportunity develops a *College Projections Report* that includes the *Fastest Growing Occupations between 2020 and 2028*. APRN is the fastest growing profession. The report also includes the Occupations gaining the most new jobs between 2020 and 2028, and RNs are number seven.[45] The number of jobs for LPNs in Florida decreased by 12.19 percent between 2012 and 2021,[46] but LPN jobs have a projected growth of 5,197 jobs (12.6 percent) from 2022-2030 with a total of 31,747 job openings over the eight-year period.[47]

There were 45,181 APRNs licensed on Florida as of the 2020-2021 license renewal. Of those 7,691 (17 percent) are Autonomous APRNs. Thirty for percent of APRNs work in physician's offices while most autonomous APRNs practice in the area of adult and family health (50.1 percent).[48]

Mobile Opportunity by Interstate Licensure Endorsement (MOBILE) Act

Heath Care Practitioner Licensure and Regulation

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.[49] The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions.[50] Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA.

The self-stated purpose of the MQA is to protect health care consumers.[51] Regulation of health care licensure broadly aids the consumer in differentiating the trained from the untrained and enhancing public health initiatives.[52] Through licensure regulation, the state is able to establish a minimum standard of education and experience necessary for a person to practice a particular profession and ensure a minimum standard of care through enforcement mechanisms which may result in action against a professional's license.[53]

The MQA is statutorily responsible for the following boards and professions established within the division:[54]

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;

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[45] The Department of Economic Opportunity, Bureau of Workforce Statistics and Economic Research, 2020 - 2028 Employment Projections, updated Feb. 9, 2021, *2020 - 2028 College Projections Report,* available at https://lmsresources.labormarketinfo.com/college_projections/index.html (last visited January 8, 2024).

[46] Florida Center for Nursing, *The State of the Nursing Workforce in Florida, 2023*, Tampa, Fl., prepared by Rayna M. Letourneau, PhD, RN, E.D., available at https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=1957&PortalId=0&TabId=151 (last visited January 8, 2024).

[47] Florida Commerce, Bureau of Workforce Statistics and Economic Research, *Occupational Data Search, 29-2061 Licensed Practical or Vocational Nurses*, available at https://floridajobs.org/economic-data/employment-projections/occupational-data-search (last visited January 8, 2024).

[48] Florida Center for Nursing, *Florida Autonomous Practice 2020-2021*, available at https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=1975&PortalId=0&TabId=151 (last visited January 8, 2024).

[49] Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

[50] Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2022-2023*. Available at https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html (last visited January 8, 2024)

[51] *Id.*

[52] Adams, T.L. (2020). *Health professional regulation in historical context: Canada, the USA and the UK (19th century to present)*. Hum Resour Health 18, 72. https://doi.org/10.1186/s12960-020-00501-y

[53] Section 456.072(2), F.S.; *see also, supra* note 50.

[54] Section 456.001(4), F.S; *see also supra* note 50.

- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- Naturopathy, as provided under ch. 462, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- Nursing assistants, as provided under part II of ch. 464, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- Midwifery, as provided under ch. 467, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- Respiratory therapy, as provided under part V of ch. 468, F.S.;
- Dietetics and nutrition practice, as provided under part X of ch. 468, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- Electrolysis, as provided under ch. 478, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Clinical Laboratory Personnel, created under part III of ch. 483, F.S.;
- Medical physicists, as provided under part IV of ch. 483, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- School psychologists, as provided under ch. 490, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.; and
- Emergency medical technicians and paramedics, as provided under part III of ch. 401, F.S.

DOH and the practitioner boards have different roles in the regulatory system. Boards establish practice standards by rule, pursuant to statutory authority and directives. DOH receives and investigates complaints about practitioners, and prosecutes cases for disciplinary action against practitioners.[55] The boards determine the course of action and any disciplinary action to take against a practitioner.[56] For professions in which there is no board, DOH determines the action and discipline to take against a practitioner and issues the final orders.[57] DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.[58]

Pathways to Licensure

Licensure by examination is the most common pathway for individuals seeking initial licensure, particularly among health care professionals educated and trained in Florida. The requirements to qualify for licensure by examination are specified in each profession's respective practice act and vary based on professional standards. However, licensure by examination generally requires, at a minimum, the following from applicants:

- Completion of an approved[59] educational program;
- Completion of an approved[60] licensure or certification examination with a passing score; and
- Submission of an application approved by DOH in conjunction with an application fee.

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[55] S. 456.072(2), F.S.
[56] S. 456.072(2), F.S.
[57] *Id.* Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, and school psychologists.
[58] Department of Health, *Prosecution Services.* Available at http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html (last visited January 8, 2024).
[59] The requirements for "approval" of an educational program or examination vary by profession; some practice acts outline specific qualifications such as accreditation with a national board, while others grant the relevant regulatory board discretion in determining such requirements.
[60] *Id.*

Licensure by endorsement is the most common alternative to licensure by examination. Licensure by endorsement is an expedited licensure process which allows a health care professional to become licensed in one state based upon holding a substantially equivalent health care professional license in another state.

Currently, only 20 of the health care professions regulated by DOH and the boards authorize licensure by endorsement.[61]

Professions With Licensure by Endorsement	Professions Without Licensure by Endorsement
Acupuncturist	Anesthesiologist Assistant
Allopathic Physician (MD)	Athletic Trainer
Audiologist	Chiropractor
Certified Nursing Assistant (CNA)	Clinical Laboratory Personnel
Mental Health Professions	Dental Hygienist
Dietitian	Dentist
Electrologist	EMT/Paramedic
Licensed Practical Nurse	Genetic Counselor
Massage Therapist	Hearing Aid Specialist
Midwifery	Medical Physicist
Nursing Home Administrator	Optometrist
Occupational Therapist	Optician
Pharmacist	Orthotist and Prosthetist
Physical Therapist	Osteopathic Physician (DO)
Physical Therapist Assistant	Physician Assistant
Psychologist	Podiatrist
Radiation Technician	Registered Pharmacy Technician
Registered Nurse (RN/APRN)	
Respiratory Therapist	
Speech-Language Pathologist	

Even amongst the professions which allow licensure by endorsement there are no standard requirements. Rather, requirements to obtain licensure by endorsement vary greatly by profession. For example, some professions require that the applicant submit to a background screening,[62] have a certain amount of prior practice experience,[63] or pass an exam on Florida rules and laws relevant to the profession[64].

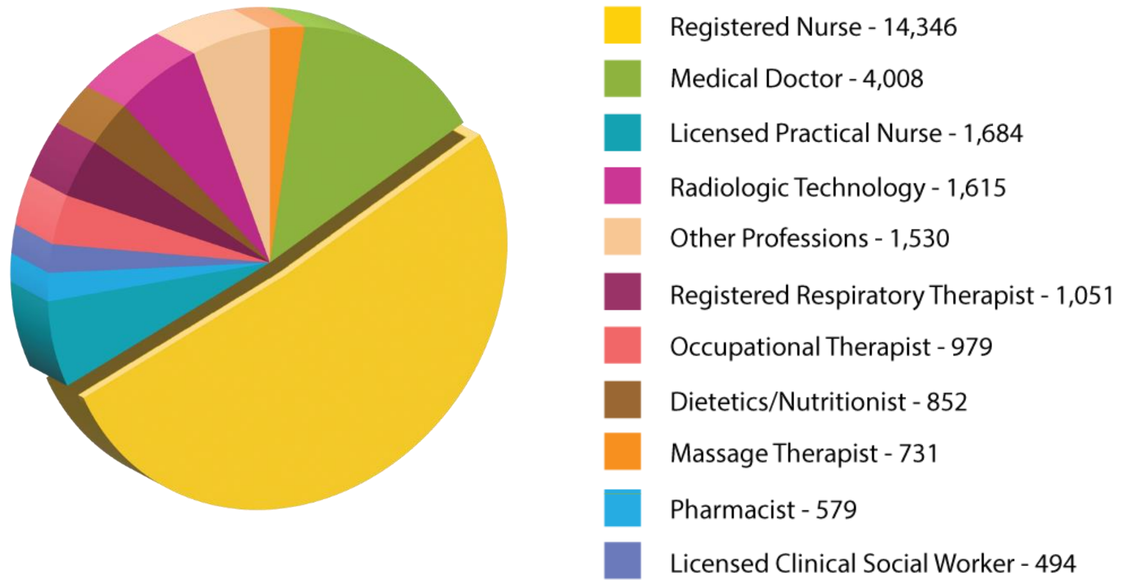
From FY 18-19 to FY 22-23 DOH approved 136,533 licenses by endorsement.[65] During that time DOH reduced the average business days to issue such licenses from 2.5 days to 1.4 days.[66]

Fiscal Year	Total Licenses by Endorsement	Avg Business Days to Issue License
FY18-19	21,492	2.495

[61] Email from Jennifer Wenhold, Division of Medical Quality Assurance Director, Florida Department of Health, RE: Endorsement Info, July 13, 2023. On file with the Health and Human Services Committee.
[62] Allopathic Physicians, Certified Nursing Assistants, Licensed Practice Nurses, Registered Nurses, and Massage Therapists.
[63] Allopathic Physicians, Mental Health Professionals, Licensed Practical Nurses, Registered Nurses, Nursing Home Administrators, Pharmacists, and Psychologists.
[64] Mental Health Professions, Licensed Practical Nurses, Registered Nurses, Nursing Home Administrators, Pharmacists, Psychologists, and Radiology Technicians.
[65] Correspondence from Department of Health to Health and Human Services Committee staff dated 8/11/23 on file with the Health and Human Services Staff.
[66] *Id.*

FY19-20	21,841	2.091
FY20-21	29,258	1.450
FY21-22	36,073	1.380
FY22-23	27,869	1.379
Overall	**136,533**	**1.672**

In FY 2022-23 DOH approved 27,869 applications for licensure by endorsement for the various professions listed below.[67]



Licensure Fees

Health care practitioner regulation is typically funded through fees paid during the licensure process. Current law expressly states that all costs of regulating health care professions and practitioners are to be borne solely by licensees and licensure applicants.[68] Such fees should be reasonable and not serve as a barrier to licensure.

Section 456.025(3), F.S., directs the regulatory boards, or DOH if there is no board, to establish by rule license fee amounts for the profession it regulates and ensure that such fees are adequate to cover all anticipated expenses relating to the board and maintain a reasonable cash balance. Fees are to be based upon long-range estimates prepared by the Department of the Revenue required to implement laws relating to the regulation of professions by the department and the board.

Current law specifies that licensure renewal fees established by rule must be:[69]

- Based on revenue projections prepared using generally accepted accounting procedures;
- Adequate to cover all expenses relating to that board identified in the department's long-range policy plan;
- Reasonable, fair, and not serve as a barrier to licensure;
- Based on potential earnings from working under the scope of the license; and
- Similar to fees imposed on similar licensure types.

The fees may not be more than 10 percent greater than the actual cost to regulate that profession for the previous biennium.

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[67] Florida Department of Health presentation to the Health Care Regulation Subcommittee on November 16, 2023.
[68] S. 456.025, F.S.
[69] S. 456.025(1), FS. Such fees are subject to challenge pursuant to Ch. 120, F.S.

Effect of the Bill – Department of Health

The bill repeals existing licensure by endorsement statutes and establishes a single standardized process for licensure by endorsement for all health care professions regulated by DOH, not just the 20 that currently allow it. The bill requires applicants seeking licensure by endorsement to submit an application and meet the following requirements:

- Hold an active, unencumbered license with a similar scope of practice[70] in a US jurisdiction;
- Have obtained a passing score on a national licensure examination or national certification, if the profession requires such;
- Have actively practiced the profession for two of the last four years;
- Attest that they are not currently subject to a disciplinary hearing for any offense related to the profession for which they are applying for licensure in any US jurisdiction, nor has had disciplinary action taken against their license in the five years preceding application;
- Meet the financial responsibility requirements of s. 456.048 or the applicable practice act, if required for the profession for which the applicant is seeking licensure; and
- Submit a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

Under the bill, a person is ineligible for licensure under this section if they:

- Have a complaint, allegation, or investigation pending before a licensing entity in another state, the District of Columbia, or a possession or territory of the United States;
- Have been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Have had a health care provider license revoked or suspended from another of the United States, the District of Columbia, or a United States territory or has voluntarily surrendered any such license;
- Have been reported to the National Practitioner Data Bank, unless the applicant has successfully appealed to have his or her name removed from the data bank; or
- Have previously failed the Florida examination required to receive a license to practice the profession for which the applicant is seeking a license.

The bill gives the regulatory boards, or DOH if there is no board, the authority to revoke a license issued under this section upon a finding that the individual provided false or misleading material information in an application for licensure.

The bill requires that the regulatory board, or DOH if there is no board, issue a license to a qualified applicant within 7 days after receipt of all required documentation for the application.

The bill authorizes the regulatory board, or DOH if there is no board, to require the applicant complete a jurisprudence exam specific to Florida state laws and rules as a condition of licensure if such an exam is required by Ch. 456, F.S., or the relevant practice act.

The bill requires DOH and the boards to comply with the licensure fee requirements of s. 456.025, F.S.

The bill allows DOH to continue to process applications for licensure by endorsement under existing law until the earlier of the board or DOH adopting rules to implement the provisions of this bill or 6 months.

The bill requires DOH submit an annual report to the Governor, the President of the Senate, and the Speaker of the House, providing the following information:

- The number of applications for licensure received under this section, distinguished by profession.
- The number of licenses issued under this section.

[70] The bill defines "scope of practice" to mean the full spectrum of functions, procedures, actions, and services that a health care practitioner is deemed competent and authorized to perform under a license.

- The number of applications submitted under this section which were denied and the reason for such denials.
- The number of complaints, investigations, or other disciplinary actions taken against health care practitioners who are licensed under this section.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amending s. 455.213, F.S., relating to review of certain applications.
Section 2: Creates s. 455.2135, F.S., relating license by endorsement.
Section 3: Creates s. 456.0145, F.S., relating to Mobile Opportunity by Interstate Licensure Endorsement (MOBILE) Act.
Section 4: Amends s. 457.105, F.S., relating to licensure qualifications and fees.
Section 5: Amends s. 458.313, F.S., relating to licensure by endorsement; requirements; fees.
Section 6: Amends s. 464.009, F.S., relating to licensure by endorsement.
Section 7: Amends s. 464.203, F.S., relating to certified nursing assistants.
Section 8: Amends s. 465.0075, F.S., relating to licensure by endorsement; requirements; fee.
Section 9: Amends s. 467.0125, F.S., relating to licensed midwives; qualifications; endorsement; temporary certificates.
Section 10: Amends s. 468.1185, F.S., relating to licensure.
Section 11: Amends s. 468.1705, F.S., relating to licensure by endorsement; temporary license.
Section 12: Repeals s. 468.213, F.S., relating to licensure by endorsement.
Section 13: Amends s. 468.513, F.S., relating dietician/nutritionist licensure by endorsement.
Section 14: Amends s. 478.47, F.S., relating to licensure by endorsement.
Section 15: Amends s. 480.041, F.S., relating to massage therapists; qualifications; licensure endorsement.
Section 16: Amends s. 484.007, F.S., relating to licensure of opticians.
Section 17: Amends s. 486.081, F.S., relating to physical therapist.
Section 18: Amends s. 486.107, F.S., relating to physical therapist assistant.
Section 19: Amends s. 490.006, F.S., relating to licensure by endorsement.
Section 20: Amends s. 491.006, F.S., relating to licensure or certifications by endorsement.
Section 21: Amends s. 468.209, F.S., relating to requirements for licensure.
Section 22: Amends s. 486.031, F.S. relating to physical therapist licensing requirements.
Section 23: Amends s. 486.102, F.S. relating to physical therapist assistant licensing requirements.
Section 24: Creates an unnumbered section of law.
Section 25: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments

2. Expenditures:

   See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Out-of-state professionals seeking to work in the state may be eligible under the additional pathways created by the bill to obtain a license to work in specified occupations and professions in Florida. Thus, the state may see an increase in the number of available professionals to hire.

D. FISCAL COMMENTS:

The bill will have a significant, negative fiscal impact on DOH. DOH estimates that it will require 9 FTEs to implement the provisions of this bill.[71] The total estimated cost for to DOH to implement is $1,346,032 in the following categories:

Annual Estimated Cost
Salary and Benefits - $972,813/Recurring
Expenses - $128,358/Recurring + $59,931/Non-Recurring
Contracted Services - $181,692
Human Resources - $3,238/Recurring

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DBPR and DOH will need to amend rules relating to procedures for applications for licenses by reciprocity and endorsement.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[71] Department of Health, Agency Bill Analysis for SB 1600, dated January 12, 2024.

1 A bill to be entitled
2 An act relating to reciprocity or endorsement of
3 licensure; amending s. 455.213, F.S.; providing
4 requirements for the applicable board, or the
5 Department of Business and Professional Regulation if
6 there is no board, relating to licensure by
7 reciprocity and by endorsement; defining the term
8 "basis license"; creating s. 455.2135, F.S.; requiring
9 the respective boards of occupations, or the
10 Department of Business and Professional Regulation if
11 there is no board, to allow licensure by endorsement
12 if the applicant meets certain criteria; requiring
13 applicants of professions that require fingerprints
14 for criminal history checks to submit such
15 fingerprints before the board or department issues a
16 license by endorsement; requiring the department, and
17 authorizing the board, to review the results of the
18 criminal history checks according to specific criteria
19 to determine if the applicants meet the requirements
20 for licensure; requiring that the costs associated
21 with fingerprint processing be borne by the applicant;
22 if fingerprints are submitted through an authorized
23 agency or vendor, requiring such agency or vendor to
24 collect the processing fees and remit them to the
25 Department of Law Enforcement; providing an exemption;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 creating s. 456.0145, F.S.; providing a short title;
27 requiring the applicable health care regulatory
28 boards, or the Department of Health if there is no
29 board, to issue a license or certificate to applicants
30 who meet specified conditions; defining the term
31 "scope of practice"; requiring the department to
32 verify certain information using the National
33 Practitioner Data Bank, as applicable; specifying
34 circumstances under which a person is ineligible for a
35 license; authorizing boards or the department, as
36 applicable, to revoke a license upon a specified
37 finding; requiring boards or the department, as
38 applicable, to issue licenses within a specified
39 timeframe; authorizing boards or the department, as
40 applicable, to require that applicants successfully
41 complete a jurisprudential examination under certain
42 circumstances; requiring the department to submit an
43 annual report to the Governor and the Legislature by a
44 specified date; providing requirements for the report;
45 requiring the boards and the department, as
46 applicable, to adopt certain rules within a specified
47 timeframe; amending ss. 457.105, 458.313, 464.009,
48 464.203, 465.0075, 467.0125, 468.1185, 468.1705,
49 468.213, 468.513, 478.47, 480.041, 484.007, 486.081,
50 486.107, 490.006, and 491.006, F.S.; revising

51 licensure by endorsement requirements for the practice
52 of acupuncture, medicine, professional or practical
53 nursing, certified nursing assistants, pharmacy,
54 midwifery, speech-language pathology and audiology,
55 nursing home administration, occupational therapy,
56 dietetics and nutrition, electrology, massage therapy,
57 opticianry, physical therapy, physical therapist
58 assistantship, psychology and school psychology, and
59 clinical social work, marriage and family therapy, and
60 mental health counseling, respectively; amending ss.
61 486.031 and 486.102, F.S.; conforming provisions to
62 changes made by the act; authorizing the boards and
63 the Department of Health, as applicable, to continue
64 processing applications for licensure by endorsement,
65 as authorized under the Florida Statutes (2023), for a
66 specified timeframe; providing an effective date.
67
68 Be It Enacted by the Legislature of the State of Florida:
69
70 Section 1. Subsection (15) of section 455.213, Florida
71 Statutes, is renumbered as subsection (16), and a new subsection
72 (15) is added to that section to read:
73 455.213 General licensing provisions.—
74 <u>(15)(a) Before the board, or the department if there is no</u>
75 <u>board, may deny an application for licensure by reciprocity or</u>

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

76 by endorsement, the board, or the department is there is no
77 board, must make a finding that the basis license in another
78 jurisdiction is or is not substantially equivalent to or is
79 otherwise insufficient for a license in this state.
80 (b) If the board, or the department is there is no board,
81 finds that that the basis license in another jurisdiction is not
82 substantially equivalent to or is otherwise insufficient for a
83 license in this state and there are no other grounds to deny the
84 application for licensure, within 7 business days of being
85 notified of such finding the applicant may request that the
86 finding be submitted to the secretary for review. Within 7
87 business days of receiving such request, the secretary must
88 review the finding, and either agree or disagree with the
89 finding. If the secretay agrees with the finding, the
90 application for licensure may be denied. If the secretary
91 disagrees with the finding, the application for licensure must
92 be approved unless other grounds for denial exist. The decision
93 must be entered according to the secretary's finding, unless
94 other grounds for denial exists.
95 (c) If the secretary finds that the requirements of a
96 basis license in another jurisdiction are substantially
97 equivalent to or are otherwise sufficient for a license in this
98 state, the board, or the department if there is no board, must
99 make the same finding for similar applicants from the same
100 jurisdiction, unless the requirements of the basis license

101 change.
102 (d) As used in this subsection, the term "basis license"
103 means the license or the licensure requirements of another
104 jurisdiction which are used to meet the requirements for a
105 license in this state.
106 Section 2. Section 1. Section 455.2135, Florida Statutes,
107 is created to read:
108 455.2135 Interstate mobility.—
109 (1) When endorsement based on years of licensure is not
110 otherwise provided by law in the practice act for a profession,
111 the board, or the department if there is no board, shall allow
112 licensure by endorsement for any individual applying who:
113 (a) Has held a valid, current license to practice the
114 profession issued by another state or territory of the United
115 States for at least 5 years before the date of application and
116 is applying for the same or similar license in this state;
117 (b) Submits an application either when the license in
118 another state or territory is active or within 2 years after
119 such license was last active;
120 (c) Has passed the recognized national licensing exam, if
121 such exam is established as a requirement for licensure in the
122 profession;
123 (d) Has no pending disciplinary actions and all sanctions
124 of any prior disciplinary actions have been satisfied;
125 (e) Shows proof of compliance with any federal regulation,

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126 training, or certification, if the applicant's profession
127 requires such proof, regarding licensure in the profession;
128 (f) Completes Florida-specific continuing education
129 courses or passes a jurisprudential examination specific to the
130 state laws and rules for the applicable profession as
131 established by the board or department, if required by the
132 practice act; and
133 (g) Complies with any insurance or bonding requirements as
134 required for the profession.
135 (2) If the applicant's profession requires, the applicant
136 must submit a complete set of fingerprints to the Department of
137 Law Enforcement for a statewide criminal history check. The
138 Department of Law Enforcement shall forward the fingerprints to
139 the Federal Bureau of Investigation for a national criminal
140 history check. The department shall, and the board may, review
141 the results of the criminal history checks according to the
142 level 2 screening standards in s. 435.04 and determine whether
143 the applicant meets the licensure requirements. The costs of
144 fingerprint processing are borne by the applicant. If the
145 applicant's fingerprints are submitted through an authorized
146 agency or vendor, the agency or vendor must collect the required
147 processing fees and remit the fees to the Department of Law
148 Enforcement.
149 (3) This section does not apply to harbor pilots licensed
150 under chapter 310.

151 Section 3. Section 456.0145, Florida Statutes, is created
152 to read:
153 456.0145 Mobile Opportunity by Interstate Licensure
154 Endorsement (MOBILE) Act.—
155 (1) SHORT TITLE.—This section may be cited as the "Mobile
156 Opportunity by Interstate Licensure Endorsement Act" or the
157 "MOBILE Act."
158 (2) LICENSURE BY ENDORSEMENT.—
159 (a) An applicable board, or the department if there is no
160 board, shall issue a license to practice in this state to an
161 applicant who:
162 1. Submits a complete application.
163 2. Holds an active, unencumbered license issued by another
164 state, the District of Columbia, or a possession or territory of
165 the United States in a profession with a similar scope of
166 practice, as determined by the board or department, as
167 applicable. "Scope of practice" means the full spectrum of
168 functions, procedures, actions, and services that a health care
169 practitioner is deemed competent and authorized to perform under
170 a license issued in this state.
171 3. Has obtained a passing score on a national licensure
172 examination, or national certification, as applicable, for which
173 profession the applicant is seeking licensure in this state, or
174 meets the requirements of paragraph (b).
175 4. Has actively practiced the profession for which the

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176 applicant is applying for at least 2 of the 4 years preceding
177 the date of submission of the application.
178 5. Attests that he or she is not, at the time of
179 submission of the application, the subject of a disciplinary
180 proceeding in a jurisdiction in which he or she holds a license
181 or by the United States Department of Defense for reasons
182 related to the practice of the profession for which he or she is
183 applying.
184 6. Has not had disciplinary action taken against him or
185 her in the 5 years preceding the date of submission of the
186 application
187 7. Meets the financial responsibility requirements of s.
188 456.048 or the applicable practice act, if required for the
189 profession for which the applicant is seeking licensure.
190 8. Submits a set of fingerprints for a background
191 screening pursuant to s. 456.0135, if required for the
192 profession for which he or she is applying.
193
194 The department shall verify information submitted by the
195 applicant under this subsection using the National Practitioner
196 Data Bank.
197 (b) An applicant for a profession that does not require a
198 national examination or national certification is eligible for
199 licensure if an applicable board or the department determines
200 that the jurisdiction in which the applicant currently holds an

201 active, unencumbered license meets established minimum education
202 requirements and, if applicable, examination, work experience,
203 and clinical supervision requirements that are substantially
204 similar to the requirements for licensure in that profession in
205 this state.
206 (c) An applicant is ineligible for a license pursuant to
207 this section if he or she:
208 1. Has a complaint, allegation, or investigation pending
209 before a licensing entity in another state, the District of
210 Columbia, or a possession or territory of the United States;
211 2. Has been convicted of or pled nolo contendere to,
212 regardless of adjudication, any felony or misdemeanor related to
213 the practice of a health care profession;
214 3. Has had a health care provider license revoked or
215 suspended in another state of the United States, the District of
216 Columbia, or a United States territory or has voluntarily
217 surrendered any such license in lieu of having disciplinary
218 action taken against the license; or
219 4. Has been reported to the National Practitioner Data
220 Bank, unless the applicant has successfully appealed to have his
221 or her name removed from the data bank.
222 (d) The board, or the department if there is no board, may
223 revoke a license upon finding that the applicant provided false
224 or misleading material information or intentionally omitted
225 material information in an application for licensure.

226 (e) The board, or the department if there is no board,
227 shall issue a license to a qualified applicant within 7 days
228 after receipt of all required documentation for an application.
229 (f) The board, or the department if there is no board,
230 shall comply with the requirements of s. 456.025.
231 (3) STATE EXAMINATION.—The board, or the department if
232 there is no board, may require the applicant to successfully
233 complete a jurisprudential examination specific to relevant
234 state laws that regulate the profession, if this chapter or the
235 applicable practice act requires such examination.
236 (4) ANNUAL REPORT.—By December 31 of each year, the
237 department shall submit to the Governor, the President of the
238 Senate, and the Speaker of the House of Representatives a report
239 that provides all of the following information for the previous
240 fiscal year:
241 (a) The number of applications for licensure or
242 certification received under this section, distinguished by
243 profession.
244 (b) The number of licenses or certifications issued under
245 this section.
246 (c) The number of applications submitted under this
247 section which were denied and the reason for such denials.
248 (d) The number of complaints, investigations, or other
249 disciplinary actions taken against health care practitioners who
250 are licensed or certified under this section.

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251 (5) RULES.—By December 1, 2024, each applicable board, or
252 the department if there is no board, shall adopt rules to
253 implement this section.
254 Section 4. Subsection (2) of section 457.105, Florida
255 Statutes, is amended to read:
256 457.105 Licensure qualifications and fees.—
257 (2) A person may become licensed to practice acupuncture
258 if the person applies to the department and:
259 (c) Has successfully completed a board-approved national
260 certification process, meets the requirements for licensure by
261 endorsement under s. 456.0145 ~~is actively licensed in a state~~
262 ~~that has examination requirements that are substantially~~
263 ~~equivalent to or more stringent than those of this state~~, or
264 passes an examination administered by the department, which
265 examination tests the applicant's competency and knowledge of
266 the practice of acupuncture and oriental medicine. At the
267 request of any applicant, oriental nomenclature for the points
268 shall be used in the examination. The examination shall include
269 a practical examination of the knowledge and skills required to
270 practice modern and traditional acupuncture and oriental
271 medicine, covering diagnostic and treatment techniques and
272 procedures; and
273 Section 5. Section 458.313, Florida Statutes, is amended
274 to read:
275 458.313 Licensure by endorsement; requirements; fees.—

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276 ~~(1)~~ The department shall issue a license by endorsement to
277 any applicant who, upon applying to the department on forms
278 furnished by the department and remitting a fee set by the board
279 not to exceed $500, the board certifies has met the requirements
280 for licensure by endorsement in s. 456.0145.~~:~~
281 ~~(a) Has met the qualifications for licensure in s.~~
282 ~~458.311(1)(b)-(g) or in s. 458.311(1)(b)-(e) and (g) and (3);~~
283 ~~(b) Prior to January 1, 2000, has obtained a passing~~
284 ~~score, as established by rule of the board, on the licensure~~
285 ~~examination of the Federation of State Medical Boards of the~~
286 ~~United States, Inc. (FLEX), on the United States Medical~~
287 ~~Licensing Examination (USMLE), or on the examination of the~~
288 ~~National Board of Medical Examiners, or on a combination~~
289 ~~thereof, and on or after January 1, 2000, has obtained a passing~~
290 ~~score on the United States Medical Licensing Examination~~
291 ~~(USMLE); and~~
292 ~~(c) Has submitted evidence of the active licensed practice~~
293 ~~of medicine in another jurisdiction, for at least 2 of the~~
294 ~~immediately preceding 4 years, or evidence of successful~~
295 ~~completion of either a board-approved postgraduate training~~
296 ~~program within 2 years preceding filing of an application or a~~
297 ~~board-approved clinical competency examination within the year~~
298 ~~preceding the filing of an application for licensure. For~~
299 ~~purposes of this paragraph, "active licensed practice of~~
300 ~~medicine" means that practice of medicine by physicians,~~

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301 ~~including those employed by any governmental entity in community~~
302 ~~or public health, as defined by this chapter, medical directors~~
303 ~~under s. 641.495(11) who are practicing medicine, and those on~~
304 ~~the active teaching faculty of an accredited medical school.~~
305 ~~(2) The board may require an applicant for licensure by~~
306 ~~endorsement to take and pass the appropriate licensure~~
307 ~~examination prior to certifying the applicant as eligible for~~
308 ~~licensure.~~
309 ~~(3) The department and the board shall ensure that~~
310 ~~applicants for licensure by endorsement meet applicable criteria~~
311 ~~in this chapter through an investigative process. When the~~
312 ~~investigative process is not completed within the time set out~~
313 ~~in s. 120.60(1) and the department or board has reason to~~
314 ~~believe that the applicant does not meet the criteria, the State~~
315 ~~Surgeon General or the State Surgeon General's designee may~~
316 ~~issue a 90-day licensure delay which shall be in writing and~~
317 ~~sufficient to notify the applicant of the reason for the delay.~~
318 ~~The provisions of this subsection shall control over any~~
319 ~~conflicting provisions of s. 120.60(1).~~
320 ~~(4) The board may promulgate rules and regulations, to be~~
321 ~~applied on a uniform and consistent basis, which may be~~
322 ~~necessary to carry out the provisions of this section.~~
323 ~~(5) Upon certification by the board, the department shall~~
324 ~~impose conditions, limitations, or restrictions on a license by~~
325 ~~endorsement if the applicant is on probation in another~~

326 ~~jurisdiction for an act which would constitute a violation of~~
327 ~~this chapter.~~
328 ~~(6) The department shall not issue a license by~~
329 ~~endorsement to any applicant who is under investigation in any~~
330 ~~jurisdiction for an act or offense which would constitute a~~
331 ~~violation of this chapter until such time as the investigation~~
332 ~~is complete, at which time the provisions of s. 458.331 shall~~
333 ~~apply. Furthermore, the department may not issue an unrestricted~~
334 ~~license to any individual who has committed any act or offense~~
335 ~~in any jurisdiction which would constitute the basis for~~
336 ~~disciplining a physician pursuant to s. 458.331. When the board~~
337 ~~finds that an individual has committed an act or offense in any~~
338 ~~jurisdiction which would constitute the basis for disciplining a~~
339 ~~physician pursuant to s. 458.331, the board may enter an order~~
340 ~~imposing one or more of the terms set forth in subsection (7).~~
341 ~~(7) When the board determines that any applicant for~~
342 ~~licensure by endorsement has failed to meet, to the board's~~
343 ~~satisfaction, each of the appropriate requirements set forth in~~
344 ~~this section, it may enter an order requiring one or more of the~~
345 ~~following terms:~~
346 ~~(a) Refusal to certify to the department an application~~
347 ~~for licensure, certification, or registration;~~
348 ~~(b) Certification to the department of an application for~~
349 ~~licensure, certification, or registration with restrictions on~~
350 ~~the scope of practice of the licensee; or~~

351 ~~(c) Certification to the department of an application for~~
352 ~~licensure, certification, or registration with placement of the~~
353 ~~physician on probation for a period of time and subject to such~~
354 ~~conditions as the board may specify, including, but not limited~~
355 ~~to, requiring the physician to submit to treatment, attend~~
356 ~~continuing education courses, submit to reexamination, or work~~
357 ~~under the supervision of another physician.~~
358 Section 6. Section 464.009, Florida Statutes, is amended
359 to read:
360 464.009 Licensure by endorsement.—
361 ~~(1)~~ The department shall issue the appropriate license by
362 endorsement to practice professional or practical nursing to an
363 applicant who, upon applying to the department and remitting a
364 fee set by the board not to exceed $100, demonstrates to the
365 board that he or she meets the requirements for licensure by
366 endorsement in s. 456.0145.~~:~~
367 ~~(a) Holds a valid license to practice professional or~~
368 ~~practical nursing in another state or territory of the United~~
369 ~~States, provided that, when the applicant secured his or her~~
370 ~~original license, the requirements for licensure were~~
371 ~~substantially equivalent to or more stringent than those~~
372 ~~existing in Florida at that time;~~
373 ~~(b) Meets the qualifications for licensure in s. 464.008~~
374 ~~and has successfully completed a state, regional, or national~~
375 ~~examination which is substantially equivalent to or more~~

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376 ~~stringent than the examination given by the department; or~~
377 ~~(c) Has actively practiced nursing in another state,~~
378 ~~jurisdiction, or territory of the United States for 2 of the~~
379 ~~preceding 3 years without having his or her license acted~~
380 ~~against by the licensing authority of any jurisdiction.~~
381 ~~Applicants who become licensed pursuant to this paragraph must~~
382 ~~complete within 6 months after licensure a Florida laws and~~
383 ~~rules course that is approved by the board. Once the department~~
384 ~~has received the results of the national criminal history check~~
385 ~~and has determined that the applicant has no criminal history,~~
386 ~~the appropriate license by endorsement shall be issued to the~~
387 ~~applicant.~~
388 ~~(2) Such examinations and requirements from other states~~
389 ~~and territories of the United States shall be presumed to be~~
390 ~~substantially equivalent to or more stringent than those in this~~
391 ~~state. Such presumption shall not arise until January 1, 1980.~~
392 ~~However, the board may, by rule, specify states and territories~~
393 ~~the examinations and requirements of which shall not be presumed~~
394 ~~to be substantially equivalent to those of this state.~~
395 ~~(3) An applicant for licensure by endorsement who is~~
396 ~~relocating to this state pursuant to his or her military-~~
397 ~~connected spouse's official military orders and who is licensed~~
398 ~~in another state that is a member of the Nurse Licensure Compact~~
399 ~~shall be deemed to have satisfied the requirements of subsection~~
400 ~~(1) and shall be issued a license by endorsement upon submission~~

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401 ~~of the appropriate application and fees and completion of the~~
402 ~~criminal background check required under subsection (4).~~
403 ~~(4) The applicant must submit to the department a set of~~
404 ~~fingerprints on a form and under procedures specified by the~~
405 ~~department, along with a payment in an amount equal to the costs~~
406 ~~incurred by the Department of Health for the criminal background~~
407 ~~check of the applicant. The Department of Health shall submit~~
408 ~~the fingerprints provided by the applicant to the Florida~~
409 ~~Department of Law Enforcement for a statewide criminal history~~
410 ~~check, and the Florida Department of Law Enforcement shall~~
411 ~~forward the fingerprints to the Federal Bureau of Investigation~~
412 ~~for a national criminal history check of the applicant. The~~
413 ~~Department of Health shall review the results of the criminal~~
414 ~~history check, issue a license to an applicant who has met all~~
415 ~~of the other requirements for licensure and has no criminal~~
416 ~~history, and shall refer all applicants with criminal histories~~
417 ~~back to the board for determination as to whether a license~~
418 ~~should be issued and under what conditions.~~
419 ~~(5) The department shall not issue a license by~~
420 ~~endorsement to any applicant who is under investigation in~~
421 ~~another state, jurisdiction, or territory of the United States~~
422 ~~for an act which would constitute a violation of this part or~~
423 ~~chapter 456 until such time as the investigation is complete, at~~
424 ~~which time the provisions of s. 464.018 shall apply.~~
425 ~~(6) The department shall develop an electronic applicant~~

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426 ~~notification process and provide electronic notification when~~
427 ~~the application has been received and when background screenings~~
428 ~~have been completed, and shall issue a license within 30 days~~
429 ~~after completion of all required data collection and~~
430 ~~verification. This 30-day period to issue a license shall be~~
431 ~~tolled if the applicant must appear before the board due to~~
432 ~~information provided on the application or obtained through~~
433 ~~screening and data collection and verification procedures.~~
434 ~~(7) A person holding an active multistate license in~~
435 ~~another state pursuant to s. 464.0095 is exempt from the~~
436 ~~requirements for licensure by endorsement in this section.~~
437 Section 7. Paragraph (c) of subsection (1) of section
438 464.203, Florida Statutes, is amended to read:
439 464.203 Certified nursing assistants; certification
440 requirement.—
441 (1) The board shall issue a certificate to practice as a
442 certified nursing assistant to any person who demonstrates a
443 minimum competency to read and write and successfully passes the
444 required background screening pursuant to s. 400.215. If the
445 person has successfully passed the required background screening
446 pursuant to s. 400.215 or s. 408.809 within 90 days before
447 applying for a certificate to practice and the person's
448 background screening results are not retained in the
449 clearinghouse created under s. 435.12, the board shall waive the
450 requirement that the applicant successfully pass an additional

451 background screening pursuant to s. 400.215. The person must
452 also meet one of the following requirements:
453 (c) Has been deemed by the board as eligible for licensure
454 by endorsement pursuant to s. 456.0145 ~~Is currently certified in~~
455 ~~another state or territory of the United States or in the~~
456 ~~District of Columbia; is listed on that jurisdiction's certified~~
457 ~~nursing assistant registry; and has not been found to have~~
458 ~~committed abuse, neglect, or exploitation in that jurisdiction~~.
459 Section 8. Section 465.0075, Florida Statutes, is amended
460 to read:
461 465.0075 Licensure by endorsement; requirements; fee.—
462 ~~(1)~~ The department shall issue a license by endorsement to
463 any applicant who applies to the department and remits a
464 nonrefundable fee of not more than $100, as set by the board,
465 and whom the board certifies has met the requirements for
466 licensure by endorsement in s. 456.0145.~~:~~
467 ~~(a) Has met the qualifications for licensure in s.~~
468 ~~465.007(1)(b) and (c);~~
469 ~~(b) Has obtained a passing score, as established by rule~~
470 ~~of the board, on the licensure examination of the National~~
471 ~~Association of Boards of Pharmacy or a similar nationally~~
472 ~~recognized examination, if the board certifies that the~~
473 ~~applicant has taken the required examination;~~
474 ~~(c)1. Has submitted evidence of the active licensed~~
475 ~~practice of pharmacy, including practice in community or public~~

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476 ~~health by persons employed by a governmental entity, in another~~
477 ~~jurisdiction for at least 2 of the immediately preceding 5 years~~
478 ~~or evidence of successful completion of board-approved~~
479 ~~postgraduate training or a board-approved clinical competency~~
480 ~~examination within the year immediately preceding application~~
481 ~~for licensure; or~~
482 ~~2. Has completed an internship meeting the requirements of~~
483 ~~s. 465.007(1)(c) within the 2 years immediately preceding~~
484 ~~application; and~~
485 ~~(d) Has obtained a passing score on the pharmacy~~
486 ~~jurisprudence portions of the licensure examination, as required~~
487 ~~by board rule.~~
488 ~~(2) An applicant licensed in another state for a period in~~
489 ~~excess of 2 years from the date of application for licensure in~~
490 ~~this state shall submit a total of at least 30 hours of board-~~
491 ~~approved continuing education for the 2 calendar years~~
492 ~~immediately preceding application.~~
493 ~~(3) The department may not issue a license by endorsement~~
494 ~~to any applicant who is under investigation in any jurisdiction~~
495 ~~for an act or offense that would constitute a violation of this~~
496 ~~chapter until the investigation is complete, at which time the~~
497 ~~provisions of s. 465.016 apply.~~
498 ~~(4) The department may not issue a license by endorsement~~
499 ~~to any applicant whose license to practice pharmacy has been~~
500 ~~suspended or revoked in another state or who is currently the~~

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501 ~~subject of any disciplinary proceeding in another state.~~
502 Section 9. Subsection (1) of section 467.0125, Florida
503 Statutes, is amended to read:
504 467.0125 Licensed midwives; qualifications; endorsement;
505 temporary certificates.—
506 (1) The department shall issue a license by endorsement to
507 practice midwifery to an applicant who~~, upon applying to the~~
508 ~~department,~~ demonstrates to the department that she or he meets
509 ~~all of~~ the requirements for licensure by endorsement in s.
510 456.0145 and submits ~~following criteria:~~
511 ~~(a) Holds an active, unencumbered license to practice~~
512 ~~midwifery in another state, jurisdiction, or territory, provided~~
513 ~~the licensing requirements of that state, jurisdiction, or~~
514 ~~territory at the time the license was issued were substantially~~
515 ~~equivalent to or exceeded those established under this chapter~~
516 ~~and the rules adopted hereunder.~~
517 ~~(b) Has successfully completed a prelicensure course~~
518 ~~conducted by an accredited and approved midwifery program.~~
519 ~~(c) Submits~~ an application for licensure on a form
520 approved by the department and pays the appropriate fee.
521 Section 10. Subsections (3) and (4) of section 468.1185,
522 Florida Statutes, are amended to read:
523 468.1185 Licensure.—
524 ~~(3) The board shall certify as qualified for a license by~~
525 ~~endorsement as a speech-language pathologist or audiologist an~~

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526 ~~applicant who:~~
527 ~~(a) Holds a valid license or certificate in another state~~
528 ~~or territory of the United States to practice the profession for~~
529 ~~which the application for licensure is made, if the criteria for~~
530 ~~issuance of such license were substantially equivalent to or~~
531 ~~more stringent than the licensure criteria which existed in this~~
532 ~~state at the time the license was issued; or~~
533 ~~(b) Holds a valid certificate of clinical competence of~~
534 ~~the American Speech-Language and Hearing Association or board~~
535 ~~certification in audiology from the American Board of Audiology.~~
536 ~~(4) The board may refuse to certify any applicant who is~~
537 ~~under investigation in any jurisdiction for an act which would~~
538 ~~constitute a violation of this part or chapter 456 until the~~
539 ~~investigation is complete and disciplinary proceedings have been~~
540 ~~terminated.~~
541 Section 11. Subsection (4) of section 468.1705, Florida
542 Statutes, is renumbered as subsection (3) and subsections (1),
543 (2), and (3) of that section are amended, to read:
544 468.1705 Licensure by endorsement; temporary license.—
545 (1) The department shall issue a license by endorsement to
546 any applicant who, upon applying to the department and remitting
547 a fee set by the board not to exceed $500, demonstrates to the
548 board that he or she <u>meets the requirements for licensure by</u>
549 <u>endorsement in s. 456.0145</u>~~:~~
550 ~~(a) Meets one of the following requirements:~~

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551 ~~1. Holds a valid active license to practice nursing home~~
552 ~~administration in another state of the United States, provided~~
553 ~~that the current requirements for licensure in that state are~~
554 ~~substantially equivalent to, or more stringent than, current~~
555 ~~requirements in this state; or~~
556 ~~2. Meets the qualifications for licensure in s. 468.1695;~~
557 ~~and~~
558 ~~(b)1. Has successfully completed a national examination~~
559 ~~which is substantially equivalent to, or more stringent than,~~
560 ~~the examination given by the department;~~
561 ~~2. Has passed an examination on the laws and rules of this~~
562 ~~state governing the administration of nursing homes; and~~
563 ~~3. Has worked as a fully licensed nursing home~~
564 ~~administrator for 2 years within the 5-year period immediately~~
565 ~~preceding the application by endorsement.~~
566 ~~(2) National examinations for licensure as a nursing home~~
567 ~~administrator shall be presumed to be substantially equivalent~~
568 ~~to, or more stringent than, the examination and requirements in~~
569 ~~this state, unless found otherwise by rule of the board~~.
570 (2)~~(3)~~ The department may ~~shall~~ not issue a ~~license by~~
571 ~~endorsement or a~~ temporary license to any applicant who is under
572 investigation in this or another state for any act which would
573 constitute a violation of this part until such time as the
574 investigation is complete and disciplinary proceedings have been
575 terminated.

576 Section 12. Section 468.213, Florida Statutes, is
577 repealed.
578 Section 13. Section 468.513, Florida Statutes, is amended
579 to read:
580 468.513 Dietitian/nutritionist; licensure by endorsement.—
581 ~~(1)~~ The department shall issue a license to practice
582 dietetics and nutrition by endorsement to any applicant who
583 meets the requirements for licensure by endorsement under s.
584 456.0145 ~~the board certifies as qualified~~, upon receipt of a
585 completed application and the fee specified in s. 468.508.
586 ~~(2) The board shall certify as qualified for licensure by~~
587 ~~endorsement under this section any applicant who:~~
588 ~~(a) Presents evidence satisfactory to the board that he or~~
589 ~~she is a registered dietitian; or~~
590 ~~(b) Holds a valid license to practice dietetics or~~
591 ~~nutrition issued by another state, district, or territory of the~~
592 ~~United States, if the criteria for issuance of such license are~~
593 ~~determined by the board to be substantially equivalent to or~~
594 ~~more stringent than those of this state.~~
595 ~~(3) The department shall not issue a license by~~
596 ~~endorsement under this section to any applicant who is under~~
597 ~~investigation in any jurisdiction for any act which would~~
598 ~~constitute a violation of this part or chapter 456 until such~~
599 ~~time as the investigation is complete and disciplinary~~
600 ~~proceedings have been terminated.~~

601 Section 14. Section 478.47, Florida Statutes, is amended
602 to read:
603 478.47 Licensure by endorsement.—The department shall
604 issue a license by endorsement to any applicant who, upon
605 submitting ~~submits~~ an application and the required fees as set
606 forth in s. 478.55, demonstrates to the board that he or she
607 meets the requirements for licensure by endorsement under s.
608 456.0145 ~~and who holds an active license or other authority to~~
609 ~~practice electrology in a jurisdiction whose licensure~~
610 ~~requirements are determined by the board to be equivalent to the~~
611 ~~requirements for licensure in this state~~.
612 Section 15. Paragraph (c) of subsection (5) of section
613 480.041, Florida Statutes, is amended to read:
614 480.041 Massage therapists; qualifications; licensure;
615 endorsement.—
616 (5) The board shall adopt rules:
617 (c) Specifying licensing procedures for practitioners
618 desiring to be licensed in this state who meet the requirements
619 for licensure by endorsement under s. 456.0145 or hold an active
620 license and have practiced in ~~any other state, territory, or~~
621 ~~jurisdiction of the United States or~~ any foreign national
622 jurisdiction which has licensing standards substantially similar
623 to, equivalent to, or more stringent than the standards of this
624 state.
625 Section 16. Present subsections (3) and (4) of section

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626 484.007, Florida Statutes, are redesignated as subsections (4)
627 and (5), respectively, a new subsection (3) is added to that
628 section, and subsection (1) of that section is amended, to read:
629 484.007 Licensure of opticians; permitting of optical
630 establishments.—
631 (1) Any person desiring to practice opticianry shall apply
632 to the department, upon forms prescribed by it, to take a
633 licensure examination. The department shall examine each
634 applicant who the board certifies meets all of the following
635 criteria:
636 (a) Has completed the application form and remitted a
637 nonrefundable application fee set by the board, in the amount of
638 $100 or less, and an examination fee set by the board, in the
639 amount of $325 plus the actual per applicant cost to the
640 department for purchase of portions of the examination from the
641 American Board of Opticianry or a similar national organization,
642 or less, and refundable if the board finds the applicant
643 ineligible to take the examination.~~;~~
644 (b) Is not younger ~~less~~ than 18 years of age.~~;~~
645 (c) Is a graduate of an accredited high school or
646 possesses a certificate of equivalency of a high school
647 education.~~; and~~
648 (d)1. Has received an associate degree, or its equivalent,
649 in opticianry from an educational institution the curriculum of
650 which is accredited by an accrediting agency recognized and

651 approved by the United States Department of Education or the
652 Council on Postsecondary Education or approved by the board;
653 ~~2. Is an individual licensed to practice the profession of~~
654 ~~opticianry pursuant to a regulatory licensing law of another~~
655 ~~state, territory, or jurisdiction of the United States, who has~~
656 ~~actively practiced in such other state, territory, or~~
657 ~~jurisdiction for more than 3 years immediately preceding~~
658 ~~application, and who meets the examination qualifications as~~
659 ~~provided in this subsection;~~
660 ~~3. Is an individual who has actively practiced in another~~
661 ~~state, territory, or jurisdiction of the United States for more~~
662 ~~than 5 years immediately preceding application and who provides~~
663 ~~tax or business records, affidavits, or other satisfactory~~
664 ~~documentation of such practice and who meets the examination~~
665 ~~qualifications as provided in this subsection;~~ or
666 2.~~4.~~ Has registered as an apprentice with the department
667 and paid a registration fee not to exceed $60, as set by rule of
668 the board. The apprentice shall complete 6,240 hours of training
669 under the supervision of an optician licensed in this state for
670 at least 1 year or of a physician or optometrist licensed under
671 the laws of this state. These requirements must be met within 5
672 years after the date of registration. However, any time spent in
673 a recognized school may be considered as part of the
674 apprenticeship program provided herein. The board may establish
675 administrative processing fees sufficient to cover the cost of

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676 administering apprentice rules as promulgated by the board.
677 (3) The board shall certify to the department for
678 licensure by endorsement any applicant who meets the
679 requirements for licensure by endorsement under s. 456.0145.
680 Section 17. Section 486.081, Florida Statutes, is amended
681 to read:
682 486.081 Physical therapist; endorsement; ~~issuance of~~
683 ~~license without examination to person passing examination of~~
684 ~~another authorized examining board; fee~~.—
685 (1) The board may cause a license by endorsement to be
686 issued through the department ~~without examination~~ to any
687 applicant who presents evidence satisfactory to the board of
688 meeting the requirements for licensure by endorsement in s.
689 456.0145 ~~having passed the American Registry Examination prior~~
690 ~~to 1971 or an examination in physical therapy before a similar~~
691 ~~lawfully authorized examining board of another state, the~~
692 ~~District of Columbia, a territory, or a foreign country, if the~~
693 ~~standards for licensure in physical therapy in such other state,~~
694 ~~district, territory, or foreign country are determined by the~~
695 ~~board to be as high as those of this state, as established by~~
696 ~~rules adopted pursuant to this chapter~~. Any person who holds a
697 license pursuant to this section may use the words "physical
698 therapist" or "physiotherapist" or the letters "P.T." in
699 connection with her or his name or place of business to denote
700 her or his licensure hereunder. A person who holds a license

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701 pursuant to this section and obtains a doctoral degree in
702 physical therapy may use the letters "D.P.T." and "P.T." A
703 physical therapist who holds a degree of Doctor of Physical
704 Therapy may not use the title "doctor" without also clearly
705 informing the public of his or her profession as a physical
706 therapist.
707 (2) At the time of making application for licensure by
708 endorsement under ~~without examination pursuant to the terms of~~
709 this section, the applicant shall pay to the department a fee
710 not to exceed $175 as fixed by the board, no part of which will
711 be returned.
712 Section 18. Section 486.107, Florida Statutes, is amended
713 to read:
714 486.107 Physical therapist assistant; issuance of license
715 by endorsement ~~without examination to person licensed in another~~
716 ~~jurisdiction~~; fee.—
717 (1) The board may cause a license by endorsement to be
718 issued through the department ~~without examination~~ to any
719 applicant who presents evidence to the board, under oath, of
720 meeting the requirements for licensure by endorsement under s.
721 456.0145 ~~licensure in another state, the District of Columbia,~~
722 ~~or a territory, if the standards for registering as a physical~~
723 ~~therapist assistant or licensing of a physical therapist~~
724 ~~assistant, as the case may be, in such other state are~~
725 ~~determined by the board to be as high as those of this state, as~~

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726 ~~established by rules adopted pursuant to this chapter~~. Any
727 person who holds a license pursuant to this section may use the
728 words "physical therapist assistant," or the letters "P.T.A.,"
729 in connection with her or his name to denote licensure
730 hereunder.
731 (2) At the time of making application for licensure by
732 endorsement under ~~licensing without examination pursuant to the~~
733 ~~terms of~~ this section, the applicant shall pay to the department
734 a nonrefundable fee set by the board in an amount not to exceed
735 $175 ~~as fixed by the board, no part of which will be returned~~.
736 Section 19. Subsections (1), (2), and (3) of section
737 490.006, Florida Statutes, are amended to read:
738 490.006 Licensure by endorsement.—
739 (1) The department shall license a person as a
740 psychologist or school psychologist who, upon applying to the
741 department and remitting the appropriate fee, demonstrates to
742 the department or, in the case of psychologists, to the board
743 that the applicant meets the requirements for licensure by
744 endorsement under s. 456.0145~~:~~
745 ~~(a) Is a diplomate in good standing with the American~~
746 ~~Board of Professional Psychology, Inc.; or~~
747 ~~(b) Possesses a doctoral degree in psychology and has at~~
748 ~~least 10 years of experience as a licensed psychologist in any~~
749 ~~jurisdiction or territory of the United States within the 25~~
750 ~~years preceding the date of application.~~

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751 ~~(2) In addition to meeting the requirements for licensure~~
752 ~~set forth in subsection (1), an applicant must pass that portion~~
753 ~~of the psychology or school psychology licensure examinations~~
754 ~~pertaining to the laws and rules related to the practice of~~
755 ~~psychology or school psychology in this state before the~~
756 ~~department may issue a license to the applicant.~~
757 ~~(3) The department shall not issue a license by~~
758 ~~endorsement to any applicant who is under investigation in this~~
759 ~~or another jurisdiction for an act which would constitute a~~
760 ~~violation of this chapter until such time as the investigation~~
761 ~~is complete, at which time the provisions of s. 490.009 shall~~
762 ~~apply~~.
763 Section 20. Subsections (1) and (2) of section 491.006,
764 Florida Statutes, are amended to read:
765 491.006 Licensure or certification by endorsement.—
766 (1) The department shall license or grant a certificate to
767 a person in a profession regulated by this chapter who, upon
768 applying to the department and remitting the appropriate fee,
769 demonstrates to the board that he or she meets the requirements
770 for licensure by endorsement under s. 456.0145~~:~~
771 ~~(a) Has demonstrated, in a manner designated by rule of~~
772 ~~the board, knowledge of the laws and rules governing the~~
773 ~~practice of clinical social work, marriage and family therapy,~~
774 ~~and mental health counseling.~~
775 ~~(b)1. Holds an active valid license to practice and has~~

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776 actively practiced the licensed profession in another state for
777 3 of the last 5 years immediately preceding licensure;
778 2. Has passed a substantially equivalent licensing
779 examination in another state or has passed the licensure
780 examination in this state in the profession for which the
781 applicant seeks licensure; and
782 3. Holds a license in good standing, is not under
783 investigation for an act that would constitute a violation of
784 this chapter, and has not been found to have committed any act
785 that would constitute a violation of this chapter.
786 (2) The fees paid by any applicant for certification as a
787 master social worker under this section are nonrefundable.
788 (2) The department shall not issue a license or
789 certificate by endorsement to any applicant who is under
790 investigation in this or another jurisdiction for an act which
791 would constitute a violation of this chapter until such time as
792 the investigation is complete, at which time the provisions of
793 s. 491.009 shall apply.
794 Section 21. Subsection (3) of section 468.209, Florida
795 Statutes, is amended to read:
796 468.209 Requirements for licensure.—
797 (3) If the board determines that an applicant is qualified
798 to be licensed by endorsement under s. 456.0145 s. 468.213, the
799 board may issue the applicant a temporary permit to practice
800 occupational therapy until the next board meeting at which

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801 license applications are to be considered, but not for a longer
802 period of time. Only one temporary permit by endorsement shall
803 be issued to an applicant, and it shall not be renewable.
804 Section 22. Subsection (3) of section 486.031, Florida
805 Statutes, is amended to read:
806 486.031 Physical therapist; licensing requirements.—To be
807 eligible for licensing as a physical therapist, an applicant
808 must:
809 (3)(a) Have been graduated from a school of physical
810 therapy which has been approved for the educational preparation
811 of physical therapists by the appropriate accrediting agency
812 recognized by the Commission on Recognition of Postsecondary
813 Accreditation or the United States Department of Education at
814 the time of her or his graduation and have passed, to the
815 satisfaction of the board, the American Registry Examination
816 prior to 1971 or a national examination approved by the board to
817 determine her or his fitness for practice as a physical
818 therapist as hereinafter provided;
819 (b) Have received a diploma from a program in physical
820 therapy in a foreign country and have educational credentials
821 deemed equivalent to those required for the educational
822 preparation of physical therapists in this country, as
823 recognized by the appropriate agency as identified by the board,
824 and have passed to the satisfaction of the board an examination
825 to determine her or his fitness for practice as a physical

826 therapist as hereinafter provided; or
827 (c) Be entitled to licensure by endorsement or without
828 examination as provided in s. 486.081.
829 Section 23. Subsection (3) of section 486.102, Florida
830 Statutes, is amended to read:
831 486.102 Physical therapist assistant; licensing
832 requirements.—To be eligible for licensing by the board as a
833 physical therapist assistant, an applicant must:
834 (3)(a) Have been graduated from a school giving a course
835 of not less than 2 years for physical therapist assistants,
836 which has been approved for the educational preparation of
837 physical therapist assistants by the appropriate accrediting
838 agency recognized by the Commission on Recognition of
839 Postsecondary Accreditation or the United States Department of
840 Education, at the time of her or his graduation and have passed
841 to the satisfaction of the board an examination to determine her
842 or his fitness for practice as a physical therapist assistant as
843 hereinafter provided;
844 (b) Have been graduated from a school giving a course for
845 physical therapist assistants in a foreign country and have
846 educational credentials deemed equivalent to those required for
847 the educational preparation of physical therapist assistants in
848 this country, as recognized by the appropriate agency as
849 identified by the board, and passed to the satisfaction of the
850 board an examination to determine her or his fitness for

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851 practice as a physical therapist assistant as hereinafter
852 provided;
853 (c) Be entitled to licensure by endorsement or without
854 examination as provided in s. 486.107; or
855 (d) Have been enrolled between July 1, 2014, and July 1,
856 2016, in a physical therapist assistant school in this state
857 which was accredited at the time of enrollment; and
858 1. Have been graduated or be eligible to graduate from
859 such school no later than July 1, 2018; and
860 2. Have passed to the satisfaction of the board an
861 examination to determine his or her fitness for practice as a
862 physical therapist assistant as provided in s. 486.104.
863 Section 22. Notwithstanding the changes made to the
864 Florida Statutes (2023) by this act, a board as defined in s.
865 456.001, Florida Statutes, or the Department of Health, as
866 applicable, may continue processing applications for licensure
867 by endorsement as authorized under the Florida Statutes (2023)
868 until the rules adopted by such board or the department to
869 implement the changes made by this act take effect or until 6
870 months after the effective date of this act, whichever occurs
871 first.
872 Section 25. This act shall take effect July 1, 2024.
873

PCB COM 24-01

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB COM 24-01 Fantasy Sports Contest Amusement Act
SPONSOR(S): Commerce Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Commerce Committee		Thompson	Hamon

SUMMARY ANALYSIS

The Florida Gaming Control Commission (Commission) is responsible for exercising all regulatory and executive powers of the state with respect to gambling, excluding the state lottery. Generally, fantasy sports contests are any of a number of games that permit a person to pay an entry fee and play either a virtual game or a virtual season of a sport based on the performance statistics of real sports players. Currently, there is no constitutional, statutory, or regulatory framework expressly allowing for fantasy contests to be conducted in Florida.

The bill creates the "Fantasy Sports Contest Amusement Act" (Act), which authorizes fantasy sports contests to be offered by contest operators or noncommercial contest operators in which a contest participant manages a fantasy or simulation sports team composed of athletes from professional sports organization. The bill, in part:

- Requires the Commission to administer and enforce the Act.
- Authorizes the Commission to license, investigate and monitor the operation and play of fantasy sports contests, and penalize licensees for any violation of state law or rule.
- Prohibits using such contests to bet on sports or pari-mutuel events, poker or other card games, or collegiate, high school, or youth sporting events.
- Requires certain contest operators to be annually licensed by the Commission.
- Requires contest operators to implement consumer protection procedures that require proper employee participation, ensure contest participants are 21 years of age or older, restrict players, officials, or participants from participating in a fantasy sports contest, allow individuals to restrict or prevent their own access, limit the number of entries a single contest participant may submit, and segregate contest participants' funds from operational funds.
- Requires contest operators to annually perform an independent audit, and submit the results to the Commission within 90 days after the end of each annual licensing period.
- Requires contest operators to keep and maintain daily records of its operations for at least three years.
- Creates an administrative fine, of up to $5,000, and not to exceed $100,000 in the aggregate, for violations of the act, and authorizes an action to recover such penalties to be brought by the Commission or the Department of Legal Affairs in circuit court in the name and on behalf of the state.
- Requires the Commission to receive and review violations of ch. 546, F.S., (Amusement Facilities), which includes fantasy sports contests.
- Prohibits certain Commission candidates, members, employees, or former commissioners or employees from holding a license issued under ch. 546, F.S., prior to, during, and after appointment or employment with the Commission, for certain timeframes described in those provisions.

The bill may have an indeterminate fiscal impact on state government and the private sector, and no fiscal impact on local government.

The effective date of the bill is July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

General Overview of Gaming in Florida

Gambling is generally prohibited in Florida, unless specifically authorized. Section 7, Art. X, of the Florida Constitution prohibits lotteries, other than pari-mutuel pools, from being conducted in Florida. Chapter 849, F.S., includes prohibitions against slot machines, keeping a gambling house and running a lottery. However, a constitutional amendment approved by voters in 1986 authorized state-operated lotteries, and a constitutional amendment in 2004 authorized slot machines in Miami-Dade and Broward Counties.

The following gaming activities are also authorized by law and regulated by the state:

- Pari-mutuel[1] wagering;[2]
- Gaming on tribal reservations in accordance with the Indian Gaming and Regulatory Act and the 2010 Gaming Compact with the Seminole Tribe of Florida;
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[3] and
- Cardrooms[4] at certain pari-mutuel facilities.

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,[5] bingo,[6] charitable drawings,[7] game promotions (sweepstakes),[8] bowling tournaments,[9] and skill-based amusement games and machines at specified locations.[10]

In 2013, the legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prizes are prohibited slot machines.[11]

In 2015, the legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida's limitations on gambling and prevent the expansion of casino-style gambling. The legislature clarified regulations related to the operation and use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.[12]

Florida Gaming Control Commission

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[1] "Pari-mutuel" is defined in Florida law as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

[2] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.

[3] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.

[4] S. 849.086(2)(c), F.S., defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."

[5] S. 849.085, F.S.

[6] S. 849.0931, F.S.

[7] S. 849.0935, F.S.

[8] S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

[9] S. 849.141, F.S.

[10] S. 546.10, F.S.

[11] Florida House of Representatives Select Committee on Gaming, Final Bill Analysis of 2013 CS/HB 155, p. 1 (Apr. 19, 2013).

[12] S. 546.10, F.S.

The Florida Gaming Control Commission (Commission) is a five-member regulatory body that is responsible for exercising all regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts, and other forms of gambling authorized by the State Constitution or law, excluding the state lottery.[13] The Commission is also the State Compliance Agency responsible for monitoring compliance with the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.[14]

The Division of Gaming Enforcement (Division) is a criminal justice agency[15] tasked with the enforcement of Florida's gambling laws to combat illegal gambling activities.[16] While every law enforcement officer in the state of Florida has the authority to make arrests for violations of Florida's gambling laws, the Division is the first law enforcement agency with illegal gambling as its primary responsibility.[17]

The Division director and all investigators are certified and designated law enforcement officers, and have the power to detect, apprehend, and arrest for any alleged violation of the state's gambling laws, or any law of this state.[18] Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass.[19]

The officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring. Investigators employed by the Commission are required to have access to, and the right to inspect, premises licensed by the Commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the Commission.[20]

The Division and its investigators are specifically authorized to seize, store, and test any contraband[21] in accordance with the Florida Contraband Forfeiture Act.[22]

According to the Commission, the Division:[23]

- Participates in direct enforcement activities involving proactive investigations initiated by reports of illegal gambling, confidential sources, and investigative leads. Upon obtaining sufficient evidence, agents execute search warrants, resulting in arrests and the seizure of illegal gambling devices and contraband.
- Serves as a valuable resource for state and local law enforcement partners, providing expert guidance on the intricacies of Florida's gambling laws and regulations. Agents share their knowledge and experience, assisting other law enforcement agencies in identifying illegal gambling activities, gathering evidence, and building strong cases for prosecution. This collaborative approach ensures that illegal gambling operations are effectively investigated and disrupted.

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[13] *See* ss. 16.71-16.716, F.S.
[14] S. 285.710, F.S.
[15] S. 16.711(1), F.S.
[16] Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, pg. 6, https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 2, 2024).
[17] Florida Gaming Control Commission, *Gaming Enforcement*, https://flgaming.gov/enforcement/ (last visited Jan. 3, 2024).
[18] S. 16.711(3), F.S.
[19] *Id.*
[20] *Id.*
[21] The term "contraband" has the same meaning as the term "contraband article" in s. 932.701(2)(a)2, F.S., which is defined as "any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state, including any violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849."
[22] S. 16.711(4), F.S.
[23] *Id.*

The Florida Department of Law Enforcement (FDLE) is required to provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the Commission's executive director and agreed to by the FDLE's executive director. Any other state agency, including the Department of Business and Professional Regulation (DBPR) and the Department of Revenue (DOR), must, upon request, provide the Commission with any information relevant to any investigation conducted as described above, and the Commission must reimburse any agency for the actual cost of providing any such assistance.[24]

Fantasy Sports Contests

Generally, fantasy sports contests are any of a number of games that permit a person to pay an entry fee and play either a virtual game or a virtual season of a sport based on the performance statistics of real sports players. The player acts as both general manager and field manager of their team by building a roster through a draft and trades. Players make lineups in pursuit of statistically beating other players. The term "commissioner" has been used in the context of fantasy leagues to denote a person who manages a fantasy league, establishes league rules, resolves disputes over rule interpretations, publishes league standings, or selects the Internet service for publication of league standings.[25]

The two most-prominent fantasy sports in the U.S are fantasy baseball and fantasy football.[26] Participation in fantasy sports contests grew dramatically in the 1990s due to greater access to game and player statistics through growing access to the Internet.[27]

Daily fantasy sports contests are an accelerated version of fantasy sports contests, which are played across a shorter period of time. For example, daily fantasy contests may be played over a single week in a season, rather than the entire season. Daily fantasy contests are typically played as "contests" which require an entry fee. The fee funds an advertised prize pool from which the fantasy contest operator (such as FanDuel or DraftKings) takes a percentage as revenue.[28] The legality of daily fantasy contests has been challenged in many states and jurisdictions, with some critics arguing that the contests more closely resemble proposition wagering on athlete performance than traditional fantasy contests.

The online fantasy sports contest industry is now a multi-billion dollar industry in the United States.[29] In 2022, an estimated 62.5 million people competed in fantasy contests in the United States and Canada.[30]

Legality of Fantasy Sports Contests in Florida

Florida law does not specifically address fantasy sports contests. Currently, there is no constitutional, statutory, or regulatory framework expressly allowing for fantasy contests to be conducted in Florida. Moreover, Florida courts have not addressed whether Florida's constitutional and statutory prohibitions on gambling apply to fantasy contests. Florida's Attorney General has opined in the past that some fantasy contests appear to violate state gambling laws.[31]

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[24] Section 16.711(5), F.S.
[25] *See* Bernhard & Eade, *Gambling in a Fantasy World: An Exploratory Study of Rotisserie Baseball Games,* 9 UNLV Gaming Research & Review Journal Issue 1, at 30, at http://digitalscholarship.unlv.edu/grrj/vol9/iss1/3/ (last visited Feb. 9, 2024).
[26] Adam Augustyn, Britannica.com, *Fantasy sport*, https://www.britannica.com/sports/fantasy-sport (last visited Feb. 9, 2024).
[27] Ben Klayman, Reuters, *Technology spurs growth of fantasy sports in U.S.* (Sep. 24, 2008) https://www.reuters.com/article/idUSTRE48O039/ (last visited Feb. 9, 2024).
[28] Adam Kilgore, The Washington Post, *Daily fantasy sports Web sites find riches in Internet gaming law loophole*, (Mar. 27, 2015) https://www.washingtonpost.com/sports/daily-fantasy-sports-web-sites-find-riches-in-internet-gaming-law-loophole/2015/03/27/92988444-d172-11e4-a62f-ee745911a4ff_story.html.
[29] Curt Woodward, The Boston Globe, *Fantasy sports book gives insider view of DraftKings' explosion*, (Mar. 6, 2017) https://www.bostonglobe.com/business/2017/03/06/fantasy-sports-book-gives-insider-view-draftkings-explosion/qntMQJiIW2IKhrBNXPx2SK/story.html (last visited Feb. 9, 2024).
[30] Fantasy Sports & Gaming Association, *Industry Demographics*, https://thefsga.org/industry-demographics/ (last visited Feb. 9, 2024).
[31] 91-03 Fla. Op. Att'y Gen. (1991).

Section 849.14, F.S., provides that a stake, bet, or wager of money or another thing of value placed "upon the result of any trial or contest of skill, speed, power, or endurance of human or beast" is unlawful. Receiving money or acting as the custodian or depositary of money as part of such a stake, bet, or wager is also unlawful.

Section 849.25, F.S., Florida's anti-bookmaking statute, defines bookmaking as "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever." The statute includes factors that are to be considered evidence of bookmaking, including charging a percentage on accepted wagers, receiving more than five wagers in a day, and receiving over $500 in total wagers in a single day or over $1500 in a single week.[32]

On January 8th, 1991, Florida Attorney General (AG) provided an advisory legal opinion[33] regarding whether participation in a fantasy sports league violated Florida's gambling laws. The opinion concluded that the operation of a fantasy league would violate s. 849.14, F.S., and that since the fantasy sports league's entry fee was used to make up the prizes, it qualified as a "stake, bet, or wager" under Florida law.[34] The AG stated that, "while the skill of the individual contestant picking the members of the fantasy team is involved, the prizes are paid to the contestants based upon the performance of the individual professional football players in actual games."[35]

The AG concluded that contests in which the skill of the contestant predominates over the element of chance, such as in certain sports contests, are not prohibited lotteries. As an example, he noted that golf and bowling tournaments were contests of skill and were not prohibited. He considered that "it might well be argued that skill is involved in the selection of a successful fantasy team by requiring knowledge of the varying abilities and skills of the professional football players who will be selected to make up the fantasy team."[36]

Recently, the Commission has issued cease and desist correspondence to various companies operating fantasy contests in the state concerning possible violations of Florida's gambling laws. The letters have generated controversy, concern, and interest from contest operators, elected officials, and the Seminole Tribe of Florida, which has entered into gaming compacts with the state.[37]

Legality of Fantasy Sports in Federal Law

The federal Unlawful Internet Gambling Enforcement Act of 2006[38] (UIGEA) prohibits the processing of certain online financial wagering to prevent payment systems from being used in illegal online gambling. The UIGEA prohibits gambling businesses from knowingly accepting payments in connection with a "bet or wager" that involves the use of the Internet and that is unlawful under any federal or state law.

The UIGEA expressly states that participation in fantasy or simulation sports contests is not included in the definition of "bet or wager"[39] when certain conditions are met. For purposes of the UIGEA, participation in a fantasy or simulation sports contest is not a bet or wager when:

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[32] S. 849.25(1)(b), F.S.
[33] 91-03 Fla. Op. Att'y Gen. (1991).
[34] *Creash v. State*, 131 Fla. 111, 118 (Fla. 1938).
[35] 91-03 Fla. Op. Att'y Gen. (1991).
[36] *Id.* Also, a 1990 Florida Attorney General advisory legal opinion provides that a golf hole-in-one contest, which is an exercise of skill, with an entry fee where such fee does not go toward the purse or prize does not violate the state's gambling laws. 90-58 Fla. Op. Att'y Gen. (1990).
[37] *See* https://www.floridatrend.com/article/38854/questions-swirl-around-fantasy-sports (last visited Jan. 23, 2024).
[38] 31 U.S.C. § 5361-5366 (2006).
[39] 31 U.S.C. § 5362(1) (2006).

- Prizes and awards offered to winning participants are established and made known in advance of the game or contest and the value is not determined by the number of participants or amount of fees paid by the participants.
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals.
- Winning outcomes are not based on the score, point spread, or any performance of any single sports team or combination of such teams or solely on a single performance of an individual athlete in a single sporting event.

Contest operators argue that they are legal under the UIGEA. In *Humphrey v. Viacom, Inc.*, the court determined that because the entry fee was paid "unconditionally," the owner did not participate, and the prizes were guaranteed and determined in advance, the fantasy contest entry fees were not "wagers" under the act.[40] However, although the UIGEA exempts fantasy and simulation sports contests from the application of the UIGEA, it does not make such contests legal generally. The UIGEA does not change or preempt any other federal or state law. As expressed in the Rule of Construction in the UIGEA, "no provision of this subchapter shall be construed as altering, limiting, or extending any federal or state law or tribal-state compact prohibiting, permitting, or regulating gambling within the United States."[41] Therefore, any other state or federal law could apply.

The federal Illegal Gambling Business Act of 1970 (IGBA)[42] defines an "illegal gambling business" as a gambling business that is in violation of the law of the state in which it is conducted, involves five or more persons who conduct or manage all or part of such business, and that has been in continuous operation for a period of more than 30 days or has a gross revenue of $2000 in a single day. The IGBA specifically exempts savings promotion raffles and bingo games, lotteries, or other games of chance operated by certain non-profit corporations.[43] An employee or company that has violated the IGBA is subject to penalties including fines, forfeiture of profits and assets, and imprisonment for up to 5 years.

Fantasy Sports Contests in the 2021 Compact

The Seminole Indian Tribe of Florida (the Tribe) is a federally recognized Indian tribe whose reservations and trust lands are located in the State. A Gaming Compact between the Tribe and the State of Florida was executed by Governor Ron DeSantis and the Tribe on April 23, 2021 (the 2021 Compact). The 2021 Compact was approved by the U.S. Department of the Interior on August 6, 2021, and became effective upon the publication of notice in the Federal Register on August 11, 2021.[44]

Under the 2021 Compact, "fantasy sports contest" means a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization and that meets each of the following requirements:
- All prizes and awards offered to winning contest participants are established and made known to the contest participants in advance of the game or contest.
- All winning outcomes reflect the relative knowledge and skill of the contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.
- No winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams, solely on any single performance of an individual athlete or player in any single actual event, on a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002, Florida Statutes, as of January 1, 2021, on a game of poker or other card game, or on the performances of participants in collegiate, high school, or youth sporting events.
- No casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are displayed or depicted.

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[40] *Humphrey v. Viacom, Inc.*, 2007 WL 1797648 (D.N.J. June 20, 2007).
[41] 31 U.S..C. § 5361(b) (2006).
[42] 18 U.S.C. § 1995 (1970).
[43] *See* 26 U.S.C. § 501.
[44] Fed. Register, Vol. 86, No. 153 at 44037.

The 2021 Compact allows the Tribe to offer fantasy sports contests at all their facilities. However, the 2021 Compact does not include fantasy sports contests in the games for which the Tribe is granted exclusivity to conduct in the state.

2021 Compact Litigation

The state received payments due under the 2021 Compact beginning October 2021. The U.S. District Court for the District of Columbia set aside the federal approval of the 2021 Compact on November 22, 2021. The Seminole Tribe continued making revenue sharing payments to the state through February 2022, and then discontinued all payments. Between October 2021 and February 2022, the state received five payments of $37.5 million, totaling $187.5 million.[45]

After the U.S. Supreme Court ordered a stay on the U.S. District Court for the District of Columbia ruling, revenue sharing payments from the Seminole Tribe to the state resumed in January 2024.[46] Currently, there is a proceeding pending in the U.S. Supreme Court challenging the legality of the 2021 Compact, but that court has not yet determined to accept the case.[47]

Litigation relating to the legality of the 2021 Compact is currently pending in the Florida Supreme Court,[48] challenging the off-reservation mobile sports betting authorized in the 2021 Compact and in Florida law[49] as a violation of the Florida Constitution (Article X, Section 30 to the Florida Constitution). The challenged actions include execution and ratification of the 2021 Compact and enactment of implementing legislation, as it relates to sports betting.

Florida's Sunrise Act

Section 11.62, F.S., is Florida's sunrise review, which is called the Sunrise Act. The Sunrise Act states that regulation should not be adopted unless it is:

- Necessary to protect the public health, safety, or welfare from significant and discernible harm or damage;
- Exercised only to the extent necessary to prevent the harm; and
- Limited so as not to unnecessarily restrict entry into the practice of the profession or adversely affect public access to the professional services.

In determining whether to regulate a profession or occupation, the Sunrise Act requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;

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[45] *See* the review of the Indian Gaming Revenues by the Revenue Estimating Conference/Impact Conference at http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf (last visited Jan. 23, 2024). The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. At the request of the legislative committees or other members of an estimating conference, EDR conducts impact assessments of proposed policy changes. Often, EDR's estimates are incorporated in the committee bill analysis or fiscal note. In some cases, committees will request EDR to take a particular proposal to a consensus estimating conference to obtain an impact estimate that is formally agreed to by both houses of the Legislature and by the Governor's Office.

[46] The resumption of Indian Gaming Revenues will be reviewed by the Revenue Estimating Conference/Impact Conference.

[47] *See* Order in Pending Case, No. 23A315 (Oct. 25, 2023) in *West Flagler Associates, Ltd., et al. v. Haaland*, Application for Stay Denied with Statement of Justice Kavanaugh, 601 U.S. ___ (2023), available at 23A315 West Flagler Associates, Ltd. v. Haaland (10/25/2023) (supremecourt.gov) (last visited Feb. 9, 2024).

[48] *West Flagler Associates, et al., v. Ron D. DeSantis, et al.*, SC 2023-1333, Petition for Writ of Quo Warranto.

[49] *See* s. 285.710(13(b)7., F.S.

- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The Sunrise Act requires proponents of legislation that propose new regulation on professions or occupations to provide the following information, **upon request,** by the agency proposed to have jurisdiction or the legislative committee to which the legislation is referred, to document the need for regulation:

- The number of individuals or businesses that would be subject to the regulation;
- The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;
- Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding three years;
- A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;
- A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;
- A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;
- A copy of any federal legislation mandating regulation;
- An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;
- The cost, availability, and appropriateness of training and examination requirements;
- The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;
- The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation;
- The details of any previous efforts in this state to implement regulation of the profession or occupation; and
- Any other information the agency or the committee considers relevant to the analysis of the proposed legislation.

The Sunrise Act requires the agency proposed to have jurisdiction over the regulation to provide the Legislature with the following information:

- The resources required to implement and enforce the regulation;
- The technical sufficiency of the proposal, including its consistency with the regulation of other professions; and
- Any alternatives that may result in less restrictive or more cost-effective regulation.

In determining whether to recommend regulation, the legislative committee reviewing the proposal must assess whether the proposed regulation is:

- Justified based on the statutory criteria and the information provided by both the proponents of regulation and the agency responsible for its implementation;
- The least restrictive and most cost-effective regulatory scheme necessary to protect the public; and
- Technically sufficient and consistent with the regulation of other professions under existing law.

Proposed Changes

The bill creates the short title the “Fantasy Sports Contest Amusement Act (Act).”

The bill provides the following Legislative intent and findings:

> It is the intent of the Legislature to ensure public confidence in the integrity of fantasy sports contests and contest operators. This Act is designed to regulate the contest operators and individuals who participate in such contests and to enact consumer protections related to fantasy sports contests. Furthermore, the Legislature finds that fantasy sports contests, as that term is defined in s. 546.13, F.S., involve the skill of contest participants.

Definitions

The bill provides the following definitions:

- "Confidential information" means information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person's employment with, or work as an agent of, a contest operator.
- "Contest operator" means a person or an entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state.
- "Contest participant" means a person who pays an entry fee for the ability to participate in a fantasy or simulation sports game or contest offered by a contest operator or noncommercial contest operator.
- "Entry fee" means the cash or cash equivalent amount that a person is required to pay to a contest operator or noncommercial contest operator to participate in a fantasy sports contest.
- "Fantasy sports contest" means a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization and which meets each of the following requirements:
    - All prizes and awards offered to winning contest participants are established and made known to the contest participants in advance of the game or contest, and their value is not determined by the number of contest participants or the amount of any fees paid by those contest participants.
    - All winning outcomes reflect the relative knowledge and skill of the contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.
    - No winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams; solely on any single performance of an individual athlete or player in a single actual event; on a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002, F.S.; on a game of poker or other card game; or on the performances of participants in collegiate, high school, or youth sporting events.
    - No casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are displayed or depicted.
- "Noncommercial contest operator" means a natural person who organizes and conducts a fantasy or simulation sports game in which:
    - Contest participants are charged entry fees for the right to participate;
    - Entry fees are collected, maintained, and distributed by the same natural person;
    - The total entry fees collected, maintained, and distributed by such natural person do not exceed $1,500 per season or a total of $10,000 per calendar year; and
    - All entry fees are returned to the contest participants in the form of prizes.
- Commission” means the Florida Gaming Control Commission.

Administration and Enforcement

The bill requires the Commission to enforce and administer the act.

The bill authorizes the Commission to:
- Conduct investigations and monitor the operation and play of fantasy sports contests;
- Review the books, accounts, and records of current and former contest operators;
- Deny, suspend, or revoke licenses for any violation of state law or rule;
- Take testimony, issue witness summonses and subpoenas for matters in its jurisdiction;
- Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with the consumer protection procedures enacted pursuant to the act;
- Investigate any licensed or unlicensed persons or entities when they are:
    - Advertising as offering or providing or are engaged in conducting a fantasy sports contest which requires licensure under the act; or
    - Engaged in activities which do not comply with or are prohibited by the act; and
- Issue orders to licensed or unlicensed persons or entities, or to contest operators or noncommercial contest operators, to stop engaging in activities that require licensure or are
- prohibited by the act, or to seek an injunction or take other appropriate action to enforce the act.

The bill requires the Commission to:
- Revoke a contest operator's license if the contest operator offers fantasy sports contests in violation of the prohibition contained in s. 546.13, F.S., against betting on sports or pari-mutuel events, on poker or other card games, or on collegiate, high school, or youth sporting events; and
- Adopt rules to implement and administer the act.

Licensure

The bill requires contest operators to be licensed by the Commission to conduct fantasy sports contests in Florida. Licenses are effective for one year after issuance and must be renewed annually.

Applications for licensure must include:
- The full name of the applicant; for a corporate applicant, the name of the state of incorporation, the names and addresses of the officers, directors, and shareholders who hold 15 percent or more equity in the corporation; and for an applicant that is a business entity other than a corporation, the names and addresses of:
    - Each principal, partner, or shareholder who holds 15 percent or more equity in the entity; and
    - Any person who individually or in concert with a relative beneficially owns or controls, or has the power to vote or cause the vote of, 15 percent or more equity.
        - For the purposes of the act, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.
- The names and addresses of the ultimate equitable owners of the corporation or other business entity, if different from those otherwise provided, unless the securities of the corporation or entity are registered pursuant to the federal Securities Exchange Act of 1934, and either:
    - The applicant files reports with the United States Securities and Exchange Commission as required by section 13 of that act; or
    - The securities of the corporation or entity are regularly traded on an established securities market in the United States.
- The estimated number of fantasy sports contests to be conducted by the applicant annually;
- A statement of the assets and liabilities of the applicant;
- The names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor, if required by the Commission;

- For each individual listed in the application, a full set of fingerprints to be submitted to the Commission or to a vendor, entity, or agency authorized under s. 943.053(13), F.S., which must be:
  - Forwarded to the Department of Law Enforcement (FDLE) for state processing;
  - Forwarded to the Federal Bureau of Investigation by the FDLE for national processing.
  - Retained by the FDLE as provided in s. 943.05(2)(g) and (h), F.S.; and
  - Enrolled in the Federal Bureau of Investigation's national retained print arrest notification program when the FDLE begins participation in that program. Any arrest record identified must be reported by the FDLE to the commission.
- For each foreign national, such documents as necessary to allow the commission to conduct criminal history records checks in the individual's home country; the applicant must pay the full cost of processing fingerprints and required documentation.

The bill requires applications for renewal of a license issued pursuant to the Act to contain all revisions to the information submitted in the prior year's application which are necessary to maintain such information as both accurate and current, and the applicant must attest that any revisions do not affect the applicant's qualifications for license renewal.

Upon determination by the Commission that an application for renewal is complete and qualifications have been met, including payment of the renewal fee, the bill requires a fantasy sports contests license to be renewed annually.

The bill provides that a person or entity is not eligible for licensure as a contest operator or for licensure renewal if the Commission determines after investigation that an individual required to be listed in the application is not of good moral character or is found to have been convicted of:

- A felony in Florida;
- Any offense in another jurisdiction which would be considered a felony if committed in Florida; or
- A felony under the laws of the United States.

The term "convicted" is defined as having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

License Suspension

The bill requires the license of a contest operator to be automatically suspended 30 calendar days after entry of a final order imposing an administrative fine against the contest operator, if the administrative fine has not been paid. The license of a contest operator may not be renewed, and an application for licensure as a contest operator may not be approved, if the contest operator or an applicant is liable for an outstanding administrative fine imposed under the act. A contest operator's license remains suspended until the administrative fine is paid. However, a contest operator's license may not be suspended and an application for licensure may not be denied if the contest operator or the applicant has an appeal from a final order pending in any appellate court.

Changes in Ownership

Changes in ownership of or interest in a fantasy sports contests license of five percent or more of the stock or other evidence of ownership or equity in the contest operator must be approved by the commission before such change, unless the owner is an existing owner of that license who was previously approved by the Commission. Changes in ownership of or interest in a fantasy sports contests license of less than five percent must be reported to the Commission within 20 days after the change. The Commission may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest.

Consumer Protections

Regarding consumer protections, the bill requires contest operators to implement fantasy sports contests procedures that:

- Prevent the contest operator's employees, their relatives, or persons living in the same household as the employees, from competing in a fantasy sports contest in which a cash prize is awarded.
  - The term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister;
- Allow a commercial contest operator to offer fantasy sports contests to its employees, if the employees are the sole participants in the contest;
- Prevent the contest operator from being a contest participant in a fantasy sports contest that the contest operator offers;
- Prevent the contest operator's employees or agents from sharing with a third party confidential[50] information that could affect fantasy sports contest play until the information has been made publicly available;
- Verify that contest participants are 21 years of age or older;
- Restrict an individual who is a player, a game official, or other participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual's real-world team, or the accumulated statistical results of the sport or competition in which he or she is a player, game official, or other participant;
- Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest;
- Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent participants from submitting more than the allowable number of entries; and
- Segregate contest participants' funds from operational funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants' accounts for the benefit and protection of authorized contest participants' funds held in fantasy sports contest accounts.

Audit Requirements

The bill requires contest operators to annually contract with a third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with the act, and submit the results of the independent audit to the Commission no later than 90 days after the end of each annual licensing period.

The bill requires the data source used by contest operators to determine fantasy sports contest results to be complete, accurate, reliable, and appropriate to settle the outcome of the fantasy sports contests for which they are used. This requirement does not apply to noncommercial contest operators.

The bill requires each contest operator to keep and maintain daily records of its operations and to maintain such records for at least three years. The records must sufficiently detail all financial transactions required to determine compliance with the requirements of the Act and must be available for audit and inspection by the Commission or other law enforcement agencies during the contest operator's regular business hours. The Commission is required to adopt rules to implement this provision.

Penalties for Violations

[50] Under the bill, the term "confidential information" means "information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person's employment with, or work as an agent of, a contest operator."

Regarding penalties for violations of the act, the bill provides that a contest operator, or its employee or agent, who violates the Act is subject to an administrative fine, not to exceed $5,000 for each violation and not to exceed $100,000 in the aggregate, for deposit to the state's general revenue fund.

The bill authorizes an action to recover such penalties to be brought by the Commission or the Department of Legal Affairs in circuit court in the name and on behalf of the state.

The bill specifies that the penalty provisions do not apply to violations committed by a contest operator which occurred prior to the issuance of a license under the Act if the contest operator applies for a license within 90 days after the date the Commission begins accepting applications, and receives a license within 240 days after such date.

The bill provides that fantasy sports contests conducted by a contest operator or noncommercial contest operator in compliance with all fantasy sports contest requirements are not subject to certain gambling laws[51] set forth in ch. 849, F.S., relating to Gambling.

The bill amends provisions in ss. 16.71, 16.712, 16.713, and 16.715, F.S., relating to the Commission. The Commission must receive and review violations of ch. 546, F.S., (Amusement Facilities), which includes fantasy sports contests, and prohibit certain Commission candidates, members, employees, or former commissioners or employees from holding a license issued under ch. 546, F.S., prior to, during, and after appointment or employment with the Commission, for the time frames described in those provisions.

Exemptions

Regarding activities that are exempt from certain gambling laws,[52] the bill adds fantasy sports contests conducted in accordance with ch. 546, F.S., as an exempted activity. Similar exemptions in current law, provided the activity is conducted pursuant to applicable Florida law, include pari-mutuel wagering, slot machine gaming, the operation of cardrooms, and bingo games.

B. SECTION DIRECTORY:

Section 1: Creates s. 546.11, F.S., providing a short title.

Section 2: Creates s. 546.12, F.S., relating to legislative intent; findings.

Section 3: Creates s. 546.13, F.S., relating to definitions.

Section 4: Creates s. 546.14, F.S., relating to enforcement and administration; rulemaking.

Section 5: Creates s. 546.15, F.S., relating to licensing; renewal.

Section 6: Creates s. 546.16, F.S., relating to consumer protection.

Section 7: Creates s. 546.17, F.S., relating to records and reports.

Section 8: Creates s. 546.18, F.S., relating to penalties; applicability; exemption.

Section 9: Amends s. 16.71, F.S., relating to Florida Gaming Control Commission; creation; meetings; membership.

Section 10: Amends s. 16.712, F.S., relating to the Florida Gaming Control Commission authorizations, duties, and responsibilities.

[51] *See* ss. 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25, F.S., relating to various activities that are prohibited by or must comply with Florida law.

[52] *Id.*

Section 11: Amends s. 16.713, F.S., relating to the Florida Gaming Control Commission; appointment and employment restrictions.

Section 12: Amends s. 16.715, F.S., relating to the Florida Gaming Control Commission standards of conduct; ex parte communications.

Section 13: Amends s. 849.142, F.S., relating to exempted activities.

Section 14: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Requiring fantasy sports contest operators to meet various requirements imposed by the bill, such as application and licensure, auditing, consumer protection, and penalties for violations, may have an indeterminate negative fiscal impact on the private sector.

D. FISCAL COMMENTS:

Indeterminate. The bill may increase revenues and expenditures to state funds relating to:

- Processing applications for licensure by the Commission and FDLE.
- Administration and enforcement of a new licensure program by the Commission.

The bill requires all administrative fines imposed and collected related to violations of the Act by contest operators to be deposited in the General Revenue Fund.

According to the Commission, "depending on the number of contest operators that obtain a license in Florida, the Commission may require additional FTEs and expenses to carry out the regulatory responsibilities associated" with the act.[53]

According to the FDLE, the bill could potentially require "additional staffing and other resources."[54]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

[53] The Florida Gaming Control Commission, Agency Analysis of 2024 SB 1568, p. 8 (Jan. 19, 2024).

[54] The Florida Department of Law Enforcement, Agency Analysis of 2024 SB 1568, p. 5 (Jan. 12, 2024).

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill requires the Commission to adopt rules to implement and administer the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the Fantasy Sports Contest
3 Amusement Act; creating s. 546.11, F.S.; providing a
4 short title; creating s. 546.12, F.S.; providing
5 legislative findings and intent; creating s. 546.13,
6 F.S.; defining terms; creating s. 546.14, F.S.;
7 requiring the Florida Gaming Control Commission to
8 enforce and administer the act; authorizing the
9 commission to take certain actions; requiring the
10 commission to revoke a contest operator's license
11 under certain circumstances; requiring the commission
12 to adopt rules; creating s. 546.15, F.S.; providing
13 application requirements for fantasy sports contest
14 operator licenses; providing that specified persons or
15 entities are not eligible for licensure under certain
16 circumstances; defining the term "convicted";
17 specifying that a contest operator license is
18 automatically suspended under certain circumstances;
19 providing an exception; requiring contest operators to
20 report certain changes in ownership or interest;
21 creating s. 546.16, F.S.; requiring a contest operator
22 to implement specified consumer protection procedures;
23 defining the term "relative"; requiring a contest
24 operator to annually contract with a third party to
25 perform an independent audit; requiring a contest
26 operator to submit the audit results to the commission

27 within a certain timeframe; requiring a contest
28 operator to use data sources that meet specified
29 requirements; creating s. 546.17, F.S.; requiring
30 contest operators to keep and maintain certain records
31 for a specified period; providing a requirement for
32 such records; requiring that such records be available
33 for audit and inspection; requiring the commission to
34 adopt rules; creating s. 546.18, F.S.; providing a
35 civil penalty; providing applicability; exempting
36 fantasy sports contests from certain provisions in ch.
37 849, F.S.; amending s. 16.71, F.S.; prohibiting the
38 Governor from soliciting or requesting certain
39 information from a person who holds a license to
40 conduct fantasy sports contests; amending s. 16.712,
41 F.S.; conforming provisions to changes made by the
42 act; amending s. 16.713, F.S.; revising prohibitions
43 relating to appointment to and employment with the
44 commission to include prohibitions relating to fantasy
45 sports contests licenses; amending s. 16.715, F.S.;
46 revising prohibitions relating to former commissioners
47 and employees of the commission to include
48 prohibitions relating to fantasy sports contests
49 licenses; amending s. 849.142, F.S.; providing that
50 specified provisions do not apply to participation in
51 or the conduct of fantasy sports contests; providing
52 an effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:
55
56 Section 1. Section 546.11, Florida Statutes, is created to
57 read:
58 546.11 Short title.—Sections 546.11-546.18 may be cited as
59 the "Fantasy Sports Contest Amusement Act."
60 Section 2. Section 546.12, Florida Statutes, is created to
61 read:
62 546.12 Legislative intent; findings.—It is the intent of
63 the Legislature to ensure public confidence in the integrity of
64 fantasy sports contests and contest operators. This act is
65 designed to regulate the contest operators and individuals who
66 participate in such contests and to enact consumer protections
67 related to fantasy sports contests. Furthermore, the Legislature
68 finds that fantasy sports contests, as that term is defined in
69 s. 546.13, involve the skill of contest participants.
70 Section 3. Section 546.13, Florida Statutes, is created to
71 read:
72 546.13 Definitions.—As used in ss. 546.11-546.18, the
73 term:
74 (1) "Act" means the Fantasy Sports Contest Amusement Act,
75 ss. 546.11-546.18.
76 (2) "Commission" means the Florida Gaming Control
77 Commission.
78 (3) "Confidential information" means information related

79 to the playing of fantasy sports contests by contest
80 participants which is obtained solely as a result of a person's
81 employment with, or work as an agent of, a contest operator.
82 (4) "Contest operator" means a person or an entity that
83 offers fantasy sports contests for a cash prize to members of
84 the public, but does not include a noncommercial contest
85 operator in this state.
86 (5) "Contest participant" means a person who pays an entry
87 fee for the ability to participate in a fantasy or simulation
88 sports game or contest offered by a contest operator or
89 noncommercial contest operator.
90 (6) "Entry fee" means the cash or cash equivalent amount
91 that a person is required to pay to a contest operator or
92 noncommercial contest operator to participate in a fantasy
93 sports contest.
94 (7) "Fantasy sports contest" means a fantasy or simulation
95 sports game or contest offered by a contest operator or a
96 noncommercial contest operator in which a contest participant
97 manages a fantasy or simulation sports team composed of athletes
98 from a professional sports organization and which meets each of
99 the following requirements:
100 (a) All prizes and awards offered to winning contest
101 participants are established and made known to the contest
102 participants in advance of the game or contest, and their value
103 is not determined by the number of contest participants or the
104 amount of any fees paid by those contest participants.

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105 (b) All winning outcomes reflect the relative knowledge
106 and skill of the contest participants and are determined
107 predominantly by accumulated statistical results of the
108 performance of individuals, including athletes in the case of
109 sporting events.
110 (c) No winning outcome is based on the score, point
111 spread, or any performance or performances of any single actual
112 team or combination of such teams; solely on any single
113 performance of an individual athlete or player in a single
114 actual event; on a pari-mutuel event, as the term "pari-mutuel"
115 is defined in s. 550.002; on a game of poker or other card game;
116 or on the performances of participants in collegiate, high
117 school, or youth sporting events.
118 (d) No casino graphics, themes, or titles, including, but
119 not limited to, depictions of slot machine-style symbols, cards,
120 dice, craps, roulette, or lotto, are displayed or depicted.
121 (8) "Noncommercial contest operator" means a natural
122 person who organizes and conducts a fantasy or simulation sports
123 game in which contest participants are charged entry fees for
124 the right to participate; entry fees are collected, maintained,
125 and distributed by the same natural person; the total entry fees
126 collected, maintained, and distributed by such natural person do
127 not exceed $1,500 per season or a total of $10,000 per calendar
128 year; and all entry fees are returned to the contest
129 participants in the form of prizes.
130 Section 4. Section 546.14, Florida Statutes, is created to

131 read:
132 546.14 Enforcement and administration; rulemaking.—
133 (1) The commission shall enforce and administer this act.
134 (2) The commission may:
135 (a) Conduct investigations and monitor the operation and
136 play of fantasy sports contests.
137 (b) Review the books, accounts, and records of any current
138 or former contest operator.
139 (c) Deny, suspend, or revoke any license under this act
140 for any violation of state law or rule.
141 (d) Take testimony, issue summonses and subpoenas for any
142 witness, and issue subpoenas duces tecum in connection with any
143 matter within its jurisdiction.
144 (e) Monitor and ensure the proper collection and
145 safeguarding of entry fees and the payment of contest prizes in
146 accordance with consumer protection procedures enacted pursuant
147 to s. 546.16.
148 (f) Investigate any licensed or unlicensed person or
149 entity when such person or entity is advertising as offering or
150 providing, or is engaged in conducting, a fantasy sports contest
151 that requires licensure under this act or when a contest
152 operator or noncommercial contest operator is engaged in
153 activities that do not comply with or are prohibited by this
154 act. The commission may issue an order to such licensed or
155 unlicensed person or entity or contest operator or noncommercial
156 contest operator to cease and desist the further conduct of such

157 activities, may seek an injunction, or may take other
158 appropriate action to enforce this act.
159 (3) The commission must revoke a contest operator's
160 license if the contest operator offers fantasy sports contests
161 that violate s. 546.13(7)(c).
162 (4) The commission shall adopt rules to implement and
163 administer this act.
164 Section 5. Section 546.15, Florida Statutes, is created to
165 read:
166 546.15 Licensing; renewal.—
167 (1) A contest operator must be licensed by the commission
168 to conduct fantasy sports contests within this state. Licenses
169 are effective for 1 year after issuance and must be renewed
170 annually.
171 (2) The license application must include:
172 (a) The full name of the applicant.
173 (b) If the applicant is a corporation, the name of the
174 state in which the applicant is incorporated and the names and
175 addresses of the officers, directors, and shareholders who hold
176 15 percent or more equity.
177 (c) If the applicant is a business entity other than a
178 corporation, the names and addresses of each principal, partner,
179 or shareholder who holds 15 percent or more equity, and any
180 person who individually or in concert with a relative
181 beneficially owns or controls, or has the power to vote or cause
182 the vote of, 15 percent or more equity. For the purposes of this

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183 act, the term "relative" means a spouse, father, mother, son,
184 daughter, grandfather, grandmother, brother, sister, uncle,
185 aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-
186 in-law, daughter-in-law, brother-in-law, sister-in-law,
187 stepfather, stepmother, stepson, stepdaughter, stepbrother,
188 stepsister, half brother, or half sister.
189 (d) The names and addresses of the ultimate equitable
190 owners of the corporation or other business entity, if different
191 from those provided under paragraph (b) or paragraph (c), unless
192 the securities of the corporation or entity are registered
193 pursuant to s. 12 of the Securities Exchange Act of 1934, 15
194 U.S.C. ss. 78a-78kk, and either:
195 1. The corporation or entity files with the United States
196 Securities and Exchange Commission the reports required by s. 13
197 of that act; or
198 2. The securities of the corporation or entity are
199 regularly traded on an established securities market in the
200 United States.
201 (e) The estimated number of fantasy sports contests to be
202 conducted by the applicant annually.
203 (f) A statement of the assets and liabilities of the
204 applicant.
205 (g) If required by the commission, the names and addresses
206 of the officers and directors of any creditor of the applicant
207 and of stockholders who hold more than 10 percent of the stock
208 of the creditor.

209 (h) For each individual listed in the application pursuant
210 to paragraph (a), paragraph (b), paragraph (c), or paragraph
211 (d), a full set of fingerprints, to be submitted to the
212 commission or to a vendor, an entity, or an agency authorized
213 under s. 943.053(13).
214 1. The commission, vendor, entity, or agency shall forward
215 the fingerprints to the Department of Law Enforcement for state
216 processing, and the Department of Law Enforcement shall forward
217 the fingerprints to the Federal Bureau of Investigation for
218 national processing.
219 2. Fingerprints submitted to the Department of Law
220 Enforcement pursuant to this paragraph must be retained by the
221 Department of Law Enforcement as provided in s. 943.05(2)(g) and
222 (h) and, when the Department of Law Enforcement begins
223 participation in the program, must be enrolled in the Federal
224 Bureau of Investigation's national retained print arrest
225 notification program. The Department of Law Enforcement shall
226 report to the commission any arrest record identified.
227 (i) For each foreign national, such documents as are
228 necessary to allow the commission to conduct criminal history
229 records checks in the individual's home country. The applicant
230 must pay the full cost of processing fingerprints and required
231 documentation.
232 (3) The application for renewal must contain all revisions
233 to the information submitted in the prior year's application
234 which are necessary to maintain such information as both

235 accurate and current.
236 (4) The applicant for renewal must attest that any
237 revisions do not affect the applicant's qualifications for
238 license renewal.
239 (5) Upon determination by the commission that the
240 application for renewal is complete and qualifications have been
241 met, including payment of the renewal fee, the fantasy sports
242 contests license must be renewed annually.
243 (6) A person or an entity is not eligible for licensure as
244 a contest operator or for licensure renewal if an individual
245 required to be listed pursuant to paragraph (5)(a), paragraph
246 (5)(b), paragraph (5)(c), or paragraph (5)(d) is determined by
247 the commission, after investigation, not to be of good moral
248 character or is found to have been convicted of a felony in this
249 state, any offense in another jurisdiction which would be
250 considered a felony if committed in this state, or a felony
251 under the laws of the United States. As used in this subsection,
252 the term "convicted" means having been found guilty, with or
253 without adjudication of guilt, as a result of a jury verdict,
254 nonjury trial, or entry of a plea of guilty or nolo contendere.
255 (7) The license of a contest operator is automatically
256 suspended upon entry of a final order imposing an administrative
257 fine against the contest operator, until the administrative fine
258 is paid, if 30 calendar days have elapsed since the entry of the
259 final order. The license of a contest operator may not be
260 renewed and an application for licensure as a contest operator

261 may not be approved if the contest operator or the applicant for
262 licensure as a contest operator is liable for an outstanding
263 administrative fine imposed under this act. Notwithstanding this
264 subsection, a contest operator's license may not be suspended
265 and an application for licensure as a contest operator may not
266 be denied if the contest operator or the applicant has an appeal
267 from a final order pending in any appellate court.
268 (8) Changes in ownership of or interest in a fantasy
269 sports contests license of 5 percent or more of the stock or
270 other evidence of ownership or equity in the contest operator
271 must be approved by the commission before such change, unless
272 the owner is an existing owner of that license who was
273 previously approved by the commission. Changes in ownership of
274 or interest in a fantasy sports contests license of less than 5
275 percent must be reported to the commission within 20 days after
276 the change. The commission may then conduct an investigation to
277 ensure that the license is properly updated to show the change
278 in ownership or interest.
279 Section 6. Section 546.16, Florida Statutes, is created to
280 read:
281 546.16 Consumer protection.—
282 (1) A contest operator shall implement procedures for
283 fantasy sports contests which:
284 (a) Prevent its employees, their relatives, or persons
285 living in the same household as the employees from competing in
286 a fantasy sports contest in which a cash prize is awarded.

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287 However, a contest operator may offer to its employees fantasy
288 sports contests in which the employees are the sole
289 participants. For the purposes of this paragraph, the term
290 "relative" means a spouse, father, mother, son, daughter,
291 grandfather, grandmother, brother, sister, uncle, aunt, cousin,
292 nephew, niece, father-in-law, mother-in-law, son-in-law,
293 daughter-in-law, brother-in-law, sister-in-law, stepfather,
294 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
295 brother, or half sister.
296 (b) Prohibit the contest operator from being a contest
297 participant in a fantasy sports contest that the contest
298 operator offers.
299 (c) Prevent its employees or agents from sharing with a
300 third party confidential information that could affect fantasy
301 sports contest play, until the information has been made
302 publicly available.
303 (d) Verify that contest participants are 21 years of age
304 or older.
305 (e) Restrict an individual who is a player, a game
306 official, or other participant in a real-world game or
307 competition from participating in a fantasy sports contest that
308 is determined, in whole or in part, on the performance of that
309 individual, the individual's real-world team, or the accumulated
310 statistical results of the sport or competition in which he or
311 she is a player, game official, or other participant.
312 (f) Allow individuals to restrict or prevent their own

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313 access to fantasy sports contests and take reasonable steps to
314 prevent those individuals from entering a fantasy sports
315 contest.
316 (g) Limit the number of entries a single contest
317 participant may submit to each fantasy sports contest and take
318 reasonable steps to prevent participants from submitting more
319 than the allowable number of entries.
320 (h) Segregate contest participants' funds from operational
321 funds or maintain a reserve in the form of cash, cash
322 equivalents, payment processor reserves, payment processor
323 receivables, an irrevocable letter of credit, a bond, or a
324 combination thereof in the total amount of deposits in contest
325 participants' accounts for the benefit and protection of
326 authorized contest participants' funds held in fantasy sports
327 contest accounts.
328 (2)(a) A contest operator shall annually contract with a
329 third party to perform an independent audit, consistent with the
330 standards established by the American Institute of Certified
331 Public Accountants, to ensure compliance with this act. The
332 contest operator shall submit the results of the independent
333 audit to the commission no later than 90 days after the end of
334 each annual licensing period.
335 (b) Any data source and the corresponding data to
336 determine the results of all fantasy sports contests offered by
337 contest operators, other than noncommercial contest operators,
338 must be complete, accurate, reliable, and appropriate to settle

339 the outcome of the fantasy sports contests for which they are
340 used.
341 Section 7. Section 546.17, Florida Statutes, is created to
342 read:
343 546.17 Records and reports.—Each contest operator shall
344 keep and maintain daily records of its operations and shall
345 maintain such records for at least 3 years. The records must
346 sufficiently detail all financial transactions required to
347 determine compliance with this act and must be available for
348 audit and inspection by the commission or other law enforcement
349 agencies during the contest operator's regular business hours.
350 The commission shall adopt rules to implement this section.
351 Section 8. Section 546.18, Florida Statutes, is created to
352 read:
353 546.18 Penalties; applicability; exemption.—
354 (1)(a) A contest operator, or an employee or agent
355 thereof, that violates this act is subject to an administrative
356 fine not to exceed $5,000 for each violation and not to exceed
357 $100,000 in the aggregate. All fines imposed and collected under
358 this subsection must be deposited with the Chief Financial
359 Officer to the credit of the General Revenue Fund. An action to
360 recover such penalties may be brought by the commission or the
361 Department of Legal Affairs in the name and on behalf of the
362 state.
363 (b) The penalty provisions established in this subsection
364 do not apply to violations committed by a contest operator which

365 occurred before the issuance of a license under this act if the
366 contest operator applies for a license within 90 days after the
367 date the commission begins accepting applications and receives a
368 license within 240 days after such date.
369 (2) Fantasy sports contests conducted by a contest
370 operator or noncommercial contest operator in accordance with
371 this act are not subject to s. 849.01, s. 849.08, s. 849.09, s.
372 849.11, s. 849.14, or s. 849.25.
373 Section 9. Paragraph (b) of subsection (3) of section
374 16.71, Florida Statutes, is amended to read:
375 16.71 Florida Gaming Control Commission; creation;
376 meetings; membership.—
377 (3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—
378 (b) The Governor may not solicit or request any
379 nominations, recommendations, or communications about potential
380 candidates for appointment to the commission from:
381 1. Any person that holds a permit or license issued under
382 chapter 550, or a license issued under chapter 546, chapter 551,
383 or chapter 849; an officer, official, or employee of such
384 permitholder or licensee; or an ultimate equitable owner, as
385 defined in s. 550.002(37), of such permitholder or licensee;
386 2. Any officer, official, employee, or other person with
387 duties or responsibilities relating to a gaming operation owned
388 by an Indian tribe that has a valid and active compact with the
389 state; a contractor or subcontractor of such tribe or an entity
390 employed, licensed, or contracted by such tribe; or an ultimate

391 equitable owner, as defined in s. 550.002(37), of such entity;
392 or
393 3. Any registered lobbyist for the executive or
394 legislative branch who represents any person or entity
395 identified in subparagraph 1. or subparagraph 2.
396 Section 10. Paragraph (i) of subsection (1) of section
397 16.712, Florida Statutes, is amended to read:
398 16.712 Florida Gaming Control Commission authorizations,
399 duties, and responsibilities.—
400 (1) The commission shall do all of the following:
401 (i) Receive and review violations reported by a state or
402 local law enforcement agency, the Department of Law Enforcement,
403 the Department of Legal Affairs, the Department of Agriculture
404 and Consumer Services, the Department of Business and
405 Professional Regulation, the Department of the Lottery, the
406 Seminole Tribe of Florida, or any person licensed under chapter
407 24, part II of chapter 285, chapter 546, chapter 550, chapter
408 551, or chapter 849 and determine whether such violation is
409 appropriate for referral to the Office of Statewide Prosecution.
410 Section 11. Paragraph (d) of subsection (1) and paragraph
411 (a) of subsection (2) of section 16.713, Florida Statutes, are
412 amended to read:
413 16.713 Florida Gaming Control Commission; appointment and
414 employment restrictions.—
415 (1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—
416 The following persons are ineligible for appointment to the

417 commission:
418 (d) A person who has had a license or permit issued under
419 chapter 546, chapter 550, chapter 551, or chapter 849 or a
420 gaming license issued by any other jurisdiction denied,
421 suspended, or revoked.
422 (2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS
423 INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE
424 COMMISSION.—
425 (a) A person may not, for the 2 years immediately
426 preceding the date of appointment to or employment with the
427 commission and while appointed to or employed with the
428 commission:
429 1. Hold a permit or license issued under chapter 550 or a
430 license issued under chapter 546, chapter 551, or chapter 849;
431 be an officer, official, or employee of such permitholder or
432 licensee; or be an ultimate equitable owner, as defined in s.
433 550.002(37), of such permitholder or licensee;
434 2. Be an officer, official, employee, or other person with
435 duties or responsibilities relating to a gaming operation owned
436 by an Indian tribe that has a valid and active compact with the
437 state; be a contractor or subcontractor of such tribe or an
438 entity employed, licensed, or contracted by such tribe; or be an
439 ultimate equitable owner, as defined in s. 550.002(37), of such
440 entity;
441 3. Be a registered lobbyist for the executive or
442 legislative branch, except while a commissioner or employee of

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443 the commission when officially representing the commission or
444 unless the person registered as a lobbyist for the executive or
445 legislative branch while employed by a state agency as defined
446 in s. 110.107 during the normal course of his or her employment
447 with such agency and he or she has not lobbied on behalf of any
448 entity other than a state agency during the 2 years immediately
449 preceding the date of his or her appointment to or employment
450 with the commission; or
451 4. Be a bingo game operator or an employee of a bingo game
452 operator.
453
454 For the purposes of this subsection, the term "relative" means a
455 spouse, father, mother, son, daughter, grandfather, grandmother,
456 brother, sister, uncle, aunt, cousin, nephew, niece, father-in-
457 law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
458 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
459 stepbrother, stepsister, half brother, or half sister.
460 Section 12. Paragraphs (b) and (c) of subsection (2) of
461 section 16.715, Florida Statutes, are amended to read:
462 16.715 Florida Gaming Control Commission standards of
463 conduct; ex parte communications.—
464 (2) FORMER COMMISSIONERS AND EMPLOYEES.—
465 (b) A commissioner may not, for the 2 years immediately
466 following the date of resignation or termination from the
467 commission:
468 1. Hold a permit or license issued under chapter 550, or a

469 license issued under chapter 546, chapter 551, or chapter 849;
470 be an officer, official, or employee of such permitholder or
471 licensee; or be an ultimate equitable owner, as defined in s.
472 550.002(37), of such permitholder or licensee;
473 2. Accept employment by or compensation from a business
474 entity that, directly or indirectly, owns or controls a person
475 regulated by the commission; from a person regulated by the
476 commission; from a business entity which, directly or
477 indirectly, is an affiliate or subsidiary of a person regulated
478 by the commission; or from a business entity or trade
479 association that has been a party to a commission proceeding
480 within the 2 years preceding the member's resignation or
481 termination of service on the commission; or
482 3. Be a bingo game operator or an employee of a bingo game
483 operator.
484 (c) A person employed by the commission may not, for the 2
485 years immediately following the date of termination or
486 resignation from employment with the commission:
487 1. Hold a permit or license issued under chapter 550, or a
488 license issued under chapter 546, chapter 551, or chapter 849;
489 be an officer, official, or employee of such permitholder or
490 licensee; or be an ultimate equitable owner, as defined in s.
491 550.002(37), of such permitholder or licensee; or
492 2. Be a bingo game operator or an employee of a bingo game
493 operator.
494 Section 13. Subsection (7) is added to section 849.142,

495 Florida Statutes, to read:
496 849.142 Exempted activities.—Sections 849.01, 849.08,
497 849.09, 849.11, 849.14, and 849.25 do not apply to participation
498 in or the conduct of any of the following activities:
499 (7) Fantasy sports contests conducted pursuant to chapter
500 546.
501 Section 14. This act shall take effect July 1, 2024.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB COM 24-02 Fees
SPONSOR(S): Commerce Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Commerce Committee		Thompson	Hamon

SUMMARY ANALYSIS

The Florida Gaming Control Commission (Commission) is responsible for exercising all regulatory and executive powers of the state with respect to gambling, excluding the state lottery. Generally, fantasy sports contests are any of a number of games that permit a person to pay an entry fee and play either a virtual game or a virtual season of a sport based on the performance statistics of real sports players. Currently, there is no constitutional, statutory, or regulatory framework expressly allowing for fantasy contests to be conducted in Florida.

PCB COM 24-01 is a linked bill that authorizes certain fantasy sports contests. PCB COM 24-01 creates the "Fantasy Sports Contest Amusement Act" (Act), which authorizes fantasy sports contests to be offered by contest operators or noncommercial contest operators in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization.

The bill, PCB COM 24-02, imposes license fees on certain fantasy sports contest operators who offer fantasy sports contests to members of the public in the state. Specifically, the bill requires contest operators to pay an initial license application fee of $500,000 and renewal fees of $250,000 annually. Such fees:

- May not exceed 10 percent of the difference between the amount of entry fees collected by a contest operator from the operation of fantasy sports contests in this state, and the amount of cash or cash equivalents paid to contest participants in this state.
- Do not apply to individuals who act as noncommercial contest operators, who collect and distribute entry fees totaling no more than $1,500 per season or $10,000 annually, and who meet other specified requirements. The fees are to be paid to the Commission and deposited in the Pari-mutuel Wagering Trust Fund.

The bill:

- Requires fees for state and federal fingerprint processing and retention to be paid by license applicants;
- Requires the state cost for fingerprint processing to meet certain requirements;
- Authorizes the Commission to charge a $2 handling fee for each set of fingerprints submitted for a contest operator license; and
- Requires such fees collected by the Commission to be deposited into the Pari-mutuel Wagering Trust Fund.

The bill appears to have in indeterminate positive fiscal impact on state government, and no fiscal impact on local government.

The bill is effective on the same date that PCB COM 24-01 or similar legislation takes effect, if adopted in the same legislative session or any extension, and becomes law.

This bill imposes and authorizes new state fees, requiring a two-thirds vote of the membership of the House. See Section III.A.2. of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

General Overview of Gaming in Florida

Gambling is generally prohibited in Florida, unless specifically authorized. Section 7, Art. X, of the Florida Constitution prohibits lotteries, other than pari-mutuel pools, from being conducted in Florida. Chapter 849, F.S., includes prohibitions against slot machines, keeping a gambling house and running a lottery. However, a constitutional amendment approved by voters in 1986 authorized state-operated lotteries, and a constitutional amendment in 2004 authorized slot machines in Miami-Dade and Broward Counties.

The following gaming activities are also authorized by law and regulated by the state:

- Pari-mutuel[1] wagering;[2]
- Gaming on tribal reservations in accordance with the Indian Gaming and Regulatory Act and the 2010 Gaming Compact with the Seminole Tribe of Florida;
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[3] and
- Cardrooms[4] at certain pari-mutuel facilities.

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,[5] bingo,[6] charitable drawings,[7] game promotions (sweepstakes),[8] bowling tournaments,[9] and skill-based amusement games and machines at specified locations.[10]

In 2013, the legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prizes are prohibited slot machines.[11]

In 2015, the legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida's limitations on gambling and prevent the expansion of casino-style gambling. The legislature clarified regulations related to the operation and use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.[12]

Florida Gaming Control Commission

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[1] "Pari-mutuel" is defined in Florida law as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

[2] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.

[3] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.

[4] S. 849.086(2)(c), F.S., defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."

[5] S. 849.085, F.S.

[6] S. 849.0931, F.S.

[7] S. 849.0935, F.S.

[8] S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

[9] S. 849.141, F.S.

[10] S. 546.10, F.S.

[11] Florida House of Representatives Select Committee on Gaming, Final Bill Analysis of 2013 CS/HB 155, p. 1 (Apr. 19, 2013).

[12] S. 546.10, F.S.

The Florida Gaming Control Commission (Commission) is a five-member regulatory body that is responsible for exercising all regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts, and other forms of gambling authorized by the State Constitution or law, excluding the state lottery.[13] The Commission is also the State Compliance Agency responsible for monitoring compliance with the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.[14]

The Division of Gaming Enforcement (Division) is a criminal justice agency[15] tasked with the enforcement of Florida's gambling laws to combat illegal gambling activities.[16] While every law enforcement officer in the state of Florida has the authority to make arrests for violations of Florida's gambling laws, the Division is the first law enforcement agency with illegal gambling as its primary responsibility.[17]

The Division director and all investigators are certified and designated law enforcement officers, and have the power to detect, apprehend, and arrest for any alleged violation of the state's gambling laws, or any law of this state.[18] Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass.[19]

The officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring. Investigators employed by the Commission are required to have access to, and the right to inspect, premises licensed by the Commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the Commission.[20]

The Division and its investigators are specifically authorized to seize, store, and test any contraband[21] in accordance with the Florida Contraband Forfeiture Act.[22]

According to the Commission, the Division:[23]

- Participates in direct enforcement activities involving proactive investigations initiated by reports of illegal gambling, confidential sources, and investigative leads. Upon obtaining sufficient evidence, agents execute search warrants, resulting in arrests and the seizure of illegal gambling devices and contraband.
- Serves as a valuable resource for state and local law enforcement partners, providing expert guidance on the intricacies of Florida's gambling laws and regulations. Agents share their knowledge and experience, assisting other law enforcement agencies in identifying illegal gambling activities, gathering evidence, and building strong cases for prosecution. This collaborative approach ensures that illegal gambling operations are effectively investigated and disrupted.

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[13] *See* ss. 16.71-16.716, F.S.
[14] S. 285.710, F.S.
[15] S. 16.711(1), F.S.
[16] Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, pg. 6, https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 2, 2024).
[17] Florida Gaming Control Commission, *Gaming Enforcement*, https://flgaming.gov/enforcement/ (last visited Jan. 3, 2024).
[18] S. 16.711(3), F.S.
[19] *Id.*
[20] *Id.*
[21] The term "contraband" has the same meaning as the term "contraband article" in s. 932.701(2)(a)2, F.S., which is defined as "any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state, including any violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849."
[22] S. 16.711(4), F.S.
[23] *Id.*

The Florida Department of Law Enforcement (FDLE) is required to provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the Commission's executive director and agreed to by the FDLE's executive director. Any other state agency, including the Department of Business and Professional Regulation (DBPR) and the Department of Revenue (DOR), must, upon request, provide the Commission with any information relevant to any investigation conducted as described above, and the Commission must reimburse any agency for the actual cost of providing any such assistance.[24]

Fantasy Sports Contests

Generally, fantasy sports contests are any of a number of games that permit a person to pay an entry fee and play either a virtual game or a virtual season of a sport based on the performance statistics of real sports players. The player acts as both general manager and field manager of their team by building a roster through a draft and trades. Players make lineups in pursuit of statistically beating other players. The term "commissioner" has been used in the context of fantasy leagues to denote a person who manages a fantasy league, establishes league rules, resolves disputes over rule interpretations, publishes league standings, or selects the Internet service for publication of league standings.[25]

The two most-prominent fantasy sports in the U.S are fantasy baseball and fantasy football.[26] Participation in fantasy sports contests grew dramatically in the 1990s due to greater access to game and player statistics through growing access to the Internet.[27]

Daily fantasy sports contests are an accelerated version of fantasy sports contests, which are played across a shorter period of time. For example, daily fantasy contests may be played over a single week in a season, rather than the entire season. Daily fantasy contests are typically played as "contests" which require an entry fee. The fee funds an advertised prize pool from which the fantasy contest operator (such as FanDuel or DraftKings) takes a percentage as revenue.[28] The legality of daily fantasy contests has been challenged in many states and jurisdictions, with some critics arguing that the contests more closely resemble proposition wagering on athlete performance than traditional fantasy contests.

The online fantasy sports contest industry is now a multi-billion dollar industry in the United States.[29] In 2022, an estimated 62.5 million people competed in fantasy contests in the United States and Canada.[30]

Legality of Fantasy Sports Contests in Florida

Florida law does not specifically address fantasy sports contests. Currently, there is no constitutional, statutory, or regulatory framework expressly allowing for fantasy contests to be conducted in the State of Florida. Moreover, Florida courts have not addressed whether Florida's constitutional and statutory prohibitions on gambling apply to fantasy contests. Florida's Attorney General has opined in the past that some fantasy contests appear to violate state gambling laws.[31]

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[24] Section 16.711(5), F.S.

[25] *See* Bernhard & Eade, *Gambling in a Fantasy World: An Exploratory Study of Rotisserie Baseball Games,* 9 UNLV Gaming Research & Review Journal Issue 1, at 30, at http://digitalscholarship.unlv.edu/grrj/vol9/iss1/3/ (last visited Feb. 9, 2024).

[26] Adam Augustyn, Britannica.com, *Fantasy sport*, https://www.britannica.com/sports/fantasy-sport (last visited Feb. 9, 2024).

[27] Ben Klayman, Reuters, *Technology spurs growth of fantasy sports in U.S.* (Sep. 24, 2008) https://www.reuters.com/article/idUSTRE48O039/ (last visited Feb. 9, 2024).

[28] Adam Kilgore, The Washington Post, *Daily fantasy sports Web sites find riches in Internet gaming law loophole*, (Mar. 27, 2015) https://www.washingtonpost.com/sports/daily-fantasy-sports-web-sites-find-riches-in-internet-gaming-law-loophole/2015/03/27/92988444-d172-11e4-a62f-ee745911a4ff_story.html.

[29] Curt Woodward, The Boston Globe, *Fantasy sports book gives insider view of DraftKings' explosion*, (Mar. 6, 2017) https://www.bostonglobe.com/business/2017/03/06/fantasy-sports-book-gives-insider-view-draftkings-explosion/qntMQJiIW2IKhrBNXPx2SK/story.html (last visited Feb. 9, 2024).

[30] Fantasy Sports & Gaming Association, *Industry Demographics*, https://thefsga.org/industry-demographics/ (last visited Feb. 9, 2024).

[31] 91-03 Fla. Op. Att'y Gen. (1991).

Section 849.14, F.S., provides that a stake, bet, or wager of money or another thing of value placed "upon the result of any trial or contest of skill, speed, power, or endurance of human or beast" is unlawful. Receiving money or acting as the custodian or depositary of money as part of such a stake, bet, or wager is also unlawful.

Section 849.25, F.S., Florida's anti-bookmaking statute, defines bookmaking as "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever." The statute includes factors that are to be considered evidence of bookmaking, including charging a percentage on accepted wagers, receiving more than five wagers in a day, and receiving over $500 in total wagers in a single day or over $1500 in a single week.[32]

On January 8th, 1991, Florida Attorney General (AG) provided an advisory legal opinion[33] regarding whether participation in a fantasy sports league violated Florida's gambling laws. The opinion concluded that the operation of a fantasy league would violate s. 849.14, F.S., and that since the fantasy sports league's entry fee was used to make up the prizes, it qualified as a "stake, bet, or wager" under Florida law.[34] The AG stated that, "while the skill of the individual contestant picking the members of the fantasy team is involved, the prizes are paid to the contestants based upon the performance of the individual professional football players in actual games."[35]

The AG concluded that contests in which the skill of the contestant predominates over the element of chance, such as in certain sports contests, are not prohibited lotteries. As an example, he noted that golf and bowling tournaments were contests of skill and were not prohibited. He considered that "it might well be argued that skill is involved in the selection of a successful fantasy team by requiring knowledge of the varying abilities and skills of the professional football players who will be selected to make up the fantasy team."[36]

Recently, the Commission has issued cease and desist correspondence to various companies operating fantasy contests in the state concerning possible violations of Florida's gambling laws. The letters have generated controversy, concern, and interest from contest operators, elected officials, and the Seminole Tribe of Florida, which has entered into gaming compacts with the state.[37]

Legality of Fantasy Sports in Federal Law

The federal Unlawful Internet Gambling Enforcement Act of 2006[38] (UIGEA) prohibits the processing of certain online financial wagering to prevent payment systems from being used in illegal online gambling. The UIGEA prohibits gambling businesses from knowingly accepting payments in connection with a "bet or wager" that involves the use of the Internet and that is unlawful under any federal or state law.

The UIGEA expressly states that participation in fantasy or simulation sports contests is not included in the definition of "bet or wager"[39] when certain conditions are met. For purposes of the UIGEA, participation in a fantasy or simulation sports contest is not a bet or wager when:

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[32] S. 849.25(1)(b), F.S.
[33] 91-03 Fla. Op. Att'y Gen. (1991).
[34] *Creash v. State*, 131 Fla. 111, 118 (Fla. 1938).
[35] 91-03 Fla. Op. Att'y Gen. (1991).
[36] *Id.* Also, a 1990 Florida Attorney General advisory legal opinion provides that a golf hole-in-one contest, which is an exercise of skill, with an entry fee where such fee does not go toward the purse or prize does not violate the state's gambling laws. 90-58 Fla. Op. Att'y Gen. (1990).
[37] *See* https://www.floridatrend.com/article/38854/questions-swirl-around-fantasy-sports (last visited Jan. 23, 2024).
[38] 31 U.S.C. § 5361-5366 (2006).
[39] 31 U.S.C. § 5362(1) (2006).

- Prizes and awards offered to winning participants are established and made known in advance of the game or contest and the value is not determined by the number of participants or amount of fees paid by the participants.
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals.
- Winning outcomes are not based on the score, point spread, or any performance of any single sports team or combination of such teams or solely on a single performance of an individual athlete in a single sporting event.

Contest operators argue that they are legal under the UIGEA. In *Humphrey v. Viacom, Inc.*, the court determined that because the entry fee was paid "unconditionally," the owner did not participate, and the prizes were guaranteed and determined in advance, the fantasy contest entry fees were not "wagers" under the act.[40] However, although the UIGEA exempts fantasy and simulation sports contests from the application of the UIGEA, it does not make such contests legal generally. The UIGEA does not change or preempt any other federal or state law. As expressed in the Rule of Construction in the UIGEA, "no provision of this subchapter shall be construed as altering, limiting, or extending any federal or state law or tribal-state compact prohibiting, permitting, or regulating gambling within the United States."[41] Therefore, any other state or federal law could apply.

The federal Illegal Gambling Business Act of 1970 (IGBA)[42] defines an "illegal gambling business" as a gambling business that is in violation of the law of the state in which it is conducted, involves five or more persons who conduct or manage all or part of such business, and that has been in continuous operation for a period of more than 30 days or has a gross revenue of $2000 in a single day. The IGBA specifically exempts savings promotion raffles and bingo games, lotteries, or other games of chance operated by certain non-profit corporations.[43] An employee or company that has violated the IGBA is subject to penalties including fines, forfeiture of profits and assets, and imprisonment for up to 5 years.

Fantasy Sports Contests in the 2021 Compact

The Seminole Indian Tribe of Florida (the Tribe) is a federally recognized Indian tribe whose reservations and trust lands are located in the State. A Gaming Compact between the Tribe and the State of Florida was executed by Governor Ron DeSantis and the Tribe on April 23, 2021 (the 2021 Compact). The 2021 Compact was approved by the U.S. Department of the Interior on August 6, 2021, and became effective upon the publication of notice in the Federal Register on August 11, 2021.[44]

Under the 2021 Compact, "fantasy sports contest" means a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization and that meets each of the following requirements:

- All prizes and awards offered to winning contest participants are established and made known to the contest participants in advance of the game or contest.
- All winning outcomes reflect the relative knowledge and skill of the contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.
- No winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams, solely on any single performance of an individual athlete or player in any single actual event, on a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002, Florida Statutes, as of January 1, 2021, on a game of poker or other card game, or on the performances of participants in collegiate, high school, or youth sporting events.
- No casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are displayed or depicted.

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[40] *Humphrey v. Viacom, Inc.*, 2007 WL 1797648 (D.N.J. June 20, 2007).
[41] 31 U.S..C. § 5361(b) (2006).
[42] 18 U.S.C. § 1995 (1970).
[43] *See* 26 U.S.C. § 501.
[44] Fed. Register, Vol. 86, No. 153 at 44037.

The 2021 Compact allows the Tribe to offer fantasy sports contests at all their facilities. However, the 2021 Compact does not include fantasy sports contests in the games for which the Tribe is granted exclusivity to conduct in the state.

2021 Compact Litigation

The state received payments due under the 2021 Compact beginning October 2021. The U.S. District Court for the District of Columbia set aside the federal approval of the 2021 Compact on November 22, 2021. The Seminole Tribe continued making revenue sharing payments to the state through February 2022, and then discontinued all payments. Between October 2021 and February 2022, the state received five payments of $37.5 million, totaling $187.5 million.[45]

After the U.S. Supreme Court ordered a stay on the U.S. District Court for the District of Columbia ruling, revenue sharing payments from the Seminole Tribe to the state resumed in January 2024.[46] Currently, there is a proceeding pending in the U.S. Supreme Court challenging the legality of the 2021 Compact, but that court has not yet determined to accept the case.[47]

Litigation relating to the legality of the 2021 Compact is currently pending in the Florida Supreme Court,[48] challenging the off-reservation mobile sports betting authorized in the 2021 Compact and in Florida law[49] as a violation of the Florida Constitution (Article X, Section 30 to the Florida Constitution). The challenged actions include execution and ratification of the 2021 Compact and enactment of implementing legislation, as it relates to sports betting.

Florida's Sunrise Act

Section 11.62, F.S., is Florida's sunrise review, which is called the Sunrise Act. The Sunrise Act states that regulation should not be adopted unless it is:

- Necessary to protect the public health, safety, or welfare from significant and discernible harm or damage;
- Exercised only to the extent necessary to prevent the harm; and
- Limited so as not to unnecessarily restrict entry into the practice of the profession or adversely affect public access to the professional services.

In determining whether to regulate a profession or occupation, the Sunrise Act requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;

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[45] *See* the review of the Indian Gaming Revenues by the Revenue Estimating Conference/Impact Conference at http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf (last visited Jan. 23, 2024). The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. At the request of the legislative committees or other members of an estimating conference, EDR conducts impact assessments of proposed policy changes. Often, EDR's estimates are incorporated in the committee bill analysis or fiscal note. In some cases, committees will request EDR to take a particular proposal to a consensus estimating conference to obtain an impact estimate that is formally agreed to by both houses of the Legislature and by the Governor's Office.

[46] The resumption of Indian Gaming Revenues will be reviewed by the Revenue Estimating Conference/Impact Conference.

[47] *See* Order in Pending Case, No. 23A315 (Oct. 25, 2023) in *West Flagler Associates, Ltd., et al. v. Haaland*, Application for Stay Denied with Statement of Justice Kavanaugh, 601 U.S. ___ (2023), available at 23A315 West Flagler Associates, Ltd. v. Haaland (10/25/2023) (supremecourt.gov) (last visited Feb. 9, 2024).

[48] *West Flagler Associates, et al., v. Ron D. DeSantis, et al.*, SC 2023-1333, Petition for Writ of Quo Warranto.

[49] *See* s. 285.710(13(b)7., F.S.

- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The Sunrise Act requires proponents of legislation that propose new regulation on professions or occupations to provide the following information, **upon request,** by the agency proposed to have jurisdiction or the legislative committee to which the legislation is referred, to document the need for regulation:

- The number of individuals or businesses that would be subject to the regulation;
- The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;
- Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding three years;
- A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;
- A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;
- A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;
- A copy of any federal legislation mandating regulation;
- An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;
- The cost, availability, and appropriateness of training and examination requirements;
- The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;
- The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation;
- The details of any previous efforts in this state to implement regulation of the profession or occupation; and
- Any other information the agency or the committee considers relevant to the analysis of the proposed legislation.

The Sunrise Act requires the agency proposed to have jurisdiction over the regulation to provide the Legislature with the following information:

- The resources required to implement and enforce the regulation;
- The technical sufficiency of the proposal, including its consistency with the regulation of other professions; and
- Any alternatives that may result in less restrictive or more cost-effective regulation.

In determining whether to recommend regulation, the legislative committee reviewing the proposal must assess whether the proposed regulation is:

- Justified based on the statutory criteria and the information provided by both the proponents of regulation and the agency responsible for its implementation;
- The least restrictive and most cost-effective regulatory scheme necessary to protect the public; and
- Technically sufficient and consistent with the regulation of other professions under existing law.

<u>Proposed Changes</u>

The bill imposes license fees on certain fantasy sports contest operators[50] who offer fantasy sports contests for a cash prize to members of the public.

The bill requires contest operators to pay an initial license application fee of $500,000 and renewal fees of $250,000 annually. Such fees may not exceed 10 percent of the difference between the amount of:

- Entry fees collected by a contest operator from the operation of fantasy sports contests in this state; and
- Cash or cash equivalents paid to contest participants in this state.

The license fees do not apply to individuals who act as noncommercial contest operators by organizing and conducting fantasy or simulation sports contests in which:

- Contest participants are charged entry fees for the right to participate;
- Entry fees are collected, maintained, and distributed by the same natural person;
- The total entry fees collected, maintained, and distributed total no more than $1,500 per season or $10,000 per calendar year; and
- All entry fees are returned to the contest participants in the form of prizes.

The bill directs the Commission to require applicants for contest operator licensure to provide written evidence to the Commission of the proposed amount of entry fees and cash or cash equivalents to be paid to contest participants during the annual license period. Before a license renewal, a contest operator must:

- Provide written evidence to the Commission of the actual entry fees collected and cash or cash equivalents paid to contest participants during the previous period of licensure; and
- Remit to the Commission any difference in a license fee which results from the difference between the proposed amount of entry fees and cash or cash equivalents paid to contest participants, and the actual amounts collected and paid during the previous period of licensure.

The bill requires:

- Fees for state and federal fingerprint processing and retention to be borne by license applicants; and
- The state cost for fingerprint processing to meet the requirements of s. 943.053(3)(e), F.S., for records provided to persons or entities other than the specified exceptions.
    - The fee per record for criminal history information provided pursuant to s. 943.053(3)(e), F.S., is $24 per name submitted.

The bill authorizes the Commission to charge a $2 handling fee for each set of fingerprints submitted for a contest operator license.

The bill requires all fees collected by the Commission under s. 546.151, F.S., to be deposited into the Pari-mutuel Wagering Trust Fund.

The bill is effective on the same date that PCB COM 24-01 or similar legislation takes effect, if adopted in the same legislative session or any extension, and becomes law.

B. SECTION DIRECTORY:

Section 1: Creates s. 546.151, F.S., relating to fees.

Section 2: Provides an effective date.

[50] PCB COM 24-01 (Fantasy Sports Contest Amusement Act) defines the term "contest operator" to mean "a person or entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state. The term "noncommercial contest operator" is defined to mean "a natural person who organizes and conducts a fantasy or simulation sports contest in which contest participants are charged entry fees for the right to participate; entry fees are collected, maintained, and distributed by the same natural person; the total entry fees collected, maintained, and distributed by such natural person do not exceed $1,500 per season or a total of $10,000 per calendar year; and all entry fees are returned to the contest participants in the form of prizes." *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. See Fiscal Comments

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill may have a indeterminate positive fiscal impact on state funds and indeterminate negative economic impact on the private sector. The number of fantasy sports contest operators that may apply for an initial license and renewals annually thereafter is unknown.

The bill requires contest operators to pay to the Commission an initial license application fee of $500,000 and renewal fees of $250,000 annually. Such fees may not exceed 10 percent of the difference between the amount of:

- Entry fees collected by a contest operator from the operation of fantasy sports contests in this state; and
- Cash or cash equivalents paid to contest participants in this state.

The license fees do not apply to individuals who act as noncommercial contest operators by organizing and conducting fantasy or simulation sports contests in which:

- Contest participants are charged entry fees for the right to participate;
- Entry fees are collected, maintained, and distributed by the same natural person;
- The total entry fees collected, maintained, and distributed total no more than $1,500 per season or $10,000 per calendar year; and
- All entry fees are returned to the contest participants in the form of prizes.

The bill authorizes the Commission to charge a $2 handling fee for each set of fingerprints submitted for a contest operator license.

The bill requires all fees collected by the Commission under the bill to be deposited into the Pari-mutuel Wagering Trust Fund.

According to the Commission, the bill will likely require:

- An estimate by the Revenue Estimating Conference, but provides that the bill will likely result in a positive fiscal impact to the Pari-Mutuel Wagering Trust Fund.[51]

[51] The Florida Gaming Control Commission, Agency Analysis of 2024 SB 1566, p. 4-5 (Jan. 19, 2024).

- Configuration changes to the current licensing system and software, to add a new license category for fantasy contest operators.[52]

The Florida Department of Law Enforcement (FDLE) notes it has inquired of the Commission to obtain an estimate of the potential increase, if any, in additional screenings required by the bill, and that the fiscal impact to state government is currently indeterminate.[53]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, the bill appears to implicate Art. VII, s. 19 of the Florida Constitution because the bill:

- Imposes license fees on certain fantasy sports contest operators who offer fantasy sports contests for a cash prize to members of the public in this state.
- Authorizes the Commission to charge a handling fee for each set of fingerprints submitted for a contest operator license.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[52] *Id*. at 5.

[53] The Florida Department of Law Enforcement, Agency Analysis of 2024 SB 1566, p. 3 (Jan. 12, 2024).

1 A bill to be entitled
2 An act relating to fees; creating s. 546.151, F.S.;
3 requiring applicants for a fantasy sports contest
4 operator license to pay a specified application fee;
5 requiring contest operators to pay a specified annual
6 license renewal fee; prohibiting such fees from
7 exceeding a specified amount; requiring applicants and
8 contest operators to provide certain written evidence;
9 requiring contest operators to remit certain fees;
10 specifying that the costs for certain fingerprint
11 processing and retention are borne by applicants;
12 authorizing the Florida Gaming Control Commission to
13 charge a specified handling fee related to fingerprint
14 processing; requiring that certain fees be deposited
15 into the Pari-mutuel Wagering Trust Fund; providing a
16 contingent effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Section 546.151, Florida Statutes, is created
21 to read:
22 546.151 Fees.—
23 (1) An applicant for a license as a fantasy sports contest
24 operator shall pay an initial license application fee of
25 $500,000 to the commission, and an applicant seeking to renew a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 fantasy sports contest operator license shall pay an annual
27 license renewal fee of $250,000 to the commission; however, the
28 respective fees may not exceed 10 percent of the difference
29 between the amount of entry fees collected by a contest operator
30 from the operation of fantasy sports contests in this state and
31 the amount of cash or cash equivalents paid to contest
32 participants in this state. The commission shall require a
33 contest operator applicant to provide written evidence of the
34 proposed amount of entry fees and cash or cash equivalents to be
35 paid to contest participants during the annual license period.
36 Before a license renewal, a contest operator must provide
37 written evidence to the commission of the actual entry fees
38 collected and cash or cash equivalents paid to contest
39 participants during the previous period of licensure. Before a
40 license renewal, a contest operator must remit to the commission
41 any difference in a license fee which results from the
42 difference between the proposed amount of entry fees and cash or
43 cash equivalents paid to contest participants and the actual
44 amounts collected and paid during the previous period of
45 licensure.
46 (2) Fees for state and federal fingerprint processing and
47 retention shall be borne by an applicant for a contest operator
48 license. The state cost for fingerprint processing shall be as
49 provided in s. 943.053(3)(e) for records provided to persons or
50 entities other than those specified as exceptions therein.

51 (3) The commission also may charge a $2 handling fee for
52 each set of fingerprints submitted for a contest operator
53 license.
54 (4) All fees collected by the commission under this
55 section shall be deposited into the Pari-mutuel Wagering Trust
56 Fund.
57 Section 2. This act shall take effect on the same date
58 that PCB COM 24-01 or similar legislation takes effect, if such
59 legislation is adopted in the same legislative session or an
60 extension thereof and becomes a law.